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# Federal Register

Wednesday
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## Highlights

NOTE—The Reader Aids section appears at the end of this issue.

21651 **Unleaded Gasoline Prices** DOE/ERA proposes to amend rules and hold hearings to allow resellers to recover vapor recovery systems costs, require station operators to inform public of outages and price, and impose mandatory price differential between leaded and unleaded gasoline; comments by 6–8–79, hearings 5–1 and 5–10–79

21661 **Nondiscrimination on Basis of Handicap** State defines and forbids acts of discrimination against qualified handicapped persons in employment and operation of programs and activities receiving assistance; comments by 6–11–79

21607 **Nondiscrimination on Basis of Sex** USDA issues rules implementing Title IX of Education Amendments of 1972 in federally-assisted education programs and activities; effective 4–11–79

21750 **Rehabilitation Loan Program** HUD amends program and invites comments to meet statutory requirements for multifamily properties, low- and moderate-income applicants, and loan limit for nonresidential properties; effective 5–11–79, comments by 7–10–79 (Part IV of this issue)



# Highlights

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21738 **Comprehensive Planning Assistance** HUD/CPD proposes amendments to follow National Policy Objectives and simplify application, planning, and management requirements; comments by 5–11–79 (Part III of this issue)

21643 **Foundation Excise Taxes** Treasury/IRS issues rules on the treatment of imputed interest on certain contracts entered into by private foundations; effective for taxable years ending after 10–4–79

21626, 21656 **Annuity and Optional Annuity Contracts** SEC withdraws proposal and establishes general policy statement intended to provide guidance in determining status of certain contracts issued by insurance companies (2 documents)

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21707 **Radioactive Air Pollutants** EPA requests information and allows opportunity for public hearing

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21686 **Energy Rate Schedules** DOE/FERC proposes to limit amount of revenue recoverable under percentage adders; comments by 5–4–79, reply comments by 5–21–79

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# Rules and Regulations

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

### Office of the Secretary

### 7 CFR Part 15a

### Education Programs or Activities Receiving or Benefitting From Federal Financial Assistance; Nondiscrimination on the Basis of Sex

**AGENCY:** Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture issues these regulations implementing Title IX of the Education Amendments of 1972, as amended, which prohibits (with certain exceptions) sex discrimination in federally-assisted education programs and activities.

**EFFECTIVE DATE:** These regulations are effective on April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** William C. Payne, Deputy Chief, Civil Rights Division, Office of Equal Opportunity, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: (202) 447–7328 or Lonnie C. Rich, Attorney, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: (202) 447–7350.

**SUPPLEMENTARY INFORMATION:** On May 10, 1978, this Department issued proposed rules to implement Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 *et seq.* Approximately 25 comments were submitted by various government entities, universities, educational organizations, and individuals. All of the comments have been considered and will be discussed below. Some of the comments have produced changes. In our discussion, we will explain why we are accepting or rejecting a recommended change.

In issuing these regulations, we have two overriding concerns: (1) To effectuate the purpose of Title IX by prohibiting sex discrimination in federally-assisted education programs and activities and (2) To avoid unnecessary burdens on the public that can result from inconsistent or duplicative requirements from the regulations of more than one Department or agency.

As a result of the first concern, the general rule against sex discrimination is being applied as broadly as possible. The exceptions to the rule are being applied narrowly. As a result of the second concern, these rules are intended to be consistent with the Title IX rules issued by the Department of Health, Education, and Welfare (HEW), which has many recipients in common with this Department.

Our discussion is divided into three groups. The first group contains our responses to general comments. The second group involves comments addressed to specific sections. The third group contains separate responses to the many comments and questions from various State Cooperative Extension Services.

### I. General Comments

A. One comment recommended that USDA withdraw its Title IX regulations and simply announce that USDA will defer to HEW regarding the enforcement of Title IX. When the proposed regulations were being drafted, consideration was given to simply incorporating HEW's regulations into USDA's by reference. It was decided, however, that incorporation by reference would be confusing because affected parties (recipients, beneficiaries, and government officials) would be required to make continued reference to two documents to determine the extent of their differences. Looking to a single document should be easier. Furthermore, USDA is not able to simply defer to HEW enforcement since all USDA-funded, education activities are not covered by HEW's regulations. However, it should be noted that USDA is willing to enter into an agreement with HEW concerning compliance reviews of our common recipients. (Several comments strongly recommended the need for inter-agency cooperation.)

B. It was recommended that USDA extend the deadline for public comment and send the proposed rules to the Title IX coordinator at each school for comment. Since these regulations are almost identical to HEW's and since presumably the formal educational community was able to participate fully in responding to those regulations, we see no compelling reason to single that community out for special commenting opportunities. Furthermore, since final regulations can be amended, comments may be sent to appropriate officials who will consider any recommended changes.

C. Several comments suggested that we provide a list of Department programs which are covered by Title IX. The appendix to these rules contains a list of covered programs. It should be noted that if a particular recipient under one of these programs is not an "educational recipient" or if a significant purpose of the assistance is not education, then the recipient will not be covered. See § 15a.2(q).

D. Several comments stated that the Department should commit sufficient resources and personnel for a successful enforcement program; that we should develop technical assistance and training materials for recipients and beneficiaries; and that we should provide training on sex bias to all Department education program staff. It is our intention to implement these suggestions to the extent feasible.

E. It was recommended that the words "or sexual preference" be inserted in each instance after the word "sex." Since the Title IX statute deals only with sex discrimination, we have no authority to expand the categories of prohibited discrimination in these Title IX regulations.

F. Several comments strongly suggested that recipients be required to collect sex-based data. Section 15a.71 incorporates by reference 7 CFR 15.5 which requires agencies within USDA to make compliance reviews. Recipients will be required to submit compliance reports which should include sex-based data.

### II. Comments and Changes Regarding Specific Sections

A. *Section 15a.2.* One comment noted that there was no definition of "education program or activity." Although the proposed rules contained

no such definition (the HEW rules do not), we now believe that a definition is necessary for establishing the scope of the applicability of these rules.

An "education program or activity" is one having education as a significant purpose. While education need not be the sole purpose of the program or activity, it must be more than an incidental effect of a program in order to be covered by these regulations. In this regard, we note that some recipients have education as a significant reason for their existence. Under our definition any financial assistance to such a recipient, regardless of the purpose of the assistance, will be deemed assistance to an "education program or activity." Other recipients may have little or no educational purposes. In those situations, assistance to them will be deemed an "education program or activity" only if a significant purpose of the assistance is education.

In connection with our definition of "education program or activity," we are adding a new term, "educational recipient," which includes an education institution as defined in § 15a.2(g) and every other recipient which has education as a significant purpose. This broader term includes not only the formal education community, but also informal educational programs (Cooperative State Extension Service; Youth Conservation Corps) and other educational organizations and associations that receive Federal assistance.

We note that no definition is being provided for the term "education." We will rely on accepted community attitudes, commonsense, dictionary definitions, and whether and to what extent a recipient claims or has claimed to have educational purposes.

We are adding a definition for the term "United States." The definition is the same as in our regulations under Title VI of the Civil Rights Act of 1964. *See* 7 CFR 15.2(i).

Thus, we are adding the following new paragraphs:

"§ 15a.2.

* * * * *

(p) "Educational recipient" means an educational institution as defined in § 15a.2(g) and every other recipient which has education as a significant purpose.

(q) "Education program or activity" means:

(1) Every program or activity operated by an educational recipient; and

(2) Every program or activity operated by other recipients where a significant purpose of the financial assistance is education.

(r) "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

B. *Section 15a.3.* Several comments have questioned how the Department will know whether the self-evaluation requirement (§ 15a.3(c)) has been complied with by recipients. Some comments recommended the imposition of periodic reporting and prior approval to the funding or refunding of any recipient.

Under § 15a.71, which incorporates 7 CFR 15.5, agencies within the Department are expected to review the activities of recipients to determine compliance. Recipients will be required to keep records and to submit compliance reports. The Department should know whether a recipient is meeting the self-evaluation requirement and other requirements—e.g., §§ 15a.4(a), 15a.7 (a) and (b), and 15a.8 (a) and (b)—through periodic agency reviews or through complaint-generated reviews.

As to the suggestion that the Department require approval of the recipient's self-evaluation prior to any funding, we have two objections. First, the inconsistency with HEW's regulations would cause confusion and be burdensome on those recipients dealing with both Departments. Second, a prior approval requirement would cause lengthy interruptions in ongoing programs. As a practical matter, some programs could be delayed for an extended period of time while recipients conduct self-evaluations and the agencies reviewed them. Such action by the Department would be tantamount to a grant termination or a refusal to continue assistance which Title IX permits only after certain procedures have been completed. 20 U.S.C. 1682.

As proposed, § 15a.3(c) requires only "recipient education institution(s)" to make a self-evaluation. The term "educational institution" covers generally what is regarded as the formal education community, not all education programs or activities receiving federal assistance. Since all recipients must comply with Title IX and since compliance requires self-analysis, we are amending § 15a.3(c) by deleting the words "education institution."

After completion of the self-evaluation, descriptions of any modifications or remedial steps must be maintained for three years. Section 15a.3(d). In view of the added paragraph, § 15a.5(d), discussed infra, we are amending § 15a.3(d) to read as follows:

"Recipients shall maintain on file for at least three years following *the effective date of this Part or* completion of the evaluation required under paragraph (c) of this section, *whichever is longer,* and shall provide to the Secretary upon request, a description of any modifications made pursuant to sub-paragraph (c)(ii) and of any remedial steps taken pursuant to sub-paragraph (c)(iii)." (The amended portion is italicized.)

Those recipients, who have grants from both HEW and USDA and who have already completed their self-evaluation under HEW's regulations, will not have to begin a new evaluation process to satisfy USDA requirements. § 15a.5(d). However, those recipients are required to maintain the required information for three years from the effective date of this part. The Department will need the information for compliance reviews, and it is unlikely that all recipients can be reviewed in less than three years. Some recipients will therefore have to maintain records longer for USDA than they would for HEW. This requirement is necessary for this Department to perform its review responsibilities.

C. *Section 15a.4.* A question has been raised as to the applicability of the assurance requirement to existing programs. The assurance requirement of § 15a.4 applies to new applications or reapplications for funding. The giving of an assurance is a condition of granting the funds. However, even existing programs, which have been funded since the enactment of Title IX, are covered by the general statutory prohibition against sex discrimination. If statutory violations have occurred prior to the effective date of these regulations, appropriate action will be taken in accordance with 20 U.S.C. 1682. In determining whether a preregulation violation has occurred, the substantive rules in these regulations will serve as guidelines.

D. *Section 15a.5.* Several comments pointed out that our Title IX regulations will result in duplication of those requirements already performed as part of compliance with HEW's regulations. See §§ 15a.3(c), 15a.4(a), 15a.7 (a) and (b), and 15a.8 (a) and (b). Since the requirements are intended to apply only where not otherwise covered by HEW regulations, we are adding a clarifying paragraph. It should be noted, however, that those requirements must have been applied to any of the programs which this Department funds. If not, they must be met as to our programs. Therefore, we are adding the following paragraph:

"§ 15a.5(d). *Effect of Compliance with HEW Regulations.* If a recipient is covered by the Title IX regulations issued by HEW, 45 CFR Part 86, and has already complied with the

HEW requirements corresponding to §§ 15a.3(c), 15a.4(a), 15a.7 (a) and (b), and 15a.8 (a) and (b), then the requirements of those sections need not be duplicated in order to comply with this Part. However, if the requirements have not been applied to all programs funded by this Department, then the requirements will have to be met as to those programs."

E. *Section 15a.7.* One comment concerned the adequacy of a recipient's complaint system. The implication of the comment was that USDA should require a specific set of complaint procedures by all recipients. We see no particular need for uniformity in this area. Most recipients, particularly large institutions, have existing complaint systems which can be modified to incorporate complaints of sex discrimination. If the recipient's procedures provide for a prompt, fair resolution of complaints, then the system is adequate.

F. *Section 15a.8.* One suggestion was that public notices of applicability of Title IX be prominently displayed and be of a specified size so as to attract the reader's attention. It has also been recommended that recipients be required to give advance public notice of their events. We believe that the need for consistency with HEW's regulations overrides the need for imposing these requirements on recipients. If every Department issuing Title IX regulations specifies this level of detail, recipients will be in constant quandary about which requirements have to be met for compliance with such regulations. We add, however, that deception and bad faith may be evidenced by the lack of prominent display and that the failure to give adequate public notice of events may indicate an intent to discriminate. These matters will be determined in compliance review on a case-by-case basis.

G. *Sections 15a.51–15a.61 (Subpart E).* It has been pointed out that three district courts have held that Subpart E (covering employment practices of recipients) is inconsistent with Title IX and therefore invalid. *Brunswick School Board* v. *Califano,* 17 FEP 475 (D. Maine 1978); *Seattle University* v. *HEW,* 16 FEP 719 (W.D. Wash. 1978); *Romeo Community Schools* v. *HEW,* 14 FEP 1177 (E.D. Mich. 1977). It was therefore recommended that we suspend action on Subpart E pending resolution by the Courts. Until there is a final judicial resolution or until the Justice Department and HEW accept as final the cited decisions, we are not suspending action on Subpart E. Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.,* which expressly does not cover the employment practices of recipients of federal assistance, the courts have held that employment practices could be challenged where there is a sufficient nexus between a recipient's employment practices and the delivery of services to intended beneficiaries. *Lee* v. *Macon County Board of Education,* 267 F. Supp. 458, 472 (M.D. Ala. 1967), *aff'd sub nom, Wallace* v. *U.S.,* 389 U.S. 215 (1967); *U.S.* v. *Jefferson County Board of Education,* 372 F. 2d 836, 882–83, 893 (5th Cir. 1966), *aff'd en banc,* 380 F. 2d 385, *cert. denied,* 389 U.S. 840 (1967); *Board of Education of Taylor County* v. *Finch,* 414 F. 2d 1068, 1078 (5th Cir. 1969); *Marable* v. *Alabama Mental Health Board,* 297 F. Supp. 291, 297 (M.D. Ala. 1969). In our opinion, there is no area where there is a greater connection between employment practices and delivery of services than in the area of education. Where students are to be learning and developing their interests and abilities without regard to their sex and where this development is influenced greatly by the example of teachers, administrators, and other personnel, discriminatory employment practices cannot help but have an adverse impact on educational and career benefits intended for the students. Furthermore, even if it is assumed that HEW's regulations are too broad and eventually have to be redrafted, we still have a responsibility to maintain uniformity by following HEW's present policy position.

H. Clerical errors in §§ 15a.5(a), 15a.31(b), 15a.34(b), 15a.37(a) and 15a.53(a) have been corrected.

### III. Comments and questions from the Cooperative Extension Service (CES) of various States

A. A major concern was that the regulations as drafted are not "tailored" to fit clientele groups served by CES. Those comments recommended that terminology other than "student" or "admission" be used in order to make clear how the rules applied to CES.

When drafting the proposed rules, we considered using different terminology. However, it is virtually impossible to find terms which are perfectly suitable for each USDA-funded recipient. Because we fund a variety of recipients, including schools and universities as well as the CES, and because of the need for uniformity, we decided to adopt HEW's term, "student," which includes every intended beneficiary of an education program or activity.

As noted in the Supplementary Information with our proposed rules, 43 FR 20012, it is intended that informal education programs, such as 4–H and other CES activities, be covered. The simplest way to achieve this is to define broadly the terms, "student" and "admission" to include "participants." This latter term is clearly sufficient to cover CES clientele.

A similar comment stated that the term "admissions policy" is confusing since CES does not have an admissions policy as do institutions of higher education. Actually the term is not used, although "policy or criterion for admission" is used in § 15a.21(b)(1). In our view, this latter term denotes any criterion or requirement for participating in or receiving the benefits or CES programs and activities. Certainly, the 4–H Clubs have criteria (e.g., age limits) for participating in its activities. The Title IX regulations simply prohibit using sex as a factor in determining who or how one can participate in CES programs.

B. One comment recommended that 4–H programs be exempted from the Title IX regulations, because the elimination of boy and girl divisions will cause the participation in some programs to dwindle. Congress, in enacting Title IX, provided certain statutory exemptions, none of which apply generally to 4–H. This Department has no authority to create additional exemptions. Moreover, even if we had such authority, we would not exempt 4–H because, as a matter of policy, this Department is opposed to sex discrimination. Concerning the anticipated loss of participation, it may be recalled that similar arguments were made in the 1960's regarding the racial integration of 4–H programs. For similar reasons the argument is rejected today. The fact that some members may be opposed to participating in a program that allows members of the other sex to participate is not sufficient reason for excluding or segregating the latter group.

C. What guidelines are to be established for 4–H and Youth and Homemaker Clubs that currently have membership of all one sex? Guidelines are contained in these regulations. *First,* the situation must be examined closely to determine the cause. See §§ 15a.3(c), 15a.36(c). We do not say categorically that the existence of a club with members of only one sex is violative of Title IX. Such clubs may be the result of individual choice, although statistically it is improbable. It is more likely that there are or have been policies and practices which are prohibited by Title IX. There could be intentional exclusion of one sex, §§ 15a.21, 15a.34; disparate outreach practices, §15a.23; discriminatory counseling, § 15a.36; or employment discrimination, § 15a.51. *Second,* any discriminatory practices

must be modified. Section 15a.3(c)(ii). *Third,* remedial steps must be taken to correct the effects of the prior practices. Section 15a.3(c)(iii). Remedial action could include special outreach and counseling efforts, program changes, or club mergers.

D. Are there to be specific steps for bringing males into Homemaker Clubs? See the self-evaluation provisions, § 15a.3(c), and the discussion in C above.

E. What guidelines are being considered for the 4–H camping program? See the provisions regarding admissions, §§ 15a.21, 15a.34; housing, § 15a.32; and other facilities, § 15a.33. These sections offer substantial guidance.

F. Where are complaints to be filed? Each recipient must have or establish an internal complaint procedure. Section 15a.7(b). Furthermore, complaints may be filed with this Department. Section 15a.71, incorporating by reference 7 CFR 15.6.

G. What guidelines are being developed to insure the use of program materials that avoid sex role stereotyping? This Department will assist in every way possible. However, the review of program materials is largely a recipient's responsibility. See §§ 15a.3(c), 15a.42. To the extent that your materials are prepared by the Federal Extension Program, there is an on-going process for reviewing those materials for sex bias. As to the materials prepared for CES, we suggest that you consult any interested community organization and/or establish a task force for reviewing your materials for sex bias.

H. One comment concerned the "overlap" of Title IX with other Civil Rights rules and suggested combining the Title IX regulations with regulations published under Title VI of the Civil Rights Act of 1964. Consideration was given to this approach. However, because of the many exceptions in both Title IX and the HEW regulations and because of the additional requirements (e.g., self-evaluation, § 15a.3) on Title IX recipients not required under the Title VI regulations, it was not feasible to amend the Title VI regulations to cover sex discrimination in federally-assisted education programs.

I. It was observed that the notification requirements, §§ 15a.7, 15a.8, may "result in a very negative reaction toward the recipient agency and to the USDA." Unfortunately, this may result from any type of civil rights effort. However, notification is necessary and it is hoped that CES clientele will accept the need for this requirement.

J. One comment requested CES examples of exempt activities under § 15a.15. Paragraph 15a.15(a) concerns only Girls State and Nation Conference and Boys State and Nation Conferences as sponsored by the American Legion. There is a specific statutory exemption for these Conferences. Since these exemptions are to be interpreted narrowly, it is our opinion that CES cannot sponsor similar events and be exempt. Paragraph 15a.15(b) authorizes father-son and mother-daughter activities at an educational institution. It is our interpretation that this exemption (also provided for specifically by statute) applies only to activities sponsored by and at an educational institution. Since CES is not an educational institution, as defined in § 15a.2(g), there is no basis for its programs or activities being exempt. Paragraph 15a.15(c) authorizes scholarships for sex-exclusive "beauty" pageants. Although we doubt that CES sponsors such activities, if it did, then presumably the exemption would apply.

K. One comment questioned whether the regulations require or prohibit competitions offering separate awards for boys and girls. Clearly separate awards are not required, 20 U.S.C. 1681(b), and it is our opinion that sex-segregated contests are inconsistent with Title IX. See §§ 15a.31 (a) and (b). When a person is not allowed to compete in a particular group because of his or her sex, that person is "excluded from participation in" that activity. To segregate boys and girls for contest purposes is to subject those individuals to discrimination. When boys are not permitted to compete with girls, and vice versa, the individuals are "denied the benefits of" competing for and possibly winning an award that has been reserved for the other sex. It should be noted, however, that individuals may be grouped for contest purposes, "by ability as assessed by objective standards of individual performance developed and applied without regard to sex." § 15a.34(b).

L. One comment urged that the collection of sex-based data not be required, because the participation data would not prove either compliance or discrimination. As we indicated in III. C. above, statistics may not be conclusive proof, but they are indicators and can aid in the analysis of a particular situation. See 20 U.S.C. 1681(b).

Dated: April 5, 1979.

**Bob Bergland,**

*Secretary of Agriculture.*

Part 15a is added to read as set forth below:

## PART 15a—EDUCATION PROGRAMS OR ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE

### Subpart A—Introduction

Sec.
15a.1 Purpose and effective date.
15a.2 Definitions.
15a.3 Remedial and affirmative action and self-evaluation.
15a.4 Assurance required.
15a.5 Effect of other requirements.
15a.6 Effect of employment opportunities.
15a.7 Designation of responsible employee and adoption of grievance procedures.
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### Subpart B—Coverage

15a.11 Application.
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15a.13 Military and merchant marine educational institution.
15a.14 Membership practices of certain organizations.
15a.15 Exempt activities.
15a.16 Admission.
15a.17 Education institutions eligible to submit transition plans.
15a.18 Transition plans.

### Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

Sec.
15a.21 Admission.
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### Subpart D—Discrimination on the Basis of Sex in Education Programs and Activities Prohibited

15a.31 Education programs and activities.
15a.32 Housing.
15a.33 Comparable facilities.
15a.34 Access to course offerings.
15a.35 Access to schools operated by L.E.A.s.
15a.36 Counseling and use of appraisal and counseling materials.
15a.37 Financial assistance.
15a.38 Employment assistance to students.
15a.39 Health and insurance benefits and services.
15a.40 Marital or parental status.
15a.41 Athletics.
15a.42 Textbooks and curricular material.

### Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited

15a.51 Employment.
15a.52 Employment criteria.
15a.53 Recruitment.
15a.54 Compensation.
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15a.56 Fringe benefits.
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15a.58 Effect of State or local law or other requirements.
15a.59 Advertising.
15a.60 Pre-employment inquiries.
15a.61 Sex as a bona-fide occupational qualification.
15a.71 Interim procedures
Appendix.

**Authority.**—Title IX of the Education Amendments of 1972, Pub. L. 92–318, as amended by section 3 of Pub. L. 93–568, 88 Stat. 1855 and section 412 of Pub. L. 94–482, 90 Stat. 2234 (except sections 904 and 906 thereof); 20 U.S.C. 1681, 1682, 1683, 1685, 1686.

## Subpart A—Introduction

### § 15a.1 Purpose and effective date.

The purpose of this part is to effectuate Title IX of the Education Amendments of 1972, as amended by Pub. L. 93–568, 88 Stat. 1855 and Pub. L. 94–482, 90 Stat. 2234 (except sections 904 and 906 of those Amendments) which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution as defined in this part.

### § 15a.2 Definitions.

As used in this part, the term:

(a) "Title IX" means Title IX of the Education Amendments of 1972, Pub. L. 92–318, as amended by section 3 of Pub. L. 93–568, 88 Stat. 1855 and section 412 of Pub. L. 94–482, 90 Stat. 2234 (except sections 904 and 906 thereof); 20 U.S.C. 1681, 1682, 1683, 1685, 1686.

(b) "Department" means the Department of Agriculture, and includes each of its operating agencies and other organizational units.

(c) "Secretary" means the Secretary of Agriculture or any officer or employees of the Department to whom the Secretary has heretofore delegated, or to whom the Secretary may hereafter delegate, the authority to act for the Secretary under the regulations in this part.

(d) "Federal financial assistance" means any of the following, when authorized or extended under a law administered by the Department:

(1) A grant or loan of Federal financial assistance, including

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and

(ii) Scholarships, loans, grants, wages or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.

(2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.

(3) Provision of the services of Federal personnel.

(4) Sale or lease of Federal property of any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient, or in recognition of public interest to served thereby, or permission to use Federal property or any interest therein without consideration.

(5) Any other contract, agreement, or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

(e) "Recipient" means the State or political subdivision thereof, of any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance, including any subunit, successor, assignee, or transferee thereof.

(f) "Applicant" means one who submits an application, request, or plan required to be approved by a Department official, or by a recipient, as a condition to becoming a recipient.

(g) "Educational institution" means a local educational agency (L.E.A.) as defined by section 801(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 881), a preschool, a private elementary or secondary school, or an applicant or recipient of the type defined by paragraph (h), (i), (j), or (k) of this section.

(h) "Institution of graduate higher education" means an institution which:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences; or

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in such field is awarded by an institution of undergraduate higher education or professional education); or

(3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

(i) "Institution of undergraduate higher education" means:

(1) An institution offering at least two but less than four years of college level study beyond the high school level, leading to a diploma or an associate degree, or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

(j) "Institution of professional education" means an institution (except any institution of undergraduate higher education) which offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the United States Commissioner of Education.

(k) "Institution of vocational education means a school or institution (except an institution of professional or graduate or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study.

(l) "Administratively separate unit" means a school, department or college of an educational institution (other than a local educational agency) admission to which is independent of admission to any other component of such institution.

(m) "Admission" means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, participation, or matriculation in or at an education program or activity operated by a recipient.

(n) "Student" means a person who has gained admission.

(o) "Transition plan" means a plan subject to the approval of the United States Commissioner of Education pursuant to section 901(a) of the Education Amendments of 1972, under which an educational institution operates in making the transition from being an educational institution which admits only students of one sex to being one which admits students of both sexes without discrimination.

(p) "Educational recipient" means an educational institution as defined in

§ 15a.2(g) and every other recipient which has education as a significant purpose.

(q) "Education program or activity" means:

(1) Every program or activity operated by an educational recipient; and

(2) Every program or activity operated by other recipients where a significant purpose of the finanical assistance is education,

(r) "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

**§ 15a.3 Remedial and affirmative action and self-evaluation.**

(a) *Remedial action.* If the Secretary finds that a recipient has discriminated against persons on the basis of sex in an education program or activity, such recipient shall take such remedial action as the Secretary deems necessary to overcome the effects of such discrimination.

(b) *Affirmative Action.* In the absence of a finding of discrimination on the basis of sex in an education program or activity, a recipient may take affirmative action to overcome the effects of conditions which resulted in limited participation therein by persons of a particular sex. Nothing herein shall be interpreted to alter any affirmative action obligations which a recipient may have under Executive Order 11246.

(c) *Self-evaluation.* Each recipient shall, within one year of the effective date of this part:

(1) Evaluate in terms of the requirements of this part, its current policies and practices and the effects thereof concerning admission of students, treatment of students, and employment of both academic and non-academic personnel working in connection with the recipient's education program or activity;

(2) Modify any of these policies and practices which do not or may not meet the requirements of this part; and

(3) Take appropriate remedial steps to eliminate the effects of any discrimination which resulted or may have resulted from adherence to these policies and practices.

(d) *Availability of self-evaluation and related materials.* Recipients shall maintain on file for at least three years following the effective date of this part or completion of the evaluation required under paragraph (c) of this section, whichever is longer, and shall provide to the Secretary upon request, a description of any modifications made pursuant to paragraph (c)(1) of this section and of any remedial steps taken pursuant to paragraph (c)(3) of this section.

**§ 15a.4 Assurance required.**

(a) *General.* Every application for Federal financial assistance for any education program or activity shall as condition of its approval contain or be accompanied by an assurance from the applicant or recipient, satisfactory to the Secretary, that each education program or activity operated by the applicant or recipient and to which this part applies will be operated in compliance with this part. An assurance of compliance with this part shall not be satisfactory to the Secretary if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with § 15a.3(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior or subsequent to the submission to the Secretary of such assurance.

(b) *Transfers of Property.* If a recipient sells or otherwise transfers property financed in whole or in part with Federal financial assistance to a transferee which operates any education program or activity, and the Federal share of the fair market value of the property is not upon such sale or transfer properly accounted for to the Federal Government both the transferor and the transferee shall be deemed to be recipients, subject to the provisions of subpart B.

(c) *Duration of obligation.* (1) In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity.

(2) In the case of Federal financial assistance extended to provide personal property, such assurances shall obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases such assurance shall obligate the recipient for the period during which Federal financial assistance is extended.

(d) *Form.* The Secretary will specify the form of the assurances required by paragraph (a) of this section and the extent to which such assurances will be required of the applicant's or recipient's subgrantees, contractors, subcontractors, transferees, or successors in interest.

**15a.5 Effect of other requirements.**

(a) *Effect of other Federal provisions.* The obligations imposed by this part are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, as amended; Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.);* the Equal Pay Act (29 U.S.C. 206 and 206(d); and any other act of Congress or Federal regulation.

(b) *Effect of State or local law or other requirements.* The obligation to comply with this part is not obviated or alleviated by any State or local law or other requirement which would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex to practice any occupation or profession.

(c) *Effect of rules or regulations of private organizations.* The obligation to comply with this part is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league, or association which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and which receives or benefits from Federal financial assistance.

(d) *Effect of compliance with HEW regulations.* If a recipient is covered by the title IX regulations issued by HEW, 45 CFR Part 86, and has already complied with the HEW requirements corresponding to §§ 15a.3(c), 15a.4(a), 15a.7 (a) and (b), and 15a.8 (a) and (b), then the requirements of those sections need not be duplicated in order to comply with this part. However, if the requirements have not been applied to all programs funded by this Department, then the requirements will have to be met as to those programs.

**15a.6 Effect of employment opportunities.**

The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for members of one sex than for members of the other sex.

**15a.7 Designation of responsible employee and adoption of grievance procedures.**

(a) *Designation of responsible employee.* Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its

responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions which would be prohibited by this part. The recipient shall notify all its students and employees of the name, office address and telephone number of the employee or employees appointed pursuant to this paragraph.

(b) *Complaint procedure of recipient.* A recipient shall adopt and publish grievance procedures providing for prompt, and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part.

**15a.8 Dissemination of policy.**

(a) *Notification of policy.* (1) Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational programs or activities which it operates, and that it is required by Title IX and this part not to discriminate in such a manner. Such notification shall contain such information, and be made in such manner, as the Secretary finds necessary to apprise such persons of the protections against discrimination assured them by Title IX and this part, but shall state at least that the requirement not to discriminate in education programs and activities extends to employment therein and to admission thereto unless Subpart C does not apply to the recipient, and that inquiries concerning the application of Title IX and this part to such recipient may be referred to the employee designated pursuant to 15a.7 or to the Secretary.

(2) Each recipient shall make the initial notification required by paragraph (a)(1) of this section within 90 days of the effective date of this part or of the date this part first applies to such recipient, whichever comes later, which notification shall include publication in: (i) Local newspapers, (ii) newspapers and magazines operated by such recipient or by student, alumnae, or alumni groups for or in connection with such recipient; and (iii) memoranda or other written communications distributed to every student and employees of such recipient.

(b) *Publications.* (1) Each recipient shall prominently include a statement of the policy described in paragraph (a) of this section in each announcement, bulletin, catalog, or application form which it makes available to any person of a type described in paragraph (a) of this section, or which is otherwise used in connection with the recruitment of students or employees.

(2) A recipient shall not use or distribute a publication of the type described in this paragraph which suggests, by text or illustration, that such recipient treats applicants, students, employees differently on the basis of sex except as such treatment is permitted by this part.

(c) *Distribution.* Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b) of this section, and shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and require such representatives to adhere to such policy.

## Subpart B—Coverage

**15a.11 Application.**

Except as provided in this subpart, this Part 15a applies to every recipient and to each education program or activity operated by such recipient which receives or benefits from Federal financial assistance.

**15a.12 Educational institutions controlled by religious organizations.**

(a) *Application.* This part does not apply to an educational institution which is controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization.

(b) *Exemption.* An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section shall do so by submitting in writing to the Secretary a statement by the highest ranking official of the institution identifying the provisions of this part which conflict with a specific tenet of the religious organization.

**§ 15a.13 Military and merchant marine educational institution.**

This part does not apply to an educational institution whose primary purpose is the training of individuals for a military service of the United States or for the merchant marines.

**§ 15a.14 Membership practices of certain organizations.**

(a) *Social fraternities and sororities.* This part does not apply to the membership sororities which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) *YMCA, YWCA, Girl Scouts, Boy Scouts and Camp Fire Girls.* This part does not apply to the membership practices of the Young Men's Christian Association, the Young Women's Christian Association, the Girl Scouts, the Boy Scouts and Camp Fire Girls.

(c) *Voluntary youth service organizations.* This part does not apply to the membership practices of voluntary youth service organizations which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 and the membership of which has been traditionally limited to members of one sex and principally to persons of less than nineteen years of age.

**§ 15a.15 Exempt activities.**

(a) These regulations shall not apply to:

(1) Any program or activity of the American Legion undertaken in connection with the organization or operation of any Girls State Conference, Girls Nation Conference, Boys State Conference, Boys Nation Conference, or

(2) The selection of students to attend any such conference.

(b) These regulations shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex.

(c) These regulations shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

**§ 15a.16 Admission.**

(a) Admission to educational institutions prior to June 24, 1973, are not covered by this part.

(b) *Administratively separate units.* For the purpose only of this section, §§ 15a.17 and 15a.18, and Subpart C, each administratively separate unit shall

be deemed to be an educational institution.

(c) *Application of Subpart C.* Except as provided in paragraph (c) and (d) of this section, Subpart C applies to each recipient. A recipient to which Subpart C applies shall not discriminate on the basis of sex in admission or recruitment in violation of that subpart.

(d) *Educational institutions.* Except as provided in paragraph (e) of this section as to recipients which are educational institutions, Subpart C applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.

(e) *Public institutions of undergraduate higher education.* Subpart C does not apply to any public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.

**§ 15a.17 Education institutions eligible to submit transition plans.**

(a) *Applications.* This section applies to each educational institution to which Subpart C applies which:

(1) Admitted only students of one sex as regular students as of June 23, 1972; or

(2) Admitted only students of one sex as regular students as of June 23, 1965, but thereafter admitted as regular students, students of the sex not admitted prior to June 23, 1965.

(b) *Provision for transition plans.* An educational institution to which this section applies shall not discriminate on the basis of sex in admission or recruitment in violation of Subpart C unless it is carrying out a transition plan approved by the United States Commissioner of Education as described in 15a.18, which plan provides for the elimination of such discrimination by the earliest practicable date but in no event later than June 23, 1979.

**§ 15a.18 Transition plans.**

(a) *Submission of plans.* An institution to which 15a.17 applies and which is composed of more than one administratively separate unit may submit either a single transition plan applicable to all such units, or a separate transition plan applicable to each such unit.

(b) *Content of plans.* In order to be approved by the United States Commissioner of Education, a transition plan shall: (1) State the name, address, and Federal Interagency Committee on Education (FICE) Code of the educational institution submitting such plan, the administratively separate units to which the plan is applicable, and the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

(2) State whether the educational institution or administratively separate unit admits students of both sexes, as regular students and, if so, when it began to do so.

(3) Identify and describe with respect to the educational institution or administratively separate unit any obstacles to admitting students without discrimination on the basis of sex.

(4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle so identified and indicate the schedule for taking these steps and the individual directly responsible for their implementation.

(5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

(c) *Nondiscrimination.* No policy or practice of a recipient to which § 15a.17 applies shall result in treatment of applicants to or students of such recipient in violation of Subpart C unless such treatment is necessitated by an obstacle identified in paragraph (b)(3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b)(4) of this section.

(d) *Effects of past exclusion.* To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which § 15a.17 applies shall include in its transition plan, and shall implement, specific steps designed to encourage individuals of the previously excluded sex to apply for admission to such institution. Such steps shall include instituting recruitment programs which emphasize the institution's commitment to enrolling students of the sex previously excluded.

## Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

**§ 15a.21 Admission.**

(a) *General.* No person shall, on the basis of sex, be denied admission, or be subjected to discrimination in admission, by any recipient to which this subpart applies, except as provided in §§ 15a.17 and 15a.18.

(b) *Specific prohibitions.* (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this Subpart applies shall not:

(i) Give preference to one person over another on the basis of sex, by ranking applicants separately on such basis, or otherwise,

(ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or

(iii) Otherwise treat one individual differently from another on the basis of sex.

(2) A recipient shall not administer or operate any test or other criterion for admission which has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or criterion is shown to predict validly success in the education program or activity in question and alternative tests or criteria which do not have such a disproportionately adverse effect are shown to be unavailable.

(c) Prohibitions relating to marital or parental status. In determining whether a person satifies any policy or criterion for admission, or in making any offer of admission, a recipient to which this subpart applies:

(1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant which treats persons differently on the basis of sex;

(2) Shall not discriminate against or exclude any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice which so discriminates or excludes;

(3) Shall treat disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition; and

(4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs." A recipient may make pre-admission inquiry as to the sex of an applicant for admission, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

**§ 15a.22 Preference in admission.**

A recipient to which the subpart applies shall not give preference to applicants for admission, on the basis of attendance at any educational institution or other school or entity which admits as students only or

predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of this subpart.

**§ 15a.23 Recruitment.**

(a) *Nondiscriminatory recruitment.* A recipient to which this subpart applies shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action pursuant to § 15a.3(a), and may choose to undertake such efforts as affirmative action pursuant to § 15a.3(b).

(b) *Recruitment at certain institutions.* A recipient to which this supbart applies shall not recruit primarily or exclusively at education institutions, schools or entities which admit as students only or predominantly members of one sex, if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

## Subpart D—Discrimination on the Basis of Sex in Education Programs and Activites Prohibited

**§ 15a.31 Education programs and activites.**

(a) *General.* Except as provided elsewhere in the part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives or benefits from Federal financial assistance. This subpart does not apply to actions of a recipient in connection with admission of its students to an education program or activity of (1) a recipient to which Subpart C does not apply, or (2) an entity, not a recipient, to which Subpart C would not apply if the entity were a recipient.

(b) *Specific prohibitions.* Except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules or behavior, sanctions, or other treatment;

(5) Discriminate against any person in the application of any rules of appearance;

(6) Apply any rule concerning the domicile or residence of a student, or applicant, including eligibility for in-State fees and tuitions;

(7) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;

(8) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(c) *Assistance administered by a recipient educational institution to study at a foreign institution.* A recipient educational institution may administer or assist, in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, which are designed to provide opportunities to study abroad, and which are awarded to students who are already matriculating at or who are graduates of the recipient institution, provided a recipient educational institution which administers or assists in the administration of such scholarships, fellowships, or other awards which are restricted to members of one sex provides, or otherwise makes available reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

(d) *Programs not operated by recipient.* (1) This paragraph applies to any recipient which requires participation by any applicant, student, or employee in any education program or activity not operated wholly by such recipient, or which facilitates, permits, or considers such participation as part of or equivalent to an education program or activity operated by such recipient, including participation in education consortia and cooperative employment and student-teaching assignments.

(2) Such recipient:

(i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student or employee of such recipient which this part would prohibit such recipient from taking; and

(ii) Shall not facilitate, require, permit, or consider such participation if such action occurs.

**§ 15a.32 Housing.**

(a) *General.* A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

(b) *Housing provided by recipient.* (1) A recipient may provide separate housing on the basis of sex.

(2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole:

(i) Proportionate in quantity to the number of students of that sex applying for such housing; and

(ii) Comparable in quality and cost to the student.

(c) *Other housing.* (1) A recipient shall not on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than provided by such recipient.

(2) A recipient which through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take such reasonable action as may be necessary to assure itself that such housing as provided to students of one sex, when compared to that provided to students of the other sex, is as a whole: (i) Proportionate in quantity and (ii) comparable in quality and cost to the student. A recipient may render such assistance to any agency, organization, or person which provides all or part of such housing to students only of one sex.

**§ 15a.33 Comparable facilities.**

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

**§ 15a.34 Access to course offerings.**

A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, industrial, business, vocational, technical, home economics, music and adult education courses.

(a) With respect to classes and activities in physical education at the elementary school level, the recipient shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective

date of this regulation. With respect to physical education classes and activities at the secondary and post-secondary levels, the recipient shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

(b) This section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

(c) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball and other sports, the purpose or major activity of which involves bodily contact.

(d) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards which do not have such effect.

(e) Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(f) Recipients may make requirements based on vocal range or quality which may result in a chorus or choruses of one or predominantly one sex.

**§ 15a.35 Access to schools operated by L.E.A.s.**

A recipient which is a local educational agency shall not, on the basis of sex, exclude any person from admission to:

(a) Any institution of vocational education operated by such recipient; or

(b) Any other school or educational unit operated by such recipient, unless such recipient otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

**§ 15a.36 Counseling and use of appraisal and counseling materials.**

(a) *Counseling.* A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.

(b) *Use of appraisal and counseling materials.* A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.

**§ 15a.37 Financial assistance.**

(a) *General.* Except as provided in paragraph (b) and (c) of this section, in providing financial assistance to any of its students, a recipient shall not: (1) On the basis of sex, provide different amounts or types of such assistance, limit eligibility for such assistance which is of any particular type or source, apply different criteria or otherwise discriminate;

(2) Through solicitation, listing, approval, provision of facilities or other services, assist any foundation, trust, agency, organization, or person which provides assistance to any of such recipient's students in a manner which discriminates on the basis of sex; or

(3) Apply any rule or assist in application of any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other sex with regard to marital or parental status.

(b) *Financial aid established by certain legal instruments.* (1) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests or similar legal instruments or by acts of a foreign government which require that awards be made to members of a particular sex specified therein: *Provided,* That the overall effect of the award of such sex-restricted scholarships, fellowships and other forms of financial assistance does not discriminate on the basis of sex.

(2) To ensure nondiscriminatory awards of assistance as required in paragraph (b)(1) of this section, recipients shall develop and use procedures under which:

(i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;

(ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under paragraph (b)(2)(i) of this section; and

(iii) No student is denied the award for which he or she was selected under paragraph (b)(2)(i) of this section because of the absence of a scholarship, fellowship, or other form of financial assistance designed for a member of that student's sex.

(c) *Athletic scholarships.* (1) To the extent that a recipient awards athletic scholarships or grants-in-aids, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with this paragraph and § 15a.41.

**§ 15a.38 Employment assistance to students.**

(a) *Assistance by recipient in making available outside employment.* A recipient which assists any agency, organization or person in making employment available to any of its students:

(1) Shall assure itself that such employment is made available without discrimination on the basis of sex; and

(2) Shall not render such services to any agency, organization, or person which discriminates on the basis of sex in its employment practices.

(b) *Employment of students by recipients.* A recipient which employs any of its students shall not do so in a manner which violates Subpart E.

**§ 15a.39 Health and insurance benefits and services.**

In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not

discriminate on the basis of sex, or provide such benefit, service, policy, or plan in a manner which would violate Subpart E if it were provided to employees of the recipient. This section shall not prohibit a recipient from providing any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient which provides full coverage health service shall provide gynecological care.

**§ 15a.40 Marital or parental status.**

(a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.* (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity on the basis of such student's pregnancy, childbirth, false pregnancy, termination or pregnancy or recover therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A recipient which operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section shall ensure that the instructional program in the separate program is comparable to that offered to non-pregnant students.

(4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

**§ 15a.41 Athletics.**

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics, offered by the recipient, and no recipient shall provide any such athletics separately on such basis.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

(c) *Equal opportunity.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Secretary will consider, among other factors:

(1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(2) The provision of equipment and supplies;

(3) Scheduling of games and practice time;

(4) Travel and per diem allowance;

(5) Opportunity to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Provision of locker rooms, practice and competitive facilities;

(8) Provision of medical and training facilities and services;

(9) Provision of housing and dining facilities and services;

(10) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Secretary may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the elementary school level shall comply fully with the section as expeditiously as possible but in no event later than one year fom the effective date of this regulation. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the secondary or post-secondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

**§ 15a.42 Textbooks and curricular material.**

Nothing in this regulation shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.

## Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited

**§ 15a.51 Employment.**

(a) *General.* (1) No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any education program or activity operated by a recipient which receives or benefits from Federal financial assistance.

(2) A recipient shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex.

(3) A recipient shall not enter into any contractual or other relationship which

directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by this subpart, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient.

(4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity which admits as students only or predominantly members of one sex, if the giving of such preferences has the effect of discriminating on the basis of sex in violation of this part.

(b) *Application.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation, and changes in compensation;

(4) Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;

(5) The terms of any collective bargaining agreement;

(6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

(7) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(8) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;

(9) Employer-sponsored activities, including social or recreational programs; and

(10) Any other term, condition, or privilege of employment.

**§ 15a.52 Employment criteria.**

A recipient shall not administer or operate any test or other criterion for any employment opportunity which has a disproportionately adverse effect on persons on the basis of sex unless:

(a) Use of such test or other criterion is shown to predict validly successful performance in the position in question; and

(b) Alternative tests or criteria for such purpose, which do not have such disproportionately adverse effect, are shown to be unavailable.

**§ 15a.53 Recruitment.**

(a) *Nondiscriminatory recruitment and hiring.* A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have in the past so discriminated, the recipient shall recruit members of the sex so discriminated against so as to overcome the effects of such past or present discrimination.

(b) *Recruitment patterns.* A recipient shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

**§ 15a.54 Compensation.**

A recipient shall not make or enforce any policy or practice which, on the basis of sex:

(a) Makes distinctions in rates of pay or other compensation;

(b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

**§ 15a.55 Job classification and structure.**

A recipient shall not:

(a) Classify a job as being for males or for females;

(b) Maintain or establish separate lines of progression, seniority lists, career ladders, or tenure systems based on sex; or

(c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements which classify persons on the basis of sex, unless sex is a bona-fide occupational qualification for the positions in question as set forth in § 15a.61.

**§ 15a.56 Fringe benefits.**

(a) *"Fringe benefits" defined.* For purposes of this part, "fringe benefits" means: Any medical, hospital, accident, life insurance or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave and any other benefit or service of employment not subject to the provision of § 15a.54.

(b) *Prohibitions.* A recipient shall not:

(1) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee's sex;

(2) Administer, operate, offer, or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex or for equal contributions to the plan by such recipient for members of each sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates in benefits on the basis of sex.

**§ 15a.57 Marital or parental status.**

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concerning the potential marital, parental, or family status of an employee or applicant for employment which treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(c) *Pregnancy as a temporary disability.* A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting therefrom as any other temporary disability for all job-related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as

a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

**§ 15a.58 Effect of State or local law or other requirements.**

(a) *Prohibitory requirements.* The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement which imposes prohibitions or limits upon employment of members of one sex which are not imposed upon members of the other sex.

(b) *Benefits.* A recipient which provides any compensation service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

**§ 15a.59 Advertising.**

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona-fide occupational qualification for the particular job in question.

**§ 15a.60 Pre-employment inquiries.**

(a) *Marital status.* A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss or Mrs."

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

**§ 15a.61 Sex as a bona-fide occupational qualification.**

A recipient may take action otherwise prohibited by this subpart provided it is shown that sex is a bona fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section which is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

## Subpart F—Procedures (Interim)

**§ 15a.71 Interim procedures.**

For the purposes of implementing this part during the period between its effective date and the final issuance by the Department of a consolidated procedural regulation applicable to Title IX and other civil rights authorities administered by the Department, the procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 7 CFR 15.5—15.11 and 7 CFR 15.60 et seq.

**Appendix**

Programs covered by Title IX include, but are not limited to, the following:

1. Community Facilities Program. 7 U.S.C. 1926(a)(1).
2. Permits for use of National Forests. 16 U.S.C. 497; 16 U.S.C. 432; 7 U.S.C. 1011(c), (d).
3. Permits for use of Government-owned improvements and land used therewith by other than individuals at a nominal charge. 16 U.S.C. 580d.
4. Revenue sharing payment to States: (a) Payment of 25 percent of National Forest receipts to States for schools and roads. 16 U.S.C. 500. (b) Payment to New Mexico and Arizona of proportion of National Forest receipts for common-school fund. Sections 6 and 24, Act of June 20, 1910. 36 Stat. 557, 562, 573. (c) Payment of 25 percent of net revenues from Title III, Bankhead-Jones Farm Tenant Act, lands to counties for school and road purposes. 7 U.S.C. 1012.
5. Technical assistance in forest management. 16 U.S.C. 568c, 568d.
6. General forestry assistance. Annual Appropriation Acts commencing with the Department Appropriation Act of 1905; Organic Act of 1862, 7 U.S.C. 2201.
7. Financial assistance to private timber organizations to carry out timber development programs. 40 U.S.C. 204.
8. Advance of funds for cooperative research. 16 U.S.C. 581i-l.
9. Research cooperation. 16 U.S.C. 581 *et seq.*
10. Grants for research. 7 U.S.C. 450i.
11. Food Distribution Program. 7 U.S.C. 612c, 1431; 42 U.S.C. 1755, 1758, 1761; 42 U.S.C. 1777.
12. National School Lunch Program. 42 U.S.C. 1751 *et seq.*
13. Special Milk Program. 42 U.S.C. 1772.
14. School Breakfast Program. 42 U.S.C. 1773.
15. Special Food Service Program for Children. 42 U.S.C. 1761.
16. Special Supplemental Food Program for Women, Infants, and Children. 42 U.S.C. 1786.
17. Cash grants to States for nutrition education. 42 U.S.C. 1787, 1788.
18. Advisory services studies for farmers cooperatives. 7 U.S.C. 451–457.
19. Cooperative Agricultural Extension Service. 7 U.S.C. 341–349; D.C. Code 31–1609.
20. Resource Conservation and Development Program. 16 U.S.C. 590a.
21. Educational Aspects of Agricultural Marketing Act, 7 U.S.C. 1623–1624.
22. Hatch Act research programs. 7 U.S.C. 361a-i.
23. Experiment Station Research Facilities. 7 U.S.C. 390a-k.
24. McIntire-Stennis Cooperative Forestry Research Program. 16 U.S.C. 582a-582a-7.
25. Rural Development and Small Farm Research and Education Program, 7 U.S.C. 2661 *et seq.*
26. Youth Conservation Corps. 16 U.S.C. 1701 *et seq.*
27. Young Adult Conservation Corps. 29 U.S.C. 993 *et seq.*
28. Agricultural Research and Education Grants Program. 7 U.S.C. 3151 *et seq.*
29. National Food and Human Nutrition Research and Extension Program. 7 U.S.C. 3171 *et seq.*
30. Animal Health and Disease Research Program. 7 U.S.C. 3191 *et seq.*
31. The 1890 Land-Grant College Funding Program. 7 U.S.C. 3221 *et seq.*
32. Solar Energy Research and Development Program. 7 U.S.C. 3241, 3261–62, 3271.

[FR Doc. 79–11216 Filed 4–10–79; 8:45 am]

BILLING CODE 3410–01–M

## Agricultural Marketing Service

## 7 CFR 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 increases the quantity of navel oranges that may be shipped during the period March 30–April 5, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

**DATES:** The amendment is effective for the period March 30–April 5, 1979.

**FOR FURTHER INFORMATION CONTACT:** Charles R. Brader, (202) 447–6393.

**SUPPLEMENTARY INFORMATION:** *Findings.* This amendment is issued under 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. The agreement and order are effective under

the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act. This amendment has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on April 4, 1979, and considered the need for amendment of the regulation. It recommended an increased quantity of navel oranges to be handled as herein specified. The committee reports the demand for navel oranges continues good on all sizes and grades.

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 necessary to effectuate the declared policy of the act. It is necessary to effectuate the declared purposes of the act to make this amendment effective as specified and handlers have been apprised of this amendment.

**§ 907.759 [Amended]**

1. Paragraph (a)(1) in § 907.759 Navel Orange Regulation 459, as amended (44 FR 18640, 20395), is hereby further amended to read:

(1) District 1: 1,135,000 cartons

* * * * *

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

Dated: April 5, 1979.

**Charles R. Brader,**

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

[Navel Orange Regulation 459; Amdt. 2]

[FR Doc. 79-11140 Filed 4-10-79; 8:45 am]

BILLING CODE 3410-02-M

## Agricultural Marketing Service

## 7 CFR Part 1004

## Milk in the Middle Atlantic Marketing Area; Order Amending Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This action amends the order based on milk industry proposals considered at a public hearing held in October 1978. More than the required two-thirds of dairy farmers affected approved the order as amended.

The amended order reduces pooling requirements for distributing plants and reserve processing plants and permits a federation of cooperative associations to operate a pool reserve processing plant. The order also increases the number of days' milk production of a producer that may be diverted monthly to nonpool plants as pooled milk during the months of September through February. The amended order reflects changed supply-demand conditions and methods of handling the market's reserve milk supplies and is necessary to assure orderly milk marketing in the area.

**EFFECTIVE DATE:** May 1, 1979.

**FOR FURTHER INFORMATION CONTACT:** Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6273.

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding:

Notice of Hearing issued September 14, 1978, published September 19, 1978 (43 FR 41990).

Order Suspending certain provisions issued October 18, 1978, published October 23, 1978 (43 FR 49285).

Order Suspending Certain Provisions; Correction issued November 13, 1978, published November 16, 1978 (43 FR 53413).

Recommended decision issued January 19, 1979, published January 25, 1979 (44 FR 5140).

Final decision issued March 19, 1979, published March 22, 1979 (44 FR 17518).

### Findings and Determinations

The following findings and determinations are made for the order in this proceeding. They supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and affirmed, except where they may conflict with those set forth below.

(a) *Findings upon the basis of the hearing record.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area. The hearing was held according to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et. seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than May 1, 1979. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Acting Deputy Administrator, Marketing Program Operations, was issued January 19, 1979, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued March 19, 1979. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective May 1, 1979, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the **Federal Register.** (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by as least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

**Order Relative to Handling**

*It is therefore ordered,* That on and after the effective date hereof, the handling of milk in the Middle Atlantic marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows: 1. In § 1004.7, the introductory text of paragraph (a) and paragraph (d) are revised to read as follows:

**§ 1004.7 Pool plant.**

* * * * *

(a) A plant from which during the month a volume not less than 40 percent of its receipts described in paragraph (a) (1) or (2) of this section is disposed of as Class I milk (except filled milk) and a volume not less than 15 percent of such receipts is disposed of as route disposition (other than as filled milk) in the marketing area;

* * * * *

(d) A plant operated in accordance with paragraph (d) (1), (2) or (3) of this section, subject to the requirement of paragraph (d)(4) of this section.

(1) A reserve processing plant operated by a cooperative association at which milk from dairy farmers is received if the total of fluid milk products (except filled milk) transferred from such cooperative association plant(s) to, and the milk of member producers physically received at, pool plants pursuant to § 1004.7(a) is not less than 40 percent of the total milk of member producers during the month.

(2) A reserve processing plant operated by a federation of cooperative associations at which milk of member producers of the cooperatives is received if the total of fluid milk products (except filled milk) transferred from such federation plant(s) to, and the milk of member producers of the cooperatives physically received at, pool plants pursuant to § 1004.7(a) is not less than 40 percent of the combined milk of member producers of the cooperatives during the month.

(3) A reserve processing plant owned and operated by a cooperative association that also owns and operates a pool plant pursuant to § 1004.7(a) so long as the volume of the cooperative's member milk pooled at the reserve processing plant does not exceed the volume of sales of Class I milk (except filled milk) from the cooperative's pool distributing plant, plus the milk of member producers received directly at pool plants pursuant to § 1004.7(a) of other handlers during the month.

(4) A cooperative or federation of cooperatives operating a pool reserve processing plant qualified pursuant to this paragraph shall notify the market administrator each month, at the time of filing reports pursuant to § 1004.30 and in the detail prescribed by the market administrator, with respect to any receipts from member dairy farmers of the cooperative(s) delivering to such plant not meeting the health requirements for disposition as fluid milk in the marketing area.

* * * * *

**§ 1004.11 [Amended]**

2. In § 1004.11, the phrase, "the proviso of paragraph (d) of said § 1004.7" is amended to read "(d)(4)".

3. In § 1004.12, the number "15" in the introductory text of paragraph (d)(2) is changed to "18", and paragraph (b) is revised to read as follows:

**§ 1004.12 Producer.**

* * * * *

(b) A dairy farmer with respect to milk which is received at a pool plant pursuant to § 1004.7(d): *Provided,* That such milk is received directly from the farm of one who is a member of the cooperative operating the plant, or is received directly from the farm of one who is a member of a cooperative association that is a member of the federation operating the plant, or is received as milk diverted from a pool plant pursuant to § 1004.7 (a), (b) or (e).

* * * * *

4. In § 1004.13, paragraph (b) is revised to read as follows:

**§ 1004.13 Producer milk.**

* * * * *

(b) Received at a pool plant pursuant to § 1004.7(d): *Provided,* That such milk is received directly from the farm of one who is a member of the cooperative operating the plant, or is received directly from the farm of one who is a member of a cooperative association that is a member of the federation operating the plant, or is received as milk diverted from a pool plant pursuant to § 1004.7 (a), (b) or (e).

* * * * *

5. A new § 1004.19 is added to read as follows:

**§ 1004.19 Federation.**

Federation means an organization that is formed by two or more cooperative associations as defined in § 1004.20 and which is incorporated under the laws of a state.

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

Effective date: May 1, 1979.

Signed at Washington, D.C., on April 5, 1979.

P. R. "Bobby" Smith,
*Assistant Secretary for Marketing and Transportation Services.*

[Milk Order No. 4; Docket No. A0–160–A55]
[FR Doc. 79–11179 Filed 4–10–79; 8:45 am]
BILLING CODE 3410–02–M

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## Commodity Credit Corporation

## 7 CFR Part 1472

## Wool; Subpart—Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool) (1978–1981); Payment and Deduction Rates for 1978 Marketing Year

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The purpose of this rule is to announce the payment and deduction rates for shorn wool and unshorn lambs (pulled wool) marketed by producers during the 1978 marketing year. Such payments and deductions are authorized under Commodity Credit Corporation's payment program for shorn wool and unshorn lambs (pulled wool) for the 1978, 1979, 1980, and 1981 marketing years (7 CFR 1472.1501 *et seq.*) pursuant to the National Wool Act of 1954, as amended (7 U.S.C. 1781 *et seq.*). The payment program is intended to encourage the continued domestic production of wool at prices fair to both producers and consumers.

**EFFECTIVE DATE:** April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Gerald Schiermeyer, Emergency and Indemnity Programs Division, ASCS, USDA, 4095 South Building, Washington, D.C. 20013 (202 447–4428).

**SUPPLEMENTARY INFORMATION:** For the 1978 marketing year, section 703 of the National Wool Act of 1954, as amended (7 U.S.C. 1782) and 7 CFR 1472.1503 and 1472.1521 provide that the support price for shorn wool shall be 85 percent of the amount calculated according to the formula set forth in section 703, and for pulled wool shall be at a level comparable to the support price of shorn wool which the Secretary determines will maintain normal marketing practices for pulled wool. On December 1, 1977, the Secretary announced a price support rate of 108 cents per pound for 1978 marketings of shorn wool.

The payment rates for shorn wool and pulled wool are determined in accordance with section 704 of the Wool Act, as amended (7 U.S.C. 1783), and 7 CFR 1472.1505 and 1472.1521. The rate of payment for wool for each year is based on the difference between the annual national average price received for wool and the previously announced support price. The rate of payment for pulled wool is at a comparable rate to that of shorn wool.

Section 708 of the Wool Act, as amended (7 U.S.C. 1787), authorizes the Secretary of Agriculture to enter into agreements with marketing cooperatives, trade associations and others engaged or whose members are engaged in the handling of wool, mohair, sheep, or goats, or the products thereof. These agreements can provide for deductions from support payments to producers to conduct advertising and sales promotion and programs for the development and dissemination of information for wool, mohair, sheep or goats or their products. Increased deductions from incentive payments to producers for the 1978–1981 marketing years of 2.5 cents per pound for shorn wool and 12.5 cents per hundredweight for unshorn lambs were authorized in the agreement between the American Sheep Producers Council Inc., and the Secretary of Agriculture approved by producers in a referendum held during August 1978.

This rule merely announces the payment and deduction rates for shorn wool and unshorn lambs (pulled wool) for the 1978 marketing year. There is no latitude in the regulations for determining the payment rate and the deduction rate is the rate authorized in the agreement between the American Sheep Producers Council Inc., and the Secretary. A delay in the effective date of this amendment would only delay payments to producers who completed marketings of shorn wool and unshorn lambs during 1978. Therefore, the provisions of 5 U.S.C. 553 concerning notice of proposed rulemaking, public procedure and 30-day effective date and the 60-day comment period required by Executive Order 12044 do not apply.

**Rule**

In consideration of the foregoing, Part 1472 is amended by adding new paragraphs (c) to § 1472.1505 and to § 1472.1521 and a new paragraph (b) to § 1472.1546 as follows:

1. Section 1472.1505 is amended by adding the following new paragraph (c):

**§ 1472.1505 Price support payments.**

* * * * *

(c) *1978 marketing year.* The national average price received by producers for shorn wool marketed during the 1978 marketing year was 74.5 cents a pound, grease basis, which was 33.5 cents a pound below the 1978 support price of 108 cents for that year. Therefore, the rate of payment for the 1978 marketing year is 45.0 percent.

2. Section 1472.1521 is amended by adding the following new paragraph (c):

**§ 1472.1521 Price support payments.**

* * * * *

(c) *1978 marketing year.* The rate of payment on unshorn lambs sold during the 1978 marketing year is $1.34 per hundredweight of live lambs based on a difference of 33.5 cents a pound between the price support level of 108 cents and the national average price of 74.5 cents a pound received by producers for shorn wool during the 1978 marketing year (§ 1472.1505(c)).

3. Section 1472.1546 is amended by adding "(a)" at the beginning of the paragraph and a new paragraph (b) as follows:

**§ 1472.1546 Deductions for promotion.**

* * * * *

(b) For the 1978 marketing year, a deduction will be made from each shorn wool payment at the rate of 2.5 cents a pound of wool, grease basis, and from each unshorn lamb payment at the rate of 12.5 cents per hundredweight of live lambs as announced in the Department of Agriculture press release issued December 27, 1978. Those funds will be used to finance the advertising and sales promotion program approved by the Department of Agriculture pursuant to section 708 of the National Wool Act of 1954, as amended.

**Note.**—This rule has been determined not significant under the USDA criteria implementing Executive Order 12044. An approved impact analysis is available from the Emergency and Indemnity Programs Division, Room 4095 South Building, P.O. Box 2415, Washington, D.C. 20013.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 702–708, 68 Stat. 910–912, as amended (7 U.S.C. 1781–1787).)

Signed at Washington, D.C., on April 5, 1979.

Ray Fitzgerald,
*Executive Vice President, Commodity Credit Corporation.*

[Amdt. 1]

[FR Doc. 79-11180 Filed 4-10-79; 8:45 am]

BILLING CODE 3410-05-M

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 120

### Business Loan Policy; Small Contractors

**AGENCY:** Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** This amendment to Part 120 establishes the Rules and Regulations for loans to small contractors. This amendment is necessary to implement Section 301 of Pub. L. 95–89. SBA's proposed rule was published October 17, 1978, and provided for a 60 day comment period. This final rule considers the responses to the proposed rule.

**EFFECTIVE DATE:** April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Richard L. Wray, Financial Analyst, Small Business Administration, 1441 L St., NW., Washington, D.C. 20416 (202) 653–6470.

**SUPPLEMENTARY INFORMATION:** SBA received four (4) written responses to its proposed rule; two from SBA offices and two from the public. While the 36 months maturity, plus the estimated construction/renovation period, was considered generally adequate one responder asked for flexibility to handle delinquencies caused by unforeseen circumstances. The Small Business Act allows loan servicing personnel a wide latitude in the extension of loans or other servicing actions to effect collection of any SBA loan. The Agency does not believe it is appropriate to write loan servicing procedures into the rules for making a loan and this suggestion is not adopted.

One responder read into the proposed rule that the contractor has the right to pay operating costs of rental property with loan proceeds. This interpretation of our rule is incorrect. while SBA may allow the constructed/ renovated property to be rented in some situations, SBA loan funds can only be used for the acquisition, construction or renovation of the real estate. The costs related to renting and operating the property must be paid with funds from other sources.

SBA was criticized for prohibiting a sale of the property to an affiliate. The responder contended that the contractor cannot realize the full profit on a project without the continuing right to income and depreciation over the long term. It has been a long-standing policy that SBA loan funds cannot be used for speculation or investment purposes. Pub. L. 95–89 stated that the construction or renovation of real estate for sale does not represent speculation. A transfer of title to an affiliate means the contractor is retaining an ownership interest in the property and a sale has not been consummated. SBA will retain the requirement that the sale be to an unaffiliated third party.

One response stated that the phrase "to free other funds" was too vague. This phrase has been in SBA Rules and Regulations for years without any lack of understanding by applicants.

A responder suggested raising the limit on the amount of a loan that can be used for purchase of vacant land to 40–49 percent and that the limit should be applied only to the guaranteed portion of the loan. Raising the limitation to the level suggested would provide a means for 100 percent financing, which SBA has found to be an unsound credit practice. Also, statutory interpretation has held that the entire loan, not just the guaranteed portion, is the SBA loan and all restrictions apply to the entire loan.

Two responses were received about the letters required from a mortgage lender, real estate broker and architect, appraiser or engineer. One comment was that requiring separate letters from a lender that is capable of providing the necessary information is unnecessary paperwork. SBA concurs and the final rule allows the participating lender to provide the information itself. All direct loans, and participation loans at the lender's choice, must have all three letters to assure SBA that the mortgage lenders have loan funds, that the project site is located in an area where a demand for property exists as well as the demand for the type of architecture and that SBA funds controls comply with outstanding legislation. Without such letters for direct loans the processing and disbursement periods would be excessively long. SBA personnel would have to delay processing until these factors could be investigated and disbursements would have to be delayed until qualified SBA personnel could visit the project site and determine how the loan funds are being used.

One response pointed out that our limitations on off-site improvements would prevent using this program for subdivision projects. SBA is prohibited from duplicating any Housing and Urban Development (HUD) programs and HUD has a loan program for subdivisions. SBA programs, therefore, must be structured to avoid any duplication and the limitation on off-site improvements is not being changed.

Pursuant to the authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, § 120.2(d)(7) of Part 120 is amended to read as follows:

**§ 120.2 Business loans and guarantees.**

* * * * *

(d) Financial assistance will not be granted by SBA.

* * * * *

(7) As a general rule, if the purpose of the financial assistance is to finance the acquisition, construction, improvement, or operation of real property which is, or is to be, held primarily for sale or investment and is not to be used in connection with the applicant's otherwise eligible business: *Provided, however,* That financial assistance may be provided for residential or commercial construction or rehabilitation for sale to applicants which comply with all the following conditions:

(i) Any such financial assistance must be repayable within 36 months (plus the period of construction or rehabilitation);

(ii) An eligible applicant must be a construction contractor, contractor or homebuilder who has demonstrated managerial and technical ability in constructing or renovating projects of comparable size.

(iii) The financial assistance must be used to finance the construction or rehabilitation of residential or commercial real property, or the acquisition and prompt and significant rehabilitation (costing more than one-third of the purchase price) of residential or commercial real property, for sale on completion for the applicant's account. Not more the twenty percent (20%) of any financial assistance is to be used for the purchase of unimproved (vacant) land. No part of such financing may be used to purchase, or free other funds to purchase, building sites or other vacant land, or to operate or hold residential or commercial rental property for the account of the applicant or an affiliate for investment or speculative purposes, except that applicant may, with the written permission of the SBA, rent the constructed or rehabilitated property pending sale.

(iv) Applicant must submit, to the participating lender or SBA (or the lender may provide the required information to SBA), letters from (*a*) a mortgage lender, (*b*) an independent licensed real estate broker, and (*c*) an independent architect, appraiser or engineer. The mortgage lender shall advise whether permanent mortgage money is usually available to qualified borrowers to purchase real property in the project area for property similar to or comparable with the property to be constructed or rehabilitated by the applicant. The broker shall advise whether a sales market exists for the type of building to be constructed or rehabilitated by the applicant and whether the proposed construction or renovation would be compatible with the other buildings in terms of monetary and architectural values; the broker must truthfully state that he has at least three (3) years experience in real estate sales for similar property in the project area. The architect, appraiser or engineer shall agree to make all construction inspections and certifications necessary to support interim construction disbursements. The cost of such inspections may be paid by applicant from its own funds or may be added to the loan amount.

(v) The financial assistance must be secured with not less than a second lien on the land and improvements to be acquired, constructed or rehabilitated: *Provided,* That all liens must permit the release of individual parcels of property upon payment of a predetermined amount of money and provide for transfer of clear title to the buyer; *And provided further,* That the total amount of all liens cannot exceed eighty percent (80%) of the fair market value of the completed project.

(vi) Proceeds of any such financing may not be used as a construction loan to be repaid from permanent financing with the applicant or an affiliate retaining title.

(vii) The terms "construction" and "rehabilitation" are intended to include only on-site repair, alteration, conversion, extension, renovation, rehabilitation, new construction, or other improvement of residential or commercial buildings; and on-site underground connections to water, sewer, or gas mains, underground or above ground connections for electric or telephone service, septic tank construction, and landscaping of the property: *Provided,* That not more than five percent (5%) of the SBA financing may be used for streets, curbs, open spaces, or construction of public water and sewer mains, or of waste disposal facilities, or cost of community improvements that benefit more than the

structure(s) constructed or rehabilitated with SBA financial assistance.

* * * * *

Dated: March 23, 1979.

A. Vernon Weaver,
*Administrator.*

[Rev. 6, Amdt. 21]

[FR Doc. 79-11205 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 1

### Industry Guidance; Advisory Opinions Rule Amendment

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** This amendment of the agency's advisory opinion procedures seeks to expedite advice and guidance to the public, especially small businesses, about enforcement of the laws and regulations administered by the Commission. The change is intended to clarify §§ 1.1 through 1.4 of the Rules of Practices so as to indicate the circumstances in which Commission or staff advice will be issued. Commission opinions will be issued where the question involves a substantial or novel question, or a proposed merger. In other cases the Commission's staff will respond, with advice or with a statement reflecting present staff enforcement intentions. Such staff advice would be rendered without prejudice to the right of the Commission later to rescind it. The changes also delete the present provision under which advisory opinions may not be rendered with respect to ongoing courses of action.

This change was published for comment on January 8, 1979 (44 FR 1753). No comments were received and no changes have been made from the original proposal.

**DATE:** Effective April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Barry R. Rubin, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3520.

**SUPPLEMENTARY INFORMATION:** Since 1962, the Commission has rendered formal advisory opinions about the legality of proposed courses of action. See 16 CFR § 1.1 *et seq.;* 16 CFR § 15.1 *et seq.*

Under the amendment, the Commission will continue to issue formal opinions where the matter involves a substantial or novel question and there is no clear precedent; where a proposed merger or acquisition is involved; or where the subject matter is of significant public interest. Advice will be given on *both* proposed and current courses of action. The Commission will also continue to advise whether proposed conduct will violate an outstanding cease and desist order under § 3.61 of the Rules of Practice.

In other circumstances, the staff is expressly authorized to render advice. The vast majority of requests from the public are already handled informally by the staff of the Office of General Counsel or the bureaus. In the recent past, the Commission has averaged only about 16 formal opinions per year, about half of these involving compliance with trade regulation rules, other Commission rules, or outstanding cease and desist orders. Not only is informal advice provided by General Counsel staff letters, the bureaus constantly are answering mail and telephone inquiries. Small businesses and others tend to receive the quickest and most helpful advice in this manner. Thus, the proposal reduces to writing what is already routine present practice.

For these reasons, the Commission amends its Rules of Practice, §§ 1.1–1.4, to read as follows:

### Part 1—General Procedures

#### § 1.1 Policy.

(a) Any person, partnership, or corporation may request advice from the Commission with respect to a course of action which the requesting party proposes to pursue. The Commission will consider such requests for advice and inform the requesting party of the Commission's views, where practicable, under the following circumstances.

(1) The matter involves a substantial or novel question of fact of law and there is no clear Commission or court precedent;

(2) A proposed corporate merger or acqusition is involved; or

(3) The subject matter of the request and consequent publication of Commission advice is of significant public interest.

(b) The Commission has authorized its staff to consider all requests for advice and to render advice, where practicable, in those circumstances in which a Commission opinion would not be warranted. Hypothetical questions will not be answered, and a request for advice will ordinarily be considered inappropriate where (1) the same or substantially the same course of action is under investigation or is or has been the subject of a current proceeding involving the Commission or another governmental agency, or (2) an informed opinion cannot be made or could be made only after extensive investigation, clinical study, testing, or collateral inquiry.

#### § 1.2 Procedure.

(a) Application. The request for advice or interpretation should be submitted in writing (one original and two copies) to the Secretary of the Commission and should (1) state clearly the question(s) that the applicant wishes resolved; (2) cite the provision of law under which the question arises; and (3) state all facts which the applicant believes to be material. In addition, the identity of the companies and other persons involved should be disclosed. Letters relating to unnamed companies or persons may not be answered. Submittal of additional facts may be requested prior to the rendering of any advice.

(b) Compliance matters. If the request is for advice as to whether the proposed course of action may violate an outstanding order to cease and desist issued by the Commission, such request will be considered as provided for in § 3.61 of these Rules.

#### § 1.3 Advice.

(a) On the basis of the materials submitted, as well as any other information available, and if practicable, the Commission or its staff will inform the requesting party of its views.

(b) Any advice given by the Commission is without prejudice to the right of the Commission to reconsider the questions involved and, where the public interest requires, to rescind or revoke the action. Notice of such rescission or revocation will be given to the requesting party so that he may discontinue the course of action taken pursuant to the Commission's advice. The Commission will not proceed against the requesting party with respect to any action taken in good faith reliance upon the Commission's advice under this section, where all the relevant facts were fully, completely, and accurately presented to the Commission and where such action was promptly discontinued upon notification of rescission or revocation of the Commission's approval.

(c) Advice rendered by the staff is without prejudice to the right of the Commission later to rescind the advice and, where appropriate, to commence an enforcement proceeding.

#### § 1.4 Public disclosure.

Written advice rendered pursuant to this Section and requests therefor,

including names and details, will be placed in the Commission's public record immediately after the requesting party has received the advice, subject to any limitations on public disclosure arising from statutory restrictions, the Commission's rules, and the public interest. A request for confidential treatment of information submitted in connection with the questions should be made separately.

By direction of the Commission dated March 30, 1979.

Carol M. Thomas,
*Secretary.*

[FR Doc. 79-11237 Filed 4-10-79; 8:45 am]
BILLING CODE 6750-01-M

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1700

### Poison Prevention Packaging; Exemption from Child Resistant Packaging Standards for Anhydrous Cholestyramine in Powder Form

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission issues a final amendment under the Poison Prevention Packaging Act (PPPA) to exempt anhydrous cholestyramine in powder form from the special packaging requirements imposed by the act. The Commission is taking this action because of the low incidence of accidental ingestions of this drug by children as well as the lack of potential for serious illness or injury from the drug.

**EFFECTIVE DATE:** This amendment is effective April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Sandra Eberle, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6400.

**SUPPLEMENTARY INFORMATION:**

#### Background

Regulations issued under the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471-1476) establish child-protection packaging requirements for human oral prescription drugs in order to protect children from serious personal injury or illness resulting from handling, using, or ingesting these substances.

On February 11, 1974 the Commission proposed an exemption from the child-resistant packaging regulation for oral prescription drugs (16 CFR 1700.14(a)(10)), in response to a petition (PP 74-17) from Mead Johnson Laboratories, for anhydrous cholestyramine in powder form (marketed by Mead Johnson as Questran), a chloride salt of a basic anion-exchange resin (39 FR 5197). In proposing the exemption, the Commission also stayed the special packaging regulations for prescription drugs as it applied to cholestyramine pending issuance of a final exemption.

Anhydrous cholestyramine in a powder form, a noneffervescent powder which is intended to be suspended in water or other liquids prior to consumption, is used to lower cholesterol levels in the blood. The Commission proposed the exemption due to the low incidence of accidental ingestions by children as well the lack of potential for serious injury or illness from the drug.

It should be noted that the **Federal Register** document in which the Commission proposed to exempt cholestyramine also included proposed exemptions for several other substances. (39 FR 5197). The final rule contained herein, however, applies only to anhydrous cholestyramine in powder form and does not address the exemptions for these other substances.

#### Response to Comments

Fifteen comments were received by the Commission in response to the proposed exemptions, although only one discussed the specific issue of whether cholestyramine should be exempted. Some of the comments addressed the proposed exemptions of the other drugs listed in the February 11, 1974 **Federal Register** notice; these comments will not be discussed here. Five comments discussed the general issue of whether any exemptions to the special packaging requirements should be granted.

The one comment that dealt specifically with cholestyramine was from the American Academy of Pediatrics' Committee on Drugs, which noted a report stating that overdoses of the drug may cause nausea, diarrhea and constipation. Commission staff reviewed the pharmacology of the drug in regard to these overdose side effects and found that mild and transient constipation was reported to occur more often than nausea and diarrhea. It has also been found that high dosage levels and advanced age appear to predispose individuals to constipation. The Commission notes that these side effects are associated with normal therapy and cannot be viewed as indicative of any potential for serious personal injury or illness in children.

As noted above, five commenters were concerned about exemptions in general. One commenter noted that exemptions should be granted only "with restraint" and that criteria other than toxicological issues should be examined. Two commenters suggested that manufacturers should be required to inform the public, through advertising and product labeling, of which drugs have been exempted and in what amounts. Other commenters envisioned the difficulties pharmacists might face in filling prescriptions for exempted drugs, in particular, in determining what quantities of a drug may be in regular packaging and what quantities require child-protection closures. Other respondents simply opposed any exemptions from the PPPA's requirements, citing the possibility of individual reactions, long term effects, and errors in compounding prescriptions as justification for safety packaging for all oral prescription drugs. Some commenters expressed concern that consumers would be confused over the two categories of drug containers in the home; others felt that non-complying packaging will increase health care costs.

A summary of these comments and the Commission's detailed responses were published in the **Federal Register** on January 31, 1979 (44 FR 6340). In brief, the Commission determined that none of the general comments were convincing as to the point that exempting specific drugs which cannot cause serious personal injury or illness to children from the PPPA's special packaging requirements is unsafe or ill-advised.

#### Injury Data

The Commission bases its decision to issue a final exemption for anhydrous cholestyramine in powder form, in part, on the lack of significant adverse human experience data reported by the National Clearinghouse for Poison Control Centers (NCPCC). During the years 1969-76, no accidental ingestions of cholestyramine by children younger than five years of age were reported to NCPCC. An examination of the Commission's Poison Control Center data during 1976-77 also revealed no accidental ingestions of cholestyramine by children under five years old.

Toxicity data submitted by the petitioner, Mead Johnson Laboratories, show the substance to be relatively safe. No deaths or signs of toxicity in mice were observed during the seven days following oral administration of 10 grams per kilogram of body weight of the drug. Using the 10 kilogram child, this would extrapolate to an extremely

large amount of the product (more than 100 grams) having to be ingested to approach a toxic amount.

In addition to the relative lack of toxicity of the drug, and the absence of any reported accidental ingestions, the taste and the texture of cholestyramine in powder form appear to make it unlikely that children will ingest the drug. The petitioner submitted data concerning actual testing of 410 children to determine if the children would ingest the product as marketed and, if so, how much of the product was likely to be ingested. Of the children tested, only one child ingested 8 grams of the product and none of the children ingested more than 8 grams.

**Comments From the Technical Advisory Committee**

Eight responses on the petition to exempt anhydrous cholestyramine in powder form were received from the Technical Advisory Committee on Poison Prevention Packaging. Seven members recommended granting the petition on the basis of the low toxicity of the drug, the lack of injury data, and the fact that an amount sufficient to approach a toxic dose was not likely to be ingested by children. The one member who recommended denying the petition stated that no practical dosage schedule had been established for children because of a lack of experience with the use of the drug or children and that the drug should not be taken in its dry form. The Commission notes that the fact that no practical dosage schedule has been established for children refers to limited use in children with respect to therapeutic effectiveness and is not related to consideration of adverse reactions in children. The Commission also notes that it is not recommended that cholestyramine be taken in its dry form because the drug must be suspended in order to be effective and because the drug is more palatable in a suspension.

**Finding**

Having considered the petition and the comments on the proposal, human experience data from the National Clearinghouse for Poison Control Centers and the Commission's own data sources, and having consulted with the Technical Advisory Committee on Poison Prevention Packing established under section 6 of the Act, the Commission finds that anhydrous cholestyramine in powder form does not create such a hazard to children that special packaging is required to protect them from serious injury or illness resulting from ingesting, handling, or using the substance.

**Effective Date**

Since this rule grants an exemption, the delayed effective date provisions of the Administrative Procedure Act are inapplicable (5 U.S.C. 553(d)(1)). Accordingly, this exemption becomes effective on April 11, 1979.

**Environmental Considerations**

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 exemptions to an existing standard that do not alter the principal purpose or effect of the standard normally have no potential for affecting the environment and environmental review of exemptions from regulations is, therefore, generally not required. (§ 1021.5(b)(1)). The rules also state that environmental review of rules requiring poison prevention packaging is generally not required. (§ 1021.5(b)(3)).

With respect to this exemption of cholestyramine from poison prevention packaging, the Commission finds that the rule will have no significant effect on the human environment and that no environmental review is necessary.

**Conclusion and Promulgation**

Having considered the petition, the comments on the proposal, and other relevant material, the Commission concludes that the final rule should be adopted as set forth below.

Accordingly, pursuant to the provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601, sections 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472–1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, section 30(a), 86 Stat. 1231, 12 U.S.C. 2079(a)), the Commission amends 16 CFR 1700.14 by adding a new paragraph (a)(10)(v) as follows (the introductory portion of paragraph (a)(10), although unchanged, is included for context):

**1700.14 Substances requiring special packaging.**

(a) * * *

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

* * * * *

(v) Anhydrous cholestyramine in powder form.

(Pub. L. 91–601, secs. 2(4), 3, Stat. 1670–72 (15 U.S.C. 1471(4)), 1472, 1474; Pub. L. 92–573, sec. 30(a), 86 Stat. 1231 (15 U.S.C. 2079(a)).)

EFFECTIVE DATE: April 11, 1979.

Dated: April 6, 1979.

Sadye E. Dunn,

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79–11207 Filed 4–10–79; 8:45 am]

BILLING CODE 6355–01–M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 231, 271

### General Statement of Policy Regarding Exemptive Provisions Relating to Annuity and Insurance Contracts

**AGENCY:** Securities and Exchange Commission.

**ACTION:** General statement of policy.

**SUMMARY:** The Commission announces a general statement of policy regarding the determination of the status under the federal securities laws of certain contracts issued by insurance companies. The Commission has determined, after reviewing the extensive comments on a proposed rule regarding annuity contracts and optional annuity contracts, that it is more appropriate in this instance to offer guidance to the public by issuing a general statement of policy rather than to adopt a legislative rule.

**DATE:** April 5, 1979.

**FOR FURTHER INFORMATION CONTACT:** S. Elliott Cohan or Laura A. Boughan, (202) 755–0237, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission today issued a release setting forth a general statement of policy regarding the factors which should be considered in any determination of the status under the federal securities laws of certain contracts issued by insurance companies, including what are generally known as guaranteed investment contracts, tax-deferred annuity contracts, deposit funds, and similar products (hereinafter sometimes referred to collectively as guaranteed investment contracts).

## Background

In June 1977, the Commission issued Securities Act Release No. 5838 (June 22, 1977) [41 FR 32861] ("Release No. 5838") which solicited public comments on the ways in which guaranteed investment contracts are similar to and different from traditional deferred annuity contracts. This release emanated from a study by the Commission's Division of Investment Management ("Division") of a number of contracts issued and funded by the general accounts of insurance companies. These contracts were not registered under the Securities Act of 1933 [15 U.S.C. 77(a) et seq.] ("Act") apparently in reliance on the exemption from registration of annuity contracts in Section 3(a)(8) thereof [15 U.S.C. 77c(a)(8)],[1] but appeared to be greatly different both in express contractual terms and marketing approach from traditional insurance or annuity contracts.

The Division continued its study of these new types of contracts by reviewing the contracts submitted in response to Release No. 5838 and presented its tentative conclusions to the Commission in May 1978. On May 17, 1978, the Commission proposed for comment a rule under the Act embodying these tentative views.[2]

Because of the numerous interpretive and substantive problems raised by commentators with respect to the proposed rule and the wide variety of contracts issued by insurance companies, the Commission has decided not to adopt a legislative rule under Section 3(a)(8) of the Act but, instead, to publish a general statement of policy concerning contracts which may be securities required to be registered under the Act.

The Commission remains very concerned about the proliferation of contracts which, while styled "annuities," are clearly different in their essential terms from traditional annuities and are marketed in a manner involving the offer and sale of securities. Issuers of such contracts, and those engaged in sales and distribution activities respecting those contracts, are responsible for compliance with the federal securities laws, including the full disclosure and prospectus delivery requirements of the Act. It is expected that the following general statement of policy will assist all such persons in determining the status under the Act of contracts issued by insurance companies.

[1] Section 3(a)(8) exempts from the registration requirements of the Act any insurance or endowment policy or annuity contract or optional annuity contract, issued by a corporation subject to the supervision of the insurance commissioner, bank commissioner, or any agency or officer performing like functions, of any State or Territory of the United States or the District of Columbia.

[2] Securities Act Release No. 5933 (May 17, 1978) [43 FR 22053].

## General Statement of Policy

Section 3(a)(8) exempts from the registration provisions of the Act:

> Any insurance or endowment policy or annuity contract or optional annuity contract * * *.

This exemption, for contracts which otherwise would fall within the definition of security in Section 2(1) of the Act [15 U.S.C. 77b(1)], was included in the Act by Congress because the insurance and annuity contracts then being issued by insurance companies were not generally regarded in the commercial world as "securities."[3]

The central feature of a life insurance or annuity contract is the assumption of various risks by the insurance company.[4] These risks are of two types—mortality risks and investment risks. A significant assumption of *both* kinds of risks is required, in the Commission's view, for a contract to be exempt pursuant to Section 3(a)(8) from the full disclosure and prospectus delivery requirements of the Act. In many instances, the determination of whether such risks are assumed will depend upon the total facts and circumstances connected with the offer and sale of a contract or class of contracts. Often it will be necessary to go beyond a narrow, technical review of the terms of a contract to include a review of all relevant promotional materials and the manner and method of selling and distributing the contract.

Determination of the status of any insurance or annuity contract under the Act ultimately is the responsibility of the issuer. For this reason, and because of the enormous administrative burden which might ensue, the Commission has instructed the Division not to respond to most routine requests for no-action or interpretive advice regarding the status of specific insurance or annuity contracts which an insurance company has or wishes to offer, except in the most compelling circumstances.

## Mortality Risks

A contract which does not place upon the issuing insurance company a meaningful mortality risk cannot be regarded as "life insurance" or an "annuity" for purposes of the federal securities laws.[5] A contract which does not impose meaningful mortality risks upon an insurance company is offered and purchased merely for investment, and purchasers of such contracts are entitled to the same protections, rights and remedies provided by the Act as the purchasers of any other security which is offered and sold as an investment.

Assumption of a meaningful mortality risk necessarily requires, in the case of an annuity, provision in the contract of a guarantee by the insurance company to provide annuity payouts at specified purchase rates. This would not preclude an insurance company from offering the purchasers of annuity contracts alternative settlement options, including lump-sum payouts, nor would it prevent an insurance company from offering the purchasers of an annuity contract the option of annuitizing at current purchase rates if, at the time of the annuitization decision, they are more favorable to the purchaser than the guaranteed rates.

For an insurance company to assume a meaningful mortality risk where an annuity contract is sold directly to an individual, or in a situation in which an individual is required to make his or her own purchase decision,[6] the contract must provide for permanent guarantees of annuity purchase rates. Without such permanent annuity purchase rate guarantees, the insurance company would not assume a meaningful mortality risk of any substantial significance and would, therefore, be providing something other than "insurance" or an "annuity."

However, where an annuity contract is offered or sold to a group in a situtation where the contributions are received by the insurance company in bulk for all participants and no separate

[3] H.R. Rep. No. 85, 73d Cong., 1st Sess., 15 (1933).

[4] Helvering v. Le Gierse, 312 U.S. 531 (1941).

[5] SEC v. United Benefit Life Insurance Company, 387 U.S. 202, 211 (1967); Helvering v. Le Gierse, 312 U.S. 531 (1941), Huebner & Black, *Life Insurance* (9th ed. 1976), p. 88.

[6] Insurance or annuity contracts are sold to certain types of tax-favored retirement plans, as well as some non-tax-qualified deferred compensation plans, in one of the following ways: (1) as a group contract, with the insurance company receiving identifiable contributions on behalf of each member of the group and maintaining individual records for each person choosing to participate in the plan or (2) as a series of individual contracts, one for each participant. Although an individual may be eligible to participate in the plan because he is a group member, he must nevertheless make an individual decision as to whether and to what extent to invest in the insurance or annuity contract offered to the group. Moreover, a decision not to invest by any individual member would not generally affect the ability of any other member of the group to make his or her own investment decision or the terms of the contract to be received by those individuals who do decide to accept the offer and purchase the contract. Thus, the economic reality is that, although postured as a "group" contract, certain group contracts may be characterized more accurately as involving an aggregation of individual investment decisions where aspects of contract administration by the insurance company will involve group treatment.

allocations are maintained for individual members of the group, the insurance company may assume a meaningful mortality risk even though the annuity purchase rates are guaranteed for something less than a permanent period of time.[7] Although the annuity purchase rate guarantee period necessary for an insurance company to assume a meaningful mortality risks will vary with the size and composition of the group to be insured, the Commission believes an insurance or annuity contract sold to a group would involve assumption of meaningful mortality risks by the insurance company where there are guaranteed annuity purchase rates for a reasonable period of time. While there does not appear to by any conclusive economic evidence as to the exact period of time which would be necessary for an insurance company to assume meaningful mortality risks in the context of a group annuity contract, the commission believes the need for a reasonable period of time generally would be satisfied where the annuity purchase rates guaranteed in a group annuity contract could not be modified more often than once every five years.[8]

The foregoing discussion of the integral relationship of permanent annuity purchase rate guarantees to assumption of meaningful mortality risks by an insurance company is premised on the existence of a reasonable possibility that a purchaser reaching retirement would rationally choose to annuitize at those rates, all other factors involved in such a decision held constant. Therefore, annuity contracts which provide for a level of benefits significantly lower than those otherwise generally commercially available from other insurance companies would raise serious questions as to whether any meaningful mortality risk will ever be assumed under that context by the insurance company. The Commission does not wish to question the status of an insurance company's contracts under the federal securities laws merely because the premiums may be more or less expensive and the annuity purchase rates guaranteed more or less generous than those offered by a competitor. However, where the guaranteed annuity purchase rates offered by a particular insurance company provide for benefits which are so low that the guarantee is in economic reality a sham, such that no reasonable purchaser of the annuity contract would choose to annuitize, the insurance company would not in fact be assuming a meaningful mortality risk and, therefore, would not be issuing an annuity contract which would qualify for exemption under Section 3(a)(8).

In certain other cases, contracts offered and sold to individuals and containing permanent annuity purchase rate guarantees may involve circumstances which also suggest that, in economic reality, the insurance company does not assume a meaningful mortality risk.[9] Where all circumstances attendant to the offer and sale of an annuity contract indicate that, despite explicit contractural provisions, meaningful mortality risks are not in fact being assumed by the insurance company, the contract being offered and sold cannot qualify as an "annuity" for purposes of Section 3(a)(8).

Because the assumption of a meaningful mortality risk by an insurance company with respect to any particular purchaser of an annuity contract involves actuarial determinations and is dependent upon the total facts and circumstances in each case,[10] the Commission does not believe it is appropriate to draw any "bright line" which would categorize all conceivable combinations of contract term and purchaser age. Rather, it is the primary responsibility of issuers to determine whether any particular combination of contract term and purchaser age would, during a reasonable period of time, involve no meaningful assumption of mortality risks, and thus not qualify the contract for exemption under Section 3(a)(8).

**Investment Risks**

Although assumption of meaningful mortality risks by an insurance company is necessary in order for a contract to be "insurance" or an "annuity" for purposes of Section 3(a)(8), a contract may nevertheless fail to qualify for the exemption provided by Section 3(a)(8) where a significant investment risk remains with the purchaser. The variable annuity contract analyzed by the Supreme Court in the VALIC case [11] had conventional annuity insurance provisions (that is, the insurance company assumed a meaningful mortality risk), but the entire investment risk remained with the purchaser. That contract was, of course, found to be a security, outside the Section 3(a)(8) exemption.

Determination of whether the investment risks assumed by the purchaser are sufficient to bring a guaranteed investment contract outside Section 3(a)(8) of the Act must depend on the total mix of facts and circumstances associated with the offer and sale of the contract, including the emphasis placed upon investment present in the attendant sales literature and other promotion efforts. In evaluating the expectations of the seller and the purchaser, economic reality cannot be deduced simply by close examination and careful reading of the proposed contract's express terms.[12] All the circumstances, including sales literature prepared by the issuer and oral and written representations to be made by the authorized salespersons, must be considered carefully in determining whether a particular insurance or annuity contract qualifies for the exemption under Section 3(a)(8).[13]

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[7] The life of any group is, in theory, indefinite (new members are constantly added as older ones retire or die), and its existence as an organizational entity may continue even though all members of the original group have left or died.

[8] Although five-year guarantee period for annuity purchase rates generally appear to involve assumption of meaningful mortality risks, the facts and circumstances surrounding the group and the contract sold to it must be considered in determining whether the guarantee period is, in fact, sufficient.

[9] For example, assume a single premium deferred annuity contract with permanent annuity purchase rate guarantees is sold to a man age 30. The insurance contract provides for a single purchase payment and guarantees that, for a period of five years after purchase, the company will pay 8½% interest annually on the amount invested. At the end of five years, the purchaser may choose to annuitize, to withdraw his accumulated funds in a lump sum, or to leave his money on deposit with the insurance company to accumulate interest of 3½% annually. Of these choices, the only rational one for this investor at age 35 would be to withdraw his money and reinvest it. Although the annuity contract's express terms would seem to provide for assumption by the insurance company of a meaningful mortality risk, the context of the transaction is such that little risk (if any) is in fact assumed by the insurance company. A contract with exactly the same terms, sold to a man age 55, would appear, however, to involve a meaningful assumption of mortality risk. At the end of the five-year period the investor would be 60 years old, so that there is a reasonable possibility that he would choose to annuitize immediately or choose to leave his funds on deposit for a short period and then annuitize.

[10] For example, if prevailing interest rates were to decline significantly during the accumulation period, it would be more likely that contract holders not prepared to annuitize immediately would leave funds on deposit with the insurance company until they were ready to convert to an annuity payment.

[11] 359 U.S. 65 (1959).

[12] Grainger v. State Security Life Insurance Company, 547 F. 2d 303, *rehearing denied*, 563 F. 2d 215 (5th Cir. 1977).

[13] The mischievous oral comments of a single unscrupulous sales person would not, however, change the status of a company's contracts. In examining the creation and supervision of marketing methods by an insurance company in the context of an enforcement proceeding, the Commission would take into account how and by whom marketing representations were made. However, where an extensive or concerted pattern of abusive marketing practices exist, the issuing company cannot disclaim all legal responsibility for those practices; rather, consistent with the controlling person liability provisions of Section 15 of the Act [15 U.S.C. 77*o*] and with the supervisory duties imposed by Section 15(c) of the Securities

Footnotes continued on next page

In determining whether a particular insurance or annuity contract is to be offered and sold as an investment, it does not appear appropriate to make a sharp distinction between those contracts which have participating features and those which do not. Either can be promoted as investments, and both could be offered and sold in circumstances which would take them outside the exemption provided by Section 3(a)(8).

Certain guaranteed investment contracts promise that a relatively low rate of interest will be credited on accumulating funds but also provide for crediting of discretionary excess interest, and the contract is sold by placing primary emphasis on the possibility that high discretionary interest will be credited. In economic reality the insurer issuing such a guaranteed investment contract is asking the potential purchaser to assume the risk that, after the expiration of an initial guarantee period during which high discretionary interest will be credited, interest to be credited will fall to the much lower guaranteed rate. Advertisements sponsored by insurance companies or authorized salespersons (such as broker-dealers) which emphasize high current discretionary excess interest and relegate mention of traditional annuity features to fine print must be viewed as intended by the sponsors to encourage investment in guaranteed investment contracts principally by those investors who desire to assume the investment risk discussed above because their investment objective is to maximize tax-deferred capital accumulation rather than to acquire conventional annuity plans.

### Deposit Funds

Certain deposit fund riders, which may be marketed in conjuction with either a life insurance policy or an annuity contract, appear to be designed to function as an alternative to a bank savings account.[14] Such arrangements ordinarily provide that: (1) a basic premium must be paid for the annuity or life insurance; (2) additional sums contributed by the investor are held on deposit by the insurance company; and (3) interest is credited on such deposits at a rate which might change from time to time. The contract may provide that sums accumulated during the accumulation period may be used, at a later date, to purchase an annuity at guaranteed purchase rates or to purchase other forms of insurance protection. Often, the investor is permitted to withdraw money from the deposit fund at will.

The Commission does not believe that premium deposit funds on whole life insurance policies, settlement options on insurance or annuity contracts which provide for leaving funds on deposit with the company, or predated check premium plans[15] generally involve a substantial transfer of investment risk to the purchaser of an insurance contract where the deposit fund rider is a minor, incidental feature of another insurance product. However, a deposit fund rider which transfers all or substantial investment risk to the purchaser of the related insurance product may not be offered and sold without compliance with the full disclosure and prospectus delivery requirements of the Act merely by tying it in some incidental manner to an insurance or an annuity contract.[16] Put in another way, the fact that a deposit fund rider is attached to, or made a non-integral, merely incidental feature of, a life insurance or annuity contract entitled to rely on Section 3(a)(8), cannot by itself bring within Section 3(a)(8) those deposit fund riders which are offered primarily as investments where the purchaser assumes substantial investment risks.[17]

### Investment Company Act of 1940

The Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.] ("Investment Company Act") excludes from the definition of investment company, "any . . . insurance company."[18] The term "insurance company" is defined in Section 2(a)(17) of the Investment Company Act [15 U.S.C. 80a–2(a)(17)]. In order to qualify as an insurance company as defined, a business must: (1) be organized as an insurance company; (2) have as its primary and predominant business activity the writing of insurance or the reinsuring of risks underwritten by insurance companies; and (3) be subject to supervision by the insurance commissioner or a similar official or agency of a State. Under this statutory test, a company solely engaged in the business of offering and selling contracts which are not "insurance" and which are securities required to be registered under the Act is not an insurance company for purposes of the Investment Company Act, and *is* an investment company.[19] Whether a company which issues a variety of contracts, some of which qualify as "insurance" or "annuities" and, thus, are exempt under Section 3(a)(8) of the Act, would be an investment company is a question of fact. A company's status will depend, in the final analysis, upon its total mix of business and the relationship of its securities business to its conventional insurance business.[20]

### PARTS 231, 271 [AMENDED]

Accordingly, Parts 231 and 271 of Title 17 of the Code of Federal Regulations are amended by adding this General Statement of Policy Regarding Exemptive Provisions Relating to Annuity and Insurance Contracts.

By the Commission.

Shirley E. Hollis,
*Assistant Secretary.*

April 5, 1979.

[Release No. 33–6051, IC 10653]
[FR Doc. 79–11261 Filed 4–10–79; 8:45 am]
BILLING CODE 8010–01–M

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## 24 CFR Part 882

## Section 8 Housing Assistance Payments Program—Existing Housing; Miscellaneous Amendments; Correction

**AGENCY:** Department of Housing and Urban Development (HUD).

**ACTION:** Correction of final rule.

**SUMMARY:** The revised Regulations for the Section 8 Housing Assistance Payments Program—Existing Housing

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Footnotes continued from last page
Exchange Act of 1934 [15 U.S.C. 78(*o*)(c)], an insurance company must be assumed to have authorized or condoned representations about its product which are used repeatedly and disseminated widely. It is the issuer's responsibility to supervise distributors and to see that its contracts are offered and sold in a responsible manner.

[14] Indeed, sales literature used by insurance companies promoting deposit funds has referred to "pass books" in which the company records deposits and withdrawals from the fund.

[15] In certain predated check premium plans, the purchaser of a whole life insurance policy writes checks for a series of premium payment, dated on the dates due, and leaves the checks with the insurance company. The insurance company then deposits a check each time a premium payment falls due. Because the Commission is concerned that it may be unfamiliar with all the incidental, "traditional" features of insurance policies, it has instructed the Division to respond to no-action requests regarding deposit fund riders.

[16] See letters of April 17, 1973, June 19, 1973, November 22, 1974, and February 12, 1975, regarding Ideal National Insurance Company and staff responses of May 7, 1973, June 25, 1973, December 16, 1974, and April 21, 1975.

[17] SEC v. United Benefit Life Insurance Company, 387 U.S. 202 (1967).

[18] Section 3(c)(3) [15 U.S.C. 80a–3(c)(3)].

[19] See SEC v. Variable Annuity Life Insurance Company of America, 359 U.S. 65 (1959); Prudential Insurance Company of America v. SEC, 326 F. 2d 383 (1964).

[20] SEC v. United Benefit Life Insurance Company, 387 U.S. 202 (1967).

(FR Doc. 78–36285) which were published on Friday, December 29, 1978, 43 FR 61240 contained several errors which are now being corrected.

**EFFECTIVE DATE:** January 29, 1979.

**FOR FURTHER INFORMATION CONTACT:** Patricia Arnaudo, Acting Director, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–6460. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Revised Regulations for the Section 8 Existing Housing Program were published on December 29, 1978, to be effective January 29, 1979. Several errors in this publication are being corrected.

1. In the Table of Sections and §§ 882.108 and 882.122, the date is being corrected since it should have been January 29, 1979 (the effective date of the amendments), instead of September 1978.

2. The last sentence in § 882.109(b)(2) of the Housing Quality Standards is redundant with the last sentence in § 882.109(b)(1) and is, therefore, being deleted.

3. In § 882.104 the title Assistant Secretary for Housing Production and Mortgage Credit is being changed to Assistant Secretary for Housing-Federal Housing Commissioner.

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

Accordingly, 24 CFR Part 882 is amended as follows:

1. In the Table of Sections, change the title of § 882.122 to read:

Sec. 882.122 Applicability of this part to certificates outstanding on and requests for lease approval pending on January 29, 1979.

**§ 882.104 [Amended]**

2. In § 882.104(a), the thirteenth, fourteenth and fifteenth lines, change the title "Assistant Secretary for Housing Production and Mortgage Credit" to "Assistant Secretary for Housing-Federal Housing Commissioner."

**§ 882.108 [Amended]**

3. In § 882.108(a)(1), the second and seventeenth lines, change "September 1978" to "January 29, 1979."

**§ 882.109 [Amended]**

4. In § 882.109(b)(1), the ninth line, at the end of the sentence add the following phrase "(e.g., garbage cans)."

**§ 882.109 [Amended]**

5. In § 882.109(b)(2), delete the last sentence: There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

**§ 882.122 [Amended]**

6. In § 882.122, the second, third and fourth lines, change "September, 1978" to "January 29, 1979."

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)), sec. 5(b), U.S.C. 1437c(b))

Issued at Washington, D.C., April 4, 1979.

**Morton Baruch,**

*Deputy Assistant Secretary for Housing-Federal Housing Commissioner.*

[Docket No. R–79–469]

[FR Doc. 79–11220 Filed 4–10–79; 8:45 am]

**BILLING CODE 4210–01–M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

### 24 CFR 1915

### Identification and Mapping of Special Flood Hazard Areas

### Communities With No Special Hazard Areas

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

**ACTION:** Final rule.

**SUMMARY:** The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditons in the communities, that these communities would not be inundated by the 100-year flood. Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program without determining base flood elevations.

**EFFECTIVE DATE:** Date listed in fourth column of List of Communities with No Special Flood Hazards.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard W. 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:** In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1–4 family dwelling is $0.25 per $100 of coverage. Under the Regular Program, to which your community has been coverted, the equivalent rate is $0.01 per $100 of coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is $0.05 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the regular program is significantly greater than that available under the emergency program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance program.

The effective date of conversion to the regular program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

The entry reads as follow:

**§ 1915.8 LIST OF COMMUNITIES WITH NO SPECIAL FLOOD HAZARD AREAS.**

| State | County | Community name | Date of conversion to regular program |
|---|---|---|---|
| California | Los Angeles | City of Artesia | Mar. 30, 1979. |
| California | Los Angeles | City of Signal Hill | Mar. 30, 1979. |
| Pennsylvania | Allegheny | Borough of Dormont | Mar. 30, 1979. |
| Texas | Fort Bend | Fort Bend County Water Control and Improvement District No. 4. | Mar. 30, 1979. |

(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: March 30, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. 5339]

[FR Doc. 79–10833 Filed 4–10–79; 8:45 am]

BILLING CODE 4210–01–M

## 24 CFR Part 1917

## Appeals from Proposed Flood Elevation Determinations; Town of Middlebury, New Haven County, Conn.; Final Flood Elevation Determinations

**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 Middlebury, New Haven County, Conn. 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 Middlebury, Conn.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Middlebury, are available for review at Town Hall, Town Clerk's Office, Middlebury, Conn.

**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 Middlebury, Conn.

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 |
|---|---|---|
| Long Swamp Brook | State Highway 188—20 feet* | 386 |
| | Porter Avenue—20 feet* | 425 |
| | Brook Lane—40 feet* | 435 |
| | Dirt Road—20 feet | 438 |
| | State Highway 64—20 feet* | 440 |
| | Park Entrance—20 feet* | 441 |
| | Kelly Road—40 feet* | 481 |
| Wooster Brook | Bradleyville Road—20 feet* | 376 |
| | Interstate Highway 84—265 feet*. | 403 |
| Hop Brook | Interstate Highway 84—40 feet*. | 375 |
| | Shadduck Road—20 feet* | 383 |
| | State Highway 188—20 feet* | 388 |
| | Access Road—30 feet* | 459 |
| | Tucker Hill Road—20 feet* | 460 |
| | State Highway 64—20 feet* | 462 |
| | Breakneck Hill Road—40 feet*. | 508 |
| | Dirt Road (1st crossing)—20 feet*. | 527 |
| | Watertown Road—30 feet* | 539 |
| | Ravenwood Drive—20 feet* | 549 |
| | Dirt Road (2nd crossing)—20 feet*. | 560 |

*Upstream from 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: March 21, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI–4684]

[FR Doc. 79–10831 Filed 4–10–79; 8:45 am]

BILLING CODE 4210–01–M

## 24 CFR Part 1917

## Appeals from Proposed Flood Elevation Determinations; Final Flood Elevation Determinations, Township of Hillside, Union 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 Hillside, Union 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 township of Hillside, N.J.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Hillside, are available for review at Town Hall, Liberty and Hillside Avenues, Hillside, N.J.

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

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

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were

received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Elizabeth River | North Avenue—100 feet* | 30 |
| | Conrail—100 feet* | 39 |
| | Liberty Avenue—100 feet* | 42 |
| | U.S. Route 22—80 feet** | 49 |
| | U.S. Route 22—60 feet* | 52 |
| | Garden State Parkway—50 feet* | 55 |
| | Interstate Route 78—100 feet* | 60 |
| | Union Avenue—100 feet** | 62 |
| | Union Avenue—100 feet* | 66 |
| | Ramps to Interstate Route 78—100 feet*. | 69 |

*Upstream of centerline.
**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: March 21, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI–4636]
[FR Doc. 79–10832 Filed 4–10–79; 8:45 am]
BILLING CODE 4210–01–M

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Town of Cherokee, Colbert 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 Town of Cherokee, Colbert 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 Town of Cherokee, Colbert County, Alabama.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Cherokee, Colbert County, Alabama, are available for review at the Town Hall, Cherokee, 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 Town of Cherokee, Colbert 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 |
|---|---|---|
| Cherokee Branch | Approximately 250 feet downstream of Pike Road S.W. | 482 |
| | Just upstream of Pike Road S.W. | 485 |
| Brotherton Branch | Approximately 520 feet upstream of the confluence with North Fork of Cherokee Branch. | 491 |
| North Fork Cherokee Branch. | Approximately 780 feet upstream of the confluence with Cherokee Branch. | 486 |

(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: March 23, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI–4627]
[FR Doc. 79–10989 Filed 4–10–79; 8:45 am]
BILLING CODE 4210–01–M

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Town of Guin, Marion 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 Town of Guin, Marion 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 Town of Guin, Marion County, Alabama.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Guin, Marion County, Alabama, are available for review at City Hall, Guin, 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 Town of Guin, Marion 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 |
|---|---|---|
| Purgatory Creek | Just upstream of Alabama Highway 118. | 415 |
| | Just downstream of U.S. 278. | 427 |
| | Just downstream R.R. Spur to 3M Company. | 439 |
| Reedy Branch | Just upstream of U.S. Highway 78/43. | 452 |
| Little Creek | Just upstream of 10th Avenue. | 433 |
| | Just upstream of 15th Avenue. | 447 |
| Tributary 1 | Approximately 100 feet downstream Alabama Highway 118. | 426 |

(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: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4601]

[FR Doc. 79–10990 Filed 4–10–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Unincorporated Areas of Chicot County, Arkansas

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

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the unincorporated areas of Chicot County, Arkansas. 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 unincorporated areas of Chicot County, Arkansas.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the unincorporated areas of Chicot County, Arkansas, are available for review at the County Judge's Office, Chicot County Courthouse, Lake Village, Arkansas.

**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 unincorporated areas of Chicot County, Arkansas.

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 |
|---|---|---|
| Caney Bayou—Main Channel. | Just upstream Arkansas State Highway 8. | 120 |
| | Just downstream Carroll Hill Road. | 121 |
| Hensley Ditch | Just upstream of the confluence with Caney Bayou. | 120 |
| Little Lake Bayou | Just downstream Arkansas State Highway 82. | 119 |
| | Just upstream Arkansas State Highway 65. | 122 |
| Macon Bayou | Just upstream Missouri Pacific Railroad. | 108 |
| Big Bayou Slough | Just upstream Arkansas State Highway 35. | 137 |
| Main Ditch 6 | Just upstream of the confluence with Macon Bayou. | 112 |
| | Just downstream Old Arkansas State Highway 65. | 117 |
| Mississippi River | Just upstream East Carroll Parish Louisiana Boundary. | 128 |
| | Just downstream Desha County Boundary. | 148 |

(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: March 23, 1979.

**Gloria M. Jimenez**

*Federal Insurance Administrator.*

[Docket No. FI–4830]

[FR Doc. 79–10991 Filed 4–10–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Dermott, Chicot County, Ark.

**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 Dermott, Chicot County, Arkansas. 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 Dermott, Chicot County, Arkansas.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Dermott, Chicot County, Arkansas, are available for review at City Hall, Dermott, Arkansas.

**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 Dermott, Chicot County, Arkansas.

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 |
|---|---|---|
| Big Bayou Slough..... | Intersection of East Hickory Street and Deer Street. | 138 |
| | Intersection of East Broadway and South Donard Street. | 137 |

(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: March 23, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–4602]
[FR Doc. 79–10992 Filed 4–10–79; 8:45 am]
**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Marianna, Lee County, Ark.

**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 Marianna, Lee County, Arkansas. 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 Marianna, Lee County, Arkansas.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Marianna, Lee County, Arkansas are available for review at the Building Inspector's Office, City Hall, Marianna, Arkansas.

**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 Marianna, Lee County, Arkansas.

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 |
|---|---|---|
| L'Anguille River (backwater from the Mississippi River). | Chestnut Street extended ..... | 202 |
| Chestnut Street (backwater from the Mississippi River). | Just downstream of the Missouri Pacific Railroad. | 202 |

(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: March 23, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–4939]
[FR Doc. 79–10993 Filed 4–10–79; 8:45 am]
**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Cocoa, Brevard County, Fla.

**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 Cocoa, Brevard County, Fla. 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 Cocoa, Brevard County, Fla.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Cocoa, Brevard County, Fla., are available for reviews at the Office of the City Manager, City Hall, Cocoa, Fla.

**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 Cocoa, Brevard County, Fla.

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 |
|---|---|---|
| Indian River | Entire Shoreline | 4 |
| Big Mud Lake | Entire Shoreline | 22 |
| Big Mud Lake North | Entire Shoreline | 23 |
| Big Mud Lake South | Entire Shoreline | 21 |
| Little Mud Lake | Entire Shoreline | 23 |
| Little Mud Lake South | Entire Shoreline | 21 |
| Clear Lake | Entire Shoreline | 27 |
| Braco Pond | Entire Shoreline | 19 |
| Unnamed Slough | Entire Shoreline | 30 |

(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: March 23, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–4941]
[FR Doc. 79–10094 Filed 4–10–79; 8:45 am]
**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Melbourne, Brevard County, Fla.

**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 Melbourne, Brevard County, Fla. 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 Melbourne, Brevard County, Fla.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Melbourne, Brevard County, Fla, are available for review at the City Clerk's Office, 900 East Strawbridge Avenue, Melbourne, Fla.

**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 Melbourne, Brevard County, Fla.

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 |
|---|---|---|
| Crane Creek | Approximately 100 feet upstream of Babcock Street. | 14 |
| | Approximately 100 feet upstream of Dubber Road. | 17 |
| | Approximately 100 feet upstream of New Haven Avenue. | 18 |
| Channel A | Just upstream of Espanola Way. | 21 |
| | Just downstream of Eddie Allen Road. | 22 |
| Channel B | Just upstream of Vassar Street. | 16 |
| | Approximately 200 feet upstream of South Fairway Drive. | 17 |
| | Just downstream of Dairy Road. | 26 |
| Channel B–1 | Approximately 100 feet downstream of Dairy Road. | 23 |
| Channel C | Just downstream of Walker Street (Extended). | 11 |
| Channel D | Just downstream of Sherwood Boulevard. | 24 |
| Eau Gallie River | Just upstream of Eau Gallie Boulevard. | 11 |
| | Approximately 200 feet downstream of Wickham Road. | 19 |
| Elbow Creek | Just downstream of U.S. 1 | 6 |
| Horse Creek | Just upstream of Florida East Coast Railroad. | 9 |
| | Just upstream of Croton Road. | 16 |
| | Just downstream of Parkway Drive. | 19 |
| Atlantic Ocean | At Florida State Highway 518 | 8 |
| Indian River | Just upstream of Parkway Drive. | 6 |
| | Just upstream of U.S. 192 | 7 |
| St. John's River | Just upstream of Sarno Road. | 22 |
| Channel E | Just upstream of Mill Street | 18 |
| Channel F | At Fairview Drive (Extended) | 21 |

(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: March 23, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–4943]
[FR Doc. 79–10095 Filed 4–10–79; 8:45 am]
**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Oviedo, Seminole County, Fla.

**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 Oviedo, Seminole County, Fla. 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 Oviedo, Seminole County, Fla.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Oviedo, Seminole County, Fla., are available for review at the City Clerk's Office, City Hall, Oviedo, Fla.

**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 Oviedo, Seminole County, Fla.

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 Charm | Entire Shoreline | 48 |
| Round Lake | Entire Shoreline | 48 |
| Long Lake | Entire Shoreline | 47 |
| Sweetwater Creek | Approximately 300 feet downstream of Magnolia Drive. | 27 |
| | Just downstream of Franklin Street. | 33 |
| | Just upstream of SR 419 (Chapel Street). | 39 |

(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, 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: March 23, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI–4944]
[FR Doc. 79–10996 Filed 4–10–79; 8:45 am]
BILLING CODE 4210–01–M

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the Town of Malabar, Brevard County, Fla.

**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 Malabar, Brevard County, Fla. 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 Malabar, Brevard County, Fla.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Malabar, Brevard County, Fla., are available for review at the City Clerk's Office, City Hall, Malabar, Fla.

**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 Malabar, Brevard County, Fla.

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 |
|---|---|---|
| Channel A | Just upstream of U.S. 1 | 7 |
| | Just upstream of Florida East Coast Railroad. | 16 |
| Channel B | Approximately 200 feet upstream of Malabar Road. | 19 |
| | Just upstream of Corey Road | 19 |
| Channel C | Approximately 100 feet upstream of Malabar Road. | 20 |
| Channel D | Just downstream of Malabar Road. | 17 |
| Channel E | Approximately 100 feet downstream of Malabar Road. | 20 |
| Indian River | Just upstream of Malabar Road. | 7 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 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: March 23, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI-4942]
[FR Doc. 79-10997 Filed 4-10-79; 8:45 am]
BILLING CODE 4210-01-M

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Unincorporated Areas of Catoosa County, Ga.

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

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the unincorporated areas of Catoosa County, Ga. 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 unincorporated areas of Catoosa County, Ga.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the unincorporated areas of Catoosa County, Ga., are available for review at the County Commissioner's Office, Catoosa County Courthouse, 206 West Nashville Street, Ringo, Ga.

**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 unincorporated areas of Catoosa County, Ga.

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 Chickamauga Creek. | Approximately 500 feet upstream of Graysville Road. | 698 |
| | Just downstream of U.S. Highway 41 & 76 (Dixie Highway). | 755 |
| | Just upstream of State Highway 2 (Cleveland Street). | 761 |
| Peavine Creek | Just downstream of Interstate Highway 75. | 694 |
| | Just upstream of Boynton Drive. | 722 |
| | Approximately 1000 feet upstream of Poplar Springs Road. | 742 |
| | Just downstream of Three Notch Road. | 752 |
| East Chickamauga Creek. | Just upstream of Interstate Highway 75. | 782 |
| | Just upstream of Orr Road | 797 |
| Spring Creek | Just upstream of the Tennessee-Georgia State Line. | 682 |
| | Just downstream of the confluence of Black Branch. | 684 |
| Black Branch | Just downstream of Lakeview Drive. | 687 |
| | Just downstream of Cloud Springs Road. | 698 |
| Little Chickamauga Creek. | Just downstream of Interstate Highway 75. | 761 |
| | Just downstream of Georgia Highway 151. | 792 |
| West Chickamauga Creek. | Just upstream of Cloud Springs Road. | 682 |
| | Just downstream of Boynton Drive. | 691 |

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.

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

Issued: March 23, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI-4835]
[FR Doc. 79-10998 Filed 4-10-79; 8:45 am]
BILLING CODE 4210-01-M

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Fairburn, Fulton 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 Fairburn, Fulton 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 Fairburn, Fulton County, Georgia.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Fairburn, Fulton County, Georgia are available for review at the City Clerk's Office, City Hall, Fairburn, 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 Fairburn, Fulton County, Ga.

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 |
|---|---|---|
| Line Creek | Sir Charles Drive (extended) | 917 |
| | Intersection of Blue Flag Lane and Tall Deer Drive. | 923 |
| | Approximately 150 feet downstream of Rivertown Road. | 939 |

(National Flood Insurance Act of 1968 (Title XIII of the 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: March 23, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI–4837]
[FR Doc. 79–10899 Filed 4–10–79; 8:45 am]
BILLING CODE 4210–01–M

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Rossville, Walker County, Ga.

**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 Rossville, Walker 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 Rossville, Walker County, Georgia.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Rossville, Walker County, Georgia, are available for review at the City Clerk's Office, City Hall, 500 McFarland Avenue, Rossville, 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 Rossville, Walker 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 |
|---|---|---|
| Tributary to Chattanooga Creek. | Just upstream of Clark Street | 664 |
| | Just upstream of Hicks Avenue. | 716 |
| Tributary along Carden Avenue. | Just downstream of Maple Street. | 665 |
| Tributary along Williams Street. | Just upstream of Williams Street. | 670 |
| | Just downstream of Glenn Avenue. | 696 |
| Tributary along Andrews Street. | Just upstream of Rock Dam | 698 |
| Dry Creek | Just upstream of Maple Street. | 659 |
| Tributary No. 1 North-Dry Creek. | Just upstream of Indiana Avenue. | 671 |
| | Just upstream of Lee Street | 676 |
| Tributary No. 2 South-Dry Creek. | Just upstream of Indiana Avenue. | 671 |
| | Just downstream of McFarland Avenue. | 685 |
| Tributary No. 4 West-Dry Creek. | Shear Drive (extended) | 671 |

(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: March 23, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI–4839]
[FR Doc. 79–11000 Filed 4–10–79; 8:45 am]
BILLING CODE 4210–01–M

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Trenton, Dade County, Ga.

**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 Trenton, Dade 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 Trenton, Dade County, Georgia.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Trentobn, Dade County, Georgia, are available for review at City Hall, Trenton, 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 Trenton, Dade 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 |
|---|---|---|
| Lookout Creek | Glenview Drive extended | 711 |
| | Confluence of Town Creek | 702 |
| Town Creek | Just upstream of Main Avenue (U.S. Highway 11). | 726 |
| | Just downstream of Railroad Street. | 715 |

(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: March 23, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI–4840]

[FR Doc. 79–11001 Filed 4–10–79; 8:45 am]

BILLING CODE 4210–01–M

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Town of Trion, Chattooga County, Ga.

**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 Trion, Chattooga County, Ga. 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 Trion, Chattooga County, Ga.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Trion, Chattooga County, Georgia are available for review at the Mayor's Office, Town Hall, Park Avenue, Trion, Ga.

**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 Trion, Chattooga County, Ga.

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 |
|---|---|---|
| Chattooga River | Just downstream of U.S.Highway 27. | 659 |
| | Just upstream of Riegel Dam | 674 |
| | Confluence of Cane Creek | 681 |
| Spring Branch | Approximately 200 feet upstream of Central Avenue. | 669 |
| Trion Branch | Approximately 200 feet upstream of Allgood Street. | 664 |
| | Approximately 200 feet downstream of Tavern Lane. | 665 |

(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, 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: March 23, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI–4841]

[FR Doc. 79–11002 Filed 4–10–79; 8:45 am]

BILLING CODE 4210–01–M

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Union City, Fulton County, Ga.

**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 Union City, Fulton 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 Union City, Fulton County, Georgia.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Union City, Fulton County, Georgia are available for review at the City Clerk's Office, City Hall, 5047 Union Street, Union City, 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 Union City, Fulton 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 |
|---|---|---|
| Deep Creek | Just upstream of High Point Road. | 840 |
| | Ward Road Extended | 901 |
| Highpoint Creek | Approximately 700 feet upstream of the confluence with Deep Creek. | 841 |
| | Just downstream of Highpoint Road. | 853 |
| Shannon Creek | Eastern Corporate Limits | 905 |
| | Northern Corporate Limits | 942 |
| Windham Creek | Eastern Corporate Limits | 904 |
| Whitewater Creek | Southern Corporate Limits | 924 |
| | Just downstream of Jonesboro Road. | 948 |

(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 Admendments 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: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4842]

[FR Doc. 79–11003 Filed 4–10–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Unincorporated Areas of Walker County, Ga.

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

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Unincorporated Areas of Walker County, Ga. 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 unincorporated areas of Walker County, Ga.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the unincorporated areas of Walker County, Ga., are available for review at the Property Records Office, Walker County Courthouse, LaFayette, Ga.

**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 unincorporated areas of Walker County, Ga.

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 |
|---|---|---|
| Chattanooga Creek | Intersection of Wilson Road and northern corporate limits. | 659 |
| | Just upstream of Ridgeland Road (Georgia Highway 349). | 678 |
| | Just upstream of Georgia Highway 341. | 690 |
| Coke Oven Branch | Just upstream of Wheeler Avenue. | 760 |
| | Just upstream of Wallacevilie School Road. | 779 |
| | Just upstream of Wallaceville Mission Road. | 869 |
| | Just upstream of FAS 1025 | 871 |
| Crawfish Creek | Just upstream of Glass Mill Road. | 736 |
| | Just upstream of Straight Cut Road. | 776 |
| Dry Creek | Just upstream of Maple Street. | 659 |
| | Just upstream of Salem Road. | 678 |
| | Just downstream of Georgia Highway 349. | 718 |
| Ellis Branch | Just upstream of Chattanooga Valley Road. | 686 |
| | Approximately 150 feet downstream of Southen Railway Bridge. | 695 |
| Unnamed Tributary to Coke Oven Branch. | Just upstream of Wilder Road. | 734 |
| Unnamed Tributary to West Chickamauga Creek. | Just downstream of Wilder Road. | 733 |
| | Approximately 50 feet upstream of FAS 1352. | 751 |
| Unnamed Tributary to West Chickamauga Creek. | Just upstream of Jenkins Road. | 813 |
| West Chickamauga Creek. | Just upstream of William Howard Taft Highway (US Highway 27). | 720 |
| | Just upstream of Glass Mill Road. | 730 |

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

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, 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: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4771]

[FR Doc. 79–11004 Filed 4–10–79; 8:45 am]

**BILLING CODE 4210–01–M**

**24 CFR Part 1917**

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Lexington-Fayette Urban County Government, Ky.

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

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Lexington-Fayette Urban County Government, Ky. 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 Lexington-Fayette Urban County Government, Ky.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Lexington-Fayette Urban County Government, Ky., are available for review at Lexington City Hall, 136 Walnut Street, Lexington, Ky.

**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 Lexington-Fayette Urban County Government, Ky.

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 Elkhorn Creek | Just upstream of Bosworth Lane. | 836 |
| | Just upstream of US Highway 68. | 894 |
| | Just upstream of Clays Mill Road. | 920 |
| | Just downstream of Monticello Blvd. | 966 |
| | Just upstream of Monticello Boulevard. | 969 |
| Steeles Run | Just upstream of Redd Road. | 820 |
| | Just downstream of Elk Chester Road. | 850 |
| | Just upstream of Elk Chester Road. | 853 |
| Cave Creek | Just upstream of Bowmans Mill Road. | 888 |
| | Confluence of Dogwood Trib. | 938 |
| Parkers Mill Tributary | Just upstream of Parkers Mill Road. | 876 |
| Dogwood Tributary | Huffman Road (extended) | 951 |
| Stonewall Estates Tributary. | Just upstream Higbee Mill Road. | 906 |
| | Just upstream of Clays Mill Road. | 961 |
| Indian Hills Tributary | Wellington Way | 951 |
| West Hickman Creek | Just upstream of Tates Creek Road. | 907 |
| | Just upstream of Armstrong Mill Road. | 914 |
| | Just upstream of New Circle Rd. (State Highway 4). | 930 |
| | Just downstream of Mount Tabor Road. | 941 |
| | Just upstream of Lexington Mall Entrance. | 978 |
| Melody Village Tributary. | Just downstream of Tates Creek Road. | 911 |
| | Just upstream of Tates Creek Road. | 916 |
| Wilson Downing Road Tributary. | Just downstream of Camelot Drive. | 934 |
| | Just upstream of Camelot Dr. | 938 |
| | Just downstream of Medlock Rd. | 970 |
| | Just upstream of Medlock Rd | 972 |
| Tates Creek Road Tributary. | Just downstream of Tates Creek Road. | 924 |
| | Just downstream of Kirk Levington South Drive. | 928 |
| | Just upstream of Kirk Levington South Drive. | 931 |
| | Just upstream of New Circle Ramp (North of New Circle Rd.). | 941 |
| | Just downstream of Mt. Tabor Road. | 974 |
| | Just upstream of Mount Tabor Road. | 979 |
| Lansdowne Drive Tributary. | Braemar Drive | 955 |
| | Zandale Drive | 962 |
| Shadeland Tributary | Confluence with Tates Creek Road Tributary. | 981 |
| Idle Hour Tributary | Lexington Mall Access Road. | 977 |
| | Confluence with West Hickman Creek. | 977 |
| Town Branch | Just downstream of Yarnallton Road. | 834 |
| | Just upstream of Yarnallton Road. | 837 |
| | Danada Farm Road | 862 |
| | Just downstream of Bizzell Drive. | 881 |
| | Just upstream of Bizzell Dr | 887 |
| | Old Frankfort Pike | 907 |
| | Just downstream of Jefferson Street (culvert). | 933 |
| Bracktown Branch | Just upstream of L&N Railroad. | 849 |
| | Just downstream of Greendale Road. | 905 |
| | Just upstream of Greendale Rd. | 907 |
| Greendale Road Tributary. | Approximately 250 feet upstream of confluence with Bracktown Branch. | 909 |
| Wolf Run | Just downstream of Old Frankfort Pike. | 870 |
| | Just upstream of Old Frankfort Pike. | 872 |
| | Just downstream of Cambridge Avenue. | 887 |
| | Just upstream of Cambridge Avenue. | 889 |
| | Just downstream of Versailles Road. | 900 |
| | Just upstream of Versailles Road. | 903 |
| | Just downstream of Beacon Hill Road. | 920 |
| | Just upstream of Beacon Hill Road. | 922 |
| | Clays Mill Road | 949 |
| Vaughns Branch | Just downstream of Chantilly Street. | 893 |
| | Just upstream of Chantilly Street. | 895 |
| | Just downstream of Oxford Circle. | 898 |
| | Just upstream of Oxford Circle. | 900 |
| | Pine Meadow Road | 916 |
| | Just downstream of Gibson Ave. | 942 |
| Big Elm Tributary | Mason Headley Road | 930 |
| | Just downstream of Bob-O-Link Drive. | 964 |
| Parkers Mill Road Tributary. | Devonport Drive | 898 |
| | Just upstream of Lane Allen Road. | 950 |
| Colonial Drive Tributary. | Confluence with Parkers Mill Road Tributary. | 906 |
| Beacon Hill Tributary | Approximately 260 feet upstream of confluence with Wolf Run. | 925 |
| Turfland Mall Tributary | Lane Allen Road | 942 |
| East Hickman Creek | Just upstream of Tates Creek Road. | 896 |
| | Just downstream of US Highways 25 and 421. | 969 |
| Cadentown Branch | Just downstream of Todds Rd. | 1015 |
| | Just upstream of Todds Road. | 1017 |
| Brighton Fork | Just downstream of Bryant Rd. | 1008 |
| | Just upstream of Bryant Road. | 1013 |
| Richmond Road Tributary. | Just upstream of Squires Rd. | 971 |
| | Just downstream of New Road. | 1000 |
| | Just upstream of New Road | 1007 |
| Reservoir Tributary | Just downstream of Squires Rd. | 971 |
| | Just upstream of Squires Road. | 974 |
| Squires Road Tributary. | Just downstream of Squires Rd. | 955 |
| | Just upstream of Squires Road. | 962 |
| Delong Road Tributary | Just upstream of Delong Road. | 929 |
| | Just downstream of Farm Pond. | 960 |
| | Just upstream of Farm Pond | 963 |
| Armstrong Mill Road Tributary. | Just downstream of Squires Rd. | 974 |
| | Just upstream of Squires Road. | 976 |
| Cane Run | Just downstream of Berea Road. | 857 |
| | Just downstream of Newton Road. | 912 |
| | Just upstream of Newton Road. | 918 |
| | Just downstream of Park Bridge. | 923 |
| | Just downstream of Russell Cave Road. | 938 |
| | Just upstream of Russell Cave Road. | 940 |
| | Just downstream of North Broadway. | 952 |

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| UK Agriculture Station Branch. | Just downstream of State Route 922. | 894 |
| | Approximately 100 feet upstream of Pierson Drive. | 939 |
| | Just upstream of Allen Drive.. | 942 |
| IBM Tributary | Just downstream of New Circle Road. | 928 |
| | Just upstream of New Circle Road. | 930 |
| | Approximately 100 feet downstream of IBM Road to Russell Cave Road. | 931 |
| | Approximately 50 feet upstream IBM Road to Russell Cave Rd. | 940 |
| North Elkhorn Creek | Just upstream Louisville and Nashville Railroad. | 904 |
| Hume Road Tributary.. | City of Lexington Northeastern Corporate Limits (extended). | 942 |
| | Just downstream of Hume Road. | 955 |
| I-75 Tributary | Just upstream I-75 | 924 |
| | Just upstream of US 60 | 930 |
| Eastland Park Tributary. | Just upstream of City of Lexington southwestern Corporate Limits. | 942 |
| | Just downstream of Kilkenny Drive. | 963 |
| Kentucky River | Just upstream of Jessamine and Fayette Counties Boundary. | 581 |
| | Just downstream of Fayette and Clark Counties Boundary. | 590 |

(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, 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: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4806]

[FR Doc. 79–11005 Filed 4–10–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Ludlow, Kenton County, Ky.

**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 Ludlow, Kenton County, Ky. 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 Ludlow, Kenton County, Ky.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Ludlow, Kenton County, Ky., are available for review at the City Building, Ludlow, Ky.

**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 Ludlow, Kenton County, Ky.

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 | Deverill Street extended | 496 |
| | Just downstream of Southern Railway Bridge. | 497 |
| Pleasant Run Creek | Just upstream of Oak Street.. | 496 |
| Pleasant Run Creek Tributary. | Approximately 100 feet downstream of Southern Railway bridge. | 497 |
| | Just downstream of corporate limits. | 511 |

(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, 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: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4805]

[FR Doc. 79–11006 Filed 4–10–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the City of Taylor Mill, Kenton County, Ky.

**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 Taylor Mill, Kenton County, Ky. 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 Taylor Mill, Kenton County, Ky.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Taylor Mill, Kenton County, Ky., are available for review at the Municipal Building, 5225 Taylor Mill Road, Taylor Mill, Ky.

**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 Taylor Mill, Kenton County, Ky.

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 |
|---|---|---|
| Banklick Creek (backwater effects of Licking River). | Just upstream of Kentucky Highway 16. | 503 |
| Licking River | Just downstream of western corporate limits. | 503 |
| Holds Branch | Just upstream of western corporate limits. | 545 |
| | Just downstream of Private Bridge. | 546 |
| | Just upstream of Private Bridge. | 547 |

(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, 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: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4950]

[FR Doc. 79–11007 Filed 4–10–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for Unincorporated Areas of Marion 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 unincorporated areas of Marion 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 unincorporated areas of Marion County, Mississippi.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the unincorporated areas of Marion County, Mississippi are available for review at the Marion County Courthouse, Columbia, 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 unincorporated areas of Marion 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 |
|---|---|---|
| Pearl River | Just downstream of U.S. Highway 98. | 144 |
| | Just downstream of Illinois Central Gulf Railroad. | 145 |
| | Approximately 200 feet upstream of Mississippi State Highway 35. | 150 |
| Upper Little Creek | Approximately 200 feet upstream of Mississippi State Highway 13. | 144 |
| Balls Mill Creek | Approximately 200 feet downstream of Mississippi State Highway 13. | 144 |
| | Approximately 200 feet upstream of southernmost crossing of U.S. Highway 98. | 169 |
| Silver Creek | Approximately 200 feet upstream of Illinois Central Gulf Railroad. | 157 |
| | Approximately 200 feet upstream of Mississippi State Highway 58. | 163 |

(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: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4813]

[FR Doc. 79–11168 Filed 4–10–79; 8:45 am]

**BILLING CODE 4210–01–M**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 53

## Foundation Excise Taxes; Treatment of Imputed Interest on Certain Contracts

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the treatment of imputed interest on certain contracts entered into by private foundations. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations provide private foundations with the guidance needed to comply with that Act and affect private foundations that receive deferred payments on certain sales contracts.

**DATES:** The regulations are effective for taxable years ending after October 4, 1976.

**FOR FURTHER INFORMATION CONTACT:** Charles Kerby of the Employee Plans

and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:EE–47–78 (202–566–3422) (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On December 21, 1978, the Internal Revenue Service published in the **Federal Register** proposed amendments to the Foundation Excise Tax Regulations (26 CFR Part 53) under section 4942 of the Internal Revenue Code of 1954. The amendments were proposed to conform the regulations to section 1310 of the Tax Reform Act of 1976 (90 Stat. 1729). There were no written comments on the proposed regulations and no public hearing was held.

**Drafting Information**

The principal author of the regulations was Charles Kerby of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

*Adoption of amendments to the regulations*

Accordingly, the proposed amendments to the Foundation Excise Tax Regulations (26 CFR Part 53) under section 4942, as published in the **Federal Register** on December 21, 1978 (43 FR 59518), are adopted without change. The regulations are adopted under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 78(—

**Jerome Kurtz,**
*Commissioner of Internal Revenue.*

Approved: April 3, 1979.

**Donald C. Lubick,**
*Assistant Secretary of the Treasury.*

## PART 53—FOUNDATION EXCISE TAXES

**§ 53.4942 [Deleted]**

**Paragraph 1.** Section 53.4942 is deleted.

**Par. 2.** Section 53.4942(a)–2(d)(2) is amended by adding § 53.4942(a)–2(d)(2)(x) to read as follows:

**§ 53.4942(a)–2 Computation of undistributed income.**

* * * * *

(d) *Adjusted net income.* * * *

(2) *Income modifications.* * * *

(x) For taxable years ending after October 4, 1976, section 4942(f)(2)(D) states that section 483 (relating to imputed interest on deferred payments) does not apply to payments made pursuant to a binding contract entered into in a taxable year beginning before January 1, 1970. Amounts that are not treated as imputed interest because of section 4942(f)(2)(D) and this subdivision will represent gain or loss from the sale of property. If the gain or loss is long term capital gain or loss, section 4942(f)(2)(B) excludes the gain or loss from the computation of the foundation's gross income. If, in a taxable year beginning after December 31, 1969, there is a substantial change in the terms of a contract entered into in a taxable year beginning before January 1, 1970, then any payment made pursuant to the changed contract is not considered a payment made pursuant to a contract entered into in a taxable year beginning before January 1, 1970. Whether or not a change in the terms of a contract (for example, a change relating to time of payment, sales price, or obligations under the contract) is a substantial change is determined by applying the rules under section 483 and § 1.483–1(b)(4). As used in this subdivision, a binding contract includes an irrevocable written option.

* * * * *

[T.D. 7610]
[FR Doc. 79–11260 Filed 4–10–79; 8:45 am]
**BILLING CODE 4830–01–M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

### Revision to Texas Air Quality Surveillance Network

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This rule approves a revision to the Texas Air Quality Surveillance Network. Approval is being given to a request by the Texas Air Control Board (TACB) to delete 4 particulate monitoring sites. These deletions will remove 4 hi-vol samplers from the Texas Air Quality Surveillance Network. The deletion of these hi-vol samplers has been evaluated and the remaining network is an adequate SIP network.

**EFFECTIVE DATE:** April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Jerry Stubberfield, Air Program Branch, Environmental Protection Agency, Region 6, Dallas, Texas. 75270 (214) 767–2742.

**SUPPLEMENTARY INFORMATION:** On August 14, 1978 the TACB submitted a request for an administrative revision to Section IX of the Texas State Implementation Plan (SIP). After EPA's review of the submittal, a proposed approval was published in the **Federal Register** on January 18, 1979 (44 FR 3739). The specifics of the requested deletions to the Texas Air Quality Surveillance Network were discussed in detail in that publication and will not be repeated here.

**Public Comments**

In the proposed approval of the revisions to Section IX of the Texas SIP, interested persons were given 30 days to submit comments for consideration by EPA in making a final approval/disapproval decision. No comments on the proposed approval were received. Therefore, there is no information which conflicts with a decision to approve the revisions as proposed.

**Current Action**

In this action, approval of the revision to Section IX of the Texas SIP is being promulgated as proposed.

This notice of final rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410–(a).

Dated: April 5, 1979.

**Douglas M. Costle,**
*Administrator.*

Part 52 of Chapter I, Title 40 of the Code of Regulations is amended as follows:

**Subpart SS—Texas**

1. In § 52.2270, paragraph (c) is amended by adding a new paragraph (16) as follows:

**§ 52.2270 Identification of plan.**

* * * * *

(c) * * *

(16) An administrative revision to Section IX, Air Quality Surveillance System, was submitted by the Texas Air Control Board on August 14, 1978. (Non-regulatory.)

[FRL 1093–6]
[FR Doc. 79–11253 Filed 4–10–79; 8:45 am]
**BILLING CODE 6560–01–M**

### 40 CFR Part 52

### Approval and Promulgation of Implementation Plans; Arkansas

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final Rule.

**SUMMARY:** This rule approves the State submitted revisions to Arkansas' Air

Quality Surveillance Network. The revisions involve movement of 12 monitoring sites from the original locations and the elimination of a hi-vol sampler. The moves range in distance from 73 meters to approximately 73 kilometers. The new site locations will provide better operator access and better site facilities. As a result, both the quantity and accuracy of air quality data are expected to increase. The elimination of the hi-vol sampler was evaluated and the remaining network is an adequate SIP network.

**EFFECTIVE DATE:** April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Jerry Stubberfield, Chief, State Implementation Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767–2742.

**SUPPLEMENTARY INFORMATION:** On February 15, 1977, January 10, 1978, and March 27, 1978, after adequate notices and public hearings, the Arkansas Department of Pollution Control and Ecology submitted State Implementation Plan (SIP) revisions to the Environmental Protection Agency. After EPA's review of these submittals, a proposed approval was published in the Federal Register on October 11, 1978 (43 FR 46869). Details of these revisions were discussed in that publication and will not be repeated here. Interested persons were given 30 days to submit comments for consideration by EPA in making a final approval/disapproval decision. No comments were received. Therefore, there is no information which conflicts with a decision to approve the revisions as proposed.

**Current Action:**

The EPA is promulgating administrative revisions to the Arkansas State Implementation Plan (SIP) which will involve changes to the Arkansas Air Quality Surveillance Network.

This notice of final rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410–(a).

Dated: April 4, 1979.

Douglas M. Costle,
*Administrator.*

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

## Subpart E—Arkansas

1. In § 52.170, paragraph (c) is amended by adding a new paragraph (6) as follows:

**§ 52.170 Identification of plan.**

* * * * *

(c) * * *

(6) Administrative changes to the Arkansas Air Quality Surveillance Network were submitted by the Arkansas Department of Pollution Control and Ecology on February 15, 1977, January 10, 1978, and March 27, 1978. (Non-regulatory.)

[FRL 1093–5]
[FR Doc. 79–11254 Filed 4–10–79; 8:45 am]
BILLING CODE 6560–01–M

## 40 CFR Part 180

## Chlorotoluene: Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

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

**ACTION:** Final rule.

**SUMMARY:** This rule establishes an exemption from the requirement of a tolerance for the inert ingredient chlorotoluene. The regulation was requested by Monsanto Co. This rule permits the use of chlorotoluene as a solvent or cosolvent in pesticide formulations.

**EFFECTIVE DATE:** Effective on April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. David L. Ritter, Hazard Evaluation Division (TS–769), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/426–2680).

**SUPPLEMENTARY INFORMATION:** On January 23, 1979, the EPA published a notice of proposed rulemaking in the Federal Register (44 FR 4741) in response to a peticide petition (PP 7F 1979) submitted to the Agency by Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166. This petition proposed that 40 CFR Part 180 be amended by the establishment of an exemption from the requirement of a tolerance for residues of the inert ingredient chlorotoluene, an isomeric mixture predominantly of ortho- and para-monochlorotoluene with up to 6% unreacted toluene and a boiling range of 110 degrees C to 162 degrees C, when used as a solvent or cosolvent in pesticide formulations with the following restrictions: (a) Not for use after edible parts of the plant begin to form and (b) do not graze livestock in treated areas within 48 hours after application. No requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

One comment was received objecting to the establishment of the proposed exemption from the requirement of a tolerance on the grounds that chlorotoluene belongs to a class of persistent chemicals that can bioaccumulate in the environment. The Agency, having considered the comment and supplemental data submitted with it, concludes that the proposed exemption should be established since the data submitted in the petition provide adequate assurance that the residues, if any, resulting from the proposed use of chlorotoluene will be safe. Consideration of the proposed exemption is confined to this question of human safety. Other issues, such as bioaccumulation, are not considered in establishing an exemption (or tolerance level) but are considered prior to the issuance of a registration for a pesticide chemical. Thus, the issue of bioaccumulation, as well as others, will be considered before the Agency will permit the use of chlorotoluene as proposed.

It has been concluded, therefore, that the proposed amendment to 40 CFR Part 180, should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before May 11, 1979 file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on April 11, 1979, Part 180, Subpart C, is amended by establishing an exemption from the requirement of a tolerance for residues of chlorotoluene as set forth below.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: April 4, 1979.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Edwin L. Johnson,
*Deputy Assistant Administrator for Pesticide Programs.*

Part 180, Subpart D, is amended by adding the new § 180.1045 to read as follows:

**§ 180.1045 Chlorotoluene; exemption from the requirement of a tolerance.**

Chlorotoluene, an isomeric mixture predominantly of ortho- and paramonochlorotoluene with up to 6 percent unreacted toluene and a boiling range of 110 degrees C to 162 degrees C, is exempted from the requirement of a tolerance when used as a solvent or cosolvent in pesticide formulations with the following restrictions:

(a) Not for use after edible parts of the plant begin to form.

(b) Do not graze livestock in treated areas within 48 hours after application.

[PRL 1096-1; PP 7F1979/R199]
[FR Doc. 79-11245 Filed 4-10-79; 8:45 am]
BILLING CODE 6560-01-M

## FEDERAL MARITIME COMMISSION

### 46 CFR Part 537

### Approval of Reporting Requirements

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** General Order 18 requires parties to approved section 15 agreements to file minutes of conference meetings with the Commission and to keep records of votes and copies of distributed reports or circulars for at least two years. The Commission is amending these rules to reflect an extension of existing General Accounting Office clearance for the reporting requirements and recordkeeping requirement contained therein in accordance with GAO regulations.

**EFFECTIVE DATE:** April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5725.

**SUPPLEMENTARY INFORMATION:** 44 U.S.C. 3512 requires the General Accounting Office to review certain collections of information from 10 or more persons undertaken by independent Federal regulatory agencies.

This Commission has received clearance from the U.S. General Accounting Office for the reporting requirements contained in 46 CFR Part 537 (General Order 18). Title 4 CFR, § 10.12, Notification of General Accounting Office Action, requires that notice of such clearance appear in the agency's regulations.

The clearance information is presently included in General Order 18. However, it must be amended to reflect the more specific wording of GAO's latest clearance approval. Accordingly, the clearance information language presently appearing as the second sentence in the AUTHORITY citation is hereby deleted and replaced with the following language:

The reporting requirements in 46 CFR 537.2 and 537.3 and the recordkeeping requirement in 46 CFR 537.4 have been approved by the U.S. General Accounting Office under number B-180233 (RO340).

*Effective Date.* Notice, public procedure and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective April 11, 1979.

By the Commission.

Francis C. Hurney,
*Secretary.*

[General Order 18]
[FR Doc. 79-11208 Filed 4-10-79; 8:45 am]
BILLING CODE 6730-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### 49 CFR Part 256

### Financial Assistance for Railroad Passenger Terminals; Response to Comments; Revision of Regulations

**AGENCY:** Federal Railroad Administration, DOT.

**ACTION:** Final rule amendment.

**SUMMARY:** On May 22, 1978, the Federal Railroad Administration ("FRA") published amendments to its regulations governing financial assistance for railroad terminals (49 CFR Part 256). Various technical changes were made along with the deletion of provisions for financial assistance for planning or preservation of terminals which are to be converted solely to nontransportational uses. The amendments were scheduled to take effect on June 21, 1978, but the FRA agreed to consider comments on those amendments, which were received before July 21, 1978. This rule amendment is in response to comments received during the requisite period and a Congressional alteration regarding the maximum federal share allowable. Some technical changes are also included.

**DATES:** This amendment is to take effect April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Principal Program Person: Julius Ganoza, Rail Passenger Programs Division, Office of Federal Assistance, Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. 20590. Principal Attorney: David M. Talley, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street, SW., Washington, D.C. 20590, 202-472-5305.

**SUPPLEMENTARY INFORMATION:** As originally enacted, section 4(i) of the Department of Transportation Act (49 U.S.C. 1653(i)) (Act) authorized the Secretary of Transportation ("Secretary"), among other things, to make grants to eligible persons to help finance: (1) The development of plans for the conversion of railroad passenger terminals of historical or architectural significance into intermodal passenger terminals, civic or cultural centers, or both; (2) the preservation of such railroad passenger terminals pending the completion of plans for their conversion; and (3) the promotion of the conversion of not less than three historically distinctive railroad passsenger terminals into intermodal passenger terminals on a feasibility demonstration basis. The Secretary has delegated his authority to the Federal Railroad Administrator (49 CFR 1.49(r)).

Congress determined in 1976 that the conversion of terminals which have no future transportation use could be more appropriately handled by the National Endowment. By section 706 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 125) ("4R Act"), Congress transferred to the National Endowment the authority to provide assistance to eligible persons for such terminals to be converted to civic or cultural use.

In view of this transfer of authority to the National Endowment, the FRA regulations were amended June 21, 1978, to eliminate from their coverage provisions pertaining to financial assistance for the planning or preservation of railroad passenger terminals solely for nontransportation uses. To allow for public response to those amendments, the FRA agreed to consider any comments received before July 21, 1978. The explanations in the three succeeding paragraphs along with the appropriate amendments below are the FRA's response to the comments received during the requisite period.

First, the FRA concurs with the comment noting that section 256.3(m), the definition of "project," was not correctly amended. Language left in that definition implies that the FRA could fund programs for railroad terminals whose future use would be only as civic or cultural activities centers. Similar language also remains in section 256.13(b)(8). These sections will be amended below to delete such language.

Second, within this part there is no provision which expressly affords the Advisory Council on Historic Preservation ("Council") an opportunity to review decisions regarding property listed on the National Register of Historic Sites ("Register"). Since the Council is charged with the responsibility to review such decisions under section 106 of the National Historic Preservation Act (16 U.S.C. 470(f)), the FRA amends this part to include explicit recognition of this reponsibility.

Third, section 256.5(b)(3) limits demonstration funding to terminals that are listed on the Register. In contrast, preservation and planning funds are also available for terminals "recommended on the basis of architectural integrity and quality" by the National Endowment or the Council. While the FRA accords great deference toward the views of both the National Endowment and the Council, the Act, in section 4(i)(2)(B), limits the terminals which may receive financial assistance for feasibility demonstration purposes to those listed on the Register. Therefore, the limitation on demonstration funding will remain.

On October 5, 1978, the Congress passed the Amtrak Improvement Act of 1978 (Pub. L. 95–421, 92 Stat. 923), which, among other things, raises the maximum federal financial participation in projects done pursuant to section 4(i) of the Act from 60 percent to 80 percent. To reflect the increase, this part will be amended as set forth below.

Some technical changes to sections 256.3(k), 256.5(d) and 256.7(c) of this part, which were mandated by the 4R Act and should have accompanied the technical changes in this part that were put into effect on June 21, 1978, are also included below.

These amendments do not impose any restrictions on grant applicants, but merely bring this part into compliance with amendments to the Act concerning Council review, federal financial contribution and section redesignations. Therefore, in accordance with the provisions of section 553 of the Administrative Procedure Act (5 U.S.C. 553), notice and public comment procedure are not required and this Amendment may be made effective in less than 30 days after publication.

In consideration of the foregoing, 49 CFR Part 256 is amended as follows:

**§§ 256.3 and 256.13 [Amended]**

1. Sections 256.3(m) and 256.13(b)(8) are both amended by substituting "which may incorporate civic and cultural activities where feasible" for "a civic or cultural activities center, or both".

2. Section 256.5(a) is amended by deleting "and" from the end of subsection (1), substituting "; and" for "." at the end of subsection (2), and inserting a new subsection as follows:

**§ 256.5 Eligibility.**

(a) * * *

* * * * *

(3) The Council is given a reasonable opportunity to review and comment upon the project as it affects property listed or eligible for listing on the National Register.

* * * * *

**§ 256.7 [Amended]**

3. Section 256.7(d) is amended by substituting "80 percent" for "60 percent".

**§ 256.3 [Amended]**

4. Section 256.3(k) is amended by substituting "(1)(D)" for "(1)(C)".

**§§ 256.5 and 256.7 [Amended]**

5. Sections 256.5(d) and 256.7(c) are both amended by substituting "4(i)(5)" for "4(i)(4)".

Dated: March 30, 1979.

John M. Sullivan,
*Federal Railroad Administrator.*

[FRA Docket No. 2172; Notice No. 4]
[FR Doc. 79-11217 Filed 4-10-79; 8:45 am]
BILLING CODE 4910-06-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1033

### Regulations for Return of Hopper Cars

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Emergency Order. Revised Service Order No. 1318–A.

**SUMMARY:** Revised Service Order No. 1318 was issued requiring that hopper cars belonging to twelve coal-hauling railroads be excluded from all loading and be returned to these twelve railroads empty. These railroads were excluded from loading hopper cars foreign to their lines. These provisions are now covered in Revised Exemption No. 157 under provision of Rule 19 of the Mandatory Car Service Rules. Revised Service Order No. 1318 is vacated.

**DATES:** Effective 12:01 a.m., April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275–7840, Telex 89–2742.

**SUPPLEMENTARY INFORMATION:** The Order is printed in full below.

Decided: April 5, 1979.

Upon further consideration of Revised Service Order No. 1318, because the provisions of this order are covered by Revised Exemption No. 157 under Rule 19 of the Mandatory Car Service Rules:

**§ 1033.1318 [Vacated]**

*It is ordered,* Revised Service Order No. 1318 is vacated.

This order shall become effective at 12:01 a.m., April 11, 1979.

(49 U.S.C. (10304–10305 and 11121–11126).)

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. Homme, Jr.,
*Secretary.*

[Revised Service Order No. 1318–A]
[FR Doc. 79-11270 Filed 4-10-79; 8:45 am]
BILLING CODE FR-7035-01-M

### 49 CFR Parts 1300, 1303, 1306 through 1310

### Certification of Rates or Fares To Cover New Operating Authority

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rule.

**SUMMARY:** Effective March 1, 1979, a new procedure was established that requires each motor or water carrier or freight forwarder to certify that it has rates on file to cover new operating authority. The procedure was implemented to reduce regulatory lag in

the issuance of operating rights and to reduce government costs.

This document establishes rules that will govern the certification statement. The Commission originally planned to include this information in each notice of a grant of operating authority. However, due to the volume of operating rights granted and the cost of additional printing, the Commission has determined that printing the rules in the Code of Federal Regulations is the most feasible way of advising the carriers.

**EFFECTIVE DATE:** May 11, 1979.

**ADDRESS:** Bureau of Traffic—Room 4333, Interstate Commerce Commission, Washington, DC. 20423.

**FOR FURTHER INFORMATION CONTACT:** William P. Geisenkotter, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423 (202–275–7739).

**SUPPLEMENTARY INFORMATION:** A notice was published in the **Federal Register** January 15, 1979 (44 FR 3131) announcing the Commission's intention of establishing a new procedure which would assure the earlier issuance of new operating rights. The notice informed the public that the procedure would reduce regulatory lag, allow operations to commence on an earlier date, and reduce government costs.

Under the old procedure, rate and fare compliance was verified before the rights were issued. Under the new procedure, carriers and forwarders must certify that they have rates or fares on file to cover the new authority. The operating rights will be issued on the basis of the certification without prior verification unless a protest or complaint is received. The cost of preparing the certification is expected to range from $1 to $5.

Certain basic information is needed in each certification statement for the new procedure to work effectively. It was originally planned that this information would be added to the notice of a grant of operating authority issued to each carrier or forwarder. However, the cost of the added printing would be substantial. The Commission has therefore determined that printing the rules in the Code of Federal Regulations is the most feasible and economical method of informing the carriers of the necessary information.

The Commission does not believe this revision requires a rulemaking proceeding under section 553 of the Administrative Procedure Act (5 U.S.C. 553) because it merely establishes rules to govern a change in policy that was procedural in nature, became effective without opposition, and will benefit those affected by it.

This decision does not significantly affect the quality of the human environment.

*It is ordered:*

1. Chapter X of Title 49 of the Code of Federal Regulations is amended in the manner set forth below.

2. Notice of this decision will be given to the public by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication in the **Federal Register** as notice to all interested persons.

This decision is issued under authority of section 10762 of the Interstate Commerce Act, 49 U.S.C. 10762, and under section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Decided: March 22, 1979.

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

H. G. Homme, Jr.,
*Secretary.*

COMMISSIONER CLAPP, dissenting:

The purpose underlying the proposal simply is to instruct a successful applicant for carrier authority how to comply with the rate filing requirements of the Act. It strikes me that the option chosen to implement the purpose is not the best.

I believe more consideration should be given to the impact of this matter on the successful applicant, many, if not most, of which are small businesses. Publication of these instructions in the **Federal Register** and 49 CFR is not the best approach to this problem, in my view.

I believe a better way to proceed would be for us to place the rate certification instructions directly into the hands of the new carriers. The order granting the authority is the most logical document in which to include these instructions, either by revising the present form (or the proposed revision of it) or by attaching the instruction to it. That is the solution favored by the Bureau of Traffic and I think it much superior to that approved by the majority.

## PART 1300—FREIGHT TARIFFS: RAILROADS, WATER CARRIERS, AND PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT AND CARRIERS JOINTLY THEREWITH

§ 1300.33 is added to read as follows:

### § 1300.33 Certification of rates to cover new authority.

(a) *Letter of certification required.*

Each water carrier that receives from the Commission a notice of a grant of operating authority and that has rates on file to cover the authority shall certify in writing that the rates are on file. The certification shall be prepared in letter form on durable paper of size not less than 8 by 10½ nor more than 8½ by 11 inches and sent to the following address:

Interstate Commerce Commission,
Administrative Unit, Tariff Examining Branch, Bureau of Traffic, Washington, DC 20423.

(b) *Tariffs and docket numbers to be identified.*

The letter shall identify by carrier or agent's name and ICC designation each tariff that shows the scope of operating authority or rates. Rate tariffs published in the name of an agent need not be identified if they do not contain scope provisions. The letter also shall show the complete docket number assignment (including sub suffix) and the date the rates will apply for the new authority. This date may be no earlier than the effective date of the authority.

(c) *Who may sign certification.*

The owner, a partner, or an officer of the carrier shall sign the letter of certification and show his or her title. The signature need not be notarized.

(d) *Penalty for misstatement.*

Carriers are reminded that knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense (see 18 U.S.C. 1001).

## PART 1303—PASSENGER SERVICE SCHEDULES: RAIL AND WATER CARRIERS

§ 1303.38 is added to read as follows:

### § 1303.38 Certification of fares to cover new authority.

(a) *Letter of certification required.*

Each water carrier that receives from the Commission a notice of a grant of operating authority and that has fares on file to cover the authority shall certify in writing that the fares are on file. The certification shall be prepared in letter form on durable paper of size not less than 8 by 10½ nor more than 8½ by 11 inches and sent to the following address:

Interstate Commerce Commission,
Administrative Unit, Tariff Examining Branch, Bureau of Traffic, Washington, DC 20423.

(b) *Tariffs and docket numbers to be identified.*

The letter shall identify by carrier or agent's name and ICC designation each tariff that shows the scope of operating authority or fares. Rate tariffs published in the name of an agent need not be identified if they do not contain scope provisions. The letter also shall show the complete docket number assignment (including sub suffix) and the date the fares will apply for the new authority. This date may be no earlier then the effective date of the authority.

(c) *Who may sign certification.*

The owner, a partner, or an officer of the carrier shall sign the letter of certification and show his or her title. The signature need not be notarized.

(d) *Penalty for misstatement.*

Carriers are reminded that knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense (see 18 U.S.C. 1001).

## PART 1306—PASSENGER AND EXPRESS TARIFFS AND SCHEDULES OF MOTOR CARRIERS

§ 1306.19 is added to read as follows:

**§ 1306.19 Certification of rates or fares to cover new authority.**

(a) *Letter of certification required.*

Each carrier that receives from the Commission a notice of a grant of regular (not emergency) temporary or permanent operating authority and that has rates or fares on file to cover the authority shall certify in writing that the rates or fares are on file. The certification shall be prepared in letter form on durable paper of size not less than 8 by 10½ nor more than 8½ by 11 inches and sent to the following address:

Interstate Commerce Commission,
Administrative Unit, Tariff Examining Branch, Bureau of Traffic, Washington, DC 20423.

(b) *Tariffs or schedules and docket numbers to be identified.*

The letter shall identify by carrier or agent's name and ICC designation each tariff or schedule that shows the scope of operating authority or rates or fares. The letter also shall show the complete docket number assignment (including sub suffix) and the date the rates or fares will apply for the new authority. This date may be no earlier than the effective date of the authority.

(c) *Who may sign certification.*

The owner, a partner, or an officer of the carrier shall sign the letter of certification and show his or her title. The signature need not be notarized.

(d) *Exception.*

A carrier or agent filing rates or fares under Special Permission No. 78–1000–TA may show the certification (all information) in the separate statement required by that permission instead of filing a separate letter.

(e) *Penalty for misstatement.*

Carriers are reminded that knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense (see 18 U.S.C. 1001).

## PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATION OF MOTOR CARRIERS

§ 1307.16 is added to read as follows:

**§ 1307.16 Certification of rates to cover new authority.**

(a) *Letter of certification required.*

Each carrier that receives from the Commission a notice of a grant of regular (not emergency) temporary or permanent operating authority and that has rates and contracts on file to cover the authority shall certify in writing that the rates and contracts are on file. The certification shall be prepared in letter form on durable paper of size not less than 8 by 10½ nor more than 8½ by 11 inches and sent to the following address:

Interstate Commerce Commission,
Administrative Unit, Tariff Examining Branch, Bureau of Traffic, Washington, DC 20423.

(b) *Schedules and docket numbers to be identified.*

The letter shall identify by carrier's name and ICC designation each schedule that shows the scope of operating authority of rates. The letter also shall show the complete docket number assignment (including sub suffix) and the date the rates will apply for the new authority. This date may be no earlier than the effective date of the authority.

(c) *Who may sign certification.*

The owner, a partner, or an officer of the carrier shall sign the letter of certification and show his or her title. The signature need not be notarized.

(d) *Exception.*

A carrier filing rates under Special Permission No. 78–1000–TA may show the certification (all information) in the separate statement required by that permission instead of filing a separate letter.

(e) *Penalty for misstatement.*

Carriers are reminded that knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense (see 18 U.S.C. 1001).

## PART 1308—FREIGHT TARIFFS AND SCHEDULES OF WATER CARRIERS

§ 1308.14 is added to read as follows:

**§ 1308.14 Certification of rates to cover new authority.**

(a) *Letter of certification required.*

Each carrier that receives from the Commission a notice of a grant of operating authority and that has rates on file to cover the authority shall certify in writing that the rates are on file. The certification shall be prepared in letter form on durable paper of size not less than 8 by 10½ nor more than 8½ by 11 inches and sent to the following address:

Interstate Commerce Commission,
Administrative Unit, Tariff Examining Branch, Bureau of Traffic, Washington, DC 20423.

(b) *Tariffs and docket numbers to be identified.*

The letter shall identify by carrier or agent's name and ICC designation each tariff that shows the scope of operating authority or rates.

Rate tariffs published in the name of an agent need not be identified if they do not contain scope provisions. The letter also shall show the complete docket number assignment (including sub suffix) and the date the rates will apply for the new authority. This date may be no earlier than the effective date of the authority.

(c) *Who may sign certification.*

The owner, a partner, or an officer of the carrier shall sign the letter of certification and show his or her title. The signature need not be notarized.

(d) *Penalty for misstatement.*

Carriers are reminded that knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense (see 18 U.S.C. 1001).

§ 1308.111 is added to read as follows:

**§ 1308.111 Certification of rates to cover new authority.**

(a) *Letter of certification required.*

Each carrier that receives from the Commission a notice of a grant of operating authority and that has rates on file to cover the authority shall certify in writing that the rates are on file. The certification shall be prepared

in letter form on durable paper of size not less than 8 by 10½ nor more than 8½ by 11 inches and sent to the following address:

Interstate Commerce Commission,
Administrative Unit, Tariff Examining Branch, Bureau of Traffic, Washington, DC 20423.

(b) *Schedules and docket numbers to be identified.*

The letter shall identify by carrier's name and ICC designation each schedule that shows the scope of operating authority or rates. The letter also shall show the complete docket number assignment (including sub suffix) and the date the rates will apply for the new authority. This date may be no earlier than the effective date of the authority.

(c) *Who may sign certification.*

The owner, a partner, or an officer of the carrier shall sign the letter of certification and show his or her title. The signature need not be notarized.

(d) *Penalty for misstatement.*

Carriers are reminded that knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense (see 18 U.S.C. 1001).

## PART 1309—TARIFFS AND CLASSIFICATIONS OF FREIGHT FORWARDERS

§ 1309.7 is added to read as follows:

### § 1309.7 Certification of rates to cover new authority.

(a) *Letter of certification required.*

Each forwarder that receives from the Commission a notice of a grant of operating authority and that has rates on file to cover the authority shall certify in writing that the rates are on file. The certification shall be prepared in letter form on durable paper of size not less than 8 by 10½ nor more than 8½ by 11 inches and sent to the following address:

Interstate Commerce Commission,
Administrative Unit, Tariff Examining Branch, Bureau of Traffic, Washington, DC 20423.

(b) *Tariffs and docket numbers to be identified.*

The letter shall identify by forwarder or agent's name and ICC designation each tariff that shows the scope of operating authority or rates. Rate tariffs published in the name of an agent need not be identified if they do not contain scope provisions. The letter also shall show the complete docket number assignment (including sub suffix) and the date the rates will apply for the new authority. This date may be no earlier than the effective date of the authority.

(c) *Who may sign certification.*

The owner, a partner, or an officer of the forwarder shall sign the letter of certification and show his or her title. The signature need not be notarized.

(d) *Penalty for misstatement.*

Forwarders are reminded that knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense (see 18 U.S.C. 1001).

## PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

§ 1310.35 is added to read as follows:

### § 1310.35 Certification of rates to cover new authority.

(a) *Letter of certification required.*

Each carrier that receives from the Commission a notice of a grant of regular (not emergency) temporary or permanent operating authority and that has rates on file to cover the authority shall certify in writing that the rates are on file. The certification shall be prepared in letter form on durable paper of size not less than 8 by 10½ nor more than 8½ by 11 inches and sent to the following address:

Interstate Commerce Commission,
Administrative Unit, Tariff Examining Branch, Bureau of Traffic, Washington, D.C. 20423.

(b) *Tariffs and docket numbers to be identified.*

The letter shall identify by carrier or agent's name and ICC designation each tariff that shows the scope of operating authority or rates. Rate tariffs published in the name of an agent need not be identified if they do not contain scope provisions. The letter also shall show the complete docket number assignment (including sub suffix) and the date the rates will apply for the new authority. This date may be no earlier than the effective date of the authority.

(c) *Who may sign the certification.*

The owner, a partner, or an officer of the carrier shall sign the letter of certification and show his or her title. The signature need not be notarized.

(d) *Exception.*

A carrier or agent filing rates under Special Tariff Authority No. 78–1000–TA may show the certification (all information) in the separate statement required by that authority instead of filing a separate letter.

(e) *Penalty for misstatement.*

Carriers are reminded that knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense (see 18 U.S.C. 1001).

[Docket No. 37013]
[FR Doc. 79-11271 Filed 4-10-79; 8:45 am]
BILLING CODE 7035-01-M

# Proposed Rules

Federal Register
Vol. 44, No. 71
Wednesday, April 11, 1979

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.

## DEPARTMENT OF ENERGY

[10 CFR Part 212]

## Amendment to Unleaded Gasoline Price Rules

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice of proposed rulemaking and public hearing.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing to amend its price rules to (1) allow resellers to recover the costs of vapor recovery systems; (2) require service station operators to inform the public of outages of a particular grade of gasoline; (3) require retailers to inform the public of the price of unleaded gasoline with the same visibility and prominence as the leaded grade; and (4) impose a maximum mandatory price differential between leaded and unleaded gasoline.

**DATES:** Comments by June 8, 1979, 4:30 p.m. Requests to speak by April 23, 1979, 4:30 p.m. Hearing dates: Los Angeles Hearing: May 1, 1979, 9:30 a.m., Washington, D.C. Hearing: May 10, 1979, 9:30 a.m.

**ADDRESSES:** All comments to Public Hearing Management, Docket No. ERA–R–79–17, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. Requests to speak: Los Angeles Hearing: Robert Laffel, Department of Energy, 111 Pine Street, San Francisco, Calif. 94111; Washington, D.C. Hearing: Office of Public Hearings Management, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, Attn: L. Hagge. Hearing locations: Los Angeles Hearing: Los Angeles Convention Center, Room 202, 1201 S. Figuero St., Los Angeles, California 90015; Washington, D.C. Hearing: Room 3000 A, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20425.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214 B, 2000 M Street, NW., Washington, D.C. 20461 (202) 254–5201.

William Webb (Office of Public Information), Economic Regulatory Administration, Room B110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634–2170.

Edwin P. Mampe or Maurice G. Boehl (Office of Regulations and Emergency Planning), Room 2314, 2000 M Street, NW., Washington, D.C. 20461 (202) 254–7200.

William M. Lee (Office of General Counsel), Department of Energy, Forrestal Building, Room 6A–127, Washington, D.C. 20585 (202) 252–6754.

**SUPPLEMENTARY INFORMATION:**

I. Background
II. Reseller, Reseller-Retailer, and Retailer Price Rules
III. Written Comment and Public Hearing Procedures

### I. Background

In enacting the Clean Air Act, Congress mandated that the Environmental Protection Agency adopt rules to protect and enhance the quality of the nation's air resources so as to protect the health and welfare of the public. In part, the Act requires the EPA to impose automobile exhaust emissions standards on new automobiles. Automobile manufacturers met these standards, beginning with the 1975 model year, to a large degree by equipping new vehicles with catalytic converter exhaust systems, which require the use of unleaded gasoline for their effective operation. As a result of this requirement, the demand for unleaded gasoline is rising dramatically. In 1974 it was less than 5 percent of total gasoline demand. Today, it is more than a third of gasoline demand, and by 1980 and 1985 it is expected to reach 50 and 78 percent, respectively, as older cars are replaced with new, catalyst-equipped vehicles.

Section 211(c)(1)(B) of the Clean Air Act, as amended, 42 U.S.C. 7545, authorizes the Administrator of the Environmental Protection Agency (EPA) to control or prohibit the manufacture, introduction into commerce, offering for sale, or sale of a fuel or fuel additive, if the emission products of such fuel or fuel additive will impair, to a significant degree, the performance of any emission control device or system which is or will be in general use. On January 10, 1973 (38 FR 1254), the EPA Administrator promulgated 40 CFR Part 80, based in part upon a showing that lead in gasoline adversely affects emission controls, expected to be in general use beginning with the 1975 model year. These regulations provide for the general availability of unleaded gasoline and set forth controls to prevent the intentional and inadvertent introduction of leaded gasoline into vehicles requiring unleaded. These regulations were upheld in *Amoco Oil Company* v. *EPA*, 501 F.2d 722 (D.C. Cir. 1974).

EPA believes there is increasing evidence that retail gasoline marketing practices are adversely affecting this program. Although refiners are on the average selling unleaded gasoline at approximately three cents per gallon above leaded gasoline, EPA believes unleaded gasoline costs approximately one to two cents per gallon more to produce than leaded gasoline of comparable octane. Unleaded gasoline is, on the average, being priced at retail about five cents per gallon more than leaded regular gasoline, with a portion of the retail market pricing unleaded gasoline seven cents per gallon or more above the price of leaded regular gasoline. Data from DOE's Energy Information Administration show that the price differential between unleaded and leaded regular gasoline has generally been increasing during the past few months.

There is evidence that some motorists have switched from unleaded gasoline to leaded gasoline in vehicles requiring unleaded. Such actions can deactiviate leadsensitive emission controls and such deactivation might cumulatively increase emissions of air pollutants with a corresponding decrease in air quality.

As stated in the *Final Environmental Impact Statement* ("EIS") *on Motor Gasoline Deregulation and the Gasoline Tilt*, the price differentials between unleaded and leaded gasoline are likely to increase to some extent as a result of the recently promulgated regulations allowing increased allocation of costs to gasoline, commonly called the "tilt". There is a difference of opinion as to the extent to which price differentials contribute to fuel switching. DOE's final EIS predicts little incremental fuel switching resulting from small differential increases. The Administrator of EPA believes that an

EPA attitudinal study, *An Analysis of the Factors Leading to the Use of Leaded Gasoline in Automobiles Requiring Unleaded Gasoline*, Done for EPA by Sobotka & Co., Inc., September 19, 1978, shows fuel switching to be highly sensitive to increased differentials. DOE does not rely on this study (see EIS, pp. III–38 through III–47).

Both the DOE price rules with respect to gasoline and the EPA rules implementing the Clean Air Act have an impact on the prices charged for leaded and unleaded gasoline. Generally, the DOE price regulations grant refiners the flexibility to distribute increased crude oil costs permitted to be recouped on gasoline between leaded and unleaded gasoline as the refiner deems appropriate.

**II. Reseller, Reseller-Retailer, Retailer Price Rules**

A. Beginning January 1, 1979, DOE amended it regulations to permit retailers to recover vapor recovery system cost increases (43 FR 60868, December 29, 1978). DOE proposes to amend its reseller price rules to permit resellers to recover costs associated with vapor recovery systems in a manner similar to that permitted retailers.

B. With respect to retailers, DOE proposes three amendments to its price rules. The purpose of the rules we are proposing is to provide information to the public and to control the maximum retail price differential between leaded and unleaded gasoline to prevent that differential from increasing to levels which may exacerbate present levels of fuel switching.

1. DOE proposes that retailers when out of leaded or unleaded goasoline be required to prominently post a sign to this effect. DOE requests comments on any alternative means of achieving DOE's goal of informing the public of a retailer's being out of product to sell.

EPA reulations currently prohibit stations (of over a certain size) from selling leaded gasoline if they do not offer unleaded gasoline for sale. EPA's past enforcement policy has been to consider, in determining whether to bring an enforcement action (and what penalties to seek) what steps the retailer has taken to assure a supply of unleaded gasoline, (including purchases fro alternate sources). The public is invited to comment on the appropirateness of this policy with respect to any proposed requirement that a dealer post notice of lead free gasoline unavailability.

2. DOE proposes that retailers who display the price of regular leaded gasoline in a manner visable from the highway or street be required to display the price of unleaded regular gasoline in a like manner. In other words, if a retailer chooses to advertise the price of leaded regular gasoline, the retailer would be required to display an identical advertisement for unleaded regular gasoline.

We have received complaints from motorists that they have been attracted into service stations by large signs advertising a relatively low price for gasoline only to find that the price is for leaded regular or a subregular leaded grade of gasoline, while the price for the unleaded gasoline for which their automobile is designed is appreciably higher. (See letter from ERA and EPA to the FTC and FTC response, appended hereto.) The proposed rule requiring posting of unleaded gasoline prices with equal prominence as the leaded grade is also intended to encourage competition in the unleaded grade.

DOE requests comments on the following:

a. What are the anticipated costs to retailers of the proposed rule?

b. Should the rule apply to all grades and types of gasoline, or only leaded and unleaded regular gasoline?

3. DOE proposes that a maximum price differential between the selling price of leaded regular and unleaded regular gasoline be established at the retail level. For purposes of illustration only, we propose a 5-cent price differential based on the recent past national average price differential between the two types of regular gasoline at the retail level. The price differenial established by DOE would be a maximum price differential, and firms would be permitted to charge prices for leaded and unleaded gasoline which would reflect a lesser price differential than that established by DOE. (See letter from ERA to EPA appended hereto.)

DOE requests comments on the following issues regarding the proposed maximum price differential between leaded and unleaded regular gasoline. Comments should be discussed from the standpoint of DOE's concerns as set forth below.

a. Please comment on the proposed action and each alternative regulatory action, including no action, from the standpoint of:

- The environment, especially air quality;
- Protection of the national investment in catalytic converters;
- Adequacy of supply of unleaded gasoline;
- Competition;
- Consumer prices for unleaded and for leaded gasoline; and
- Supplier costs.

b. What were the price differentials at the end of 1978 and what are they currently, at each level of distribution, between (1) regular leaded and regular unleaded gasoline, and (2) high octane unleaded and low octane unleaded gasoline?

c. What would be the price differential between regular leaded and unleaded gasoline at each level of distribution (1) in the event of deregulation of gasoline and (2) during a period, such as the summer of 1978, when most sellers were selling leaded regular at prices below the maximum lawful selling prices permitted by DOE price regulations?

d. Should the mandatory maximum retail price differential, if adopted, be above or below the current nationwide average price differential at the retail level of distribution (estimated to be about 5 cents per gallon)?

e. We invite public comment on maximum differentials that are smaller or larger than the current average, (1) designed to squeeze down the average differential, or (2) designed to allow competitive pricing play up to an 8–10 cent per gallon differential, which some suggest is the point at which a significant increase in price-motivated fuel switching occurs.

f. Should the proposed mandatory price differential be based on cost differentials rather than current or future price differentials? If so, which levels of distribution and which time periods should be used to calculate the cost differentials?

g. Should sales of gasoline at all levels of distribution be subject to a proposed mandatory maximum price differential or should it apply only to sales at the retail level?

h. Should there be regional or other variations in the proposed maximum price differentials? If so, why?

i. Are annual inspection and maintenance programs, where states require these, a more cost effective mode of reducing switching than controlling retail price differentials?

j. Should mandatory price differentials not be implemented where states inspect catalysts as part of their mandatory annual automobile inspection and maintenance programs?

k. Will the maximum differential be necessary if we adopt the other retail proposals?

l. When should the proposed maximum price differential rule be activated? For example, should the rule be made effective when the retail

nationwide average price differential exceeds a certain amount? What other triggering mechanisms could be used to activate the proposed maximum price differential rule?

m. We welcome suggestions of alternative amendments DOE could make to its regulations which would have the same effect as a mandatory maximum price differential.

We expect to provide for delegation under the EPAA of appropriate enforcement authority to EPA and to the states. Which government agency or agencies, either federal or local, would be the most effective in monitoring price differentials and enforcing maximum price differentials or related measures, particularly at the retail level, and in enforcing the other proposed rules?

**III. Written Comment and Public Hearing Procedures**

*A. Written Comments*

You are invited to participate in this rulemaking by submitting data, views or arguments with respect to the issues set forth in this Notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Unleaded Gasoline Price Rule," Docket No. ERA–R–79–*17*. Ten copies should be submitted. All comments received will be available for public inspection in the DOE Freedom of Information Office, Room GA–152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Comments should be received by June 10, 1979, 4:30 p.m. in order to be considered.

*B. Public Hearings*

1. *Procedure for Requesting Participation.* The times and places for the hearings are indicated in the "DATES" and "ADDRESSES" section of this Notice. If necessary to present all testimony, hearings will be continued at 9:30 a.m. on the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation at the hearings. The requests should contain a phone number where you may be contacted through the day before the hearing.

We will notify each person selected to be heard before 4:30 p.m., April 26, 1979. Persons scheduled to speak at the hearings must bring 100 copies of their statement to the Los Angeles hearing on the date of the hearing and to the Office of Public Hearings Management, Room 2313, 2000 M Street, N.W., Washington, D.C. by 4:30 p.m., Wednesday, May 9, 1979, for the Washington hearing.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearings, which will not be judicial in nature. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked by the presiding officer of any person making a statement at the hearings. Such questions should be submitted to the address indicated above for requests to speak, for the location concerned, before 4:30 p.m. on the day prior to the hearing. If at the hearing you decide that you would like to ask a question of a witness, you may submit the question, in writing, to the presiding officer. In either case the presiding officer will determine whether the time limitations permit it to be presented for a response.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearings will be made, and the entire record of the hearings, including the transcripts, will be retained by the DOE and made available for inspection at the Freedom of Information Office, Room GA–152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel a hearing, we will make every effort to publish advance notice in the **Federal Register** of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearings. However, it is not possible to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons desiring to attend a hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), a copy of this Notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator's comments are incorporated in the preamble.

On the basis of the criteria in Executive Order No. 12044, on Improving Government Regulations (43 FR 12661, March 24, 1978) and the DOE Interim Management Directive Procedures for the Development and Analysis of Regulations, Standards, and Guidelines (43 FR 18634, May 1, 1978), we do not believe that the adoption of these proposed regulatory changes will have a substantial impact on the economy if we adopt a price differential rule that reflects the national average price differential. However, we solicit any other views on this matter, including methods of evaluating any aggregate economic impact. We shall consider such comments in determining whether a regulatory analysis should be prepared with respect to these proposed amendments.

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act ("DOE Act" Pub. L. 95–91), this proposed rule has been referred, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination as to whether the proposed rule might significantly affect any function within the Commission's jurisdiction under section 402(c) of the DOE Act. The Commission will have until June 10, 1979, the scheduled close of the public comment period on the proposal, to make such determination.

(Emergency Petroleum Allocation Act of 1978, 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. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385, E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C., April 5, 1979.

**David J. Bardin,**

*Administration, Economic Regulatory Administration.*

Section 212.93 in amended to add a new paragraph (b)(1)(iii)(A) and new subparagraphs (j), (k), and (l) to read as follows:

**§ 212.93 Price rule.**

(b) * * *

(1) * * *

(iii) * * * (A) Beginning June 1, 1979 in all sales of gasoline other than retail sales, a seller may charge an amount in excess of the price otherwise permitted to be charged for that item pursuant to this section to reflect a portion of vapor recovery system cost as defined in § 212.92 not otherwise recovered.

* * * * *

(j) *Supply Information.* Retailers of gasoline shall display a sign as prescribed by DOE in a prominent place when the retailer has either no leaded or unleaded regular gasoline for sale.

(k) *Unleaded price information.* Retailers who display in a manner visable to passing motorists prices charged for leaded regular gasoline shall display in a like manner prices charged for unleaded gasoline.

(l) *Leaded-unleaded price differentials.* Notwithstanding the provisions of this subpart, the maximum prices which may be charged for unleaded regular gasoline in retail sales at self-service and full service shall not exceed by 5 cents per gallon the prices charged by the retailer in sales of leaded regular gasoline for sales at similar service.

**Note.**—For purposes of illustration only, this proposed rule suggests a maximum differential equal to the recent average nationwide differential.

[Docket No. ERA-R-79-17]

[FR Doc. 79-11275 Filed 4-9-79; 8:45 am]

BILLING CODE 6450-01-M

## DEPARTMENT OF ENERGY

## [10 CFR 456]

### Residential Conservation Service Program; Change in Public Hearing Schedule

**AGENCY:** Department of Energy.

**ACTION:** Change in Public Hearing Schedule.

**SUMMARY:** This document corrects a Notice of Proposed Rulemaking that appeared at 44 FR 16546, in the issue of March 19, 1979.

**DATES:** The Salt Lake City Public Hearing on May 14–16 has been cancelled. Two additional hearings have been added:

| City | Hearing date | Requests to testify to be received by 4:30 p.m., e.s.t. | Hearing location |
|---|---|---|---|
| Denver | May 14 | May 2 | Aurania Student Center, Room 330, 19th Street, between Lawrence and Larimer, Denver, Colo. |
| Seattle | May 17 | May 4 | South Auditorium, New Federal Office Building, 915 2nd Avenue, Seattle, Wash. |

Both hearings will continue on the following day if necessary.

Issued in Washington, D.C., April 6, 1979.

Omi Walden,

*Assistant Secretary for Conservation and Solar Applications.*

[Docket No. CAS-RM-79-101]

[FR Doc. 79-11264 Filed 4-9-79; 10:37 am]

BILLING CODE 6450-01-M

## SMALL BUSINESS ADMINISTRATION

## [13 CFR Part 121]

### Small Business Size Standards; Definition of Small Business for the Purpose of Government Procurement for Accounting and Auditing Services

**AGENCY:** Small Business Administration.

**SUBJECT:** Withdrawal of proposed rule.

**SUMMARY:** On June 7, 1978, this Agency published in the **Federal Register** (43 FR 24697) a proposal to raise the size standard for accounting and auditing services from $2 to $5 million. Since that time, this proposal has received numerous comments, a significant number of which were adverse to any size standard change in this industry. In particular, it was noted that expanding multiunit firms with appreciable resources tended to be concentrated in the $2-$5 million range, while single unit firms were concentrated in the less than $2 million range. It was argued that the smaller, single unit firms would be at a disadvantage in competing with the larger, multiunit firms for Government procurements.

A review of available data in this industry confirmed a pattern of multiunit firms in the $2-$5 million range and an almost exclusive concentration of single unit firms in the less than $2 million range. For this reason, we have decided to withdraw the proposal of June 7, 1978.

**EFFECTIVE DATE:** April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Robert N. Ray (202) 653-6373.

Dated: March 23, 1979.

A. Vernon Weaver,

*Administrator.*

[FR Doc. 79-11206 Filed 4-10-79; 8:45 am]

BILLING CODE 8025-01-M

## SMALL BUSINESS ADMINISTRATION

## [13 CFR Part 131]

### Proposed Establishment of Loan Moratorium Program

**AGENCY:** Small Business Administration.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule establishes the loan moratorium program. It implements Section 5(e) of the Small Business Act (15 U.S.C. 634(e)) which authorizes the Small Business Administration (SBA) to undertake or suspend a borrower's obligation under any loan made pursuant to the Small Business Act.

This rule is intended to set forth the conditions for the approval of such a moratorium. It specifies that moratoriums on direct or immediate participation loans will be handled as simple deferments under existing administrative guidelines.

The rule then sets forth the terms for a moratorium on a guaranteed loan and lists the criteria which must be met before such a moratorium can be approved. These criteria are specified in the legislation.

**DATES:** Comments must be received on or before June 11, 1979.

**ADDRESSES:** Interested persons are invited to submit written comments to Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

**FOR FURTHER INFORMATION CONTACT:** Timothy F. O'Leary, Deputy Director, Office of Portfolio Management, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, (202) 653-6429.

**SUPPLMENTARY INFORMATION:** Section 303 of Pub. L. 95-89, approved August 4, 1977 (91 Stat. 553), added a new section 5(e) to the Small Business Act (15 U.S.C. 634(e)) and authorized the Small Business Administration (SBA) to adopt a moratorium procedure to undertake or suspend a borrower's obligation under any loan made pursuant to the Small Business Act. The loan moratorium is intended to give small businesses temporary relief from payments owed to SBA or a participating institution to whom SBA has issued a guaranty of payment of the debt. SBA has

determined that the most effective means of accomplishing this is by expanding the existing authority which such banks and SBA have to defer payments for limited periods when such deferments will benefit the small business concern.

Pub. L. 95–89 allows the SBA to make the borrower's payments on the loan under certain circumstances which are: (1) Without the SBA assumption of payments the business will become or remain insolvent; (2) with the SBA payment, such business will become or remain viable; (3) alternative remedies are not available; (4) the small business agrees to repay the payments made on its behalf.

SBA has determined that the moratorium authority will be used only in connection with guaranteed loans and deferment will continue to be the practice in immediate participation and direct loans. In guaranty loans, making payments will avoid the bank's exercising its right to call on SBA to purchase the entire guaranteed portion of the loan and so conserve SBA funds as well as maintain the relationship between the small business and its banks.

SBA has decided to limit the initial moratorium period to six months in most cases, although a maximum term of one year may be authorized if SBA deems it necessary in a particular situation. Succeeding extensions may be granted for a maximum of five years in the aggregate, but only if the small business shows a continued need, the moratorium is proving to be a significant benefit to the business, and eventual viability of the business is foreseen. Viability is defined as ability to repay the loan out of earnings of the business.

SBA has also determined that no moratorium agreement will be granted unless the bank has granted a 6 months deferment immediately preceding the agreement and such deferment has been beneficial to the borrower.

The six months period is used because SBA's past experience has demonstrated that generally the trend of a business toward viability or failure can be discerned within that time period and the weaknesses identified so that corrective action can be initiated.

The proposed regulation, in compliance with statutory requirements, provides for securing the repayment of the payments made on behalf of the business by use of a demand note, agreements of guarantors and the provision of additional collateral if necessary. Repayment terms are adapted to the individual need of the small business and its financial condition.

SBA has also reserved to itself the right to terminate making payments to the lender on behalf of the borrower.

Pursuant to the authority of section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6), a new Part 131 of Chapter I, Title 13 of the Code of Federal Regulations is hereby proposed as set forth below:

Sec.

131.1 Statutory provisions.
131.2 Definitions.
131.3 General.
131.4 Criteria.
131.5 Time Periods.
131.6 Repayment.
131.7 Termination.

**Authority.**—15 U.S.C. 634(b)(6); and 15 U.S.C. 634(e), Pub. L. 95–89, approved August 4, 1977 (91 Stat. 553).

### § 131.1 Statutory Provisions.

The statutory provisions will be found at 15 U.S.C. 634(e).

### § 131.2 Definitions.

As used in this part:

"SBA" means the Small Business Administration.

"Moratorium" means the fulfillment by SBA of a borrower's obligation to a participating lender under an SBA-guaranteed loan by the making of payments to such lender on the borrower's behalf.

"Deferment" means the procedure whereby a lender (participant or SBA) suspends a borrower's obligation to make payments on a loan for a stated period of time.

### § 131.3 General.

(a) SBA may, upon written application by a borrower, suspend or undertake borrower's obligation to repay principal and interest on an SBA direct, immediate participation or guaranteed loan.

(b) When SBA has decided to suspend payment on a direct or immediate participation loan, a deferment will be approved under administrative procedures, and payment by borrower will not be required for a stated time period.

(c) In the case of a guaranteed loan, SBA may undertake a borrower's obligation to a participating lender for a period or aggregate periods not to exceed five (5) years. The loan may be extended beyond the statutory limit for a corresponding period of time to accommodate repayment of the obligation undertaken by SBA.

### § 131.4 Criteria.

Undertaking of the borrower's obligation under a guaranteed loan may only be considered if all the following conditions are met: (a) SBA determines that without such undertaking the business will become or remain insolvent;

(b) SBA determines that with such undertaking the business will become or remain viable;

(c) SBA determines that alternative remedies, such as a simple deferment, are not available;

(d) The lender has granted a deferment(s) to the borrower equivalent to at least six (6) monthly installments immediately prior to moratorium approval and, in the opinion of the lender and SBA, such deferment(s) provided a beneficial result;

(e) All parties concerned execute a "Moratorium Agreement" satisfactory to SBA;

(f) The borrower and all co-makers of the guaranteed loan execute a demand note to repay SBA's moratorium advances, and all guarantors or other obligors of the guaranteed loan execute guarantee agreement(s) or any other instruments required by SBA to protect its interests under the demand note.

(g) The borrower and any other obligors provide such security as SBA deems necessary or appropriate to insure that the rights and interests of the lender (SBA or participant) will be safeguarded adequately during and after the moratorium period; and

(h) Collateral securing the demand note shall include, but need not be limited to, all the collateral securing the guaranteed loan, and the lien positions for the demand note on such collateral shall only be subject to prior liens for the guaranteed loan.

### § 131.5 Time periods.

(a) Moratoriums will be limited to six months of future payments unless the SBA deems it necessary to authorize a maximum term of one year in a particular case. If beneficial results are evident to SBA after such period, the moratorium may be continued for additional periods.

(b) Succeeding moratoriums to a maximum aggregate period of five (5) years will not be authorized unless financial analysis indicates:

(1) A continued need for the undertaking;

(2) A significant benefit to the borrower; and

(3) Eventually viability (anticipated ability to repay from earnings) of the borrower.

**§ 131.6 Repayment.**

(a) Repayment by the borrower of SBA's moratorium advances shall be made pursuant to the demand note executed by the borrower. SBA shall have the right to demand payment at any time SBA determines repayment is necessary or appropriate. The interest rate for the demand note shall be the same as for the guaranteed loan. SBA may demand payment in full of the principal and interest due under the demand note, or SBA may agree with the borrower on a repayment schedule which can include, but shall not be limited to, periodic repayments not less in amount and frequency than under the guaranteed loan. If SBA does not demand repayment until the borrower has repaid the guaranteed loan in full, SBA shall immediately thereafter demand repayment under the demand note.

(b) Advances made by SBA to the lender on behalf of the borrower during the moratorium period(s) will accrue interest at the note rate from the date of each disbursement by SBA. Repayments to SBA by the borrower will be applied first to payment of accrued interest with the balance, if any, to be applied in reduction of principal.

**§ 131.7 Termination.**

The "Moratorium Agreement" shall provide that SBA shall have absolute discretion to determine at any time whether to make or to discontinue making payments to the lender on behalf of the borrower.

(Catalog of Federal Domestic Assistance Programs Nos. 59.001 (Displaced Business Loans), 59.002 (Economic Injury Loans), 59.003 (Economic Opportunity Loans), 59.008 (Physical Disaster Loans), 59.010 (Product Disaster Loans), 59.012 (Small Business Loans), 59.014 (Coal Mine Health and Safety Loans), 59.017 (Meat and Poultry Inspection Loans), 59.018 (Occupational Safety and Health Loans), 59.021 (Handicapped Assistance Loans), 59.022 (Emergency Energy Shortage Economic Injury Loans), 59.023 (Strategic Arms Economic Injury Loans), 59.024 (Water Pollution Control Loans), 59.025 (Air Pollution Control Loans), 59.027 (Economic Dislocation Loans), 59.028 (Energy Conservation Loans))

Dated: March 13, 1979.

William H. Mauk, Jr.,

*Deputy Administrator.*

[FR Doc. 79-11215 Filed 4-10-79; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

**[17 CFR Part 230]**

### Annuity Contracts and Optional Annuity Contracts; Withdrawal of Proposed Rule

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Commission is withdrawing a proposed rule under the Securities Act of 1933 which was intended to provide guidance in determining the status under the federal securities laws of certain contracts issued by insurance companies. The Commission has concluded, after reviewing the extensive comments made on the proposed rule, that it is more appropriate in this instance to offer guidance to the public by setting forth its views in a general statement of policy rather than to adopt a legislative rule.

**DATE:** April 5, 1979.

**FOR FURTHER INFORMATION CONTACT:** S. Elliott Cohan or Laura A. Boughan (202) 755-0237, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission today announced that it is withdrawing proposed rule 154 under the Securities Act of 1933 [15 U.S.C. 77(a) et seq.] ("Act"). At the same time, the Commission, in Securities Act Release No. 6051, issued a general statement of policy regarding the factors which should be considered in any determination of the status under the federal securities laws of certain contracts issued by insurance companies, including what are generally known as guaranteed investment contracts, tax-deferred annuity contracts, deposit funds, and similar products (hereinafter sometimes referred to collectively as guaranteed investment contracts).

**Background**

In June 1977, the Commission issued Securities Act Release No. 5838 (June 22, 1977) [41 FR 32861] ("Release No. 5838"), which solicited public comments on the ways in which guaranteed investment contracts are similar to and different from traditional deferred annuity contracts. This release emanated from a study by the Commission's Division of Investment ("Division") of a number of contracts issued and funded by the general accounts of insurance companies. These contracts were not registered under the Act, apparently in reliance on the exemption from registration of annuity contracts contained in Section 3(a)(8) thereof [15 U.S.C. 77c(a)(8)],[1] but appeared to be greatly different both in express contractual terms and marketing approach from traditional insurance or annuity contracts.

The Division continued its study of these new types of contracts by reviewing the contracts submitted in response to Release No. 5838 and presented its tentative conclusions to the Commission in May 1978. The Commission issued Proposed Rule 154, embodying these tentative views, for comment on May 17, 1978.[2]

**Proposed Rule 154 [3]**

Proposed rule 154 (the "Proposed Rule") stated that certain contracts would not be considered "annuities" or "optional annuities" for purposes of Section 3(a)(8) of the Act. Because the most important feature of a traditional fixed annuity contract is the promise by the insurance company, given in exchange for receipt of the purchaser's principal, to make payments at a prescribed rate during the annuitant's lifetime, the Proposed Rule provided that a contract which did not contain a table of permanently guaranteed annuity purchase rates could not be regarded as an annuity within the meaning of Section 3(a)(8). The Proposed Rule also distinguished between contracts traditionally marketed as annuities and those contracts which were marketed primarily as an investment and listed four characteristics which would be used in making a determination as to whether a contract would be considered primarily as an investment and, therefore, not an annuity within the meaning of Section 3(a)(8).[4] Finally, the Proposed Rule excluded from the category of annuity, without regard to the manner of offering or any of the factors discussed in paragraph (c) of the Proposed Rule, certain contracts called "deposit fund riders" which the staff of the Commission had previously determined to be securities that, when publicly offered, were required to be

[1] Section 3(a)(8) exempts from the registration requirements of the Act "Any insurance or endowment policy or annuity contract or optional annuity contract, issued by a corporation subject to the supervision of the insurance commissioner, bank commissioner, or any agency or officer performing like functions, of any State or Territory of the United States of the District of Columbia."

[2] Securities Act Release No. 5933 (May 17, 1978) [43 FR 22053].

[3] The text of the Proposed Rule is reprinted in the Appendix to this release.

[4] See paragraph (c) of the Proposed Rule.

registered pursuant to Section 5 of the Act [15 U.S.C. 77e].

**Comments on Proposed Rule 154**

Thirty-six letters were received in response to the Proposed Rule. Only one commentator urged that the rule be adopted in the form proposed. In the numbered paragraphs below, each of the points raised by the comment letters is identified and discussed.

*1. Authority*

Two commentators specifically questioned whether the Commission had authority to promulgate any rule affecting fixed annuity contracts, suggesting that legislation would be necessary in order to implement what the Proposed Rule attempted to do. One commentator raised, but did not discuss in detail, the question of whether the word "annuity" in Section 3(a)(8) is a technical or trade term and, thus, whether it is within the Commission's authority to define such terms by rule pursuant to Section 19(a) of the Act [15 U.S.C. 77s(a)].

The status of contracts which are "insurance" for state law purposes nevertheless must be anaylzed independently under the federal securities laws. Moreover, the meaning of "insurance" and "annuity" under the federal securities laws is a federal question, and the treatment or label a particular contract may receive from state insurance regulators is not determinative of the federal question.[5]

Six commentators discussed in some detail the theory that all insurance or annuity contracts which are exempt from registration pursuant to Section 3(a)(8) are not within the definition of "security" in Section 2(1) of the Act [15 U.S.C. 77b(1)]. One letter included draft language for a rule under Section 2(1) which would codify this theory.

The Commission believes it would have had authority to adopt the Proposed Rule under Section 3(a)(8) and has authority to express the views set forth in Securities Act Release No. 6051. In addition, particularly in light of our decision to withdraw Proposed Rule 154, the question of whether any additional rule is necessary under Section 2(1) need not be reached at this time.

*2. Scope of the Proposed Rule*

Several commentators observed that if the Proposed Rule were adopted as proposed, many "traditional" annuity contracts would become subject to registration under the Act. Persons who made this comment usually also made specific suggestions for language changes to the Proposed Rule which would serve to exclude what they perceived to be "traditional" contracts. The Commission, in its general statement of policy set forth in Securities Act Release No. 6051, has adopted several of the specific suggestions made by the commentators.

*3. Costs of Registration*

Two commentators pointed out that a requirement that a contract be registered under the Act would cause substantially increased costs to the issuer of that contract and, therefore, would result in a more expensive product. If the annuity contract involves the offering of a security which should be registered under the Act, the fact that there are costs associated with registration which must be borne by the issuer (or passed through, directly or indirectly, to the purchaser) is not a compelling argument overriding the strong public policy of requiring registration and full disclosure of the nature and terms of a proposed securities offering. Although the Commission recognizes that costs are associated with the registration of securities, it cannot condone, in this context or any other, avoidance of the prospectus delivery and full disclosure requirements of the Act by the offer and sale of unregistered securities solely because of the cost of registration.

Another commentator suggested that it might be appropriate to develop a special abbreviated registration form for certain contracts continuously issued by insurance companies. Because it has had very limited experience with guaranteed investment contracts in the registration process, the Commission is not now in a position to evaluate carefully this suggestion but would be prepared to examine in more detail at a later date the appropriateness of such a form.

*4. State Regulation*

Two commentators urged the sufficiency of state regulation of insurance products as a ground for foregoing registration and regulation of guaranteed investment contracts under the federal securities laws. The existence of state authorities who have certain regulatory powers and responsibilities for their respective states does not relieve the Commission of its duty and responsibility to administer the full disclosure and prospectus delivery requirements of the Act where the contract being sold is not exempt pursuant to Section 3(a)(8).

*5. Ambiguity*

Numerous commentators complained that Proposed Rule 154 does not provide issuers of insurance products with meaningful guidance regarding their responsibilities under the federal securities laws. One Commentator suggested that "the failure of the proposed rule to provide clear and unambiguous guidance strongly suggests that it is not feasible to regulate by a general interpretative rule the complex field of 'guaranteed investment contracts.' "[6]

Six commentators discussed at some length what they believed to be the Proposed Rule's general ambiguity and proposed various solutions including: a general interpretative release alerting issuers of novel insurance products to their responsibilities under the federal securities laws; a specific "no-action" procedure designed to reassure issuers where there was doubt about the status of insurance or annuity contracts; a precise set of guidelines for drafting both insurance or annuity contracts and sales literature; and a "safe harbor" from registration in addition to the guidance to be provided by the Proposed Rule.

The apparent difficulty of drafting a workable yet unambiguous rule and the fact that none of the suggested solutions appeared to allow the Commission sufficient administrative flexibility or to provide sufficient certainty to issuers are among the Commission's major reasons for withdrawing Proposed Rule 154.

*6. Anticompetitive Effects*

Many Commentators claimed that the Proposed Rule, in its attempt to distinguish between participating contracts and excess interest contracts,[7] drew an arbitrary line between two functionally identical economic features. The effect of this distinction, it was argued, was that stock insurance companies, which more often offer excess interest contracts, might be placed at a competitive disadvantage by having to register products under the Act which were functionally identical economically to those that could be issued without registration by mutual insurance companies.

There may be no useful economic distinction between contracts with participating features and those which provide for discretionary excess interest. Either form of contract asks the purchaser to assume a portion of the investment risk in exchange for the

[5] *SEC* v. *Variable Annuity Life Insurance Company of America*, 359 U.S. 65 (1959) ("VALIC").

[6] Comment letter of the American Bar Association, July 26, 1978, p. 12.

[7] Paragraph (c)(3) of the Proposed Rule.

possibility of achieving a higher return on his or her investment. Although either type of contract could be marketed in ways which primarily emphasize investment potential, to date it has principally been excess interest contracts which have been sold in ways which suggest primary emphasis on the interest rate to be credited rather than the potential retirement income ultimately to be received in the form of a conventional annuity. The Commission in its general statement of policy in Securities Act Release No. 6051 no longer makes the arbitrary distinction between participating and excess interest contracts as a conclusory feature in determining whether a particular contract is exempt under Section 3(a)(8).

Two commentators also thought the Proposed Rule would tend to have unfair anti-competitive effects on small companies which offer innovative insurance or annuity products designed to compete with traditional cash value whole life insurance. Where a security for which no exemption is available is marketed in competition with a non-security or an exempt security, the Commission is sympathetic to competitive difficulties which may arise but is nevertheless bound by overriding public policy to enforce the full disclosure and prospectus delivery provisions of the Act where a particular investment vehicle involves the offering of a security.

*7. Permanent Annuity Purchase Rate Guarantees*

Two commentators found the definition in the Proposed Rule of the term "permanent annuity purchase rate guarantee" to be unclear in that it used the phrase "level of annuity benefits," and they were unable to determine whether this test within the definition required an analysis of the level of the annuity benefits to be received in terms of a rate or a dollar amount. The Proposed Rule as drafted was intended to require only that a purchaser of an annuity contract receive a guaranteed *rate* respecting the annuity benefits to be provided by the issuer at a future date certain. The fact that an annuity contract might permit flexibility in the size of premium payments to be made during the accumulation period, such that an issuer could not guarantee that a specific number of dollars would be available for payment as an annuity, would not appear determinative in and of itself of the question of whether or not a particular contract is a security.

The Assertion was made by several commentators that, especially in the case of group contracts, very meaningful mortality risks might be assumed by an insurance company which guaranteed annuity purchase rates for members of the group for a period of time which was less than "permanent." Another commentator concurred in the Commission's assessment of the importance of permanent annuity purchase rate guarantees and even suggested that contracts ought to be required to specify an age by which annuity payment must begin.

The Commission recognizes that, in certain situations involving group contracts, a meaningful mortality risk may be transferred, even though there is no permanent guarantee of annuity purchase rates. This matter is, therefore, discussed in more detail in the general statement of policy in Securities Act Release No. 6051.

*8. "Primarily an Investment"*

Three commentators argued that the Commission in paragraph (c) of the Proposed Rule was, in effect, linking the existence of investment features in a contract with the conclusion that a contract which failed tests in the proposed rule was unequivocably a "security." One letter pointed out that any comparison of the mortality "risk transfer" elements with "investment" elements within any one contract is impossible, because the two are not comparable. A weighing of insurance against investment elements contained in a contract as offsetting factors is neither appropriate nor intended. The Commission discusses in Securities Act Release No. 6051 its view of the need for the insurance company to bear both meaningful mortality risks and significant investment risks for the insurance or annuity contract to satisfy the exemption provided by Section 3(a)(8).

*9. Initial Term of the Contract*

The phrase "initial term of the contract" in paragraph (c)(1) of the Proposed Rule was found by four commentators to be ambiguous and confusing, because it might be read to mean only the initial period during which a specified interest rate is guaranteed. One commentator suggested, in addition, that the Commission should provide examples of unacceptable combinations of investor age and length of contract. The Commission does not believe that it would be possible or appropriate here to provide definitive examples of acceptable groupings of age or contract term mixes which would involve bearing of meaningful mortality risks by the insurance company. However, the conclusory effect which the phrase "initial term of the contract" would have had in the Proposed Rule in determing whether an insurance or annuity contract is primarily marketed as an investment has been abandoned, and an explanation of the Commission's position with respect to the need for meaningful mortality risks with short-term group and individual contracts has been provided in the Commission's general statement of policy in Securities Act Release No. 6051.

*10. Benefits "Substantially Less than Otherwise Commercially Available"*

The phrase "substantially less than otherwise commercially available" in paragraph (c)(2) of the Proposed Rule was troublesome to commentators who perceived that the Commission might, with undue emphasis on this apsect of a contract in determining whether significant risks are in fact borne by the insurance company, find itself getting involved in setting "acceptable" prices for insurance products or, in the alternative, might be requiring insurance companies issuing contracts for which the Proposed Rule was relevant to compare those contracts with other insurance products that were not truly comparable. One commentator, while arguing that the Commission ought to avoid establishing tests which would involve it in ratemaking in determining which insurance products would satisfy the Section 3(a)(8) exemption, agreed that it is possible to offer a contract with annuity purchase rates providing benefits so low that the guarantee of such rates is a sham, thereby always inducing redemption rather than annuitization, and that such a contract could not legitimately be called an annuity. This accords with the intention of the Commission in the Proposed Rule and is expressed in the Commission's general statement of policy in Securities Act Release No. 6051.

*11. Marketing*

One commentator devoted a considerable portion of its comment letter to arguments that the method of marketing an insurance product ought not to be used in the determination of the status of that product under the federal securities laws. Another commentator expressed strong support for this position. Two commentators were disturbed by the vagueness of the Proposed Rule's provisions with respect to marketing. Others called for specific marketing guidelines. Two letters questioned the existence of marketing

abuses in the sale of guaranteed investment contracts.

The Commission believes, and indeed the law clearly supports the position,[8] that the manner in which an investment product is marketed is a substantial factor which must be considered in determining whether that particular product is a security. In the context of Section 3(a)(8), it is equally relevant to consider what the contract is believed to be by both the seller and purchases.[9] This belief cannot be deduced, moreover, merely from a careful reading of the contract in the absence of a review of the marketing program to be used by the insurance company and the emphasis that marketing approach will take in attempting to attract potential purchasers to the contract.

However, the Commission does not believe it is appropriate for it or the Division to promulgate specific guidelines for sales literature and marketing presentations by insurance salespeople.[10] Moreover, it would be inappropriate for the Commission to provide examples of sales practices it believed were abusive, fraudulent or even merely inconsistent with the issuer's belief that it was offering for sale an exempt annuity, for to do so in a legislative rule or interpretive release might have the effect of singling out practices engaged in by specific persons prior to complete and formal investigation in the context of Sections 5, 8, and 17 of the Act [15 U.S.C. 77e, 77h, 77q].

A final problem with the marketing provision of the Proposed Rule raised by three commentators was the ambiguity of the reference in paragraph (d)(4) to representations "made or authorized to be made." Concern was expressed that, if read literally, this provision would have the effect of causing the unsupervised acts of a single unscrupulous salesperson to change the status of an entire line of insurance or annuity contracts offered by an insurance company through those reckless representations. The Commission did not intend such a severe result and, in examining the creation and supervision of marketing methods by an insurance company in the context of an enforcement proceeding, would take into account how and by whom marketing representations were made. Nevertheless, where an extensive or concerted pattern of abusive marketing practices exists, the issuing company cannot disclaim all legal responsibility for those practices; rather, consistent with the controlling person liability provisions of Section 15 of the Act [15 U.S.C. 77*o*] and with the supervisory duties imposed by Section 15(c) of the Securities Exchange Act of 1934 [15 U.S.C. 78*o*(c)], an insurance company must be assumed to have authorized or condoned representations about its product which are used repeatedly and disseminated widely.

*12. Combination of Factors*

Paragraph (d) of the Proposed Rule was designed to clarify the proposal by explaining the weight to be given to the various factors set forth in Paragraph (c) in determining the status of a contract. Two commentators found, however, that the failure of the Proposed Rule to discuss all possible combinations of factors created a degree of ambiguity which was a serious problem in a rule providing, in effect, standards of conduct for issuers. The Comission believes that it would not be possible to set out in any rule all the possible combinations of factors, and the weights to be given each factor, which would cause a guaranteed investment contract to fall outside the exemptive provision of Section 3(a)(8). The inability to be more precise was an important consideration in the Commission's decision to respond to the questions raised by guaranteed investment contracts with Securities Act Release No. 6051 expressing a general statement of policy of the Commission.

*13. Investment Company Act of 1940*

Although comments were not solicited expressly on the possible applicability of the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.] ("Investment Company Act") to companies whose primary and predominant business is the issuing of contracts which are securities required to be registered under the Act, several letters dealt with the possibility of Investment Company Act regulation. Generally, such commentators expressed the view that Investment Company Act regulation is inappropriate for isuers of guaranteed investment contracts. The Commission continues to believe, however, that a company primarily engaged in issuing securities required to be registered under the Act must be regarded as an investment company.[11]

*14. Group Contracts*

The Proposed Rule made no distinction between contracts sold by insurance companies to groups and those sold to individuals. One letter urged the Commission to limit a final rule to individual contracts and to ask its staff to study further contracts sold by insurance companies in the group market.

The Division has studied both group and individual contracts. In this regard, the Division has found it appropriate to make, for purposes of determining which products should be treated as annuities exempt from the full disclosure and prospectus delivery requirements of the Act, certain distinctions between group and individual contracts. Specifically, the Division has taken a no-action position regarding Section 3(a)(2) of the Act [15 U.S.C. 77c(a)(2)] with respect to the offer and sale of guaranteed investment contracts to corporate pension and profit-sharing plans qualified under Section 401 of the Internal Revenue Code of 1954, as amended, which met certain minimum size requirements.[12]

One commentator argued strongly for reversal of the Division's no-action position regarding Section 3(a)(2) on the grounds that it goes beyond statutory provisions of the Act and deprives trustees of qualified plans of appropriate disclosure, including disclosure regarding risks associated with guaranteed investment contracts. Another letter took the opposite view and argued for extension of the Division's no-action position to any type of tax-favored retirement plan. The Division continues to adhere to the position expressed in that letter, and the Commission at this time declines to review the Division's position.

Furthermore, the Commission recognizes a distinction between group and individual contracts in determining whether contracts must provide for permanent annuity purchase rate

[8] Securities and Exchange Commission v. W. J. Howey Co., 328 U.S. 293 (1946), Securities and Exchange Commission v. C. M. Joiner Leasing Corp., 320 U.S. 344 (1943).

[9] Grainger v. State Security Life Insurance Company, 547 F. 2d 303, *rehearing denied*, 563 F. 2d 215 (5th Cir. 1977).

[10] See Securities Act Release No. 6034, March 8, 1979, proposing for comment Rule 156 under the Act, which would prohibit use of sales literature which is "materially misleading in connection with the offer or sale of securities issued by an investment company." Proposed Rule 156 would replace the Commission's Statement of Policy, which was a detailed guide for the drafting of investment company sales literature, with a set of more general principles.

[11] *SEC v. Variable Annuity Life Insurance Company*, 359 U.S. 65 (1959), *SEC v. United Benefit Life Insurance Company*, 387 U.S. 202 (1967). Of course, any issuer subject to the Investment Company Act may, upon application, request and receive appropriate relief from the provisions contained therein where it can demonstrate that such relief is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Investment Company Act.

[12] Letter of the Division to the American Council of Life Insurance, March 18, 1977.

guarantees. This distinction is discussed more fully in the general statement of policy in Securities Act Release No. 6051.

*15. Total Facts and Circumstances*

Several commentators urged that the status of any insurance product under the federal securities laws must necessarily be determined by the total facts and circumstances surrounding the offer and sale of such product. Without necessarily disagreeing with this position, the Commission does believe, as evidenced by its proposal of Rule 154, that the absence of certain features in an insurance or annuity contract respecting bearing of significant investment or meaningful mortality risks may in and of itself affect the status of the contract under Section 3(a)(8), notwithstanding the total facts and circumstances surrounding the marketing of the contract.

*16. Deposit Fund Riders*

A number of commentators argued that the definition of the term "deposit fund rider" in the proposed rule, together with labelling conclusively all such arrangements as securities not entitled to rely on the Section 3(a)(8) exemption, would cause many "traditional" provisions of conventional insurance contracts to be subject to registration under the Act. At the same time, four letters acknowledged that a "side fund" loosely attached to a conventional insurance or annuity contract is a security. Four commentators suggested that the condition in the definition of "deposit fund rider" requiring a withdrawal privilege "without significant penalty" is either irrelevant or unclear or both.

The Commission agrees that the existence or non-existence of a significant penalty for withdrawal of accumulated funds is not determinative of the status of a deposit fund rider under Section 3(a)(8). Further, it agrees that the status of deposit fund riders under Section 3(a)(8) should be tested in the same manner, using the same criteria, as other insurance or annuity contracts. This position is consistent with certain positions taken by the Commission's staff in responding to interpretive and "no-action" requests.[13]

**Withdrawal of Proposed Rule 154**

Because of the numerous interpretive and substantive problems raised by commentators with respect to Proposed Rule 154 and the great variety of contracts issued by insurance companies, the Commission has concluded that it is not presently feasible to define conclusively in a rule the terms "annuity" and "optional annuity" as used in Section 3(a)(8) of the Act. Accordingly, the Commission hereby withdraws Proposed Rule 154.

At the same time, the Commission remains very concerned about the proliferation of contracts which, while styled "annuities," are clearly different in their essential terms from traditional annuities and are marketed in a manner involving the offer and sale of securities. Issuers of such contracts, and those engaged in sales and distribution activities respecting the contracts, are responsible for compliance with the federal securities laws, including the full disclosure and prospectus delivery requirements of the Act. To assist all such persons in determining the status under the Act of contracts issued by insurance companies, the Commission is today publishing Securities Act Release No. 6051, which is a general statement of policy concerning those contracts which may be securities required to be registered under the Act.

By the Commission.

Shirley E. Hollis,
*Assistant Secretary.*
April 5, 1979.

**Appendix**

*Proposed Rule 154*

The text of the withdrawn proposed rule [43 FR 22053, May 23, 1978] is as follows:

Preliminary Note

"Annuity contracts" and "optional annuity contracts" are exempt from the registration provisions of the Act pursuant to section 3(a)(8). However, a variety of contracts and contractual arrangements, including some which are very different from contracts commonly in use at the time the Act was passed, have been labelled "annuities." Some of these are securities within the meaning of section 2(1) of the Act [15 U.S.C. 77b(1)], are regarded in the commercial world as investments, and are not contracts intended to be covered by section 3(a)(8). The purpose of Rule 154 is to provide criteria which will aid issuers and others in determining whether a contract, though issued by an insurance company and styled an "annuity," is outside the exemption from registration provided by section 3(a)(8) of the Act, and is required to be registered pursuant to section 5 of the Act.

In some instances, the provisions of a contract may, by themselves, cause the section 3(a)(8) exemption to be unavailable to that contract. A contract which does not provide, at its inception, a guaranteed, fixed annuity benefit cannot be regarded as an annuity exempt from registration. Similarly, the exemption is not available to a "deposit fund rider," the functional equivalent of an account maintained by a bank or savings and loan institution but not subject to any banking authority.

However, in determining the status of a contract under the federal securities laws, it will often be necessary to consider the totality of the circumstances surrounding the sale of the contract, including both the terms of the contract and the manner in which it is sold. Considered together, a contract's terms and the manner in which it is sold may cause such contract to be primarily an investment rather than an exempt annuity. The factors to be considered in making such a determination are set forth in paragraph (c) of the rule.

(a) *Definitions.* The following definitions shall apply for purposes of this rule.

(1) The term "deposit fund rider" shall mean a provision of, or associated with, a life insurance or annuity contract which permits the accumulation of funds with interest which may be applied to the purchase of an annuity and which permits withdrawal without significant penalty.

(2) The term "permanent annuity purchase rate guarantee" shall mean a guarantee provided in a contract at the date of issue which (i) specifies the level of annuity benefits to be provided by the issuer at a future certain date in return for the funds to be accumulated by the purchaser pursuant to the contract, and (ii) cannot be modified unilaterally by the issuer.

(3) The term "participating contract" shall mean a contract pursuant to which purchasers may receive additional interest or dividends to be declared by the issuer in accordance with its charter or by-laws requiring the allocation of its divisible surplus and/or in accordance with any applicable state laws or regulations which govern "participating contracts" or which prohibit discrimination in the allocation of divisible surplus among various classes or groups of contractholders.

(b) *Contracts not annuities.* The terms "annuity contract" and "optional annuity contract" as used in section 3(a)(8) of the Act shall not include contracts where:

[13] See letters of April 17, 1973, June 19, 1973, November 22, 1974, and February 12, 1975, regarding Ideal National Insurance Company and staff responses of May 7, 1973, June 25, 1973, December 16, 1974, and April 21, 1975.

(1) the contract contains no permanent annuity purchase rate guarantee;

(2) the contract is a deposit fund rider; or

(3) considering the terms of the contract and the manner in which it is sold, the contract is primarily an investment.

(c) In determining whether a contract is primarily an investment, the following factors will be considered:

(1) whether the initial term of the contract ends prior to a date on which the purchaser may reasonably expect to elect to begin receiving annuity payments;

(2) whether the permanent annuity purchase rate guarantee provides for a level of benefits which is substantially less than otherwise commercially available;

(3) whether the contract provides for determination of interest in excess of the guaranteed rate at the discretion of the issuer, except for participating contracts; and

(4) whether the contract is marketed as an investment. In determining how a contract is marketed, consideration will be given to the contents of advertisements and sales literature, as well as to representations made or authorized to be made by persons engaged in sale and distribution activities.

(d) Under paragraph (c), provision for discretionary determination of excess interest by the issuer in a contract does not, in itself, mean that such contract is not an annuity exempt from registration. Similarly, the presence of guarantees of benefits substantially less than otherwise available by itself will not cause an otherwise exempt contract to be non-exempt. However, either of these factors in conjunction with how the contract is marketed may cause the section 3(a)(8) exemption to be unavailable.

[Release No. 33-6050, IC-10652, File No. S7-742]
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## DEPARTMENT OF STATE

**[22 CFR Part 142]**

### Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance

**AGENCY:** Department of State.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of State proposes to add a new Part 142 to its regulations contained in Title 22, Chapter I, of the Code of Federal Regulations. These rules are intended to implement section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 706, which provides that "no otherwise qualified individual. . . shall solely by reason of [his/her] handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program receiving Federal financial assistance." The regulation defines and forbids acts of discrimination against qualified handicapped person in employment and in operation of programs and activities receiving assistance from the Department. This rule is issued in accordance with the procedures, standards, and guidelines, 45 CFR Part 85, effective January 13, 1978, implementing Executive Order 11914, "Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs."

**DATE:** Comments are invited from the public and other Federal agencies on or before June 11, 1979.

**ADDRESS:** Comments must be submitted to Paul M. Coran, Attorney-adviser, Office of the Legal Adviser, Room 5425A, U.S. Department of State, Washington, D.C. 20520.

**FOR FURTHER INFORMATION CONTACT:** Paul M. Coran, Office of the Legal Adviser, U.S. Department of State, Washington, D.C. 20520, (202) 632-3022.

**SUPPLEMENTARY INFORMATION:** Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112) provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. On April 26, 1976, the President issued Executive Order 11914, under which the Department of Health, Education, and Welfare (HEW) is required to coordinate government-wide enforcement of section 504. HEW published its final regulation implementing section 504 on May 4, 1977. (See 45 CFR Part 84.) In accordance with Executive Order 11914, HEW issued on January 13, 1978, final standards, procedures, and guidelines to be followed by each Federal agency in promulgating section 504 regulations. (See 45 CFR Part 85.)

In the Rehabilitation Act of 1973, Congress defined the term "handicapped individual" solely with relationship to employment; section 7(6) of the 1973 Act defined the term to mean "any individual who (a) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (b) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services * * *." However, the following year, in section 111(a) of the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516), Congress amended the definition of "handicapped individual" for purposes of section 504 so that the definition is no longer limited to the dimension of employability. For purposes of section 504 of the Act, a "handicapped individual" is defined as "any person who (2) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (b) has a record of such an impairment, or (c), is regarded as having such an impairment." With this amended definition, it became clear that section 504 forbids discrimination against all handicapped individuals, regardless of their need for or ability to benefit from vocational rehabilitation services.

Section 504 represents the first Federal equal opportunity law protecting the rights of handicapped persons and represents a deep-rooted national commitment to end discrimination on the basis of handicap. The language of section 504 is almost identical to the non-discrimination provisions of Title VI of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972 (applying to racial discrimination in Federal financial assistance and sex discrimination in education, respectively). Section 504 establishes a mandate to end discrimination and to bring handicapped persons into the mainstream of American life.

In consideration of the above, it is proposed that Chapter I, Part 142 be added to Title 22 of the Code of Federal Regulations to read as set forth below.

## PART 142—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

### Subpart A—General Provisions

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142.41 Application of this subpart.
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142.43 Treatment of students; general.
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**Subpart E—Health, Welfare, Social, and Other Services**

142.61 Application of this subpart.
142.62 Health, welfare, social, and other services.
142.63 Drug and alcohol addicts.
142.64–142.69 [Reserved]

**Subpart F—Procedures**

142.670 Procedures.
142.671–142.99 [Reserved]
Appendix A—Grants and activities to which this part applies.

**Authority:** Sec. 504, Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794); Sec. 11(a), Rehabilitation Act; Amendments of 1974, Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706).

## Subpart A—General Provisions

### § 142.1 Purpose.

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

### § 142.2 Application.

This part applies to all programs carried on within the United States by recipients of Federal financial assistance pursuant to any authority held or delegated by the Secretary of State, including the Federally-assisted programs and activities listed in Appendix A of this part. (Appendix A may be revised from time-to-time by notice in the **Federal Register**.) It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of this regulation, even if the application for such assistance is approved prior to such effective date. This part does not apply to:

(a) Any Federal financial assistance by way of insurance or guaranty contracts;

(b) Money paid, property transferred or other assistance extended under any such program before the effective date of this part;

(c) Any assistance to any individual who is the ultimate beneficiary under any such program; and

(d) Any procurement of goods or services, including the procurement of training. This part does not bar selection and treatment reasonably related to the foreign affairs objective or such other authorized purpose as the Federal assistance may have. It does not bar selections which are limited to particular groups where the purpose of the program calls for such a limitation, nor does it bar special treatment including special courses of training, orientation or counseling consistent with such purpose.

### § 142.3 Definitions.

As used in this part, the term:

(a) "Executive Order" means Executive Order 11914, entitled "nondiscrimination with Respect to the Handicapped in Federally Assisted Programs," issued April 28, 1976.

(b) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93–112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 29 U.S.C. 794.

(c) "Section 504" means section 504 of the Rehabilitation Act of 1973, Pub. L. 93–112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 29 U.S.C. 794.

(d) "Department" means the Department of State and includes each of its organizational units. It does not include the Agency for International Development.

(e) "Secretary" means the Secretary of State or any officer or employee of the Department to whom the Secretary has heretofore delegated, or to whom the Secretary may hereafter delegate, the authority to act under the regulations in this part.

(f) "Recipient" means any State or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance and any sovereign foreign government.

(g) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by a Department official or by a recipient as a condition of becoming a recipient.

(h) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), cooperative agreement, or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(i) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(j) "Handicapped person" (1) means any person who: (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

(2) As used in paragraph (j)(1) of this section, the phrase:

(i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological: musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genitourinary; hemic and lymphathic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness and drug addiction and alcoholism.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairments, or (C) has none of the impairments defined in paragraph (j)(2)(i) of this section but is treated by a recipient as having such an impairment.

(k) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to public pre-school, elementary, secondary, or adult educational services, a handicapped person, (i) of an age during which nonhandicapped persons are provided such services, (ii) of any age during which it is mandatory under State law to provide such services to handicapped persons, or (iii) to whom a State is required to provide a free appropriate public education under section 612 of the Education of the Handicapped Act; and

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standard requisite to admission or participation in the recipient's education program or activity;

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the recipient of such services.

(l) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (j) of this section.

**§ 142.4 Discrimination prohibited.**

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provides a qualified handicapped person with aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped person unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to any agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipients program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services to be equally effective, are not required to produce identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped person equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination with respect to another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) *Programs limited by Federal law.* The exclusion of handicapped persons from the benefits of a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(d) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall take appropriate steps to ensure communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

**§ 142.5 Assurances required.**

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance on a form specified by the Secretary, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purposes for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended in the form of personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases, the assurance will oblige the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.* (1) Where Federal financial assistance is provided by the Department in the form of real property or interest in real property, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used, the purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (c)(1) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided by the Department in the form of real property or interest in real property, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing facilities on the property for the purposes for which the property was transferred, the Secretary may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as the Secretary deems appropriate, agree to forebear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

**§ 142.6 Remedial action, voluntary action, and self-evaluation.**

(a) *Remedial action.* (1) If the Secretary finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 of the Act or this part, the recipient shall take such remedial action as the Secretary deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 of the Act or this part and where another recipient exercises control over the recipient that has discriminated, the Secretary, where appropriate, may require either or both recipients to take remedial action.

(3) The Secretary may, where necessary to overcome the effects of discrimination in violation of section 504 of the Act or this part, require a recipient to take action (i) with respect to handicaped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred, or (ii), with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this part:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Secretary upon request: (i) A list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

**§ 142.7 Designation of responsible employee and adoption of grievance procedures.**

(a) *Designation of responsible employee.* A recipient that employs 15 or more persons shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to post-secondary educational institutions.

**§ 142.8 Notice.**

(a) A recipient shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 of the Act or this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 142.7(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include but are not limited to the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memorandums or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the

requirement of the paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

**§ 142.9 Administrative requirements for small recipients.**

The Secretary may require any recipient with fewer than fifteen employees, or any class of such recipients, to comply with § 142.7, in whole or in part, when the Secretary finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

**§ 142.10 Effect of State and local law or other requirements and effect of employment opportunities.**

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

## Subpart B—Employment Practices

**§ 142.11 Discrimination prohibited.**

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected of discrimination in employment under any program or activity receiving Federal financial assistance.

(2) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(3) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. This includes relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right to return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classification, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other condition, or privilege of employment.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

**§ 142.12 Reasonable accommodation.**

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of the program.

(b) Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and usable by handicapped persons, and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number and type of facilities, and size of budget;

(2) The type of the recipient's operations, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

**§ 142.13 Employment criteria.**

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless:

(1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and

(2) Alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Secretary to be available.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that when administered to any applicant or employee who has a handicap that impairs sensory, manual or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

**§ 142.14 Preemployment inquiries.**

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 142.6(a), when a recipient is taking voluntary action to overcome the effect of conditions that resulted in limited participation in its federally assisted programs or activity pursuant to § 142.6(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate

whether and to what extent they are handicapped: *Provided,* that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally, if not written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty. *Provided,* that: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirement of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodation;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

## Subpart C— Program Accessibility

### § 142.15 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which the part applies.

### § 142.16 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that the program or activity when viewed in its entirety is readily accessible to and usable by handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirement of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirement of § 142.18, or any other method that results in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within 60 days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

### § 142.17 New construction.

(a) *Design and construction.* Each facility or part of the facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) American National Standards Institute accessibility standards. Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI–A117.1–1969) (R1979). (Copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.) It is incorporated by reference in this part, shall constitute compliance with paragraphs (a) and (b) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

### § 142.18–142.40 [Reserved]

## Subpart D—Postsecondary Education

### § 142.41 Application of this subpart.

Subpart D applies to postsecondary education programs and activities, including postsecondary vocational

education programs and activities, that receive or benefit from Federal financial assistance from the Department of State, and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of, such programs or activities.

**§ 142.42 Admissions and recruitment.**

(a) *General.* Qualified handicapped persons may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies.

(b) *Admissions.* In administering its admission policies, a recipient to which this subpart applies:

(1) May not apply limitations upon the number or proportion of handicapped persons who may be admitted;

(2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons or any class of handicapped persons unless (i) the test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question and (ii) alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Secretary to be available;

(3) Shall assure itself that (i) admissions tests are selected and administered so as to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure); (ii) admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to handicapped persons; and

(4) Except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may make inquiries on a confidential basis as to handicaps that may require accommodation.

(c) Preadmission inquiry exception. When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 142.6(a) or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 142.6(b), the recipient may invite applicants for admissions to indicate whether and to what extent they are handicapped; *Provided,* that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

(d) *Validity studies.* For the purpose of paragraph (c)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct periodic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores.

**§ 142.43 Treatment of students; general.**

(a) No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational, training, housing, health, insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education program or activity to which this subpart applies.

(b) A recipient to which this subpart applies that considers participation by students in education programs activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons.

(c) A recipient to which this subpart applies may not, on the basis of handicap, exclude any qualified handicapped student from any course, course of study, or other part of its education program or activity.

(d) A recipient to which this subpart applies shall operate its programs and activities in the most integrated setting appropriate.

**§ 142.44 Academic adjustments.**

(a) *Academic requirements.* A recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discrimination, on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the receipient can demonstrate are essential to the program of instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaption of the manner in which specific courses are conducted.

(b) *Other rules.* A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.

(c) *Course examinations.* In its examinations or other procedures for evaluating students' academic achievement in its program, a recipient to which this subpart applies shall provide such methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills, as will best ensure that the results of the evaluation represents the student's achievement in the course, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired senory, manual, or speaking skills.

(2) Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by

students with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

**§ 142.45 Housing.**

(a) *Housing provided by the recipient.* A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students at the same cost as to others. At the end of the transition period provided for in subpart C of this part, such housing shall be available in sufficient quantity and variety so that the scope of handicapped students' choice of living accomodation is, as a whole, comparable to that of nonhandicapped students.

(b) *Other housing.* A recipient that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.

**§ 142.46 Financial and employment assistance to students.**

(a) *Provisions of financial assistance.* (1) In providing financial assistance of qualified handicapped persons, a recipient to which this subpart applies may not:

(i) On the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate; or

(ii) Assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped persons on the basis of handicap.

(2) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of handicap.

(b) *Assistance in making available outside employment.* A recipient that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself that such employment opportunities, as a whole, are made available in a manner that would not violate subpart B if they were provided by the recipient.

(c) *Employment of students by recipients.* A recipient that employs any of its students may not do so in a manner that violates subpart B.

**§ 142.47 Nonacademic services.**

(a) *Physical education and athletics.* (1) In providing physical education courses, athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separate or differentiation is consistent with the requirements of § 142.43(d) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(b) *Counseling and placement services.* A recipient to which this subpart applies that provides personal, academic or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that may present obstacles to handicapped persons in their pursuit of particular careers.

(c) *Social organizations.* A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination otherwise prohibited by this subpart.

**§ 142.48–142.60 [Reserved]**

## Subpart E—Health, Welfare, Social, and Other Services

**§ 142.61 Application of this subpart.**

Subpart E applies to health, welfare, social and other programs and activities that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of such programs or activities.

**§ 142.62 Health, welfare, social, and other services.**

(a) *General.* In providing health, welfare, social and other services or benefits, a recipient may not, on the basis of handicap:

(1) Deny a qualified handicapped person these benefits or services;

(2) Afford a qualified handicapped person an opportunity to receive benefits or services that is not equal to that offered nonhandicapped persons;

(3) Provide a qualified handicapped person with benefits or services that are not as effective (as defined in § 142.4(b)) as the benefits or services provided to others;

(4) Provide benefits or services in a manner that limits or has the effect of limiting the participation of qualified handicapped persons; or

(5) Provide different or separate benefits or services to handicapped persons except where necessary to provide qualified handicapped persons with benefits and services that are as effective as those provided to others.

(b) *Notice.* A recipient that provides notice concerning benefits or services or written material concerning waivers of rights or consent to treatment shall take such steps as are necessary to ensure that qualified handicapped persons, including those with impaired sensory or speaking skills, are not denied effective notice because of their handicap.

(c) Emergency treatment for the hearing impaired. A recipient hospital that provides health services or benefits shall establish a procedure for effective communication with persons with impaired hearing for the purpose of providing emergency health care.

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies that employs 15 or more persons shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills (where necessary) to afford such persons an equal opportunity to benefit from the service in question.

(2) The Secretary may require recipients with fewer than 15 employees to provide auxiliary aids where the provision of aids would not significantly impair the ability of the recipient to provide its benefits or services.

(3) For the purpose of this paragraph, auxiliary aids may include brailled and taped material, interpreters, and other

aids for persons with impaired hearing or vision.

**§ 142.63 Drug and alcohol addicts.**

A recipient to which this subpart applies that operates a general hospital or outpatient facility may not discriminate in admission or treatment against a drug or alcohol abuser or alcoholic who is suffering from a medical condition, because of the person's drug or alcohol abuse or alcoholism.

**§ 142.64–142.69 [Reserved]**

**Subpart F—Procedures**

**§ 142.70 Procedures.**

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in 22 CFR Chapter I, Part 141.

**§ 142.71–142.99 [Reserved]**

**Appendix A—Grants and Activities to Which This Part Applies**

1. Assistance to or in behalf of refugees to be resettled in the United States (Migration and Refugee Assistance Act of 1962–76 Stat. 121–124).

2. Non-reimbursable assignment of Foreign Service officers to State or local governments, public schools, community colleges, and other public or private nonprofit organizations designated by the Secretary of State (section 576 of the Foreign Service Act of 1946, as amended; 22 U.S.C. § 966 (1976)).

Dated: April 2, 1979.

Ben H. Read,
*Under Secretary for Management.*
[Docket No. SD–145]
[FR Doc. 79–11274 Filed 4–10–79; 8:45 am]
BILLING CODE 4710–08–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

### [24 CFR Part 39]

### Cost-Effective Energy Conseration Standards

**AGENCY:** Department of Housing and Urban Development, Office of the Secretary.

**ACTION:** Notice of Transmittal of Rule to Congress under Section 7(o) of the Department of HUD Act.

**SUMMARY:** Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) days of continuous session of Congress prior to such rule's publication for comment in the Federal Register. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

**FOR FURTHER INFORMATION CONTACT:** Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Depatment of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755–6207.

**SUPPLEMENTARY INFORMATION:** Concurrent with issuance of this Notice, the Secretary is forwarding to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the rulemaking document listed below:

**24 CFR Part 39, Interim Rule—Cost-Effective**

*Energy Conservation Standards*

This rulemaking document would insert into 24 CFR Part 39 Cost-effective Energy Conservation Standards applicable to improvement or rehabilitation work in five HUD programs—Section 312, Section 203(k), troubled multifamily projects, Section 8 substantial rehabilitation, Section 8 moderate rehabilitation.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o), Sections 101(A)(7), 101(c)(1), 201(d)(1) and 201(d)(6) of the Housing and Urban Development Amendments of 1978).

Issued at Washington, D.C. April 6, 1979.

Patricia Roberts Harris,
*Secretary, Department of Housing and Urban Development.*
[Docket No. R–79–919]
[FR Doc. 79–11240 Filed 4–10–79; 8:45 am]
BILLING CODE 4210–01–M

## Federal Insurance Administration

### [24 CFR Part 1917]

### Town of Middlefield, Middlesex County, Conn.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Middlefield, Middlesex 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).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Jackson Hill Road, P.O. Box 179, Middlefield, Connecticut. Send comments to: Mr. Donald Lee, First Selectmen, Town of Middlefield, Town Hall, Jackson Hill Road, P.O. Box 179, Middlefield, Connecticut 06455.

**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 proposed determinations of base (100-year) flood elevations for the Town of Middlefield, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Coginchaug River | About 500 feet downstream of State Route 157. | 65 |
| | Just upstream of State Route 157. | 70 |
| | About 1,300 feet upstream of State Route 157. | 73 |
| | About 200 feet downstream of the dam at Rogers Corporation. | 80 |
| | Just upstream of the dam at Rogers Corporation. | 84 |

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| | About 1,000 feet upstream of the dam at Rogers Corporation. | 85 |
| | Just downstream of the dam at Power Hold Products. | 94 |
| | Just upstream of the dam at Power Hold Products. | 106 |
| | Just downstream of Wadsworth Falls. | 106 |
| | Just upstream of Wadsworth Falls. | 131 |
| | Just downstream of the dam at Cherry Hill Road. | 134 |
| | Just upstream of the dam at Cherry Hill Road. | 145 |
| | Just upstream of Cider Mill Road. | 148 |
| | About 200 feet upstream of the Conrail. | 152 |
| | At confluence of Ellen Doyle Brook. | 152 |
| | About 0.41 mile upstream of Durham Road. | 152 |
| Ellen Doyle Brook | About 500 feet upstream of Strickland Road. | 152 |
| | Just upstream of State Route 157. | 162 |
| | Just upstream of State Route 147. | 176 |
| | About 350 feet upstream of Conrail. | 184 |
| | Just upstream of dam (about 500 feet upstream of Conrail). | 199 |
| Ellen Doyle Brook (cont'd). | About 900 feet downstream of dam at Lyman Factory. | 204 |
| | About 175 feet downstream of dam at Lyman Factory. | 224 |
| | Just upstream of dam at Lyman Factory. | 238 |
| | Just downstream of dam near intersection of State Route 147 and Powder Hill Road. | 254 |
| | Just upstream of dam near intersection of State Route 147 and Powder Hill Road. | 277 |
| | Just downstream of Beseck Lake Dam. | 283 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI- 5340]

[FR Doc. 79-10834 Filed 4-10-79; 8:45 am]

BILLING CODE 4210-01-M

## [24 CFR Part 1917]

## Town of Orchid, Indian River County, Fla.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Orchid, Indian River County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 1 Michael Creek Drive, Vero Beach, Florida. Send comments to: Honorable George Lier, Mayor, Town of Orchid, Town Hall, I Michael Creek Drive, Vero Beach, Florida 32960.

**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 proposed determinations of base (100-year) flood elevations for the Town of Orchid, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Indian River | North State Route 510 | 7 |
| | South of State Route 510 | 6 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI-5341]

[FR Doc. 79-10835 Filed 4-10-79; 8:45 am]

BILLING CODE 4210-01-M

## [24 CFR Part 1917]

## City of Moline, Rock Island County, Ill.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Moline, Rock Island 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).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 619 16th Street, Moline, Illinois. Send comments to: The Honorable Earl Wendt, Mayor, City of Moline, City Hall, 619 16th Street, Moline, Illinois 61265.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Moline, 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)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Mississippi River | Just upstream of Interstate 74. | 570 |
| | Eastern corporate limits | 572 |
| Sylvan Slough | Confluence with Mississippi River. | 564 |
| | Just downstream of Iowa Illinois Power Dam. | 564 |
| | Just upstream of Iowa Illinois Power Dam. | 570 |
| | Just downstream of Interstate 74. | 570 |
| Shaffer Creek | Downstream corporate limit | 580 |
| | Upstream corporate limit | 598 |
| Rock River | 1.75 mile downstream of U.S. Highway 150. | 568 |
| | East corporate limit | 573 |
| Coal Creek | Confluence with Rock River | 572 |
| | Just upstream of U.S. Highway 6. | 573 |
| | Just downstream of 78th Avenue. | 578 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–5342]
[FR Doc. 79–10836 Filed 4–10–79; 8:45 am]
**BILLING CODE 4210–01**

## [24 CFR Part 1917]

## City of East Chicago, Lake County, Ind.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of East Chicago, Lake 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).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Planning Office, East Chicago, Indiana. Send comments to: The Honorable, Robert Patrict, Mayor, City of East Chicago, City Hall, East Chicago, Indiana 46312, Attention: John Artes, Community Planner.

**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 proposed determinations of base (100-year) flood elevations for the City of East Chicago, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Grand Calumet River | Western corporate limits | 585 |
| | Just upstream of Kennedy Avenue. | 585 |
| | Eastern corporate limits | 586 |
| Indian Harbor Canal | Mouth at Lake Michigan | 584 |
| | Confluence with Grand Calumet River. | 585 |
| Lake George Canal | Confluence with Indian Harbor Canal. | 584 |
| | Western corporate limits | 584 |

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

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 proposed rule has been granted waiver of

Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI-5343]
[FR Doc. 79-10837 Filed 4-10-79; 8:45 am]
BILLING CODE 4210-01

## [24 CFR Part 1917]

## City of St. Marys, Pottawatomie County, Kans.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of St. Marys, Pottawatomie County, Ks. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Box 146, St. Marys, Ks. Send comments to: The Honorable Mr. Larry Teske, Mayor, City of St. Marys, City Hall, Box 146, St. Marys, Ks. 66536. Attention: Henry Beseau, City Manager.

**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 proposed determinations of base (100-year) flood elevations for the City of St. Marys, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Willard Creek | 1,275 feet downstream of Bertrand Street. | 941 |
| | 500 feet downstream of Bertrand Street. | 943 |
| | Just upstream of Union Pacific Railroad. | 957 |
| | Just upstream of Mission Street. | 959 |
| | 300 feet upstream of Mission Street. | 961 |
| | 250 feet upstream of Durink Street. | 968 |
| | 600 feet upstream of Durink Street. | 970 |
| | 850 feet upstream of Durink Street (upstream corporate limits). | 973 |
| College Creek | Just upstream of southern corporate limits. | 948 |
| | 450 feet downstream of Palmer Street. | 952 |
| | Just downstream of Palmer Street. | 954 |
| | Just upstream of Palmer Street. | 957 |
| | Just downstream of the Union Pacific Railroad. | 959 |
| | Northern corporate limits | 961 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI-5344]
[FR Doc. 79-10836 Filed 4-10-79; 8:45 am]
BILLING CODE 4210-01-M

## [24 CFR Part 1917]

## Town of North Harmony, Chautauqua County, N.Y.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of North Harmony, Chautauqua, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the North Harmony Town Hall, Stow, N.Y. Send comments to: Mr. Willis Graham, Town Supervisor of North Harmony, P.O. Box 167, Stow, N.Y. 14785.

**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 proposed determinations of base (100-year) flood elevations for the Town of North Harmony, Chautauqua County, N.Y. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures

required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Ball Creek | New York Route 394 (Upstream). | 1,319 |
| | Old Route 394 (Upstream) | 1,316 |
| | Footbridge 1,672 feet downstream from Old Route 394 (Upstream). | 1,313 |
| | Watson Road (Upstream) | 1,310 |
| | Confluence with Chautauqua Lake. | 1,310 |
| Goose Creek | County Road No. 37 Bridge (Upstream). | 1,324 |
| | County Road No. 68 Bridge (Upstream). | 1,321 |
| | North Harmony Corporate Limits 1,650 feet upstream from Route 394 Bridge. | 1,317 |
| | Route 394 Bridge (Upstream).. | 1,315 |
| | Downstream Corporate Limits. | 1,312 |
| Goose Creek Tributary. | Upstream Corporate Limits | 1,336 |
| | County Road Number 37 (Upstream). | 1,334 |
| | Hunt Road (Upstream) | 1,328 |
| | County Road No. 37 90 feet upstream from Cedar Road (Upstream). | 1,324 |
| | Stewar Road (Upstream) | 1,321 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI–5345]

[FR Doc. 79–10839 Filed 4–10–79; 8:45 am]

BILLING CODE 4210–01–M

## [24 CFR Part 1917]

## Town of Hillsborough, Orange County, N.C.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Town of Hillsborough, Orange County, N.C.

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

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 101 East Orange Street, Hillsborough, N.C. Send comments to: Ms. Rose Guthrie, Town Planner, Town of Hillsborough, Town Hall, 101 East Orange Street, Hillsborogh, N.C. 27278.

**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 proposed determinations of base (100-year) flood elevations for the Town of Hillsborough, N.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national Geodetic vertical datum |
|---|---|---|
| Eno River | At Confluence with Cates Creek. | 500 |
| | State Route 1197—20 feet* | 509 |
| | State Route 1134—50 feet* | 521 |
| Cates Creek | At Confluence with Eno River | 500 |
| | Southern Railway Bridge—20 feet*. | 559 |
| | State route 1009—50 feet* | 596 |
| | At Extra territorial Limits | 610 |
| Sevenmile Creek | At Confluence with Eno River | 524 |

*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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez

*Federal Insurance Administrator.*

[Docket No. FI–5346]

[FR Doc. 79–10840 Filed 4–10–79; 8:45 am]

BILLING CODE 4210–01–M

## [24 CFR Part 1917]

## Town of MacClesfield, Edgecombe County, N.C.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of MacClesfield, Edgecombe County, N.C.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified

for participation in the national flood insurance program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, MacClesfield, N.C. Send comments to: Ms. Mammie Pitman, Town Clerk, Town of MacClesfield, Town Hall, MacClesfield, N.C. 27852.

**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 proposed determinations of base (100-year) flood elevations for the Town of MacClesfield, N.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Bynum Mill Creek | State Route 1109—20 feet* | 76 |
| Bynum Mill Run | At Downstream Limits of Flooding Affecting MacClesfield. | 79 |

* 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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–5347]
[FR Doc. 79–10841 Filed 4–10–79; 8:45 am]
**BILLING CODE 4210–01–M**

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**[24 CFR Part 1917]**

## Borough of Aliquippa, Beaver County, Pa.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

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

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Aliquippa, Pa. Send comments to: Mr. Frank Atkinson, President of the Council of Aliquippa, 300 Franklin Avenue, Aliquippa, Pennsylvania 15001.

**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 proposed determinations of base (100-year) flood elevations for the Borough of Aliquippa, Beaver County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Ohio River | Rolfe Street Extended | 707 |
| | Confluence of Logtown Run | 708 |
| | Upstream Corporate Limit | 710 |
| Logtown Run | Entrance to Logtown Run Culvert. | 781 |
| | Button Street Extended | 804 |
| | Sheffield Road Bridge | 875 |
| | Upstream Corporate Limit | 915 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–5348]
[FR Doc. 79–10842 Filed 4–10–79; 8:45 am]
**BILLING CODE 4210–01–M**

[24 CFR Part 1917]

## Borough of Ambridge, Beaver County, Pa.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

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

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Ambridge, Pa. Send comments to: Honorable Walter Panek, Mayor of Ambridge, Box 220, Ambridge, Pa. 15003.

**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 proposed determinations of base (100-year) flood elevations for the Borough of Ambridge, Beaver County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Ohio River | Downstream Corporate Limits. | 709 |
| | Upstream Corporate Limits | 711 |
| Big Sewickley Creek | Confluence with Ohio River | 711 |
| | Upstream Corporate Limits | 716 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI–5349]

[FR Doc. 79–10843 Filed 4–10–79; 8:45 am]

BILLING CODE 4210–01–M

[24 CFR Part 1917]

## Borough of Collegeville, Montgomery County, Pa.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Collegeville, Montgomery County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Collegeville borough office, by appointment. Send comments to: Hon. F. Willis Dewayne, Mayor of Collegeville, 9th Avenue, Collegeville, Pa. 19426.

**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 proposed determinations of base (100-year) flood elevations for the borough of Collegeville, Montgomery County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Perkiomen Creek | Downstream Corporate Limits. | 117 |
| | Upstream side of U.S. route 422. | 120 |
| | Upstream Corporate Limits | 123 |
| Donny Brook Run | Downstream Corporate Limits. | 128 |
| | Downstream side of Clayhon Road. | 142 |
| | Downstream side of Private road below dam. | 153 |
| | Downstream side of West Fifth Avenue. | 157 |
| | Upstream side of West Fifth Avenue. | 166 |

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| | Upstream side of Sixth Avenue. | 167 |
| | Downstream side of Eighth Avenue. | 171 |
| | Downstream side of Eleventh Avenue. | 182 |
| | Upstream Corporate Limits .... | 188 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–5350]
[FR Doc. 79–10844 Filed 4–10–79; 8:45 am]
BILLING CODE 4210–01–M

## [24 CFR Part 1917]

## Borough of Dickson City, Lackawanna County, Pa.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Dickson City, Lackawanna County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Dickson City, Pa. Send comments to: Hon. Stanley Coveleskie, Sr., Mayor of Dickson City, Municipal Building, Dickson City, Pa. 18519.

**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 proposed determinations of base (100-year) flood elevations for the borough of Dickson City, Lackawanna County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Lackawanna River..... | Southwest Corporate Limits... | 733 |
| | Boulevard Avenue Bridge..... | 736 |
| | Junction of Olyphant, Throop and Dickson City Boroughs. | 750 |
| | Delaware and Hudson R. R. Bridge. | 762 |
| | Lackawanna Avenue Bridge .. | 765 |
| Morgan-Grier Creek .... | Confluence with Lackawanna River. | 735 |
| | Delaware and Hudson R. R. Bridge. | 737 |
| Storrs Creek..... | Confluence with Scott Creek (Outlet of Culvert). | 746 |
| | Inlet of Culvert ..... | 833 |
| | Intersection of Price Street .... | 881 |
| Scott Creek..... | Confluence with Lackawanna River. | 743 |
| | Culvert Under Delaware & Hudson R. R. | 751 |
| | Culvert outlet under Conrail R. R. | 751 |
| Hull Creek..... | Confluence with Lackawanna River. | 765 |
| | Lackawanna Avenue..... | 756 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–5351]
[FR Doc. 79–10845 Filed 4–10–79; 8:45 am]
BILLING CODE 4210–01–M

## [24 CFR Part 1917]

## Township of Exeter, Wyoming County, Pa.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Exeter, Wyoming County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Exeter Township Building. Send comments to: Mr. John Bainbridge, President of the Township of Exeter, R. D. 1, Falls, Pa. 18615.

**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 proposed determinations of

base (100-year) flood elevations for the township of Exeter, Wyoming County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Susquehanna River | Downstream Corporate Limits. | 575 |
| | Upstream Corporate Limits | 585 |
| Whiteluck Creek | At confluence with Susquehanna River. | 579 |
| | At upstream side of Township Route 336. | 657 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–5352]

[FR Doc. 79–10846 Filed 4–10–79; 8:45 am]

**BILLING CODE 4210–01–M**

**[24 CFR Part 1917]**

## Borough of Freedom, Beaver County, Pa.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Freedom, Beaver County, Pennsylvania.

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

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Freedom, Pennsylvania. Send comments to: Honorable James Fiorucci, Mayor of Freedom, 354 5th Street, Freedom, Pennsylvania 15042.

**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 proposed determinations of base (100-year) flood elevations for the Borough of Freedom, Beaver County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Ohio River | Downstream Corporate Limits. | 704 |
| | Upstream Corporate Limits | 706 |
| Dutchman Run | Confluence with the Ohio River. | 705 |
| | Corporate Limits at New Sewickley (Downstream). | 740 |
| | Corporate Limits at New Sewickley (Upstream). | 762 |
| | Upstream Corporate Limits | 809 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–5353]

[FR Doc. 79–10847 Filed 4–10–79; 8:45 am]

**BILLING CODE 4210–01–M**

**[24 CFR Part 1917]**

## Borough of Macungie, Lehigh County, Pa.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Macungie, Lehigh County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain

qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Church Street, Macungie, Pennsylvania. Send comments to: Mr. Wilbur Rems, President of the Borough Council, 601 East Main Street, Macungie, Pennsylvania 18062.

**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 proposed determinations of base (100-year) flood elevations for the Borough of Macungie, Lehigh County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Swabia Creek | Downstream Corporate Limits. | 362 |
| | Confluence of Mountain Creek. | 367 |
| | Downstream State Route 100. | 373 |
| | Upstream State Route 100 | 376 |
| | Downstream Conrail Bridge | 376 |
| | Upstream Conrail Bridge | 377 |
| | Upstream Corporate Limits | 378 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–5354]
[FR Doc. 79–10848 Filed 4–10–79; 8:45 am]
**BILLING CODE 4210–01–M**

## [24 CFR Part 1917]

## Borough of Marietta, Lancaster County, Pa.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Marietta, Lancaster County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Office, East Market Street, Marietta, Pennsylvania. Send comments to: Honorable Jay R. Flanagan, Mayor of Marietta, 418 East Market Street, Marietta, Pennsylvania 17547.

**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 proposed determinations of base (100-year) flood elevations for the Borough of Marietta, Lancaster County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Susquehanna River | Downstream Corporate Limits. | 261 |
| | Confluence of Tributary No. 16 to Susquehanna River. | 263 |
| | Upstream Corporate Limits | 265 |
| Tributary No. 16 to the Susquehanna River. | Front Street | 263 |
| | State Route 23, M Street (Upstream). | 267 |
| | Waterford Street | 273 |
| | Corporate Limits | 275 |
| Chickies Creek | Confluence with Susquehanna River. | 260 |
| | Corporate Limits | 260 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–5355]
[FR Doc. 79–10849 Filed 4–10–79; 8:45 am]
**BILLING CODE 4210–01–M**

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**[24 CFR Part 1917]**

## Borough of Meshoppen, Wyoming County, Pa.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Meshoppen, Wyoming County, Pennsylvania.

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

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Office, Meshoppen, Pennsylvania. Send comments to: Honorable Joacob H. Kintner, Mayor of Meshoppen, Washington Street, Meshoppen, Pennsylvania 18630.

**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 proposed determinations of base (100-year) flood elevations for the Borough of Meshoppen, Wyoming County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Susquehanna River | Southern Corporate Limits | 639 |
| | Northwest Corporate Limits | 641 |
| Meshoppen Creek | Confluence with Susquehanna River. | 641 |
| | Confluence with unnamed Tributary. | 651 |
| | Northern Corporate Limits | 682 |
| Little Meshoppen Creek. | Confluence with Meshoppen Creek. | 641 |
| | Mowry Street | 650 |
| | Northern Corporate Limits | 694 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–5356]
[FR Doc. 79–10850 Filed 4–10–79; 8:45 am]
**BILLING CODE 4210–01–M**

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**[24 CFR Part 1917]**

## Borough of Port Clinton Schuylkill County Pa.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Port Clinton, Schuylkill County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Fire Hall, Penn and Broad Streets, Port Clinton, Pennsylvania. Send comments to: Honorable Irvin Reppert, Mayor of Port Clinton, Port Clinton, Pennsylvania 19549.

**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 proposed determinations of base (100-year) flood elevations for the Borough of Port Clinton, Schuylkill County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The

community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Schuylkill River | Downstream Corporate Limits. | 396 |
| | State Route 61 | 399 |
| | Upstream Conrail Bridge 78/31. | 409 |
| | Upstream Corporate Limits | 416 |
| Little Schuylkill River | Broad Street | 406 |
| | Upstream Corporate Limits | 413 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI–5357]
[FR Doc. 79–10851 Filed 4–10–79; 8:45 am]
BILLING CODE 4210–01–M

## [24 CFR Part

## Township of Ridgebury, Bradford County, Pa.; Proposed Flood Elevation Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Ridgebury, Bradford County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Ridgebury Municipal Building, Berwick Turnpike, Wellsburg, New York. Send comments to: Mr. John Owen, Chairman of the Township of Ridgebury, R. D. 2, Wellsburg, New York 14894.

**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 proposed determinations of base (100-year) flood elevations for the Township of Ridgebury, Bradford County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Bentley Creek | Downstream Corporate Limits. | 872 |
| | Pa. Legislative Route 08068 | 957 |
| | Confluence of Justice Run | 1,008 |
| | Pa. Town Route A–4310 | 1,030 |
| | Pa. Legislative Route 08144 | 1,056 |
| | Pa. Town Route A–4310 | 1,103 |
| | Upstream Corporate Limits | 1,142 |
| Three Falls Glen | Pa. Town Route A–4310 | 969 |
| Justice Run | Pa. Town Route A–4310 | 1,017 |
| Buck Creek | Pa. Legislative Route 08059 | 1,029 |

(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 proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI–5358]
[FR Doc. 79–10852 Filed 4–10–79; 8:45 am]
BILLING CODE 4210–01–M

## ENVIRONMENTAL PROTECTION AGENCY

## [40 CFR Part 65]

## Proposed Delayed Compliance Order for Owensboro Grain Co., Owensboro, Ky.

**AGENCY:** Environmental Protection Agency.

**ACTION:** Withdrawal of notice of proposed rulemaking.

**SUMMARY:** The purpose of this notice is to withdraw a prior **Federal Register** notice proposing a Delayed Compliance Order for Owensboro Grain Company at Owensboro, Kentucky. This action is being taken because Owenboro Grain Company is no longer in violation of Kentucky State Implementation Plan provisions covered by the proposed Order.

**DATE:** This withdrawal is immediately effective.

**FOR FURTHER INFORMATION CONTACT:** Leon Folsom, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, Telephone number: (404) 881-4298.

**SUPPLEMENTARY INFORMATION:** A **Federal Register** notice published at 43 FR 41238, September 15, 1978, solicited public comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance

Order to be issued by EPA to Owensboro Grain Company at Owensboro, Kentucky. Owensboro Grain Company has subsequently achieved compliance with the Kentucky State Implementation Plan regulations covered by the Order. Compliance was demonstrated during inspections performed by EPA and Kentucky personnel. Documentation of these inspections is maintained in the Region IV files.

In consideration of the foregoing, the proposal published in the **Federal Register** 43 FR 41238 on September 15, 1978, entitled "Proposed Approval of an Administrative Order issued by the Commonwealth of Kentucky, Department for Natural Resources and Environmental Protection to Owensboro Grain Company," is hereby withdrawn.

Dated: March 26, 1979.

**John C. White,**
*Regional Administrator, Region IV.*

[Docket No. 78-25: FRL 1098-4]
[FR Doc. 79-11257 Filed 4-10-79; 8:45 am]
**BILLING CODE 6560-01-M**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### 45 CFR Part 1160

Note. This document inadvertently appears in the Proposed Rules but should appear in the Rules and Regulations.

### Indemnities Under the Arts and Artifacts Indemnity Act

**AGENCY:** Federal Council on the Arts and the Humanities.

**ACTION:** Final rule.

**SUMMARY:** This rule raises the maximum value of eligible items which can be carried in a single conveyance without express permission from the Federal Council on the Arts and the Humnanities. Previously the maximum was $7,500,000 and this amendment raises it to $10,000,000.

**EFFECTIVE DATE:** January 5, 1979.

**FOR FURTHER INFORMATION CONTACT:** Joseph R. Schurman, Associate General Counsel Federal Council on the Arts and the Humanities Washington, D.C. 20506, 202-724-0367.

**SUPPLEMENTARY INFORMATION:** The Federal Council on the Arts and the Humanities (FCAH) has found that advance notice and public procedure thereon are unnecessary. Applicants for Certificates of Indemnity have increasingly reguested the FCAH to grant express permission to exceed the existing mazimum. The FCAH has determined that the values of indemnified articles, mostly works of art, have increased so much since the rule was first adopted in 1976, that express permission to ship up to $10,000,000 in a single conveyance is now being granted atuomatically upon request.

**§ 1160.11 [Amended]**

Effective January 5, 1979, 45 CFR § 1160.11 paragraph (d) is amended by deleting "$7,500,000" and inserting "$10,000,000".

(Sec. 2(a)(2), Pub. L. 94-158, 89 Stat. 844 (20 U.S.C. 971))

Dated: April 5, 1979.

**Joseph D. Duffey,**
*Chairman, Federal Council on the Arts and the Humanities.*

[FR Doc. 79-11204 Filed 4-10-79; 8:45 am]
**BILLING CODE 7537-01-M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### [50 CFR Chapter VI]

### Gulf of Mexico Fishery Management Council; Public Hearing

**AGENCY:** National Oceanic and Atmospheric Adminstration/Commerce.

**ACTION:** Notice of public hearing on a draft environmental impact statement/ draft fishery management plan for the reef fish fishery of the Gulf of Mexico.

**SUMMARY:** The Gulf of Mexico Fishery Management Council announces a series of public hearings on its proposed fishery management plan for the reef fish fishery of the Gulf of Mexico.

**DATE:** The dates for the hearings are listed below in Supplementary Information. Comments must be received by May 27, 1979.

**ADDRESSES:** The hearing locations and times are listed in Supplementary Information below. Send written comments on the reef fish plan to the contact person. Other applicable addresses are listed in Supplementary Information.

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico Fishery Management Council has prepared a draft fishery management plan for the reef fish fishery of the Gulf of Mexico under authority of the Fishery Conservation and Management Act of 1976. The implementation of a fishery management plan constitutes a major Federal action significantly affecting the human environment. A draft environmental impact statment has been prepared as a statement of the expected impact of the implementation of the plan.

The plan, if approved by the Secretary of Commerce and implemented, would manage the reef fish fishery for the optimum yield and propose regulatory measures applicable to domestic fishing in the fishery conservation zone in the Gulf of Mexico. The objectives of the plan are: (1) rebuild declining reef fish stocks wherever they occur; (2) establish an effective statistical reporting system for monitoring the fishery; (3) increase habitats and provide protection for juveniles and habitats; and (4) minimize conflicts between user groups and conflicts for space. The proposed optimum yield for the reef fish harvest in 1980 is 39 million pounds with no foreign allocation. The Council proposes: (1) required reporting of catch statistics by persons selling reef fish and by persons purchasing reef fish; (2) regulation on the use of fish traps and other gear; and (3) temporary measures to restrict catch if data indicate overfishing will likely occur.

The hearings will be held at the following dates and locations at 7:00 p.m. and adjourning at 10:00 p.m.

May 7, Carabelle High School Cafeteria/Auditorium, Gray Avenue, Carabelle, Florida; and the Policy Jury Meeting Room of the Courthouse, corner of Pithon and Gill Streets, Lake Charles, Louisiana.

May 8, Bayfront Center Neptune Room, City Marina, St. Petersburg, Florida; and the Council Chamber of City Hall, 1300 Perdido, New Orleans, Louisiana.

May 9, Coral Shores High School Cafetorium, mile marker 90 on A1A, Tavernier, Florida; and the City Courtroom, corner Main and Suthon, Houma, Louisiana.

May 10, Key West High School Auditorium, Flagler Street, Key West, Florida.

May 21, Biloxi Cultural Center, 217 Lameuse, Biloxi, Mississippi; and the Port Isabel Community Center, corner Yturria and Maxan, Port Isabel, Texas.

May 22, Municipal Auditorium, 401 Auditorium Drive, Room 3, Mobile, Alabama; and the Port Aransas Community Center, Alister Street, Port Aransas, Texas.

May 23, Pensacola Junior College, Room 252-ETV Complex, Pensacola, Florida; and the Freeport Community House, Second Street, Freeport, Texas.

May 24, City Commissioner's Meeting Room, City Hall, 9 Harrison Avenue, Panama City, Florida; and the Courthouse, 525 Lakeshore Drive, Port Arthur, Texas.

The hearings will be tape recorded, and the tapes will be filed as an official transcript of proceedings. A written

summary will be prepared on each hearing.

Large numbers of copies were distributed to the industry, conservation organizations, States, and Federal agencies. A copy of the document is available for inspection during normal working hours at the following locations:

Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, Florida 33609.
Southeast Regional Office, National Marine Fisheries Service (NMFS) Duval Building, 9450 Koger Blvd., St. Petersburg, Florida 33703.
Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149
Panama City Laboratory, NMFS, 3500 Dellwood Beach Road, Panama City, Florida 32401.
Pascagoula Laboratory, NMFS, 3209 Frederic Street, Pascagoula, Mississippi 39567.
Galveston Laboratory, NMFS, 4700 Avenue "U", Galveston, Texas 77550.

Copies of a summary of the plan may be obtained free of charge from the contact person listed above.

Submit written comments on the reef fish plan to the contact person listed above by May 27, 1979, to receive full consideration in the plan development process.

Dated: April 5, 1979.

Winfred H. Meibohm,
*Executive Director, National Marine Fisheries Service.*
[FR Doc. 79-11110 Filed 4-10-79; 8:45 am]
BILLING CODE 3510-22-M

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[50 CFR Part 651]

## New England Fishery Management Council; Public Hearing

**AGENCY:** National Oceanic and Atmospheric/Commerce.

**ACTION:** Public Hearing Notice on the Fishery Management Plan for Atlantic Groundfish (Cod, Haddock and Yellowtail Flounder).

**SUMMARY:** The New England Fishery Management Council announces a public hearing scheduled for the consideration of amendments to the Fishery Management Plan for Atlantic Groundfish.

**DATES:** The public hearing will be held on April 30, 1979.

**ADDRESS:** The hearing will be held at the Holiday Inn, Route 25, Exit 72 of the Long Island Expressway, Riverhead, New York, beginning at 7:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Paul Draheim, Deputy Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960, Telephone: 617-535-5450.

**SUPPLEMENTARY INFORMATION:** The New England Fishery Management Council recognizes that the best scientific information available indicates that the appropriate optimum yields for cod, haddock and yellowtail flounder are:
Cod—Gulf of Maine—12,000 metric tons (mt)
Cod—Georges Bank and South—35,000 mt
Haddock—All Areas—32,500 mt
Yellowtail flounder—All Areas—10,000 mt

Therefore, the Council amends the current optimum yield of the Fishery Management Plan for Atlantic Groundfish by the appropriate amounts for the final quarter of the 1978/1979 fishing year as follows:

| Species | Area | Percentage [1] | Amount [1] (metric tons) |
|---|---|---|---|
| Cod | Gulf of Maine | 24 | 2,880 |
| Cod | Georges Bank and South | 25.6 | 8,960 |
| Haddock | Gulf of Maine | 20.5 | 1,998 |
| Haddock | Georges Bank and South | 27.5 | 6,256 |
| Yellowtail Flounder | West of 69° W | 20.5 | 1,025 |
| Yellowtail Flounder | East of 69° W | 32.9 | 1,645 |

[1] Increase over current OY's.

These changes, if implemented, would change the optimum yield for the 1978–79 fishing year as follows:

| Species | Area | Metric tons | |
|---|---|---|---|
| | | Current OY's | Amended OY's |
| Cod | Gulf of Maine | 8,500 | 11,380 |
| Cod | Georges Bank and South | 26,000 | 34,960 |
| Haddock | All areas | 20,000 | 28,254 |
| Yellowtail Flounder | All areas | 8,100 | 10,770 |

A portion of this public hearing, 7:30–8:30 p.m., will be devoted to the acceptance of public comment with respect to an amendment to the plan increasing optimum yields for the fishing year, October 1, 1978 to September 30, 1979. This portion of the public meeting is to be conducted by the New England Fishery Management Council in cooperation with the National Marine Fisheries Service.

The proposed amendment is that vessels which fish for groundfish in more than one area are entitled only to a catch limitations for one area. This limitation shall be the highest of the applicable catch limitations for the areas in which the vessel has fished.

The Public hearing will be held on April 30, 1979, from 7:30 p.m.–10:30 pm., at the Holiday Inn, Route 25, Exit 72 of the Long Island Expressway, Riverhead, New York 19901. Telephone: 516–369–2200.

This public hearing is in addition to hearings previously announced (44 FR 18539) for Portland, Maine on April 12, 1979, and for Peabody, Massachusetts on April 16, 1979.

Dated: April 5, 1979.

Winfred H. Meibohm,
*Executive Director, National Marine Fisheries Service.*
[FR Doc. 79-11109 Filed 4-10-79; 8:45 am]
BILLING CODE 3510-22-M

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## DEPARTMENT OF ENERGY
## Federal Energy Regulatory Commission

[18 CFR Part 157]

## Transportation Certificate for Natural Gas for the Displacement of Fuel Oil

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order commencing rulemaking.

**SUMMARY:** The Economic Regulatory Administration of the Department of Energy (ERA) has published a proposed rule to encourage and facilitate the issuance by the Commission of one year certificates of public convenience and necessity, under section 7 of the Natural Gas Act. (44 FR 17644, March 22, 1979) By this order, the Commission is establishing a comment procedure on ERA's proposed rule. During the period prior to the adoption of a final rule by the Commission, the Commission will give expeditious consideration to applications which meet the filing requirements stated in ERA's proposed rule.

**DATES:** Public Hearing on April 30, 1979. Notice of intent to participate in public hearing by April 23, 1979. Submission of statement for presentation of public hearing by April 29, 1979. Written comments filed by April 30, 1979. Final Commission action by May 17, 1979.

**ADDRESSES:** All filings should reference Docket No. RM79-34 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission,

825 North Capitol Street N.E., Washington, D.C. 20426.

Public hearing location: Address above beginning at 9:30 a.m.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Platt, Office of the General Counsel, 825 North Capitol Street NE., Washington, D.C. 20426; 202–275–0161.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

On March 19, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy proposed a rulemaking to the Commission, pursuant to section 403(a) of the DOE Organization Act, 42 U.S.C. 7173(a). The ERA Proposed Rule [1] establishes a procedure for the issuance of one year certificates of public convenience and necessity under Section 7(c) of the Natural Gas Act, authorizing the transportation of natural gas purchased by end-users in order to displace fuel oil. In a related rulemaking ERA will establish a procedure to certify the eligibility of end-users for this program. Because ERA finds "an urgent and immediate need to reduce the Nation's reliance on oil imports," and the importance of fashioning a Commission regulation consistent with the overall ERA fule oil displacement effort, the Commission seeks comment upon the ERA Proposed Rule as submitted.

ERA has requested that the Commission place a fuel oil displacement program into effect immediately. As shown in our recent order authorizing the displacement of fuel oil by Consolidated Edison Company of New York, Inc., [2] the Commission is willing to accomodate such efforts under its existing regulations pending final action on the ERA Proposed Rule. Applications conforming to the filing requirements set forth in propose § 157.203 will receive expedited consideration by the Commission during this period.

Section 403(a) of the DOE Organization Act authorizes the Secretary of Energy to propose rules with respect to any function within the jurisdication of the Commission. Section 403(b) of that Act provides that the Commission shall have exclusive jurisdiction over such proposals. Accordingly, although the appended proposal is that of the ERA, the rulemaking proceeding commenced by this order shall result in a final rule of the Commission. The rulemaking proceeding shall be governed by the Commission's procedures. The comment procedure is established to permit final Commission action on the ERA Proposed Rule by May 17, 1979, the deadline established by the Secretary of Energy pursuant to Section 403(b).

[1] 144 FR 17644 (March 22, 1979).

[2] Order Granting Declaratory Relief, issued March 16, 1979, Docket Nos. TC79–2 and TC79–3.

**II. Written Comment Procedures**

Interested persons are invited to submit written comments, data, views or arguments with respect to the ERA Proposed Rule. An original and 14 copies should be filed with the Secrtetary of the Commission. All comments received prior to 4:30 p.m., e.s.t., April 30, 1979, will be considered by the Commission prior to the promulgation of final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, NE., Washington, D.C. during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No RM79–34.

**III. Public Hearing Procedures**

A public hearing concerning this proposal will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. on April 30, 1979, beginning at 9:30 a.m. and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written rquest to participate is received by the Secretary of the Commission prior to 4:30 p.m., e.s.t., on April 23, 1979.

Request to participate in the hearing should include a reference to Docket No. RM79–34 as well as a concise summary of the proposed oral presentation and a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m. on april 29, 1979. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 25 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

By the direction of the Commission.

Kenneth F. Plumb,
*Secretary.*

[Docket No. RM79–34]

[FR Doc. 79–11259 Filed 4–10–79; 8:45 am]

BILLING CODE 6450–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## [18 CFR Part 32]

## Interconnections of Facilities; Emergencies—Interchange Energy Transmission Rates for Section 202(c) Emergencies

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission gives notice of the proposal to repeal 18 CFR 32.62(e) and to set forth a new rate design for sales and transmission services performed pursuant to emergency orders under section 202(c) of the Federal Power Act, including those arising from regional or national fuel shortages for electrical generation. The new rate would be both a model for rate negotiations regarding emergency interconnections ordered by the Economic Regulatory Commission and the effective rate should the parties fail to negotiate a rate. Initial and reply comments are requested and an opportunity for oral presentation is provided. The comment procedures are consolidated with those of Docket No. RM79–29, also published in this issue.

**DATES:** Initial written comments by May 4, 1979; reply comments by May 21, 1979; requests to speak by April 27, 1979; oral presentations on May 11, 1979, 9:00 a.m.

**ADDRESSES:** All comments and requests to speak to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275–4166.

Hearing room location: Hearing Room A, 825 North Capitol Street, N.E., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** Robert Cackowski, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275–4777 or Dan Lamke, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275–4233.

**SUPPLEMENTARY INFORMATION:** The Federal Energy Regulatory Commission (Commission) is proposing a regulation setting forth an appropriate rate design for sales and transmission services performed during emergencies declared pursuant to section 202(c) of the Federal Power Act including those arising from regional or national fuel shortages for electrical generation. The regulation will be revised as necessary following consideration of comments as provided by this notice.

Section 403(c) of the Department of Energy Organization Act authorizes the Commission to establish rates and charges by rulemaking procedures. The presentation of oral and written views requested by this notice also constitutes the prior hearing required by section 202(c) of the Federal Power Act.

## I. Background

Electric utilities have been confronted by two fuel crises of serious proportions during the last six years—the oil embargo of 1973 and coal strike of 1977–78. There is a possibility that a third fuel shortage may result from current uncertainties in the availability and price of oil from many of the nation's traditional foreign suppliers. The industry is increasingly sensitive to geopolitical unrest, labor disputes and other situations which affect the price and availability of an adequate fuel supply for electrical generation. During the two previous periods of fuel inadequacy, the governmental agency having authority to determine that an emergency exists under section 202(c) of the Federal Power Act (FPA), the Federal Power Commission in 1973 and the Economic Regulatory Administration (ERA) in 1977, did not declare an emergency or order sales to alleviate local or regional shortages.[1] For example, when the New England Power Pool (NEPOOL) filed for emergency relief pursuant to section 202(c) of the FPA during the oil embargo, a settlement was negotiated with most other utility systems and power pools in public conference. *New England Power Pool Participants, et al.*, 52 FPC 410, August 26, 1974. (FPC Docket Nos. RM74–22, E–8589 and E–8850) The settlement rates were the first fuel conservation energy rates to be substituted for then-existing intersystem power rate schedules. The proceeding was an acknowledgement of the need for more specific rate guidelines in emergency situations.

Subsequently, the Commission promulgated § 32.62 of the Regulations describing various ratemaking principles applicable to emergency service ordered pursuant to a section 202(c) application for relief. (Order No. 520—RM75–3 18 CFR 32.60 through 32.62.)

The authority to determine whether a section 202(c) emergency exists and to order emergency transactions was transferred to the ERA pursuant to the Department of Energy Organization Act. However, the commission retains its authority to regulate rates and charges applicable to transactions subject to section 202(c) orders. The Commission now finds it necessary to reform its statement of emergency rate principles. The reasons for the proposed rule are as follows:

(1) The use of existing filed rates which contain components not limited to the actual costs of energy generation and transmission is generally inappropriate during section 202(c) emergencies;

(2) Paragraph (e) of § 32.62 of the Regulations is ambiguous and provides insufficient guidance to the industry concerning the rates that the Commission will set if required to do so when parties fail to agree on a rate during a section 202(c) emergency. It also *encourages* use of rates and charges contained in existing rate schedules during section 202(2) emergencies.

The Commission must be prepared to deal with the fuel inadequacies which are occurring more frequently as the supplies of fossil fuels constrict and political events make their continuous supply more unpredictable. It is important that special rates be designed for extraordinary production and supply problems that are determined to constitute an emergency and that such rates more closely reflect the actual costs of generating and transmitting electricity during those periods.

The proposed regulation prescribes guidelines for a just and reasonable rate for declared emergencies including maximum levels for the adders. This not only has the advantage of limiting prices while allowing utilities to recover out-of-pocket costs plus incidentals and a profit, it adds predictability to the rate structure. The regulation is aimed at discouraging use of ordinary rate designs embodied in filed rate schedules during periods of extraordinary shortages and providing a predictable rate in light of which the parties to an emergency interchange of energy may negotiate the terms of a section 202(c) arrangement. The standard provided by the proposed regulation is an emergency rate design which is intended to permit full recovery of quantifiable and unquantifiable costs.

The proposed maximum adders of 2.0 mills/kwh for energy-producing systems and 1.0 mills/kwh for energy transmitters in the proposed rule are nominal amounts which will recover difficult to quantify out-of-pocket costs such as billing and dispatching costs and will compensate for differences between estimated and actual out-of-pocket fuel costs and transmission losses or other incremental costs. The difference between the maximum adder prescribed for transmitters or pass-through systems and that provided for systems which both generate and transmit recognizes that the source systems provide two combined services and thus require additional compensation to recover all out-of-pocket costs.

The coal strike report generally illustrates the relative magnitude of transactions that would be subject to the limitation on adders in the proposed rule. For example, during a one-hour period on February 18, 1978, the abnormally large transactions being used to conserve coal ranged from a low of 19 MW for surplus power to 1200 MW for short-term power.[2] These transactions for the one hour period

[1] Section 202(c) provides:

(c) During the continuance of any war in which the United States is engaged, or whenever the Commission determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, the Commission shall have authority, either upon its own motion or upon complaint, with or without notice, hearing, or report, to required by order such temporary connections of facilities and such generation, delivery, interchange, or transmission of electric energy as in its judgement will best meet the emergency and serve the public interest. If the parties affected by such order fail to agree upon the terms of any arrangement between them in carrying out such order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party.

[2] Report of the Designated Officer, Investigation Into Wholesale Power Transactions During Time of Fuel Inadequacies, March 19, 1979 (Docket No. ER78–367) at 8.

would produce a maximum revenue from adders alone ranging from $38 to $2400 for the suppliers based on the 2.0 mill/kwh maximum and $19 to $1200 for transmitters or pass-through systems based on the proposed 1.0 mill/kwh maximum. While minimal, such amounts amply and reasonably cover the difficult to quantify out-of-pocket costs for such transactions.

Within the terms of section 202(c), the Commission may determine a reasonable rate when parties to a transaction reach an impasse in establishing an appropriate rate for the ordered transaction. The proposed rate design is both a model for those negotiations and the maximum rate to be prescribed should negotiations not succeed.

### Summary

The proposed regulation would provide to electrical utilities a specific guideline regarding rates appropriate to emergency circumstances including emergencies characterized by fuel shortages and escalating prices of particular fuels. For example, utilities in certain regions of the country affected by a shortage of foreign oil that normally is used to generate electricity may find the extensive purchase of electricity a necessity and may petition for emergency relief under section 202(c). Under such circumstances, it is important to restrain the cost of electricity supplied to receiving systems and their customers.

The rate guidelines contained in 18 CFR 32.62(e) conflict with this proposed rule insofar as they fail to articulate the Commission's view on what constitutes a just and reasonable section 202(c) emergency rate. The paragraph is therefore repealed and a new section created to replace it.

The proposed new § 32.63 of the Regulations imposes a basic rate computation method for emergency situations designed to allow recovery of all out-of-pocket costs. It, in effect, sets forth parameters of interchange rates which the Commission will impose if parties do not arrive at a voluntary agreement. Paragraph (c) proposes a fixed monetary limit on charges in addition to total identifiable out-of-pocket costs.

The rate design set forth in this paragraph is to serve as a model for rate agreements negotiated and subsequently filed pursuant to an application for section 202(c) emergency relief or to an ERA declaration of an emergency under the FPA. Paragraph (c) also permits recovery of other costs which may arise during a transaction ordered pursuant to a section 202(c) emergency. Transactions leading to curtailment of sales to the seller's regular wholesale or retail firm customers and resulting in lost revenue or transactions requiring special investment in facilities would require some added compensation for these losses and investments. Such added charges are intended to be strictly cost-based, however. Under the proposed rulemaking, the model rate will not be prescribed where the parties reach an agreement establishing a rate for that particular transaction. The Commission requests comments on whether the model rate set forth in this proposed rulemaking should also be prescribed under sections 205 and 206 of the FPA as the maximum just and reasonable rate to which parties may agree in a section 202(c) emergency.

### Written Comment and Reply Procedures and Notice of Oral Presentations

The Commission is consolidating the comment and oral presentation procedures of this Notice with those of the Notice of Proposed Rulemaking Limiting Percentage Adders in Electric Rates (Docket No. RM79–29). Because of the complexity and importance of the issues presented by these rulemakings, the Commission intends that those participating in this proceeding should be able to examine comments of other participants and have an opportunity to respond to the initial comments made in response to these notices. The Commission therefore invites initial written comments no later than 30 days after issuance of this Notice. Reply comments are due 45 days after issuance and should be clearly labeled as such. All comments must be filed with the Office of the Secretary. Initial comments will be available to the public soon after they are received. The opinions of interested parties will be considered by the Commission prior to promulgation of a final regulation.

Comments concerning these regulations may be submitted by writing to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All written submissions should contain an original and 18 copies. Reference Docket No. RM79–28. Comments will be placed on file at the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C. 20426.

In addition, the Commission will hold a hearing for oral presentation of views on the issues involved in these rulemakings, namely, rates for energy during section 202(c) emergencies and the use of percentage adders. This hearing will be held on May 11, 1979 at the Commission Offices. All persons, including Commission Staff, desiring to be heard at that time should so inform the Office of the Secretary of the Commission by 4:00 p.m. on April 27, 1979 and request presentation time. The Secretary will issue a schedule of presentations on May 4, 1979. Since the time for presentations is limited, the Commission encourages group participation.

In consideration of the foregoing, it is proposed that Part 32, Subchapter B, Chapter 1 of Title 18, Code of Federal Regulations, be amended as set forth below.

By the Commission.

Kenneth F. Plumb,
*Secretary.*

Part 32, Subchapter B, Chapter 1 of Title 18, Code of Federal Regulations, is amended by repealing paragraph 32.62(e) of the Regulations and by establishing § 32.63, relating to rates and charges for use during emergencies declared pursuant to secton 202(c) of the Federal Power Act, to read as follows:

**§ 32.62 [Amended]**

**§ 32.63 Interchange energy rates during Section 202(c) emergencies.**

(a) *Applicability.* This section applies to rates to be charged by any public utility, power pool or any other person when providing to other utilities or power pools or other persons service which is ordered during an emergency determined to exist pursuant to section 202(c) of the Federal Power Act.

(b) *Definitions.* For purposes of this section:

(1) "Adder" means any component of a rate which produces revenues in excess of incremental costs.

(2) "Incremental costs" means the sum of identifiable costs incurred in carrying out an order under section 202(c). Such costs include any costs related to fuel, transmission losses, labor, maintenance, gross receipts taxes, start-up, and shut-down.

(c) *General Rule.* If the parties to a transaction ordered under section 202(c) fail to agree on the rate for the transaction, the Commission shall prescribe a rate not to exceed the sum of the following:

(1) Incremental costs;

(2) Adders which do not exceed two (2) mills per kilowatt/hour for any public utility or power pool that is the source of electricity, or one (1) mill per kilowatt/hour for any public utility or power pool which performs only transmitting or pass-through services;

(3) Facilities charges for construction or additions to capacity required by any order issued under section 202(c); and

(4) Net revenues lost by the seller of electric energy due to curtailment of services to firm customers as a direct result of the emergency transaction ordered under section 202(c).

(Federal Power Act, as amended, 16 U.S.C. 792, *et seq.*, Department of Energy Organization Act, Pub. L. No. 95-91, E. O. 12009, 42 FR 46267.)

[Docket No. RM79-28]
[FR Doc. 79-11267 Filed 4-10-79; 9:58 am]
BILLING CODE 6450-01-M

## [18 CFR Part 35]

## Filing of Rate Schedules—Revisions Limiting Percentage Adders

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Rate schedules currently on file contain percentage adders which cover a variety of miscellaneous costs in electric energy transactions. The Commission is no longer persuaded that some percentage adders used in electric rates are cost-justified. The Federal Energy Regulatory Commission gives notice of a proposal to adopt a regulation which limits the amount of revenue recoverable under percentage adders contained in any rate filed under Part 35 of the Regulations. Initial and reply comments are requested and an opportunity for oral presentation is provided. The comment procedures are consolidated with those of Docket No. RM79-28; also published in this issue.

**DATES:** Initial written comments by May 4, 1979; reply comments by May 21, 1979; requests to speak by April 27, 1979; oral presentations on May 11, 1979, 9:00 a.m.

**ADDRESSES:** All comments and requests to speak to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4166.

Hearing room location: Hearing Room A, 825 North Capitol Street, NE., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** Robert Cackowski, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-4777, or Dan Lamke, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 275-4233.

**SUPPLEMENTARY INFORMATION:** The Federal Energy Regulatory Commission (Commission) gives notice that it proposes to adopt a regulation which limits the amount of revenue recoverable under percentage adders included in any rate filed under this Part.

### Background

Rate schedules currently on file contain percentage adders which cover a variety of miscellaneous costs in electric energy transactions. The Commission is no longer persuaded that some percentage adders used in electric rates are cost-justified. Percentage adders appear to be unjustified to the extent that indirect costs intended to be recovered by these adders do not increase proportionately with out-of-pocket costs. This is especially true in multiple party transactions where each generating or transmitting utility adds its charge, usually 10 percent of out-of-pocket costs to the utility, for unspecified and miscellaneous administrative costs. The final charge for the electricity thus may bear little relation to the actual costs of producing the electricity and transferring it to a receiving system.

The average cost of oil-fired electrical generation rose from $0.70/mBtu at the beginning of 1973 to $2.08/mBtu in July 1978, with a peak of $2.30/mBtu in 1977.[1] Since 1973, the increase in the cost of fuel has been greater than increases for other components of cost. This great inflation in fuel costs since 1973 has increased percentage adders because such adders operate as a function of out-of-pocket cost (primarily fuel costs) under all circumstances. This phenomenon calls into question whether rates with such adders are just and reasonable. Therefore, it is necessary to address the adders included in any electic rate in order to prevent miscellaneous charges from escalating without relation to the kinds of actual costs they are intended to defray. Proposed section 35.23 is an attempt to deal with this problem.

Generally, the principal specific and identifiable costs are included in out-of-pocket costs. Percentage adders in filed rates have been defended on the grounds that they recover incidental miscellaneous expenses, ensure that sellers are adequately compensated for costs in the event that costs were underestimated, and provide an incentive to prospective sellers to engage in the desired transaction. However, the increases in fuel prices have tended to make this rate component inordinately large. Prior to 1973, 10 percent adders rarely produced more than $1.5/mwh, but today they may produce $5/mwh or more, particularly when more than two systems are involved in the transaction.[2] The coal strike experience is instructive. During the strike, the percentage adders in the filed rates contributed substantially to the high costs paid by receiving systems. Power was frequently generated from high-cost oil-fired units and resold through multiple systems. Fuel conservation rate schedules, which did not contain percentage adders in the transmission rates, were not utilized and adders billed under the short-term and emergency service schedules produced income for all the sellers in the chain far in excess of incremental costs. Therefore, percentage adders to the out-of-pocket cost of interchange energy are difficult to justify, particularly in light of escalating fuel costs and the probably increasing frequency of multiple interconnections.

The proposed maximum adders of 2.0 mills/kwh and 1.0 mills/kwh in the proposed rule are nominal amounts which will recover difficult to quantify out-of-pocket costs such as billing and dispatching costs and are intended to compensate for errors in estimating out-of-pocket fuel costs and transmission losses or other incremental costs. The difference between the maximum adder prescribed for transmitters or pass-through systems and that provided for systems which both generate and transmit recognizes that the source systems provide two combined services and thus require additional compensation to recover all out-of-pocket costs.

The coal strike report generally illustrates the relative magnitude of transactions that would be subject to the limitations on adders in the proposed rule. For example, during a one-hour period on February 18, 1978, the abnormally large transactions being used to conserve coal ranged from a low of 19 MW for surplus power to 1200 MW for short-term power.[3] These transactions for the one hour period would produce a maximum revenue ranging from $38 to $2400 for the 2.0 mill/kwh maximum and $19 to $1200 for transmitters or pass-through systems based on the proposed 1.0 mill/kwh maximum. While minimal, such amounts amply and reasonably cover the difficult to quantify out-of-pocket costs for such transactions.

The Commission recognizes that a cost control problem may also exist with respect to other rate components. For example, split-savings adders may now be greater in magnitude than before 1973 because of the growing difference in the cost of coal-fired and oil-fired electrical generation. The difference between the cost per mBtu of oil-generated electricity and the like cost of coal-generated electricity better than tripled between early 1973 and late 1977. As oil-fired utilities seek to conserve fuel and reduce costs by purchasing coal-generated energy, the seller in an

[1] Report of Designated Officer, Investigation Into Wholesale Power Transactions During Time of Fuel Inadequacies, March 19, 1979 (Docket No. ER78-367) Appendix I at 9. The discussion of adders is found on pages 11-14 and Appendix I, pages 7-13.

[2] *Id.* at Appendix I, page 12.

[3] *Id.* at 8.

economy energy transaction receives 50 percent of the difference between its incremental costs and the buyer's decremental costs. The coal strike report finds that adders are probably a larger proportion of the economy energy rates than they were in 1973 and revenues recovered under them have actually increased faster then the out-of-pocket cost of fuel.[4] Other problems may exist with respect to reservation charges in the context of fuel conservation rates filed during the coal strike and subsequently suspended.[5]

The prospect of further oil price increases as well as other considerations make it imperative that a concerted effort be made to find workable solutions to these unresolved rate problems. In the meantime, the Commission encourages the filing of rate schedules incorporating rates similar to those rates proposed under the accompanying proposed regulation (Docket No. RM79–28), for use in non-emergency multiple interchange transactions and where there is a large gap between the cost of available fuels in such transactions, instead of economy energy rates with split-savings adders.

The Commission finds that percentage adders in filed rates are unjust and unreasonable in many circumstances.

The coal strike report confirms that such rate components tend to undermine the cost relation of electric rates, especially in multiple interchange transactions and during periods of escalating fuel costs. The Commission therefore proposes to establish a just and reasonable rate pursuant to its authority under section 206(a) of the Federal Power Act. This ratemaking is to be accomplished by rule under section 403 of the Department of Energy Organization Act.

**Summary**

The proposed regulation requires that all percentage adders in filed electric rates be confined within limits. Utilities would be required to revise the adder portions of rate schedules currently filed under 18 CFR Part 35 and to cap all percentage adders in rates filed in the future consistent with this proposed rule.

Subparagraph 35.23(d) provides that electric rates shall not contain adders that recover more than two mills per kilowatt/hour for the utilities generating the electricity or more than one mill per kilowatt/hour for utilities which only transmit the electricity. Adders may be computed as percentages of incremental or out-of-pocket costs but may not exceed the specified levels for each transaction. Adder portions of rate schedules now on file would be required to be revised to reflect these limits by the effective date of a final rule. The revised rates would become effective five days after the effective date of the proposed rule, but would be subject to review for compliance with the proposed rule. This proposed rule does not inhibit the use of adders not computed as a percentage of out-of-pocket costs. Fixed adders in excess of the limits set forth in the proposed rule would, of course, have to be cost-justified.

**Written Comment and Reply Procedures and Notice of Oral Presentation**

The Commission is consolidating the comment and oral presentation procedures of this Notice and those of the Notice of Proposed Rulemaking Governing Interchange Energy Rates During Section 202(c) Emergencies (Docket No. RM79–28). Because of the complexity and importance of the issues presented by these rulemakings, the Commission intends that those participating in this proceeding should be able to examine the comments of other participants and have an opportunity to respond to the initial comments made in response to these notices. The Commission therefore invites initial written comments no later than 30 days after issuance of this Notice. Reply comments are due 45 days after issuance and should be clearly labeled as such. All comments must be filed with the Office of the Secretary. Initial comments will be available to the public soon after they are received. The opinions of interested parties will be considered by the Commission prior to promulgation of a final regulation.

Comments concerning these regulations may be submitted by writing to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All written submissions should contain an original and 18 copies. Reference Docket No. RM79–29. Comments will be placed on file at the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C. 20426.

In addition, the Commission will hold a hearing for oral presentation of views on the issues involved in these rulemakings, namely rates for energy during section 202(c) emergencies and the use of percentage adders. This hearing will be held on May 11, 1979 at the Commission Offices. All persons, including Commission Staff, desiring to be heard at that time should so inform the Office of the Secretary of the Commission at (202) 275–4166 by 4:00 p.m. on April 27, 1979 and request presentation time. The Secretary will issue a schedule of presentations on May 4, 1979. Since the time for presentations is limited, the Commission encourages group participation.

(Federal Power Act, as amended, 16 U.S.C. 792, *et seq.*, Department of Energy Organization Act, Pub. L. 95–91, E.O. 12009, 42 FR 46267.)

In consideration of the foregoing it is proposed that Part 35, Subchapter B, Chapter 1 of Title 18, Code of Federal Regulations, be amended as set forth below.

By the Commission.

Kenneth F. Plumb,
*Secretary.*

Part 35, Subchapter B, Chapter 1 of Title 18, Code of Federal Regulations, is amended by adding § 35.23 to read as follows:

**§ 35.23 Limits on percentage adders; revision of rate schedules.**

(a) *Applicability.* This section applies to all electric rates which are filed or which are required to be filed under this part of the Commission's Regulations.

(b) *Definitions.* For purposes of this section, "percentage adder" means any component of a rate under which component revenues are determined as a percentage of the sum of incremental or out-of-pocket costs related to fuel, transmission losses, labor, maintenance, gross receipts taxes, start-up, and shut-down.

(c) *General rule.* In any transaction, no percentage adders may result in an amount of revenue which exceeds:

(1) Two (2) mills per kilowatt/hour for any utility which in the source of the electricity; or

(2) One (1) mill per kilowatt/hour for any utility which performs only transmitting or pass-through services.

(d) Each public utility:

(1) Shall revise any rate schedule and tariff filed unde this part, to limit any percentage adders in accordance with paragraph (c) of this section; and

(2) Shall file any other rate or rate change under this part after the date of this section in compliance with paragraph (c) of this section.

(e) All rate schedules required to be revised by this section shall be filed no later than the effective date of this regulation, and shall be effective five (5) days thereafter, subject to subsequent review for compliance with paragraph (c) of this section.

[Docket No. RM79–29]

[FR Doc. 79–11266 Filed 4–10–79; 9:58 am]
BILLING CODE 6450–01–M

[4] *Id.* at 11.

[5] Proceedings to consider several fuel conservation energy rates, suspended by the Commission orders, are pending in Docket Nos. ER78–107, ER78–108, ER78–109, ER78–219, ER78–229, ER78–249, ER78–252, ER78–292, and ER78–313. (Orders issued between February 13, 1978 and May 26, 1978.)

# Notices

Federal Register
Vol. 44, No. 71
Wednesday, April 11, 1979

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.

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

### Bylaws of Corporation

The bylaws of the Commodity Credit Corporation, amended March 20, 1979, are as follows:

**Offices**

1. The principal office of the Corporation shall be in the City of Washington, District of Columbia, and the Corporation shall also have offices at such other places as it may deem necessary or desirable in the conduct of its business.

**Seal**

2. There is impressed below the official seal which is hereby adopted for the Corporation. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced.




**Meetings of the Board**

3. Regular meetings of the Board shall be held, whenever necessary, on Wednesdays at 9:30 a.m. in the Board meeting room in the U.S. Department of Agriculture in the City of Washington, D.C. Notice of such meetings shall be provided in the same manner as is specified for special meetings in Paragraph 4. No regular meetings of the Board shall be held except in accordance with provisions of the Government in the Sunshine Act (5 U.S.C. 552b).

4. Special meetings of the Board may be called at any time by the Chairman, the Vice Chairman, or by the President, or the Executive Vice President and shall be called by the Chairman, the Vice Chairman, the President, or the Executive Vice President at the written request of any five Directors. Notice of special meetings shall be given either personally or by mail (including the intradepartmental mail channels of the Department of Agriculture or interdepartmental mail channels of the Federal Government) or by mailgram, and notice by telephone shall be personal notice. Any Director may waive in writing such notice as to himself, whether before or after the time of the meeting, and the presence of a Director at any meeting shall constitute a waiver of notice of such meeting. No notice of an adjourned meeting need be given. Any and all business may be transacted at any special meeting unless otherwise indicated in the notice thereof. No special meetings of the Board shall be held except in accordance with provisions of the Government in the Sunshine Act (5 U.S.C. 552b).

5. The Secretary of Agriculture shall serve as Chairman of the Board. The Deputy Secretary of Agriculture shall serve as Vice Chairman of the Board and, in the absence or unavailability of the Chairman, shall preside at meetings of the Board. In the absence or unavailability of the Chairman and the Vice Chairman, the President of the Corporation shall preside at meetings of the Board. In the absence or unavailability of the Chairman, the Vice Chairman, and the President, the Directors present at the meeting shall designate a Presiding Officer.

6. At any meeting of the Board a quorum shall consist of five Directors. The act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board.

7. The General Counsel of the Department of Agriculture, whose office shall perform all legal work of the Corporation, and the Assistant General Counsel in the Office of the General Counsel who is in immediate charge of legal work for the Corporation shall, as General Counsel and Assistant General Counsel of the Corporation, respectively, attend meetings of the Board.

8. The Executive Vice President, the Vice President who is the Associate Administrator of the Agricultural Stabilization and Conservation Service, and the Secretary shall attend meetings of the Board. Each of the other Vice Presidents and Deputy Vice Presidents, and the Controller shall attend meetings of the Board during such times as the meetings are devoted to consideration of matters as to which they have responsibility.

9. Other persons may attend meetings of the Board upon specific authorization by the Chairman, Vice Chairman, or President.

**Compensation of Board Directors**

10. The compensation of each Director shall be prescribed by the Secretary of Agriculture. Any Director who holds another office or position under the Federal Government, the compensation for which exceeds that prescribed by the Secretary of Agriculture for such Director, may elect to receive compensation at the rate provided for such other office or position in lieu of compensation as a Director.

**Officers**

11. The officers of the Corporation shall be a President, Vice Presidents, and Deputy Vice Presidents as hereinafter provided for, a Secretary, a Controller, a Treasurer, a Chief Accountant, and such additional officers as the Secretary of Agriculture may appoint.

12. The Under Secretary of Agriculture for International Affairs and Commodity Programs shall be ex officio President of the Corporation.

13. The following officials of the Agricultural Stabilization and Conservation Service (referred to as ASCS), the Office of the General Sales Manager (referred to as OGSM), Foreign Agricultural Service (referred to as FAS), Food and Nutrition Service (referred to as FNS), Food Safety and Quality Service (referred to as FSQS), and the Agricultural Marketing Service (referred to as AMS) shall be ex officio officers of the Corporation.

Administrator, ASCS; Executive Vice President.

General Sales Manager, OGSM; Vice President.
Administrator, FAS; Vice President.
Administrator, AMS; Vice President.
Administrator, FNS; Vice President.
Administrator, FSQS; Vice President.
Associate Administrator, ASCS; Vice President.
Deputy Administrator, State and County Operations, ASCS; Deputy Vice President.
Deputy Administrator, Commodity Operations, ASCS; Deputy Vice President.
Deputy Administrator, Management, ASCS; Deputy Vice President.
Executive Assistant to the Administrator, ASCS; Secretary.
Director, Financial Management Division, ASCS; Controller.
Chief, Claims and Collections Branch, Financial Management Division, ASCS; Treasurer.
Deputy Director-Fiscal, Financial Management Division, ASCS; Chief Accountant.

The person occupying, in an acting capacity, the office of any person designated ex officio by this paragraph 13 as an officer of the Corporation shall, during his occupancy of such office, act as such officer.

14. Officers who do not hold office ex officio shall be appointed by the Secretary of Agriculture and shall hold office until their respective appointments shall have been terminated.

**The President**

15. (a) The President shall have general supervision and direction of the Corporation, its officers and employees.

(b) The President shall establish and direct an Office of the Secretariat. Such office shall be responsible for obtaining or developing, as the President determines, information on major program or policy proposals submitted to the Board.

**The Vice Presidents**

16. (a) The Executive Vice President shall be the chief executive officer of the Corporation and shall be responsible for submission of all Corporation policies and programs to the Board. Except as provided in paragraphs (b), (c), (d), (e), and (f) below, the Executive Vice President shall have general supervision and direction of the preparation of policies and programs for submission to the Board, of the administration of the policies and programs approved by the Board, and of the day-to-day conduct of the business of the Corporation and of its officers and employees.

(b) The Vice President who is the Administrator, Foreign Agricultural Service, shall be responsible for preparation for submission by the Executive Vice President to the Board of those policies and programs of the Corporation which are for performance through the facilities and personnel of the Foreign Agricultural Service. He shall also have responsibility for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Foreign Agricultural Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(c) The Vice President who is Administrator, Agricultural Marketing Service, shall be responsible for the administration of those operations of the corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Agricultural Marketing Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(d) The Vice President who is the General Sales Manager of the Office of the General Sales Manager shall be responsible for preparation for submission by the Executive Vice President to the Board of policies and programs of the Corporation which are for performance through the facilities and personnel of the Office of the General Sales Manager. He shall also have responsibility for the administration of those operations of the Corporation, under the policies and programs approved by the Board, which are carried out through facilities and personnel of the Office of the General Sales Manager. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(e) The Vice President who is the Administrator, Food and Nutrition Service, shall be responsible for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Food and Nutrition Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(f) The Vice President who is the Administrator, Food Safety and Quality Service, shall be responsible for the Administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Food Safety and Quality Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

17. The Vice President who is the Associate Administrator, Agricultural Stabilization and Conservation Service, and the Deputy Vice Presidents shall assist the Executive Vice President in the performance of his duties and the exercise of his powers to such extent as the President or the Executive Vice President shall prescribe, and shall perform such special duties and exercise such powers as may be prescribed from time to time by the Secretary of Agriculture, the Board, the President of the Corporation, or the Executive Vice President of the Corporation.

**The Secretary**

18. The Secretary shall attend and keep the minutes of all meetings of the Board; shall attend to the giving and serving of all required notices of meetings of the Board; shall sign all papers and instruments to which his signature shall be necessary or appropriate; shall attest the authenticity of and affix the seal of the Corporation upon any instrument requiring such action and shall perform such other duties and exercise such other powers as are commonly incidental to the Office of Secretary as well as such other duties as may be prescribed from time to time by the President or the Executive Vice President.

**The Controller**

19. The Controller shall have charge of all fiscal and accounting affairs of the Corporation, including all borrowings and related financial arrangements, claims activities, and formulation of prices in accordance with established policies; and shall perform such other duties as may be prescribed from time to time by the President or the Executive Vice President.

**The Treasurer**

20. The Treasurer, under the general supervision and direction of the Controller, shall have charge of the custody, safekeeping and disbursement of all funds of the Corporation; shall designate qualified persons to authorize disbursement of corporate funds; shall direct the disbursement of funds by

disbursing officers of the Corporation or by the Treasurer of the United States, Federal Reserve Banks and other fiscal agents of the Corporation; and shall issue instructions incidental thereto; shall be responsible for documents relating to the general financing operations of the Corporation, including borrowings from the United States Treasury, commercial banks and others; shall arrange for the payment of interest on and the repayment of such borrowings; shall arrange for the payment of interest on the capital stock of the Corporation; shall coordinate and give general supervision to the claims activities of the Corporation and shall have authority to collect all monies due the Corporation, to receipt therefor and to deposit same for the account of the Corporation; and shall perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed from time to time by the Controller.

**The Chief Accountant**

21. The Chief Accountant, under the general supervision and direction of the Controller, shall have charge of the general books and accounts of the Corporation and the preparation of financial statements and reports. He shall be responsible for the initiation, preparation and issuance of policies and practices related to accounting matters and procedures, including official inventories, records, accounting and related office procedures where standardized, and adequate subsidiary records of revenues, expenses, assets and liabilities; and shall perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed from time to time by the Controller.

**Other Officials**

22. Except as otherwise authorized by the Secretary of Agriculture or the Board, the operations of the Corporation shall be carried out through the facilities and personnel of the Agricultural Stabilization and Conservation Service, the Office of the General Sales Manager, the foreign Agricultural Service, the Food and Nutrition Service, the Food Safety and Quality Service, and the Agricultural Marketing Service in accordance with any assignment of functions and responsibilities made by the Secretary of Agriculture and, within his respective agency or office, by the Administrators of the Agricultural Stabilization and Conservation Service, Foreign Agricultural Service, Food and Nutrition Service, Food Safety and Quality Service, Agricultural Marketing Service, or the General Sales Manager of the Office of the General Sales Manager.

23. The Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service shall be contracting officers and executives of the Corporation in general charge of the activities of the Corporation carried out through their respective divisions or offices. The responsibilities of such Directors in carrying out activities of the Corporation, which shall include the authority to settle and adjust claims by and against the Corporation arising out of activities under their jurisdiction, shall be discharged in conformity with these bylaws and applicable programs, policies, and procedures.

**Contracts of the Corporation**

24. Contracts of the Corporation relating to any of its activities may be excuted in its name by the Secretary of Agriculture or the President. The Vice Presidents, the Deputy Vice Presidents, the Controller, the Treasurer, and the Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service may execute contracts relating to the activities of the Corporation for which they are respectively responsible.

25. The Executive Vice President who is the Administrator of ASCS and, subject to the written approval by such Executive Vice President of each appointment, the Vice Presidents, the Deputy Vice Presidents, the Controller, and the Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service may appoint, by written instrument or instruments, such Contracting Officers as they deem necessary, who may, to the extent authorized by such instrument or instruments, execute contracts in the name of the Corporation. A copy of each such instrument shall be filed with the Secretary.

26. Appointments of Contracting Officers may be revoked by written instrument or instruments by the Executive Vice President or by the official who made the appointment. A copy of each such instrument shall be filed with the Secretary.

27. In executing a contract in the name of the Corporation, an official shall indicate his title.

**Annual Report**

28. The Executive Vice President shall be responsible for the preparation of an annual report of the activities of the Corporation, which shall be filed with the Secretary of Agriculture and with the Board.

**Amendments**

29. These bylaws may be altered or amended or repealed by the Secretary of Agriculture, or subject to his approval by action of the Board at any regular meeting of the Board or at any special meeting of the Board, if notice of the proposed alteration, amendment, or repeal be contained in the notice of such special meeting.

**Approval of Board Action**

30. The actions of the Board shall be subject to the approval of the Secretary of Agriculture.

I, Bill Cherry, Secretary, Commodity Credit Corporation, do hereby certify that the above is a full, true, and correct copy of the bylaws of Commodity Credit Corporation, as amended March 20, 1979.

In witness whereof I have officially subscribed my name and have caused the corporate seal of the said Corporation to be affixed this third day of April, 1979.

Bill Cherry,
*Secretary, Commodity Credit Corporation.*

[FR Doc. 79-11241 Filed 4-10-79; 8:45 am]
BILLING CODE 3410-05-M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Oregon State Highway Department Herbicide Spray Program; Environmental Assessment Finding

An Environmental Assessment that discusses the control of roadside vegetation through the use of the chemical Atrazine along approximately 8 miles of highway on National Forest lands in Wallowa County, Oregon is available for public review at National Forest Headquarters for the Wallowa-Whitman National Forest, Federal Building, Baker, Oregon.

The environmental assessment does not indicate this will be a major federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

The determination was based upon consideration of the following factors which are discussed in detail in the environmental assessment:

a. Maintain safe driving conditions on the state highway.

b. No loss of known threatened or endangered plant or animal species.

c. No irreversible or irretrievable commitments of resources.

Use of Atrazine, in accordance with federal and state regulations and label instructions by licensed applicators, will provide controls which will guarantee protection of human health and welfare.

No specific public concern has been expressed about the proposed project.

No action will be taken prior to thirty (30) days from the date this Finding is published in the **Federal Register.**

The responsible official is A. G. Oard, Forest Supervisor, Wallowa-Whitman National Forest, Federal Building, Baker, Oregon 97814.

Dated: March 23, 1979.

**Thaddeus Yarosh,**

*Acting Forest Supervisor.*

[FR Doc. 79-11144 Filed 4-10-79; 8:45 am]

**BILLING CODE 3410-11-M**

## Oregon State Highway Department Herbicide Spray Program; Environmental Assessment Finding

An Environmental Assessment that discusses the control of roadside vegetation through the use of herbicides along approximately 10 miles of State Highway 410 and 5 on National Forest lands in Baker County, Oregon is available for public review at the National Forest Headquarters for the Wallow-Whitman National Forest, Federal Building, Baker, Oregon.

The environmental assessment does not indicate this will be a major federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

The determination was based upon consideration of the following factors which are discussed in detail in the environmental assessment:

a. Maintain safe driving conditions on the state highway.

b. No loss of threatened or endangered plants or animals.

c. Protection of recreation areas and campgrounds.

Herbicides to be used are Atrazine and Krovar I. Use in accordance with federal and state regulations and label instructions by licensed applicators will provide controls which will guarantee protection of human health and welfare.

No specific public concern has been expressed about the proposed project.

No action will be taken prior to thirty (30) days from the date this Finding is published in the **Federal Register.**

The responsible official is A.G. Oard, Forest Supervisor, Wallowa-Whitman National Forest, Federal Building, Baker, Oregon 97814.

Dated: March 23, 1979.

**Thaddeus Yarosh,**

*Acting Forest Supervisor.*

[FR Doc. 79-11145 Filed 4-10-79; 8:45 am]

**BILLING CODE 3410-11-M**

## Oregon State Highway Department Spray Project; Environmental Assessment Finding

An Environmental Assessment that discusses the control of roadside vegetation along approximately 1.5 miles of highway on National Forest lands in Union County Oregon is available for public review at the Wallowa-Whitman National Forest Headquarters in Baker Oregon.

The Environmental Assessment does not indicate that this will be a major Federal action having a significant effect on the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

The determination was based upon consideration of the following factors:

A. The project will have no negative, long term impacts on the ecosystem.

B. There will be no irreversible commitments of resources.

C. There will be no effects on threatened or endangered plants or animal species.

The herbicide to be used is Krovar I. Use of this herbicide in accordance with Federal and State regulations and label instructions will provide controls which will guarantee protection of human health and welfare.

No public concern has been expressed about the proposed project.

No action will be taken prior to 30 days from the date this finding is published in the **Federal Register.**

The responsible official is A. G. Oard, Forest Supervisor, Wallowa-Whitman National Forest, P.O. box 907, Baker, Oregon.

Dated: March 29, 1979.

**Thaddeus Yarosh,**

*Acting Forest Supervisor.*

[FR Doc. 79-11143 Filed 4-10-79; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### Notice of Involvement and Public Meeting

The Department of Agriculture is preparing a Secretary's policy statement and procedures for implementing Advisory Council on Historic Preservation regulations on Protection of Historic and Cultural Properties. It is planned that draft procedures will be published by June 1, 1979, with final adoption anticipated by November 1, 1979.

In order to gain public views in the development of these draft memorandum, a public meeting is scheduled for Tuesday, May 1, 1979, from 2:00 p.m. to 4:00 p.m. in the Secretary's Conference Room (room 218–A in the USDA Administration Building), 12th and Independence Avenue, S.W., Washington, D.C. 20250.

Further information concerning this meeting can be obtained from Barry R. Flamm, Coordinator, Office of Environmental Quality Activities, Office of the Secretary, USDA, Washington, D.C. 20250; telephone: 202–447–3965.

**Barry R. Flamm,**

*Coordinator, Office of Environmental Quality Activities.*

[FR Doc. 79-10657 Filed 4-10-79; 8:45 am]

**BILLING CODE 3410-01-M**

## DEPARTMENT OF AGRICULTURE

### Soil Conservation Service

### LaPlatte River Watershed, Vermont, Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the LaPlatte River Watershed Project, Chittenden County, Vermont.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and water quality improvement. The planned works of improvement include conservation land treatment measures and animal waste management practices.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental

assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, One Burlington Square, Suite 205, Burlington, Vermont 05401. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.904; Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Dated: March 30, 1979.

**Joseph W. Haas,**

*Assistant Administrator for Water Resources, Soil Conservation Service.*

[FR Doc. 79–11146 Filed 4–10–79; 8:45 am]

**BILLING CODE 34101–16–M**

## Ledgewood Creek Watershed, Iowa; Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (7 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Ledgewood Creek Watershed Project, Fremont County, Iowa.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William J. Brune, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. This notice applies to 1.2 miles of channel work.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, 515–284–4260. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008)

Dated: March 30, 1979.

**Joseph W. Haas,**

*Assistant Administrator for Water Resources.*

[FR Doc. 79–11147 Filed 4–10–79; 8:45 am]

**BILLING CODE 3410–16–M**

## Upper Tioga River Watershed, Pa.; Notice of Intent To Prepare an Environmental Impact Statement

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

This action involves the use of new, innovative nonstructural items including floodproofing, relocations, and elevating properties along with structural measures and conservation land treatment. Mr. Graham T. Munkittrick, State Conservationist, therefore determined that the preparation and review of an environmental impact statement is needed for this federally-assisted action.

The action concerns a plan for watershed protection and flood prevention. The planned works of improvement include two segments of earthen/concrete dikes, nonstructural works including floodproofing, and relocations, flood warning system and critical area treatment.

A draft environmental impact statement will be prepared for the entire project and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building and U. S. Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone number (717) 782–2202.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Dated: March 30, 1979.

**Jospeh W. Haas,**

*Assistant Administrator for Water Resources, Soil Conservation Service.*

[FR Doc. 79–11148 Filed 4–10–79; 8:45 am]

**BILLING CODE 3410–16–M**

# COMMISSION ON CIVIL RIGHTS

## Louisiana Advisory Committee; Agenda and Notice of Open Meetings

Notice is herby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a Subcommittee Conference of the Louisiana Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 2:30 pm on May 5, 1979, at the Chateau Motor Hotel, La Petite Room, 201 Lake Street, Shreveport, Louisiana 71101.

Persons wishing to attend this Conference should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is to discuss future plans for the hearing to be held in Louisiana, by the Block Grant Subcommittee.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 6, 1979.

**John I. Binkley,**

*Advisory Committee Management Officer.*

[FR Doc. 79–11172 Filed 4–10–79; 8:45 am]

**BILLING CODE 6335–01–M**

## West Virginia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a Factfinding meeting of the West Virginia Advisory Committee (SAC) of the Commission will convene at 1:00 pm and will end at 5:00 pm on May 3, 1979, at the Federal Building, 12th and Chapline Streets, Hearing Room 300, Wheeling, West Virginia 26003.

Persons wishing to attend this Factfinding meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss various civil rights issues within West Virginia.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 6, 1979.

John I. Binkley,
*Advisory Committee Management Officer.*
[FR Doc. 79-11173 Filed 4-10-79; 8:45 am]
BILLING CODE 6335-01-M

## DEPARTMENT OF COMMERCE

### Bureau of the Census

### Census Advisory Committee of the American Economic Association; Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. APP. (1976), notice is hereby given that the Census Advisory Committee of the American Economic Association will convene on April 27, 1979, at 9:15 a.m. in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee of the American Economic Association advises the Director, Bureau of the Census, on technical matters, accuracy levels, and conceptual problems concerning the economic censuses; reviews major aspects of the Bureau's programs, and advises on the role of analysis within the Bureau and the need for providing data in more detail.

The Committee is composed of 15 members of the American Economic Association.

The agenda for the meeting, which is scheduled to adjourn at 4:00 p.m., is: (1) Introductory remarks by the Acting Director, Bureau of the Census, including staff changes, major budget program developments, other topics of current interest, and election of chairperson elect; (2) status of the 1980 census; (3) coverage techniques planned for the 1980 census; (4) report of the National Commission on Employment and Unemployment Statistics; (5) recent developments in the measurement of productivity; (6) program priorities in the Census Bureau; (7) Committee discussion and recommendations; and (8) plans and date for the next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. Elmer Biles, Senior Economic Advisor, Bureau of the Census, Room 3061, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763-7184.

Dated: April 6, 1979.

Robert L. Hagan,
*Acting Director, Bureau of the Census.*
[FR Doc. 79-11171 Filed 4-10-79; 8:45 am]
BILLING CODE 3510-07-M

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### Pettyjohn Brothers Shoe Manufacturing, Inc., and BHW Corp.; Notice of Termination of Certification of Eligibility To Apply for Trade Adjustment Assistance

Under the provisions of section 252(d) of the Trade Act of 1974 (Pub. L. 93-618) and § 315.32 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315), the United States Department of Commerce has terminated the certification of eligibility to apply for trade adjustment assistance issued on July 1, 1977, to Pettyjohn Brothers Shoe Manufacturing, Inc., and its affiliate, BHW Corporation, 601-603 Twelfth Street, Lynchburg, Virginia 24505. The effective date of the termination is March 28, 1979.

Jack W. Osburn, Jr.,
*Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.*
[FR Doc. 79-11119 Filed 4-10-79; 8:45 am]
BILLING CODE 3510-24-M

### National Oceanic and Atmospheric Administration

### Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) Prepared on the Proposed South Carolina Coastal Management Program.

The hearing schedule is: May 9, 1979-7:30 p.m., Jenkins Hall, The Citadel, Charleston, South Carolina.

The views of interested persons and organizations on the adequacy of the impact statement and/or the Proposed South Carolina Coastal Management Program are solicited, and may be expressed orally or in written statements. Persons or oganizations wishing to be heard on this matter should contact the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235 (phone: 202/634-4253), so that an appearance schedule may be prepared. In addition, requests for presentations will be accepted immediately prior to the hearing. Presentations are scheduled on a first-come, first-served basis, and should be limited to ten minutes in order to assure that all views may be heard. Office of Coastal Zone Management staff may wish to question speakers following the conclusion of his/her statement. If time permits, additional statements (and general discussion) may be scheduled at the conclusion of presentations. No verbatim transcript of the hearing will be maintained; but staff present will record the general thrust of the remarks.

As part of his review of the Proposed South Carolina Coastal Management Program, the Assistant Administrator for Coastal Zone Management will consider fully all comments received at these hearings, as well as written statements submitted to, and received by OCZM on or before May 21, 1979. As part of the procedures leading toward approval of this program, a Final Environmental Impact Statement (FEIS) will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines which reflect his consideration of these comments. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: April 2, 1979.

R. L. Carnahan,
*Acting Assistant Administrator for Administration.*
[FR Doc. 79-11149 Filed 4-10-79; 8:45 am]
BILLING CODE 3510-08-M

### Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS)

Prepared on the Proposed Delaware Coastal Management Program.

The hearing schedule is:

*Friday, April 27, 1979,* 10:00 a.m. and 8:00 p.m., Gallery Level Auditorium, State Office Building, 820 French Street, Wilmington, Del.

*Saturday, April 28, 1979,* 10:00 a.m., Third Floor Conference Room No. 1, Townsend Office Building, Federal Street, Dover, Delaware.

2:30 p.m., Commissioners' Room, Municipal Building, 73 Rehoboth Avenue, Rehoboth, Delaware.

The views of interested persons and organizations on the adequacy of the impact statement and/or the Proposed Delaware Coastal Management Program, are solicited, and may be expressed orally or in written statements. Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (phone: 202/634–4253), so that an appearance schedule may be prepared. In addition, requests for presentations will be accepted immediately prior to the hearing. Presentations are scheduled on a first-come, first-served basis, and should be limited to ten minutes in order to assure that all views may be heard. Office of Coastal Zone Management staff may wish to question speakers following the conclusion of his/her statement. If time permits, additional statements (and general discussion) may be scheduled at the conclusion of presentations. No verbatim transcripts of the hearing will be maintained; but staff present will record the general thrust of the remarks.

As part of his review of the Proposed Delaware Coastal Management Program, the Assistant Administrator for Coastal Zone Management will consider fully all comments received at these hearings, as well as written statements submitted to, and received by OCZM on or before May 14, 1979. As part of the procedures leading toward approval of this program, a Final Environmental Impact Statement (FEIS) will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines which reflect his consideration of these comments. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: April 2, 1979.

**R.I. Carnahan,**

*Acting Assistant Administrator for Administration.*

[FR Doc. 79–11150 Filed 4–10–79; 8:45 am]

**BILLING CODE 3510–08–M**

## COMMISSION OF FINE ARTS

### Meeting

The Commission of Fine Arts will meet in open session on Tuesday, April 24, 1979, at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., April 4, 1979.

**Charles H. Atherton,**

*Secretary.*

[FR Doc. 79–11151 Filed 4–10–79; 8:45 am]

**BILLING CODE 6330–01–M**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Announcing Import Restraint Levels Under Extended Agreement With the Federative Republic of Brazil

April 6, 1979.

**AGENCY:** Committee for the Implementation of Textile Agreements.

**ACTION:** Establishing import restraint levels for certain cotton textile products in Categories 313 (sheeting), 339 (women's, girls' and infants' knit shirts and blouses), 359 (miscellaneous apparel items, such as mufflers, neckties, vests, coveralls, etc.), and part of 369 (floor coverings) during the agreement year which began on April 1, 1979 under the terms of the extended bilateral cotton textile agreement.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), and March 22, 1979 (44 FR 17545)).

**SUMMARY:** On March 27, 1979, the Governments of the United States and the Federative Republic of Brazil exchanged notes extending the term of the Bilateral Cotton Textile Agreement of April 22, 1976 for three years, beginning on April 1, 1979 and extending through March 31, 1982. The agreement, as amended and extended, establishes levels of restraint for the following categories, among others, for the twelve-month period which began on April 1, 1979 and extends through March 31, 1980: 313, 339, 359, and part of 369. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit imports for consumption, or withdrawals from warehouse for consumption, of cotton textile products in the foregoing categories to the designated amounts. The levels of restraint have not been adjusted to account for imports during the period which began on April 1, 1979 and extends through the effective date of this action. Imports during this period will be charged to the new levels.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**EFFECTIVE DATE:** April 10, 1979.

**FOR FURTHER INFORMATION CONTACT:** Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

**Ronald I. Levin,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

### Committee For the Implementation of Textile Agreements

April 6, 1979.

**Commissioner of Customs,** *Department of the Treasury, Washington, D.C. 20229.*

**Dear Mr. Commissioner:** Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 14, 1977; pursuant to the Bilateral Cotton Textile Agreement of April 22, 1976, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on April 10, 1979, and for the twelve-month period which began on April 1, 1979 and extends through March 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products, exported from Brazil in the following categories, in excess of the indicated twelve-month levels of restraint:

| Category | Twelve-month level of restraint [1] |
|---|---|
| 313 | 18,743,158 square yards. |
| 339 | 227,215 dozen. |
| 359 | 217,391 pounds. |
| 369 [2] | 626,500 pounds. |

In carrying out this directive, entries of cotton textile products in the foregoing categories, produced or manufactured in Brazil, which have been exported to the United States prior to April 1, 1979, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period which began on April 1, 1978 and extended through March 31, 1979. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

Cotton textile products in the foregoing categories that have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of April 22, 1976, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil, which provide, in part, that: (1) within the aggregate and applicable group limits, specific limits may be exceeded by designated percentages; (2) specific ceilings may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), and March 22, 1979 (44 FR 17545).

In carrying out the above directions, entry in the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textiles and cotton textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

**Ronald I. Levin,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 79-11230 Filed 4-10-79; 8:45 am]

**BILLING CODE 3510-25-M**

## DEPARTMENT OF DEFENSE

### Corps of Engineers

### Multi-purpose Reservoir in Rhode Island; Intent

The New England Division of the U.S. Army Corps of Engineers is preparing a draft Environmental Impact Statement regarding the feasibility of constructing a 3,450 acre multi-purpose reservoir in the Big River watershed of Central Rhode Island. Proposed uses include water supply, flood damage prevention and recreation. Water supply alternatives include diversions and/or reservoirs in the nearby Flat River, Wood River, Moosup River, and Bucks Horn Brook watersheds; preliminary investigations have indicated each to be less desirable because of qualitatively higher environmental impacts. Other alternatives to be evaluated in the EIS include utilization of existing surface-water reservoirs, desalinization of sea water, ground water, demand modifications and no action. None of these alternatives provide the much needed flood control damage reduction along the Pawtuxet River in West Warwick, Warwick and Cranston, Rhode Island.

Scoping of the EIS began in June 1978. Investigations into probable impacts and the significance thereof was initiated shortly thereafter. Four public participation workshops were held in Rhode Island during September, 1978 to seek public input for consideration regarding issues and concerns to be included in the Corps study. Investigations and public concerns have identified the following issues to be analyzed in depth in the EIS: The need for an additional water supply source; an adequate discussion of alternatives; recreation impacts; State policies on the protection, use, management and development of Rhode Island water supply resources; fish and wildlife impacts; and, secondary impacts, e.g., encouragement of water waste, additional sewage treatment, and effects on land use and tax bases.

The effects of the proposed project are also being reviewed under the authority of the Fish and Wildlife Coordination Act, and the Clean Water Act, section 404.

It is estimated that ther draft EIS and Feasibility Report will be made available to the public in May, 1979. Additional public participation workshops are planned to coincide with this availability.

Questions about the proposed action and draft EIS can be answered by: Mr. Phillip Rieger, Environmental Specialist, or Mr. John Craig, Project Manager, at the New England Division, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, Mass. 02154 (Telephone 617–894–2400, extensions 518 and 503 respectively).

Dated: April 2, 1979.

**William F. McCarthy,**

*Chief, Environmental Analysis Branch*

[FR Doc. 79-11153 Filed 4-10-79; 8:45 am]

**BILLING CODE 3710-01-M**

## DEPARTMENT OF DEFENSE

### Department of the Army

### U.S. Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Medicinal Chemistry; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee meeting:

**NAME OF COMMITTEE:** United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Medicinal Chemistry.

**DATE OF MEETING:** April 26, 1979.

**PLACE OF MEETING:** Room 3092, Walter Reed Army Institute of Research, Wash, DC.

**TIME: 0900 HOURS.**

**PROPOSED AGENDA:** This meeting will be open to the public on 26 April 1979, from 0900 to 0945 to discuss the scientific research program of the Medicinal Chemistry Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 5526(c)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92–463, the meeting will be closed to the public on 26 April 1979, from 0945 to adjournment, for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director, Walter Reed Army Institute of Research, Building 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576–3061) will furnish summary minutes, roster of Committee members, and substantive program information.

For the Commander.

**John N. Albertson, Jr.,**

*Colonel, MSC, Chief of Staff.*

[FR Doc. 79–11152 Filed 4–10–79; 8:45 am]

BILLING CODE 3710–08–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### DOD Advisory Group on Electron Devices; Notice of Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session May 4, 1979 at Martin Marietta Aerospace, Orlando Division (Main Plant, Cork Room, 2nd Floor), P.O. Box 5837, Orlando, FL 32855.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

April 5, 1979

**H. E. Lofdahl,**

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

[FR Doc. 79–11126 Filed 4–10–79; 8:45 am]

BILLING CODE 3810–70–M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

### Albina Fuel Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Albina Fuel Company, 3426 Northeast Broadway, Portland, Oregon 97232. This Proposed Remedial Order charges Albina Fuel with pricing violations in the amount of $470,990.31, connected with the sale of middle distillates and residual fuel oils during the time period November 1973 to June 1976, in the State of Oregon.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Lyle L. Nelson, Deputy District Manager of Enforcement, 915 Second Avenue, Room 1992, Seattle, WA. 98174, phone 206–442–7285. On or before April 26, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 5th day of April 1979.

**Barton Isenberg,**

*Assistant Administrator for Enforcement, Economic Regulatory Administration.*

[FR Doc. 79–11138 Filed 4–10–79; 8:45am]

BILLING CODE 6450–01–M

### Brock Exploration Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Brock Exploration (Brock), 202 Pere Marquette Building, New Orleans, Louisiana 70112. This Proposed Remedial Order charges Brock with pricing violations in the amount of $21,787.00, connected with production and sale of domestic crude oil during the time period September 1, 1973 through December 31, 1975, in the States of Louisiana and Colorado.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, TX. 75235, phone 214–749–7626. On or before April 26, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 5th day of April 1979.

**Barton Isenberg,**

*Assistant Administrator for Enforcement, Economic Regulatory Administration.*

[FR Doc. 79–11141 Filed 4–10–79; 8:45 am]

BILLING CODE 6450–01–M

### Brock Exploration Corp. and Freeport Minerals Co., Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Brock Exploration (Brock), 202 Pere Marquette Building, New Orleans, Louisiana 70112 and Freeport Minerals Company (Freeport), 161 East 42nd Street, New York, New York 10017. This Proposed Remedial order charges Brock and Freeport with pricing violations in the amount of $456,444.91, connected with production and sale of domestic crude oil during the time period September 1, 1973 through December 31, 1975, in the State of Louisiana.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, TX. 75235, phone 214–749–7627. On or before April 26, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 5th day of April 1979.

**Barton Isenberg,**

*Assistant Administrator for Enforcement, Economic Regulatory Administration.*

[FR Doc. 79–11142 Filed 4–10–79; 8:45 am]

BILLING CODE 6450–01–M

### Earl E. Wall; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Earl E. Wall (Wall), 3019 Mercedes Boulevard, New Orleans, Louisiana 71101. This Proposed Remedial Order charges Wall with pricing violations in the amount of $496,484.43, connected with production and sale of domestic crude oil during the time period January

1, 1975 through October 31, 1976, in the State of Louisiana.

A copy of the Proposed Remedial Order, with confidential information deleted, may obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, TX. 75235, phone 214–749–7626. On or before April 26, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 5th day of April 1979.

Barton Isenberg,

*Assistant Administrator for Enforcement, Economic Regulatory Administration.*

[FR Doc. 79–11133 Filed 4–10–79; 8:45am]

BILLING CODE 6450–01–M

## L. E. Jones Production Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to L. E. Jones Production Company (Jones), P.O. Box 1185, Duncan, Oklahoma 73533. This Proposed Remedial Order charges Jones with pricing violations in the amount of $82,507.51, connected with production and sale of domestic crude oil during the time period September 1, 1973 through January 31, 1977, in the State of Oklahoma.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, TX. 75235, phone 214–749–7626. On or before April 26, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 5th day of April 1979.

Barton Isenberg,

*Assistant Administrator for Enforcement, Economic Regulatory Administration.*

[FR Doc. 79–11139 Filed 4–10–79; 8:45 am]

BILLING CODE 6450–01–M

## McCormick Oil & Gas Corp.; Proposed Remedial Order and Supplemental Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order and a Supplemental Proposed Remedial Order which was issued to McCormick Oil and Gas Corporation (McCormick), 1204 Tenneco Building, Houston, Texas 77002. This Proposed Remedial Order and the Supplemental Proposed Remedial Order charges McCormick with pricing violations in the amount of $78,277.22 connected with the sale of crude oil during the time period September 1, 1973 through December 31, 1975, in the State of Texas.

A copy of the Proposed Remedial Order and the Supplemental Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, TX. 75235, phone 214–749–7627. On or before April 26, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 5th day of April 1979.

Barton Isenberg,

*Assistant Administrator for Enforcement, Economic Regulatory Administration.*

[FR Doc. 79–11136 Filed 4–10–79; 8:45 am]

BILLING CODE 6450–01–M

## Transcontinental Gas Pipe Line Corp.

**AGENCY:** Department of Energy, Economic Regulatory Administration.

**ACTION:** Notice of Application for an Order Authorizing the Limited-Term Importation of Natural Gas from Canada Into the United States, and Invitation to Submit Petitions To Intervene.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy gives notice of receipt of the application of Transcontinental Gas Pipe Line Corporation (Transco) to import, during a limited-term commencing with first deliveries and ending October 31, 1981 (unless extended to receive prepaid gas), up to 75,000 Mcf of natural gas per day and 22,000,000 Mcf per year into the United States from Canada by means of existing pipeline facilities owned and operated by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. and located at the International Boundary near Niagara Falls, New York. The application is filed with ERA pursuant to Section 3 of the Natural Gas Act and the Secretary of Energy's Delegation Order No. 0204–25. Petitions to intervene are invited.

**DATES:** Petitions to intervene: To be filed on or before April 26, 1979.

**FOR FURTHER INFORMATION, CONTACT:** Mr. Finn K. Neilsen, Director, Import/Export Division, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, telephone 202–254–9730.

Mr. Martin S. Kaufman, Office of General Counsel, 12th and Pennsylvania Avenue, N.W., Room 5116, Washington, D.C. 20461, telephone 202–633–9380.

**SUPPLEMENTARY INFORMATION:** Transco states that the limited-term natural gas deliveries would serve to cover the need resulting from a deficiency of flowing gas supplies. This deficiency has resulted in a system-wide curtailment of Transco's authorized services to customers.

Transco notes that while the gas supply situation has stabilized and some improvement is expected during the near future, the need for the additional supplies requested in this application continues. The price of the gas to be imported will be the international border price as set by the National Energy Board of Canada which currently is $2.16 per MMBtu. It will be delivered by Sulpetro Limited of Calgary, Province of Alberta.

**OTHER INFORMATION:** The ERA invites petitions for intervention in the proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street, N.W., Washington, D.C., 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., in the Federal Register.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened herein must file a petition to intervene. Any person desiring to make any protest with reference to the petition and application for temporary certificate should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

A copy of Transco's petition is available for public inspection and

copying in Room B–110, 2000 M Street, N.W., Washington, D.C., 20461 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on April 4, 1979.

**Barton R. House,**

*Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.*

[ERA Docket No. 79–08–NG]

[FR Doc. 79–11135 Filed 4–10–79; 8:45 am]

BILLING CODE 6450–01–M

## Triangle J Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Triangle J Oil Company (Triangle), 580 Mohawk Drive, Boulder, Colorado 80303. This Proposed Remedial Order charges Triangle with pricing violations in the amount of $127,911.85, connected with production and sale of domestic crude oil during the time period September 1, 1973 through February 29, 1976, in the State of Colorado.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Kenneth E. Merica, District Manager of Enforcement, 1075 South Yukon Street, P.O. Box 26247–Belmar Branch, Lakewood, Colorado 80226, phone number 303–234–3195. On or before April 26, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 4th day of April 1979.

**Baton Isenberg,**

*Assistant Administrator for Enforcement, Economic Regulatory Administration.*

[FR Doc. 79–11137 Filed 4–10–79; 8:45am]

BILLING CODE 6450–01–M

# Federal Energy Regulatory Commission

## Columbia Gas Transmission Corp.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 5, 1979.

On March 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.

Ohio Department of Natural Resources.

FERC Control Number: JD79–1694
API Well Number: 34 059 2 2483 14
Section of NGPA: 102
Operator: Enterprise Gas & Oil, Inc.
Well Name: Wilbur Larrick 1
Field:
County: Guernsey County
Purchaser: Columbia Gas Transmission Corp.
Volume: 182.5 MMcf.

FERC Control Number: JD79–1695
API Well Number: 34 075 2 1553 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: John M. Miller Unit No. 11280
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.6 MMcf.

FERC Control Number: JD79–1696
API Well Number: 34 031 2 203 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Gerald E. Foster No. 11503
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: .6 MMcf.

FERC Control Number: JD79–1697
API Well Number: 34 031 2 594 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Robert G. Mohler No. 1
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: .8 MMcf.

FERC Control Number: JD79–1698
API Well Number: 34 157 2 1997 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: May Gonter No. 11481
Field: Baltic
County: Tuscarawas
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.1 MMcf.

FERC Control Number: JD79–1699
API Well Number: 34 031 2 2240 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Irwin D. Frye No. 1
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: .2 MMcf.

FERC Control Number: JD79–1700
API Well Number: 34 075 2 1511 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: A. E. Miller No. 1–8
Field: Berlin
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.5 MMcf.

FERC Control Number: JD79–1701
API Well Number: 34 103 2 1846 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Mayfield-Snyder-Owen Unit No. 11552
Field: Homerville
County: Medina
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.3 MMcf.

FERC Control Number: JD79–1702
API Well Number: 34 031 2 2187 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Jacob C. Hoffman No. 11475
Field: Orange
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 1 MMcf.

FERC Control Number: JD79–1703
API Well Number: 34 031 2 2188
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: J. S. Hoobler No. 11476
Field: Newcomerstown
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.8 MMcf.

FERC Control Number: JD79–1704
API Well Number: 34 151 2 2390 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Harry Shullo No. 11383
Field: Brewster
County: Stark
Purchaser: Columbia Gas Transmission Corp.
Volume: 1 MMcf.

FERC Control Number: JD79–1705
API Well Number: 34 169 2 1601 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: L. Shoup Unit No. 1
Field: Mt. Eaton
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 4 MMcf.

FERC Control Number: JD79–1706
API Well Number: 34 041 2 2318 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Sharrock-Pollock Unit No. 1
Field: Newcomerstown

County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.7 MMcf.

FERC Control Number: JD79–1707
API Well Number: 34 075 2 1655 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Loren Hostetler No. 1
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79–1708
API Well Number: 34 031 2 2604 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: J. S. Hoobler No. 20198
Field: Newcomerstown
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 1 MMcf.

FERC Control Number: JD79–1709
API Well Number: 34 075 2 1682 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: E. J. Schrock and A. L. Raber No. 11380
Field: Walnut Creek
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.3. MMcf.

FERC Control Number: JD79–1710
API Well Number: 34 031 2 2627 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Robert W. Hoffman No. 1–20194
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.5 MMcf.

FERC Control Number: JD79–1711
API Well Number: 34 157 2 2047 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: K. E. Schlarb & D. C. Wallace No. 11504
Field: Baltic
County: Tuscarawas
Purchaser: Columbia Gas Transmission Corp.
Volume: 13 MMcf.

FERC Control Number: JD79–1712
API Well Number: 34 075 2 1424 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: M. Schneider Unit No. 1
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 4.6 MMcf.

FERC Control Number: JD79–1713
API Well Number: 34 169 2 1860 14
Section of NGPA: 108
Operator: Ponderosa Oil Company
Well Name: Miller-Hershberger Unit No. 1
Field:
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 14 MMcf.

FERC Control Number: JD79–1714
API Well Number: 34 169 2 1848 14
Section of NGPA: Ponderosa Oil Company
Operator: Jacob Hershberger Well No. 1
Well Name:
Field:
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 13 MMcf.

FERC Control Number: JD79–1715
API Well Number: 34 075 2 1684 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Andrew Byler No. 11398
Field: Walnut Creek
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 1 MMcf.

FERC Control Number: JD79–1716
API Well Number: 34 031 2 2354 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Hilton Eppley No. 1
Field: Clark
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.7 MMcf.

FERC Control Number: JD79–1717
API Well Number: 34 075 2 1526 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Ura J. Burkholder Unit No. 11183
Field: Walnut Creek
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.7 MMcf.

FERC Control Number: JD79–1718
API Well Number: 34 031 2 2946 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Francis Buston No. 2
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 6.2 MMcf.

FERC Control Number: JD79–1719
API Well Number: 34 157 1891 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Lydia W. Fisher No. 11371
Field: Dundee
County: Tuscarawas
Purchaser: Columbia Gas Transmission Corp.
Volume: 10.9 MMcf.

FERC Control Number: JD79–1720
API Well Number: 34 041 2 2202 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: John W. Demoss No. 11478
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 9 MMcf.

FERC Control Number: JD79–1721
API Well Number: 34 031 2 2566 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: C. Demoss and E. Giauque Unite No. 1
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.5 MMcf.

FERC Control Number: JD79–1722
API Well Number: 34 075–1685 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: D. Hershberger & A. Troyer No. 11394
Field: Berlin
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 10.7 MMcf.

FERC Control Number: JD79–1723
API Well Number: 34 075 2 1500 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Abe M. Keim Unit No. 1–36
Field: Wilmot
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.2 MMcf.

FERC Control Number: JD79–1724
API Well Number: 34 031 2 2249 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Shurtz-Bradford Unit No. 1
Field: Plainfield
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.9 MMcf.

FERC Control Number: JD79–1725
API Well Number: 34 031 2 2561 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Lewis W. Shannon No. 2
Field: Warsaw

County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.7 MMcf.

FERC Control Number: JD79–1726
API Well Number: 34 031 2 2503 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Lewis W. Shannon No. 1
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.7 MMcf.

FERC Control Number: JD79–1727
API Well Number: 34 151 2 2348 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Earl Rohrer No. 11278
Field: Wilmot
County: Stark
Purchaser: Columbia Gas Transmission Corp.
Volume: .6 MMcf.

FERC Control Number: JD79–1728
API Well Number: 34 075 2 1493 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: E. R. Coblentz No. 1
Field: Wilmot
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 7.9 MMcf.

FERC Control Number: JD79–1729
API Well Number: 34 031 2 2641 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Columbus & South Electric No. 20199
Field: Plainfield
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: .4 MMcf.

FERC Control Number: JD79–1730
API Well Number: 34 103 2 1853 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: John S. Crimrine Unit No. 20103
Field: Homerville
County: Medina
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79–1731
API Well Number: 34 151 2402 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Sam P. Hershberger No. 11385
Field: Brewster
County: Stark
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.6 MMcf.

FERC Control Number: JD79–1732
API Well Number: 34 169 2 1599 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: J. L. Hersberger No. 1
Field: Mt. Eaton
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 7.6 MMcf.

FERC Control Number: JD79–1733
API Well Number: 34 031 2 2355 14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Rivers, Gress, Schlarb No. 1–20071
Field: West Lafatette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 16 MMcf.

FERC Control Number: JD79–1734
API Well Number: 34 151 2 2639 14
Section of NGPA: 108
Operator: Ponderosa Oil Company
Well Name: Gail Johnson Well No. 1
Field:
County: Stark
Purchaser: Columbia Gas Transmission Corp.
Volume: 13 MMcf.

FERC Control Number: JD79–1735
API Well Number: 34 169 2 1846 14
Section of NGPA: 108
Operator: Ponderosa Oil Company
Well Name: Raymond D. Simon Well No. 1
Field:
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79–1736
API Well Number: 34 169 2 1882 14
Section of NGPA: 108
Operator: Ponderosa Oil Company
Well Name: Paul Hofacre Well No. 1
Field:
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 4 MMcf.

FERC Control Number: JD79–1737
API Well Number: 34 169 2 1879 14
Section of NGPA: 108
Operator: Ponderosa Oil Company
Well Name: Stutzman-Hershberger Well No. 1
Field:
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 9 MMcf.

FERC Control Number: JD79–1738
API Well Number: 34 169 2 1949 14
Section of NGPA: 108
Operator: Ponderosa Oil Company
Well Name: Melvin Steiner Well No. 1
Field:
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 7 MMcf.

FERC Control Number: JD79–1739
API Well Number: 34 157 2 3237 14
Section of NGPA: 103
Operator: Floyd E. Kimble dba Red Hill Dev.
Well Name: R. Kimmel No. 1
Field:
County: Tuscarawas
Purchaser:
Volume: 22 MMcf.

FERC Control Number: JD79–1740
API Well Number: 34 157 2 3185 14
Section of NGPA: 103
Operator: Floyd E. Kimble dba Red Hill Dev.
Well Name: I. Breyer Unit No. 1
Field:
County: Tuscarawas
Purchaser:
Volume: 22 MMcf.

FERC Control Number: JD79–1741
API Well Number: 34 155 2 1066 14
Section of NGPA: 103
Operator: POI Energy, Inc.
Well Name: Sells No. 1
Field:
County: Trumbull
Purchaser:
Volume: 40 MMcf.

FERC Control Number: JD79–1742
API Well Number: 34 153 2 0633 14
Section of NGPA: 103
Operator: POI Energy, Inc.
Well Name: Leventhal No. 2
Field:
County: Summit
Purchaser:
Volume: 20 MMcf.

FERC Control Number: JD79–1743
API Well Number: 34 155 2 1026 14
Section of NGPA: 103
Operator: POI Energy, Inc.
Well Name: Reese-Dray No. 1
Field:
County: Trumbull
Purchaser:
Volume: 40 MMcf.

FERC Control Number: JD79–1744
API Well Number: 34 133 2 1521 14
Section of NGPA: 103
Operator: POI Energy, Inc.
Well Name: Stahl No. 3
Field:
County: Portage
Purchaser:
Volume: 15 MMcf.

FERC Control Number: JD79–1745
API Well Number: 34 153 2 0652 14

Section of NGPA: 103
Operator: POI Energy, Inc.
Well Name: Obert No. 4
Field:
County: Summit
Purchaser:
Volume:

FERC Control Number: JD79–1746
API Well Number: 34 133 2 1518 14
Section of NGPA: 103
Operator: POI Energy, Inc.
Well Name: Eck No. 1
Field:
County: Portage
Purchaser:
Volume: 15 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. Please reference the FERC Control Number in any correspondence concerning a determination.

Lois D. Cashell,
*Acting Secretary.*
[FR Doc. 79–11222 Filed 4–10–79; 8:45 am]
BILL CODE 6450–01–M

## Office of Energy Research

### Energy Research Advisory Board; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the Energy Research Advisory Board will meet Thursday and Friday, May 3 and 4, 1979, from 9:00 a.m. to 5:00 p.m., at the Joseph Henry Building, 2100 Pennsylvania Avenue, N.W., Room 800, Washington, D.C.

The purpose of the Energy Research Advisory Board is to advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

The tentative agenda is as follows:

Introduction and review of actions initiated at last meeting; approval of minutes of last meeting.

Presentation of findings of Weapons Lab Study Group.

Briefing on Gas Research Institute programs.

Fusion Review.

Presentation of work and schedule package for ERAB Study Group on Construction and Development Projects.

Presentation from Project Management Office for the Strategic Petroleum Reserve.

The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should inform Georgia Hildreth, Director, Advisory Committee Management Office, 202–252–5187, at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. An Executive Summary of the meeting may be obtained by calling the Advisory Committee Management Office at the number above.

Issued at Washington, D.C., on April 4, 1979.

Georgia Hildreth,
*Director, Advisory Committee Management.*
[FR Doc. 79–11225 Filed 4–10–79; 8:45 am]
BILLING CODE 6450–01–M

## Office of the Secretary

### National Petroleum Council, Task Groups of the NPC Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities; Meetings

Notice is hereby given that four task groups of the Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will meet in April 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The four task groups scheduled meetings are the Tank Cars/Trucks Task Group, the Coordinating Subcommittee, the Inventory and Storage Task Group, and the Waterborne Transportation Task Group. The time, location and agenda of each task group meeting follows:

The fourth meeting of the Tank Cars/Trucks Task Group will be on Friday, April 20, 1979, starting at 9 a.m., in the St. Louis Room, Royal Orleans Hotel, 621 St. Louis Street, New Orleans, Louisiana.

The tentative agenda for the meeting follows:

1. Introductory remarks by Walter B. Smith, Jr., Chairman.
2. Remarks by Barry Yaffe, Government Cochairman.
3. Discuss status of data collection.
4. Review primer and glossary of study.
5. Discuss any other matters pertinent to overall assignment of the Task Group.

The sixth meeting of the Coordinating Subcommittee will be on Monday, April 23, 1979, starting as 1:30 p.m., in the 15th floor Conference Room, First National Tower, 410 South Boston Street, Tulsa, Oklahoma.

The tentative agenda for the meeting follows:

1. Introductory remarks by R. Scott VanDyke, Chairman.
2. Remarks by Mario Cardullo, Government Cochairman.
3. Discussion of study coordination.
4. Discussion of glossary and primer.
5. Discussion of any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

The seventh meeting of the Inventory and Storage Task Group will be on Wednesday, April 25, 1979, starting at 10:30 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street, N.W., Washington, D.C.

The tentative agenda for the meeting follows:

1. Introductory remarks by William P. Madar, Chairman.
2. Remarks by Earl Ellerbrake, Government Cochairman.
3. Review of data collection.
4. Review of description of storage and inventories.
5. Discussion of any other matters pertinent to the overall assignment of the Task Group.

The fourth meeting of the Waterborne Transportation Task Group will be on Thursday, April 26, 1979, starting at 11:30 a.m., in the Grant Room, Marriott

Hotel, I–70 & Lambert Airport, St. Louis, Missouri.

The tentative agenda for the meeting follows:

1. Introductory remarks by Charles J. Luellen, Chairman.
2. Remarks by James V. Rosapepe, Government Cochairman.
3. Review of data collection.
4. Review of preliminary draft of Task Group report.
5. Discuss any other matters pertinent to the overall assignment of the Task Group.

The meetings are open to the public. The chairman of the task group is empowered to conduct the meetings in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Mario Cardullo, Office of Resource Applications, 202–633–8828, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on April 5, 1979.

George S. McIsaac,
*Assistant Secretary for Resource Applications.*

April 5, 1979.

[FR Doc. 79–11134 Filed 4–10–79; 8:45 am]
BILLING CODE 6450–01–M

## ENVIRONMENTAL PROTECTION AGENCY

### Amendment to Experimental Use Permit Issued to Uniroyal Chemical

On Thursday, October 7, 1976 (41 FR 44214), information appeared pertaining to the issuance of an experimental use permit, No. 400–EUP–53, to Uniroyal Chemical. At the request of the Company, that permit has been amended. The experimental use permit now allows the use of 190 pounds of the defoliant 2,3–Dihydro–5,6–dimethyl–1,4–dithiin 1,1,4,4–tetraoxide on cotton, white (Irish) potatoes, grapes, and sunflowers as a harvest aid. A total of 210 acres is involved; the program is authorized only in the States of Arizona, Arkansas, California, Georgia, Idaho, Illinois, Iowa, Kansas, Maine, Michigan, Minnesota, Mississippi, New York, North Dakota, Ohio, Washington, and Wisconsin. The experimental use permit period was also extended and the permit is now effective from July 1, 1979 to July 1, 1980. This permit is being issued with the limitation that all treated crops will be destroyed or used for research purposes only. (PM–25, Room: E–301, Telephone: 202/755–2196)

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C. 136)).

Dated: April 3, 1979.

Douglas D. Campt,
*Acting Director, Registration Division.*

[FRL 1097–1; OPP–50258A]
[FR Doc. 79–11252 Filed 4–10–79; 8:45 am]
BILLING CODE 6560–01–M

### Arizona Commission of Agriculture and Horticulture; Specific Exemption To Use Permethrin To Control Heliothis Species on Lettuce

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

**ACTION:** Issuance of a specific exemption.

**SUMMARY:** EPA has issued a specific exemption to the Arizona Commission of Agriculture and Horticulture (hereafter referred to as the "Applicant") to use Ambush and Pounce (permethrin) to control *Heliothis* species on 40,000 acres of lettuce in Arizona. The specific exemption ends on December 31, 1979.

**FOR FURTHER INFORMATION CONTACT:** Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room E–315, Washington, D.C. 20460, Telephone: 202/755–4851.

**SUPPLEMENTARY INFORMATION:** According to the Applicant, *Heliothis virescens* and *H. zea* migrate from cotton to lettuce after the cotton is defoliated. In the past, growers plowed the cotton under after harvest. Now, however, the cotton is allowed to stay in the fields and thereby provides an optimum habitat for the pest. Because of a large population, the pest migrates to adjacent fields such as lettuce.

The Applicant advises that in some fall 1978 fields, six to seven applications of available registered pesticides were used in efforts to control *Heliothis* spp. However, when those pesticides failed to provide adequate control and up to 60% of the heads were infested, 20% of Arizona's fall lettuce crop was abandoned. The Applicant advises that if any amount of *Heliothis* is present, the entire "pack" of lettuce (a truckload or railcar load) will be declared to be out of condition and will not be allowed to be sold, a 100% loss. A specific exemption for the month of December, 1978, was granted to the Applicant and reports from the Applicant state that effective control was achieved.

The Applicant proposed to use Ambush and Pounce, which contain the active ingredient (a.i.) permethrin, at a rate of 0.2 pound a.i. per acre. A maximum of five applications using ground or air equipment will be made at 5- to 7-day intervals per season with a 7-day pre-harvest interval.

EPA has determined that a residue level of 10 parts per million (ppm) permethrin on lettuce is adequate to protect the public health and the proposed use of permethrin is not expected to exceed this level.

As a result of this program, no unreasonable adverse effects are expected to occur to either the environment and/or any non-target species. However, since permethrin is known to be highly toxic to aquatic vertebrates and invertebrates and to bees, appropriate conditions have been imposed.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of *Heliothis* has occurred; (b) there is no effective pesticide presently registered and available for use to control this pest in Arizona; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if *Heliothis* is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1979. The specific exemption is also subject to the following conditions:

1. The products Pounce and Ambush may be used at a dosage rate of 0.2 pound a.i. per acre;

2. Applications are limited to 40,000 acres of lettuce in Arizona;

3. A maximum of five applications may be made per season at 5- to 7-day intervals with a 7-day pre-harvest interval;

4. Applications may be made by either ground or air equipment;

5. The feeding of lettuce trimmings from treated fields to livestock is prohibited;

6. All applicable directions, restrictions, and precautions on the product label must be followed;

7. Permethrin is extremely toxic to fish and aquatic invertebrates. It must be applied with care in areas adjacent to any body of water. It may not be applied when weather conditions favor run-off or drift. It must be kept out of lakes, streams, and ponds. Care must be taken to prevent contamination of water by the cleaning of equipment or disposing of wastes;

8. Permethrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which an economically significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Extension Service;

9. A 60-day crop rotation restriction for all crops that do not have appropriate permanent tolerances for permethrin shall be observed;

10. Only fields where registered alternatives have been applied and a knowledgeable expert determines that control has not been achieved may be treated under this exemption;

11. Water samples must be collected from selected sites (main irrigation canals and rivers) where the buffer zone restriction is appropriate. Samples should be collected from the top six to twelve inches of water immediately prior to and following applications of permethrin. Residue analysis for permethrin must be performed and the results reported to EPA;

12. The EPA shall be immediately informed of any adverse effects resulting from the use of permethrin in connection with this exemption;

13. Lettuce with residue levels of permethrin not exceeding 10 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action; and

14. The Applicant is responsible for insuring that all the provisions of this specific exemption are met and must submit a report summarizing the results of this program by December 31, 1979.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C. 136))

Dated: April 4, 1979.

Edwin L. Johnson,

*Deputy Assistant Administrator for Pesticide Programs.*

[FRL 1097-5; OPP-180276]

[FR Doc. 79-11249 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M

## U.S. Department of Agriculture; Specific Exemption To Use Nosema Locustae To Control Grasshoppers on Range Forage

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

**ACTION:** Issuance of a specific exemption.

**SUMMARY:** EPA has issued a specific exemption to the Animal and Plant Health Inspection Service, U.S. Department of Agriculture (hereafter referred to as the "Applicant"), to use *Nosema locustae* to control grasshoppers on range forage in Wyoming or in any State heavily infested with grasshoppers. The specific exemption ends on September 30, 1979.

**FOR FURTHER INFORMATION CONTACT:** Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851.

**SUPPLEMENTARY INFORMATION:** Grasshoppers present a serious threat every year to range forage production in the United States. This occurs primarily throughout geographical regions having less than 30 inches of rainfall annually. Based upon the severe grasshopper populations in Kansas, Nebraska, Colorado, Oklahoma, South Dakota, and Montana in 1978, EPA anticipates that there will be extremely high populations of grasshoppers in 1979 and, therefore, the use of *Nosema locustae* is justified to meet the emergency. Although the Applicant has requested this use for Wyoming only, EPA has determined that the product may be used wherever the Applicant deems it necessary.

According to the Applicant, losses could be similar to the $8 million annual loss in forage in Montana. The Applicant further indicates that when rainfall is less than normal and there are high economic populations of grasshoppers, competition for available forage becomes intense, often requiring livestock producers to sell animals excess to the available range carrying capacity. The Applicant claims that other long-term effects include serious wind erosion and changes in plant associations from high quality range grasses and forbs to less desirable or low quality species.

Although a number of pesticides are registered for rangeland grasshopper control, malathion and carbaryl have been preferred. These materials have provided required control in most cases and are relatively economical and environmentally acceptable. However, either because of inherent characteristics of the material or behavior of the grasshoppers, control breakdowns occur. Usually this is because of low temperatures in the case of malathion, or of short forage and maturation of forage when using carbaryl. Both pesticides dissipate before emergence is completed, resulting in economic populations subsequent to control treatments. If treatment is withheld until emergence is over, unacceptable forage loss occurs and egg laying takes place, providing a nucleus for continuing problems the following year.

The Applicant proposes to use *N. locustae* and *N. locustae-carbaryl* combination tank mixes on bran applied as bait, with rates directly reflecting species involved and population numbers. Application will be made using ground or air equipment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of grasshoppers on range forage is expected to occur; (b) the pesticides registered for this use are ineffective under the present conditions; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the grasshoppers are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the application, subject to the following conditions:

1. *Nosema Locustae* and *N. Locustae* plus carbaryl tank mix combinations on bran bait are authorized;

2. Application shall be made by ground or air equipment at a rate of $1 \times 10^9$ *N. locustae* spores on 1½ pounds bran per acre or $8 \times 10^8$ to $4 \times 10^8$ spores plus 0.006 pound to 0.018 pound carbaryl per acre. Up to 150,000 pounds of product are authorized;

3. Applications are authorized by the Applicant in any State demonstrating a need to suppress damaging grasshopper populations, because registered pesticides are considered inadequate;

4. Applications shall take place starting generally in late May, depending upon geographical region and variation in yearly climates;

5. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this program;

6. The Applicant shall be responsible for insuring that all provisions of this specific exemption are followed; and

7. A final report summarizing the results of this program shall be submitted to EPA by December 31, 1979.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C. 136))

Dated: April 4, 1979.

**Edwin L. Johnson,**

*Deputy Assistant Administrator for Pesticide Programs.*

[FRL 1097-7; OPP-180272]

[FR Doc. 79-11247 Filed 4-10-79; 8:45 am]

**BILLING CODE 6560-01-M**

## Department of Agriculture; Issuance of a Specific Exemption To Use Permethrin Coated Bags To Protect Processed Grain Products for Export Shipment

The Environmental Protection Agency (EPA) has granted a specific exemption to the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture (hereafter referred to as the "Applicant"), to use permethrin in the treatment of multiwall paper bags used for shipment and storage of processed grain products. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460.

In the past, the Applicant has used pyrethrin treated multiwall paper bags for the storage and shipment of processed grain products to underdeveloped countries around the world. Pyrethrin is registered for this use; however, due to a shortage of pyrethrin, treated bags will not be available during the first seven months of 1979. According to the Applicant, millions of dollars in processed grain products will be lost to insect damage without the use of an effective alternative to the pyrethrin treated bags. The processed grain products include: whey drink mix, corn soy blend, wheat soy blend, corn soy milk, instant corn soy milk, soy fortified corn meal, soy fortified sorghum grits, soy fortified rolled oats, flour, and other processed grain.

The Applicant has requested authorization for shipment of the product Permethrin Coating Powder (B), from the Fairfield American Corporation in New York to the St. Regis Paper Company in Florida. Permethrin will be applied at the St. Regis plant as an aqueous slurry by surface coating at a rate of 5 milligrams active ingredient (a.i.) per square foot of paper. Reams of the coated paper will then be shipped to the manufacturers of the finished bags. A total of 1,220 tons of coated paper will be produced from January through July of 1979. This is a sufficient quantity of permethrin treated paper to produce 12,200,000 bags. A total of 610 million pounds of processed grain will be shipped in these bags. Each bag will be of 50 pounds or more capacity and will be three plies of 50-pound basic weight kraft, one 35-pound grease-proof barrier, and one outer ply of 60-pound wet strength natural kraft paper treated with permethrin. There is no registered alternative pesticide treated bag for the protection of grain products during shipment and storage.

Based on available information, EPA has determined that a residue level of 0.5 part per million (ppm) in the grain products listed above is adequate to protect the health of those for whom the grain products are intended.

Although the proposed use of permethrin treated bags is not expected to pose a hazard to the environment, there is a potential hazard involved with the disposal of waste material from the permethrin coating process. The permethrin slurry and washings will be collected and disposed of in an approved landfill or incinerator.

EPA will provide the Applicant with appropriate information concerning permethrin for the foreign countries that will receive shipments of these processed grain products.

After reviewing the application and other available information, EPA has determined that (a) there is a shortage of the only pesticide registered to protect paper bags used for shipping and storing of processed grains; (b) there are no alternative means of control, taking into account the efficacy and hazard; (c) significant economic and health problems may result if the grain products are not protected; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 15, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Permethrin Coating Powder (B) is authorized for shipment from the Fairfield American Corporation in Middleport, New York to the St. Regis Paper Company in Cantonment, Florida;

2. A maximum of 1,306 pounds a.i. permethrin is authorized for shipment and use in the production of coated paper;

3. Permethrin will be applied as an aqueous slurry by surface coating at a rate of 5 milligrams per square foot of paper;

4. Up to 1,220 tons of permethrin coated paper may be produced by the St. Regis Paper Company in Cantonment and shipped to the manufacturers of the permethrin coated, multiwall bags;

5. The companies which currently produce the multiwall bags include:

a. Bancroft Bag Inc.—West Monroe, Louisiana,

b. Bemis Co., Inc.—Minneapolis, Minnesota,

c. Great Plains Bag Corp.—Des Moines, Iowa, and

d. Greif Brothers Corp.—St. Paul, Minnesota;

6. Up to 12,200,000 permethrin coated bags may be produced and shipped to millers where the processed grain products will be packaged for export shipment;

7. The bag construction, from the inside outward, shall consist of a polyethylene liner next to the product, three plies of 50-pound kraft paper, one ply of a 35-pound grease proof barrier paper and an outermost ply of kraft paper treated with permethrin;

8. Copies of the product labels must be submitted to EPA prior to the shipment of Permethrin Coating Powder (B), the reams of permethrin coated paper, and finished bags. All permethrin coated bags must be labeled with the words "For Export Only";

9. All label restrictions and precautions on the product labels shall be followed;

10. This use of permethrin coated bags is not expected to result in residues of permethrin in processed grain products in excess of 0.5 ppm;

11. According to the Federal Food, Drug, and Cosmetic Act, a food intended for export shall not be adulterated or misbranded if it (a) accords to the specifications of the foreign purchaser, (b) is not in conflict with the laws of the country to which it is intended for export, and (c) is labeled on the outside of the shipping package to show that it is intended for export;

12. Since permethrin is a new pesticide that has not been registered for use in this country, EPA will forward to the Applicant a toxicology profile which can be provided for the information of those countries that are importing the packaged grain products;

13. This exemption is not a modification of any NPDES permits issued to the St. Regis Paper Company and does not constitute a waiver of State and Federal discharge limitations;

14. The St. Regis Paper Company must take precaution to insure that permethrin is not discharged with the plant's effluent. Excess permethrin slurry and washings derived from the cleaning of equipment must be disposed of in an approved landfill or incinerator; and

15. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by October 31, 1979.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C. 136 *et seq.*))

Dated: April 4, 1979.

Edwin L. Johnson,
*Deputy Assistant Administrator for Pesticide Programs.*

[FRL 1097-6; OPP-180280]
[FR Doc. 79-11248 Filed 4-10-79; 8:45 am]
BILLING CODE 6560-01-M

## Florida Department of Agriculture and Consumer Services; Specific Exemption To Use Permethrin To Control Leafminers on Lettuce

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

**ACTION:** Issuance of a specific exemption.

**SUMMARY:** EPA has issued a specific exemption to the Florida Department of Agriculture and Consumer Services (hereafter referred to as the "Applicant") ot use Ambush (permethrin) to control leafminers on 6,240 acres of lettuce in Palm Beach County, Florida. The specific exemption ends on June 30, 1979.

**FOR FURTHER INFORMATION CONTACT:** Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room E-315, Washington, D.C. 20460. Telephone: 202/755-4851.

**SUPPLEMENTARY INFORMATION:** Leafminers have periodically plagued Florida vegetable growers. The primary damage by the vegetable leafminer is caused by the tunneling larvae which destroy the leaf tissue. The mines left by these pests are also excellent points of entry for bacterial and fungal pathogens which cause the heads of lettuce to break down with decay in transit or in the market. The adult female punctures the leaf and deposits eggs. The mature larva of the leafminer emerges from the leaf and moults into an orange seed-like puparium or cocoon that becomes lodged between the leaves of the lettuce and, according to the Applicant, this contaminant can not be cleansed from the lettuce. The nature of the leafminer limits its control to a contact adulticide since the other stages of its life cycle are either concealed within the host tissue or sheltered among the lettuce leaves. Of the various pesticides tried and registered for control of this pest, the Applicant claims that only acephate shows positive efficacy, but its use is prohibited after the beginning of head formation which precludes protection during the period it is needed most.

Despite increased lettuce acreage since 1975, the amount of lettuce harvested has decreased in Florida. The Applicant attributes this decrease to leafminer damage and estimates a loss of $4 million in the lettuce crop value in the 1977-1978 season due to leafminer infestation.

The Applicant proposed to use Ambush 2E at a rate of 0.1 to 0.2 pound active ingredient (a.i.) in a minimum of 3 gallons of water per acre. State-certified applicators will apply Ambush using air equipment. There will be a maximum of 10 applications predicated on a 5-day spray schedule.

Residue levels of permethrin on lettuce are not expected to exceed 10 parts per million (ppm) from this use. This level has been deemed adequate to protect the public health. Because animal feeding studies have not been reviewed by EPA, the Agency has prohibited the feeding of wrapper leaves to livestock. EPA has imposed other limitations to ensure that permethrin does not adversely affect the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of leafminers on lettuce has occurred or is about to occur; (b) there is no effective pesticide presently registered and available for use to control this pest in Florida; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the leafminer is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1979, to the extent and in the manner set forth in the application, subject to the following conditions:

1. The product Ambush, manufactured by ICI Americas, Inc., may be used;

2. Application may be made to lettuce fields in Palm Beach County;

3. Total acreage may not exceed 6,240;

4. A maximum of 12,480 pounds a.i. may be applied at a rate of 0.2 pound a.i. per acre;

5. A maximum of 10 applications is authorized;

6. A 60-day crop rotation restriction is imposed for all crops that do not have permanent tolerances for permethrin;

7. Ambush may not be applied aerially in areas closer than 340 feet at the 0.1 pound a.i./acre rate, nor closer than 600 feet at the 0.2 pound a.i./acre rate to the waters' edge of primary canals, nor in winds of more than 5 miles per hour. If any area within a buffer zone is to be treated, application must be restricted to ground equipment (boom spray) only;

8. Water samples are to be collected from the top 6-12 inches of water from primary (where the buffer zone is applicable) and internal canals before and immediately after each application at selected sites. The water samples are to be analyzed for the amount of residue, if any, of permethrin (Ambush) present. Results are to be submitted to EPA when completed;

9. Participants are to be notified of their obligation to report any and all adverse effects on non-target organisms arising from the use of this product. EPA shall be immediately informed of any adverse effects resulting from this use;

10. Ambush may not be applied in areas where spray drift could possibly impact aquatic ecosystems containing endangered and threatened species. Prior to application, the Applicant is required to contact State Fish and Game Personnel or the Office of Endangered Species for the known location of such species;

11. This product is highly toxic to bees exposed to direct treatment or to residues on crops or weeds. It must not be applied or allowed to drift to weeds in bloom on which a significant number of bees are actively foraging. Protective information may be obtained from the State Agricultural Extension Service;

12. Permethrin is extremely toxic to fish and aquatic invertebrates. It must be kept out of lakes, streams, ponds, tidal marshes, and estuaries. Care must be taken to prevent contamination of

water by cleaning of equipment or disposing of waste;

13. Lettuce with residue levels of permethrin not exceeding 10 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

14. All applicable directions, restrictions, and precautions on the product label must be adhered to;

15. Two endangered species, the Florida Everglade Kite and the Southern Bald Eagle, are endemic to regions in the treatment area. Application of the pesticide according to the above instructions is expected to minimize the risk to these animals. Liaison should be established between the Applicant and the Florida Fresh Water Fish and Game Commission in order to protect fish and wildlife; and

16. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by September 30, 1979.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (U.S.C. 136))

Dated: April 4, 1979.

Edwin L. Johnson,

*Deputy Assistant Administrator for Pesticide Programs.*

[FRL 1097-8; OPP-180273]

[FR Doc. 79-11246 Filed 4-10-79; 8:45 am]

BILLING CODE 6560-01-M

## Fifteen Herbicide Registrations Held by Velsicol Chemical Corp.; Intent To Hold Hearing

The Administrator intends to hold a hearing under section 6(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), to determine whether or not the registrations of 15 herbicides held by the Velsicol Chemical Corporation [1] should be cancelled.

Any person wishing to become a participant in this proceeding shall file a written response to the accompanying statement of issues with Ms. Sonia G. Anderson, Hearing Clerk, Environmental Protection Agency, Room 3708A, Waterside Mall, Washington, D.C. 20460, on or before June 11, 1979. The response shall state the position and interest of such person with respect to the issues listed below. In addition, if any such person is a registrant or an applicant for registration, his response shall include, if applicable, the registration number of the pesticide, a copy of the currently accepted and/or proposed labeling, and a list of the currently registered uses of said pesticide.

### Issues To Be Discussed in Hearing

Dow Chemical Company, in 15 petitions dated January 26, 1977, petitioned the Administrator for cancellation of the registrations of 15 herbicides previously identified. The registrations of Vegatrol BE-2D-2T and Vegatrol O-6T were granted by the Administrator on November 20, 1975. The remaining 13 registrations were granted by the Administrator on November 21, 1975.

In all of the petitions, Dow states that the Administrator has authority to cancel the registrations under FIFRA § 6(b), which states in pertinent part:

> * * * If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted, does not comply with the provisions of this Act * * * the Administrator may issue a notice of his intent either—
>
> (1) To cancel its registration * * * or
>
> (2) To hold a hearing to determine whether or not its registration should be canceled * * *

Dow alleges that Velsicol was required to submit with their applications, but did not submit, the following materials:

Materials identifying and delineating the data which Velsicol wished the Administrator to consider in support of the applications.

Materials evidencing that Velsicol had made an offer to pay reasonable compensation to the owner(s) of the data which the Administrator was to consider in support of such applications, or else materials evidencing the original data submitter(s) had consented to the Administrator's consideration of such data in support of the applications in question.

Materials evidencing the original data submitter(s) had consented to the Administrator's consideration, in support of the applications in question, of data entitled to confidential treatment under FIFRA § 10.

Based upon these allegations, the Administrator desires to have the following issues addressed during the hearing:

1. Which, if any, of the data originally submitted by Dow on or after January 1, 1970, were (A) relied upon in granting the registrations in question, and (B) entitled to confidential treatment under FIFRA § 10?

2. What materials were required to be submitted by an applicant at the time the registrations in question were issued?

3. Were the required materials submitted?

4. For § 6(b) purposes, what effect should be given to two recent judicial decisions, *Dow Chemical Co.* v. *Costle*, —— F. Supp. —— (E.D. Mich, Civil Action No. 76-10087, April 4, 1978) and *Mobay Chemical Corp.* v. *Costle*, 447 F. Supp. 811 (1978)?

5. Any other issues relevant to the allegations contained in Dow's petitions which may be raised by any participant or the Administrative Law Judge.

The language of FIFRA § 6(b) cited above states that the Administrator *may* issue a notice of intent to cancel or to hold a hearing. This contrasts with the language of § 6(a) (1), which states that the Administrator *shall* cancel certain registrations under certain circumstances. Nowhere in § 6(b) is there a requirement that the Administrator *must* cancel a registration even if he finds that there are grounds for cancellation, although, of course, a decision not to cancel would be judicially reviewable under FIFRA § 16. The Administrator thus appears to have a certain amount of discretion with respect to cancelling a registration, even if grounds for cancellation exist. Assuming the evidence developed at the hearing shows that the material required to be submitted in connection with the 15 pesticides does not comply with the provisions of FIFRA, as construed, a remaining issue will be whether the registrations *should* be cancelled. In that regard, there are a number of significant issues which the Administrator must consider before determining whether to grant Dow's requests for cancellation.

The Administrator desires to have such issues addressed during the hearing. The issues are as follows:

1. Whether the Administrator's failure to determine the trade secrecy status of the Dow data used to support the applications for registration of the 15 Velsicol herbicides has had, or will have, any adverse effect on Dow which cancellation of the registrations in question could rectify.

2. Whether the failure of Velsicol to make a direct offer to pay compensation to Dow for such data has had, or will have, any adverse effect on Dow which cancellation of the registrations in question could rectify.

3. Whether cancellation of these registrations would have any significant adverse effect on Velsicol.

[1] The 15 herbicides are as follows: Vegatrol A-2D-2T, LV-2D-2T, BE-4D, LV-4D, BE-2D-2T, BE-4T, 6D, A-4D, O-6T, LV-4TP, LV-4T, LV-6T, O-4T, A-4T, LV-6D.

Their EPA registration numbers are respectively as follows: 876-214, 876-216, 876-217, 876-218, 876-219, 876-220, 876-221, 876-222, 876-226, 876-227, 876-228, 876-229, 876-230, 876-231, 876-232.

4. Whether cancellation of these registrations would cause an impact on production and prices of agricultural commodities, retail food prices, or otherwise on the agricultural economy.

5. Any other related issues which may be raised by any participant or the Administrative Law Judge.

Dated: March 30, 1979.

Steven D. Jellinek,
*Assistant Administrator for Toxic Substances.*

[FRL 1097-4; OPP-62003]
[FR Doc. 79-11250 Filed 4-10-79; 8:45 am]
BILLING CODE 6560-01-M

## State Requiring Underground Injection Control Program; State Petition for Inclusion on the Initial List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

Pursuant to: (1) Section 1422(a) of the Safe Drinking Water Act, Public Law 95-523 as amended by Pub. L. 95-190 and; (2) the **Federal Register** Notice Vol. 43 No. 186, "List of States Requiring State Underground Injection Control Programs;" (43 FR 43420, Sept. 25, 1978) the State of Maryland has requested that it be added to the list of States requiring an Underground Injection Control program.

EPA has considered this request and notice is hereby given that the State of Maryland is added to the list of States requiring an Underground Injection Control program.

It is further noticed that the closing date for accepting State petitions for inclusion on the List of States Requiring Underground Injection Control Programs is set at the 30th day from the date of the publication of the Section 1421 "minimum requirements" regulations which will soon be reproposed. Until that time, EPA will carefully consider any such request which indicates a State's commitment to develop an approvable program under Section 1421 in a timely fashion.

Dated: April 5, 1979.

Douglas M. Costle,
*Administrator.*

[FRL 1097-2]
[FR Doc. 79-11251 Filed 4-10-79; 8:45 am]
BILLING CODE 6560-01-M

## Review of Scientific Information on Radioactive Air Pollutants; Call for Information and Data

**AGENCY:** Environmental Protection Agency.

**ACTION:** Request for Information and Data on Radioactive Air Pollutants; Notice of Opportunity for Public Hearing.

**SUMMARY:** In this notice, EPA requests the public to submit information and data on the possible health effects of radioactive air pollutants and the concentration of these pollutants in the atmosphere. The Agency also announces the opportunity for a public hearing on these subjects.

**DATES:** In order to be considered, written information should be received by May 22, 1979.

Requests for a public hearing to receive oral comment should be received by April 23, 1979. If sufficient requests are received, a public hearing will be held in Washington, D.C., on May 16, 1979.

**ADDRESSES:** Comments should be submitted (in duplicate, if possible) to: Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. A-79-11, 401 M Street, SW., Washington, D.C. 20460.

Docket No. A-79-11, containing material relevant to this rulemaking, is located in the U.S. Environmental Protection Agency, Central Docket Section, Room 2903B, 401 M St., SW, Washington, D.C. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** James M. Hardin, Office of Radiation Programs (ANR-460), U.S. Environmental Protection Agency, Washington, D.C. 20460, Telephone 703-557-8610.

**SUPPLEMENTARY INFORMATION:** Section 122(a) of the Clean Air Act, as amended in 1977, requires the Administrator of the Environmental Protection Agency to review all available relevant information to determine whether or not emissions of radioactive pollutants (including source material, special nuclear material, and byproduct material) into the atmosphere causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health. A determination must be made by August 1979.

In August 1976, the Agency requested that the National Academy of Sciences-National Research Council update, as required, the radiation risk estimates in its previous report *Biological Effects of Ionizing Radiation* (BEIR), published in 1972. The Academy's findings will be considered, along with other current relevant information, in the Agency's evaluation of the effects on populations of exposures to low levels of ionizing radiation. Additionally, the Agency is gathering data on the potential and actual levels of airborne emissions of radioactive pollutants resulting from the production, use, processing, or disposal of radioactive materials. The information and data will be used to make an assessment of public health risks from air pollution caused by the emission of radioacitve pollutants into the atmosphere.

The Agency invites the public and other Government agencies to contribute to this health risk assessment through the submission of relevant information. If there is sufficient interest, an informal public hearing will be scheduled to receive oral views.

After a review, the Administrator will determine whether or not radioactive pollutants may reasonably be anticipated to endanger public health. Should he make an affirmative decision, appropriate regulatory action under the Clean Air Act will begin by the listing of radioactive materials under Section 108 or Section 112, or by the listing under Section 111 of each category of new stationary sources emitting significant amounts of radioactive materials.

Dated: March 29, 1979.

Edward F. Tuerk,
*Acting Assistant Administrator for Air, Noise, and Radiation.*

[FRL 1098-5]
[FR Doc. 79-11256 Filed 4-10-79; 8:45 am]
BILLING CODE 6560-01-M

# FEDERAL MARITIME COMMISSION

## I.M.S., Inc.; Order of Investigation and Hearing

I.M.S., Inc. (I.M.S.), 4416 Wheeler Avenue, Alexandria, Virginia 22304, was issued independent ocean freight forwarder license No. F.M.C. 1728 on December 1, 1975.

Information has been developed which indicates that I.M.S. has apparently violated sections 18(b)(1) and 18(b)(3) of the Shipping Act, 1916 (46 U.S.C. 817 (b)(1), (b)(3)). I.M.S.'s apparent disregard for the governing statute, as well as conduct possibly involving misrepresentation, fraud and malpractice appear to render licensee unfit to carry on the business of forwarding.

I.M.S. acts as a nonvesssel operating common carrier by water, as well as an independent ocean freight forwarder. In accordance with section 18(b)(1), it filed with the Commission on February 14, 1975, a tariff showing its rates and charges for the ocean transportation of property. The rates established by that tariff govern the movement of household goods and unaccompanied baggage

between United States ports and designated foreign ports. I.M.S. has not altered or amended its tariff since the date of the original filing.

I.M.S. appears to have knowingly and willfully disregarded the rates established by its tariff. Section 18(b)(3) provides that no common carrier by water in foreign commerce shall charge or demand or collect or receive a greater or less or different compensation for the transportation of property or for any service in connection therewith than the rates and charges which are specified in its tariff on file with the Commission and duly published and in effect at that time. I.M.S. has repeatedly charged and collected fees for the transportation of household goods from United States ports to Bremen, Germany, which differ from the applicable rate under its tariff.

Moreover, I.M.S. appears to have provided its customers with house-to-house ocean transportation services. The individual tariff filed by I.M.S. with the Commission refers only to the port-to-port movement of property. Section 18(b)(1) requires that all tariffs plainly show those places between which freight will be carried. As I.M.S.'s tariff apparently does not govern the type of service being provided, it would appear that I.M.S. has violated section 18(b)(1) by transporting property house-to-house without an applicable tariff provision on file with the Commission.

I.M.S. appears also to have violated section 18(b)(1) by operating as a nonvessel operating common carrier by water prior to the filing of a tariff with the Commission. As indicated above, I.M.S. originally filed its tariff on February 14, 1975. Section 18(b)(1) requires that every common carrier by water in foreign commerce file with the Commission tariffs showing all the rates and charges of such carrier for transportation. Throughout the latter half of 1974, I.M.S. apparently acted as a nonvessel operating common carrier by water without an effective tariff on file with the Commission.

In addition, Peter Kirn, President, I.M.S., Inc., pleaded guilty to one count of mail fraud perpetrated in connection with I.M.S.'s activities. Conditioned on the making of restitution to the Federal Republic of Germany, Mr. Kirn was placed on probation for a period of three years. I.M.S. and Peter Kirn were alleged to have engaged in fraudulent business practices in connection with the transportation of household goods for Federal Republic of Germany Armed Forces personnel. The practices in question appear to have involved the use of false weight certificates to substantially inflate the total net weight of the property moved by I.M.S. By overstating the total net weight transported, I.M.S. overcharged the German Embassy at the rates contracted for.

At the time of sentencing, Mr. Kirn submitted to the District Court an affidavit which stated that all improper activities at I.M.S. had ceased prior to 1975. Information acquired by the Commission staff appears to indicate that I.M.S. continued to overstate the total net weight of household goods transported from the United States to the Federal Republic of Germany during 1975 and 1976.

*Therefore, it is ordered,* Pursuant to sections 18, 22 and 44 of the Shipping Act, 1916 [46 U.S.C. §§ 817, 822, 841b], that a proceeding be hereby instituted to determine:

1. Whether I.M.S. has violated section 18(b)(3) by failing to charge and collect fees for ocean transportation in accordance with the tariff filed by it with the Commission.

2. Whether I.M.S. has violated section 18(b)(1) by providing a house-to-house ocean transportation service without an applicable tariff provision on file with the Commission.

3. Whether I.M.S. has violated section 18(b)(1) by operating as a nonvessel operating common carrier by water prior to the filing of a tariff with the Commission.

4. Whether, in light of the evidence adduced pursuant to the foregoing issues, together with any other evidence adduced, I.M.S.'s independent ocean freight forwarder license should be revoked or suspended pursuant to:

a. Section 510.9(a) of General Order 4 for violation of any provision of the Shipping Act, 1916;

b. Section 510.9(e) of General Order 4 for conduct which renders the licensee unfit to carry on the business of forwarding.

*It is further ordered,* That I.M.S., Inc., by made the respondent in this proceeding and that the matter be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge. In any event, the hearing shall commence on or before October 2, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue are such that an oral hearing and cross-examination are necessary for the development of an adequate record.

*It is further ordered,* That notice of this order be published in the Federal Register and a copy thereof and notice of hearing be served upon resondent, I.M.S., Inc.

*It is further ordered,* That any person other than respondents and Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 5 (l) [46 CFR 502.72] of the Commission's Rules of Practice and Procedure.

*It is further ordered,* That all future notices issued by or on behalf of the Commission, including notice of time and place of hearing, or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,
*Secretary.*

[Docket No. 79-30; Independent Freight Forwarder License No. F.M.C. 1728]

[FR Doc. 79-11259 Filed 4-10-79; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Pony Express Bancorp; Formation of Bank Holding Company

*Correction*

In FR Doc. 10264, appearing on page 20297, in the issue of Wednesday, April 4, 1979, in the middle column, the third line down, correct "section 3(a)(3)" to read section 3(a)(1)".

## FEDERAL TRADE COMMISSION

### Early Termination of Waiting Period of the Premerger Notification Rules

**AGENCY:** Federal Trade Commission.

**ACTION:** Granting of request for early termintion of the 30-day waiting period of the premerger notification rules.

**SUMMARY:** Sweet Life Foods, Inc. is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Fernandes Super Markets, Inc. 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 Sweet Life Foods, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

**EFFECTIVE DATE:** April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** Malcom 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 or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consumation 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. 79–11238 Filed 4–10–79; 8:45 am]
**BILLING CODE 6750–01–M**

## GENERAL ACCOUNTING OFFICE

### Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on April 4, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before April 30, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

### Interstate Commerce Commission

The ICC requests clearance of revisions to Form OP–F–200, Application Under 49 U.S.C. 11301 and 49 U.S.C. 11302, for Authority to Issue Securities or to Assume Obligation or Liability in Regard to Securities of Another Person, including the appendix thereto. The Commission is required to adjudicate applications and carriers are prohibited from issuing securities except on approval of the ICC, whose jurisdiction with regard to such matters is exclusive and plenary. The application form has been revised to reflect the recent recodification of the Interstate Commerce Act. A request for energy impact information is incorporated in the application form. The energy impact reporting requirement presently has GAO approval. The ICC estimates approximately 225 applications are filed each year and that applications requiring preparation of an offering circular require approximately 150 hours to prepare and applications not requiring the preparation of an offering circular require approximately 50 hours to prepare.

**Norman F. Heyl,**
*Regulatory Reports Review Officer.*
[FR Doc. 79–11242 Filed 4–10–79; 8:45 am]
**BILLING CODE 1610–01–M**

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Center for Disease Control

### Community Organization for Preventive Health Services; Open Meeting, Correction

Notice of the April 17, 1979, open meeting on Community Organization for Preventive Health Services was published at 44 FR 62 18737 on Thursday, March 29, 1979.

The meeting date is corrected to read April 17, *1979,* rather than April 17, *1970.*

All other aspects of the notice published on March 29, 1979, remain the same.

Dated: April 4, 1979.

**William C. Watson, Jr.,**
*Acting Director, Center for Disease Control.*
[FR Doc. 79–7655 Filed 4–10–79; 8:45 am]
**BILLING CODE 4110–86–M**

### Indian Health Service

### Funds Available for Grants and Contracts With Indian Tribes

Notice is hereby given that the Indian Health Service has the following funds available during the period October 1, 1978 through September 30, 1979, for grants and contracts with Indian tribes under sections 103 and 104(b) of the Indian Self-Determination Act, Pub. L. 93–638, 25 U.S.C. 450g and 450h(b). This notice is published in accordance with § 36.109 of 42 CFR providing for periodic publication of funds available for grants under the Indian Self-Determination Act and the policy of the Secretary, published at 40 FR 42658, periodically to announce in the **Federal Register** the funds available for grants and contracts under the Act.

The amounts available are listed below by funding category for each Indian Health Service Area and Program Office. As these funds are normal operating funds used by the Indian Health Service, the amount of funds available for grants and contracts under the Indian Self-Determination Act decreases over time as the funds are utilized.

Each tribe should contact its respective Indian Health Service Area or Program office to determine amounts specifically available for grants and contracts with the tribe.

| | |
|---|---|
| ABERDEEN | |
| Patient care | $21,786,000 |
| Preventive health and ambulatory care | 22,279,000 |
| ALBUQUERQUE | |
| Patient Care | 18,276,000 |
| Preventive Health and Ambulatory Care | 17,135,000 |
| ANCHORAGE | |
| Patient Care | 39,944,000 |
| Preventive Health and Ambulatory Care | 33,322,000 |
| BEMIDJI | |
| Patient Care | 6,209,000 |
| Preventive Health and Ambulatory Care | 12,569,000 |
| BILLINGS | |
| Patient Care | 16,422,000 |
| Preventive Health and Ambulatory Care | 15,054,000 |
| CALIFORNIA | |
| Patient Care | 4,366,000 |
| Preventive Health and Ambulatory Care | 4,995,000 |
| NAVAJO | |
| Patient Care | 32,913,000 |
| Preventive Health and Ambulatory Care | 27,271,000 |
| OKLAHOMA | |
| Patient Care | 19,037,000 |
| Preventive Health and Ambulatory Care | 28,658,000 |
| PHOENIX | |
| Patient Care | 26,095,000 |
| Preventive Health and Ambulatory Care | 24,603,000 |
| PORTLAND | |
| Patient Care | 13,564,000 |
| Preventive Health and Ambulatory Care | 13,771,000 |
| TUCSON | |
| Patient Care | 5,870,000 |
| Preventive Health and Ambulatory Care | 6,171,000 |
| USET | |
| Patient Care | 7,309,000 |
| Preventive Health and Ambulatory Care | 7,326,000 |
| Total | 424,945,000 |

Dated: April 3, 1979.

Joseph N. Exendine,
*Deputy Director, Indian Health Service.*
[FR Doc. 79-11154 Filed 4-10-79; 8:45 am]
BILLING CODE 4110-84-M

## Office of Education

### National Advisory Council on the Education of Disadvantaged Children; Meeting

**AGENCY:** National Advisory Council on the Education of Disadvantaged Children.

**ACTION:** Notice.

**SUMMARY:** The notice sets forth the schedule and proposed agenda of the forthcoming Full Council meeting of the National Advisory Council on the Education of Disadvantaged Children. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix I, Section 10(a) 2). This document is intended to notify the general public of their opportunity to attend.

**DATES:** Full Council Meeting, April 27–28, 1979. Open—April 27, 9:00 a.m. through 3:30 p.m. April 28, 9:00 a.m. through noon. Closed—April 27, 3:30 p.m. through 4:30 p.m.

**ADDRESS:** Hyatt House Hotel, 1325 Wilson Blvd., Arlington, Virginia (near Rosslyn Metro Stop).

**FOR FURTHER INFORMATION CONTACT:** Gloria Strickland, Deputy Executive Director, National Advisory Council on the Education of Disadvantaged Children, Suite 1012, 425 Thirteenth Street, N.W., Washington, D.C., 20004, (202) 724–0114.

The National Advisory Council on the Education of Disadvantaged Children is established under Section 148 of the *Elementary and Secondary Education Act* (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education programs to improve the educational attainment of educationally disadvantaged children.

Records shall be keep of all Council proceedings and shall be available for public inspection at the office of the NACEDC, Suite 1012, 425–13th St., N.W., Washington, D.C. 20004. A summary of activities at the partially closed meeting will be available to the public within 14 days of the closed portion consistent with 5 U.S.C. 552b.

**AGENDA:** The Council will meet with Capitol Hill staff during the morning planning session of April 27th. From 1:30 p.m.–3:30 p.m., the Council will review its recommendations from 1979, and establish its continuing concerns. Friday afternoon, at 3:30 p.m., for one hour, the NACEDC will be closing the meeting to the public for the purpose of evaluating staff performance over the previous year. The discussions will include reference to individuals and would cause an unwarranted invasion of personal privacy if held in public. Such matters are protected by exemption (c)(6) of Section 552b, Title 5, U.S.C. Saturday morning, April 28, the Council will review and discuss its plan for the 1980 Annual Report Year.

**RESERVATIONS:** Please make reservations with the Council office (202) 724–0114, if you plan to attend, so that adequate space will be available for all interested public observers.

Signed at Washington, D.C. on March 19, 1979.

Roberta Lovenheim,
*Executive Director.*
[FR Doc. 79-11082 Filed 4-10-79; 8:45 am]
BILLING CODE 4110-02-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Public Health Service

### Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (35 FR 3692, February 25, 1970, as amended most recently at 44 FR 11273, February 28, 1979) is amended to reflect a minor reorganization within the Bureau of Drugs. The microanalytical functions of the Division of Drug Biology are transferred to the National Center for Antibiotics Analysis.

*Section HF–B, Organization and Functions,* is amended as follows:

1. Delete paragraph (1–5–i) *Division of Drug Biology* (HFGD) in its entirety and substitute the following:

(1–5–i) *Division of Drug Biology (HFGD).* Provides expert advice to the drug review divisions and other scientific and regulatory units of the Bureau on drug pharmacology and toxicology.

Plans and conducts research to investigate the utility of diverse animal and biochemical systems for the assay of drug products. Performs bioassays by official and nonofficial methods to determine drug potency including testing insulin for the certification program.

Correlates bioanalytical findings with results of newly devised physicochemical methods of drug analysis in conjunction with the Division of Drug Chemistry.

Devises biological methods for the study and analysis of drugs.

Plans and conducts research to investigate the nature and properties of pharmacologically significant substances in biological systems.

Conducts research to investigate the metabolism of drugs, the mechanisms and identity of adverse drug reactions, the interactions between drugs, and between drugs and chemicals in the environment, the neuroendocrine relationships, and the effects of drugs on behavior.

2. Delete paragraph (1–5–iii) *National Center for Antibiotics Analysis* (HFGG) in its entirety and substitute the following:

(1–5–iii) *National Center for Antibiotics Analysis (HFGG).* Tests large numbers of antibiotic samples obtained through the certification programs, surveillance programs, or other Federal agencies; provides expert advice on the analysis of the samples to the review divisions and other scientific and regulatory units of the Bureau.

Plans and conducts research on new and improved methods for the rapid analysis of large numbers of antibiotic samples and for the examination of individual antibiotics; subjects these new methods to collaborative study.

Devises and applies new methods for the analysis of antibiotic residues in tissues, body fluids, and other substances.

Plans and conducts research to determine the nature, extent, and significance of microbial, microscopic, and other contaminants of drugs and investigates them.

Participates in collaborative studies to test the validity of analytical methods proposed for adoption by the United States Pharmacopoeia (USP), National Formulary (NF), and Association of Official Analytical Chemists (AOAC), or in Antibiotic Forms 5 and 6.

Reviews and validates the analytical procedures included in antibiotic Forms 5 and 6; assists in developing monographs for inclusion in the Code of Federal Regulations.

Cooperates with the World Health Organization, USP, and NF in testing and establishing reference standard drug substances for use in antibiotic analysis.

Tests, establishes, and maintains a collection of authenticated official antibiotic reference standard drug substances for distribution to the Food and Drug Administration field laboratories, other Federal agencies, and to industry participants in the antibiotic and insulin certification programs.

Dated: April 4, 1979.

Frederick M. Bohen,
*Assistant Secretary for Management and Budget.*
[FR Doc. 79-11166 Filed 4-10-79; 8:45 am]
BILLING CODE 4110-03-M

## Public Health Service (PHS) Regional Offices; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HD [Public Health Service (PHS) Regional Offices] of the Statement of Organizations, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (42 FR 61326, December 2, 1977, as amended most recently at 43 FR 53061, November 15, 1978) is amended to reflect reorganization of the Public Health Service Regional Offices (ROs). These organizational changes will achieve a functional alignment of RO components individually oriented to the programmatic responsibilities of the respective PHS agencies, and thereby improve lines of communication and accountability.

Under Section HD-00 *Mission,* the statement is restated without change in its entirety as follows:

*Section HD-00 Mission.* The Public Health Service (PHS) Regional Offices support the PHS mission of improving the health of the Nation's populations by administering regional health programs and activities to assure a coordinated regional effort in support of national health policies and State and local needs within each region including: Assessing regional health requirements, accomplishing health planning, assuring integration of health programs, and addressing cross-cutting program issues and initiatives to achieve program goals and meet overall regional health needs; providing a PHS focal point for responding to the needs of State and local governments, community agencies, and others involved in the planning or provision of general health and mental health services; providing a PHS focal point for emergency preparedness and emergency medical services in the regions; supporting the Department of Health, Education, and Welfare (DHEW) intergovernmental relations activities and responding to health issues emanating from State and local concerns; and, assuring that health activities and programs administered provide for the prevention of health problems, continual increased capacity for providing health care, and assurance of access to general health and mental health services to improve regional health by preventing or controlling diseases, drug abuse, and alcoholism.

Under *Section HD-10 Organization.* Delete in its entirety and substitute the following:

The Public Health Service Regional Offices (HD1-HDX) consist of:
Office of the Regional Health Administrator (HD1-HDX)
Office of Regional Health Maintenance Organizations (HD*G)
Office of Grants Management (HD*J)
Division of Alcoholism, Drug Abuse, and Mental Health Programs (HD*T)
Division of Preventive Health Services (HD*U)
Division of Health Services Delivery (HD*V)
Division of Health Resources Development (HD*W).

Under *Section HD-20 Functions.* Delete all statements in their entirety and substitute the following statements:

*The Public Health Service (PHS) Regional Offices (HD1-HDX)* are headed by a Regional Health Administrator (RHA) who serves as the regional representative of the Assistant Secretary for Health and Surgeon General (ASH/SG), directs and administers Regional Office activities, and is responsible for integrating health and medical expertise with regional program efforts. The RHA and principal staff comprise the immediate Office of the Regional Health Administrator which: (1) Directs PHS Regional Office programs and activities in order to assure a coordinated regional effort in accordance with national policies and State and local needs within the region; (2) establishes regional priorities, consistent with ASH/SG and agency guidance, for the development of a coordinated regional work program; (3) assures program integration in accordance with national priorities, and monitors and evaluates program performance; (4) assures the accomplishment of priority PHS and DHEW initiatives, including those tracked under the Major Initiatives Tracking System (MITS); (5) directs and coordinated programs and activities designed to increase the capacity and capability of the health care system in the region; (6) assists States through the Cooperative Health Statistics System (CHSS) in developing an increased capacity to establish a data base for resources and health systems analysis and evaluation, and effects liaison with the National Center for Health Statistics concerning regional CHSS matters; (7) provides regional input into the formulation and analysis of national policies and program priorities and plans; (8) conducts evaluations and special studies on the impact of PHS health programs in specific geographic areas or among specific population groups and cooperates with PHS agencies in conducting evaluation feasibility studies prior to national implementation; (9) assures the accomplishment of coordinated health planning for the region; (10) coordinates regional input into the PHS budget and staffing allocation process, allocates personnel and funds within the region, and directs systems for controlling the use of regional resources; (11) awards decentralized health grants in accordance with national policies and guidelines and State and local needs; (12) serves as the regional focal point for health liaison with State, local, and regional professional organizations and provides expertise and leadership to regional program efforts as the principal coordinator for medical representation of PHS in the region; (13) serves as the regional focal point for regional emergency preparedness activities; (14) supervises Indian Health Service personnel as may be assigned to the regional office; (15) provides administrative services necessary to support PHS regional programs and assure proper accountability for resources in concert with administrative staff of the Principal Regional Official; (16) serves as the principal contact for health-related intergovernmental concerns providing, in concert with the Office of the Principal Regional Official, assistance to State, local, and private organizations as required to facilitate access to and receipt of services from PHS regional programs; (17) cooperates with the Principal Regional Official in coordinating health programs with other DHEW programs and with programs of other agencies impacting on the health needs of the regions; (18) cooperates with the Principal Regional Official and the PHS Office of Equal Employment Opportunity, as appropriate, to assure effective Equal Employment Opportunity and Affirmative Action Programs; and (19) as required, coordinates PHS regional programs and authorities with those separately administered by the Food and Drug Administration as delegated from ASH/SG to the Commissioner of Food and Drugs.

*Office of Regional Health Maintenance Organizations (HD*G).* In providing Federal support to the

development and operation of Health Maintenance Organizations (HMO): (1) Provides information and technical assistance on the requirements of HMO legislation, the interpretation of national policy and guidelines, and procedural requirements related to grant and loan activity, qualification, HMO and employer compliance; (2) promotes the development and expansion of HMOs among States, cities, hospitals, medical schools, physicians, employers, and the public; (3) provides advice and assistance to funded and nonfunded entities seeking HMO status to enhance developmental activities; (4) reviews grant applications and makes recommendations based on the organization's soundness, and the project application's conformance with laws and regulations, technical adequacy of the proposal, and effectiveness of the project in meeting specific programmatic objectives; (5) conducts regular analyses and monitoring of individual project performance for adequacy of developmental activities and provides technical assistance as required; (6) provides post-qualification technical assistance to HMOs developed through public and private resources in the fields of medical care organization, quality assurance, financial management, marketing, and health care administration; (7) monitors adherence to the operating cost assistance agreements by qualified HMOs with loans; (8) collaborates with the HMO Central Office on the monitoring of qualified HMOs for compliance; (9) establishes and maintains liaison with concerned State and local regulatory and monitoring agencies; (10) provides for the development, implementation, and monitoring of the annual regional work plan related to HMO program areas, including setting objectives responsive to national and regional priorities and assignment of Office of Regional HMO resources required to attain these objectives; (11) coordinates with other regional office staff to develop and consolidate objectives which cross program and division lines; and (12) serves as the source of expertise in the PHS Regional Office on all matters related to the HMO program and as regional program liaison with the HMO Central Office on all technical programmatic matters.

*Office of Grants Management (HD*J).* The Office of Grants Management: (1) Serves as the focus for grants management activities in the PHS Regional Office; (2) receives and refers grant applications to the appropriate program; (3) maintains a control record of review process; (4) reviews grant applications from a management point of view for conformity to laws, regulations, and policies; (5) identifies problem areas and collaborates with other staff in their resolution; (6) maintains central grant files for the PHS Regional Office; (7) issues grant awards, negotiates, computes, prepares, and signs award notices; (8) secures necessary clearances and distributes grant award statements; (9) provides continuing surveillance of financial and administrative aspects of grant supported activities through site visits to assure compliance with appropriate DHEW and PHS policies; (10) gives technical assistance, where indicated, to improve the management of grant supported activities; (11) develops, implements, and manages regional grants management procedures and policies; (12) provides for the collection and reporting of business management and programmatic data, and analyzes and monitors business management data on grants; (13) provides for development, implementation, and monitoring of the annual regional work plan related to responsibilities assigned to the office, including setting objectives responsive to national and regional priorities and assignment of office resources required to attain these objectives; (14) conducts studies and provides assistance to improve the operation of grantee management systems and grant review procedures; (15) responds to requests for grants management information from headquarters and regional staffs and from the public; (16) develops business management methods to improve cost effectiveness and financial systems of PHS regional project grants; and (17) implements business management aspects of Health Services Funding regulations and financial plans in all appropriate projects.

*Division of Alcoholism, Drug Abuse, and Mental Health Programs (HD*T).* (1) Directs and coordinates programs and activities designed to improve access and availability of community and State mental health programs; (2) promotes the planning, development, and delivery of quality mental health, drug abuse, and alcohol abuse services throughout the region; (3) assists in mental health program development at State and local levels through the provision of professional consultation, guidance, and technical assistance, including interpretation of national policies and guidelines to grantees, prospective grantees, State and local officials, and nonprofit organizations; (4) serves as the regional focal point for promoting and directing efforts to integrate and coordinate mental health and related programs and activities with programs and activities in other areas of health and in the fields of social welfare, education, rehabilitation, and adult and juvenile corrections; (5) coordinates with the Director, Division of Health Resources Development, to assure the integration of mental health and health systems agency planning efforts under Pub. L. 93–641; (6) provides for development, implementation, and monitoring of the annual regional work plan related to assigned program areas, including setting objectives responsive to national and regional priorities and assignment of division resources required to attain these objectives; (7) coordinates with other regional office staff to develop and consolidate objectives which cross program and division lines; (8) analyzes programmatic data, reviews and recommends action on grant applications, and provides continuous programmatic monitoring of division grants for compliance with applicable laws, regulations, policies, and performance standards; (9) in cooperation with the Regional Administrative Support Center, develops scopes of work and evaluation criteria for contracts to support program requirements; evaluates technical proposals submitted by prospective contractors and makes recommendations as to their technical acceptability; monitors contractors' technical performance and their compliance with laws, regulations, and policies; accepts deliverables; and assists in contract closeout; (10) administers the regional Public Health Employees Assistance Program, including the orientation of supervisors and the provision of counseling and referral services to employees; and (11) serves as a source of expertise in the PHS Regional Office on assigned program areas and as regional liaison with PHS Headquarters on programmatic areas.

*Division of Preventive Health Services (HD*U).* (1) Directs and coordinates programs and activities designed to improve health by preventing or controlling diseases, including environmentally induced health problems; (2) provides liaison with special national impact programs, such as childhood immunization and veneral disease control, and assures access to headquarters epidemiologic and laboratory specialists and other specialized assistance; (3) provides or arranges professional consultation, guidance, and technical assistance to

State and local health departments and agencies, communities and industries on disease prevention, preventive health services, health education, environmental and occupational health services; (4) serves as regional focal point for providing continuity and leadership to other regional office divisions in the interpretation of national priorities in preventive health and coordinates activities with the other divisions; (5) coordinates with the Director, Division of Health Resources Development, to assure the integration of applicable preventive health services and health systems agency planning efforts under Pub. L. 93–641; (6) analyzes programmatic data, reviews and recommends action on grant applications, and provides continuous programmatic monitoring of division grants for compliance with applicable laws, regulations, policies, and performance standards; (7) provides a locus of responsibility for supervision of personnel assigned from the Center for Disease Control to State and local health departments; (8) provides for development, implementation, and monitoring of the annual regional work plan related to assigned program areas, including setting objectives responsive to national and regional priorities and assignment of division resources required to attain these objectives; (9) coordinates with other regional office staff to develop and consolidate objectives which cross program and division lines; (10) in cooperation with the Regional Administrative Support Center, develops scopes of work and evaluation criteria for contracts to support program requirements; evaluates technical proposals submitted by prospective contractors and makes recommendations as to their technical acceptability; monitors contractors' technical performance and their compliance with laws, regulations, and policies; accepts deliverables; and assists in contract closeout; and (11) serves as a source of expertise in the PHS Regional Office on assigned program areas and as regional program liaison with PHS Headquarters on technical programmatic areas.

*Division of Health Services Delivery (HD*V).* (1) Directs and coordinates programs and activities designed to promote and provide quality health services within the region; (2) promotes and directs activities designed to increase health care capacity and to increase access to quality health services for the medically underserved; (3) serves as regional focal point for promoting and directing efforts to integrate service delivery projects in a more comprehensive manner to maximize services available in health scarcity areas; (4) provides or arranges professional consultation, guidance, and technical assistance in assigned program areas, including interpretation of national policies and guidelines to contractors and applicants for Federal assistance; (5) provides for development, implementation, and monitoring of the annual regional work plan related to assigned program areas, including setting objectives responsive to national and regional priorities and assignment of division resources required to attain these objectives; (6) coordinates with other regional office staff to develop and consolidate objectives which cross program and division lines; (7) coordinates with the Director, Division of Health Resources Development, to assure the integration of applicable health studies and health systems agency planning efforts under Pub. L. 93–641; (8) analyzes programmatic data, reviews and recommends action on grant applications, and provides continuous programmatic monitoring of division grants for compliance with applicable laws, regulations, policies, and performance standards; (9) in cooperation with the Regional Administrative Support Center, develops scope of work and evaluation criteria for contracts to support program requirements; evaluates technical proposals submitted by prospective contractors and makes recommendations as to their technical acceptability; monitors contractors' technical performance and their compliance with laws, regulations, and policies; accepts deliverables; and assists in contract closeout; and (10) serves as a source of expertise in the PHS Regional Office on assigned program areas and as regional program liaison with PHS Headquarters on technical programmatic areas.

*Division of Health Resources Development (HD*W).* (1) Directs and coordinates regional implementation of Pub. L. 93–641 programs and related activities designed to increased the capacity and capability of health care systems in the region; (2) analyzes trends and projections with respect to health status, resources, programs impact, and costs; (3) provides assistance and support for State and local health planning activities, including the development and implementation of needs assessment activities; (4) provides or arranges professional consultation, guidance, and technical assistance to State and local health agencies, grantees, borrowers, professional associations, health care providers, and educational institutions, including the interpretation and explanation of national policies and guidelines with respect to comprehensive health planning, health facilities construction, and health manpower and training, and improved applications of health research findings and innovative approaches to health services delivery; (5) provides for the development, implementation, and monitoring of the annual regional work plan related to assigned program areas, including setting objectives responsive to regional and national priorities and assignment of division resources required to attain these objectives; (6) coordinates with other regional office staff to develop and consolidate objectives which cross program and division lines; (7) reviews and recommends appropriate action on project applications and State plans, based on compliance with laws and regulations, technical adequacy of proposal, and effectiveness of project and plans in meeting specific programmatic objectives; (8) provides continued monitoring of projects in program areas, including development of criteria for review of projects and plans, through site assessment and other means; (9) analyzes programmatic data, reviews and recommends action on grant and loan applications, and provides continuous programmatic monitoring of division grants and loans for compliance with applicable laws, regulations, policies, and performance standards; (10) is the location of the loan officer for division programs and is responsible for assuring that the loan officer performs all loan officer functions for division loan programs as specified in the PHS Loan Administration Manual and in agency loan manuals; (11) in cooperation with the Regional Administrative Support Center, develops scopes of work and evaluation criteria for contracts to support program requirements; evaluates technical proposals submitted by prospective contractors and makes recommendations as to their technical acceptability; monitors contractors' technical performance and their compliance with laws, regulations, and policies; accepts deliverables; and assists in contract closeout; and (12) serves as source of expertise in the PHS Regional Office on specific program areas, and as regional program liaison with PHS Headquarters on technical programmatic matters.

Dated: April 4, 1979.

Frederick M. Bohen,

*Assistant Secretary for Management and Budget.*

[FR Doc. 79-11167 Filed 4-10-79; 8:45 am]

BILLING CODE 4110-85-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

### Procedures for Protection and Enhancement of Environmental Quality; Amendments to Departmental Procedures; Correction

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Correction of Procedures, Threshold Determinations.

In F.R. Doc. 79-887 appearing at page 12857 in the **Federal Register** of March 8, 1979, change number 2 in the middle column consists of a new subparagraph 5.d.(5), Threshold Determination, which HUD has added to Chapter 2 of its environmental procedures. HUD's own review and comments received since the March 8 publication indicate need for correction so that the main text correctly and completely explains the applicability of EIS thresholds which are established in Appendix A-1. Also a change is made in paragraph 5.d.(1) to correct the paragraph numbering system established for paragraph 5.d. In addition, to convey accurate citations, HUD is correcting four typographical errors which appeared in the March 8 **Federal Register** printing of Appendix A-1. Accordingly the following corrections are made, consistent with Appendix A-1 and the policy HUD explained in the **Federal Register** of August 8, 1978.

1. The introductory sentences of paragraph 5.d.(5) of Chapter 2 are corrected to read as follows:

(5) *Threshold determination.* An EIS shall be prepared for any action which meets the thresholds identified in Appendix A-1. The minimum threshold of 500 units applies in all places which are outside of an SMSA and in all areas within an SMSA but which are beyond the urbanizing belt of the SMSA. Set forth below are the criteria for determining which threshold, in the range of 500 to 2,500 housing units, applies to a given project area within an SMSA urbanizing belt.

2. The first sentence of paragraph 5.d.(5)(a) is deleted.

3. Footnote 4 of Appendix A-1, page 12861, **Federal Register** for March 8, 1979 is corrected by changing the letters GPO to CPD after the title, Assistant Secretary; and footnote 16 of Appendix A-1 is corrected by changing COBG to CDBG.

4. The Rehabilitation and Modernization programs currently shown in Appendix A-1 at page 12860 as being programs under Section 223(f) should be shown as programs independent of 223(f). In addition, reference to FHA under decision points for Modernization should be changed to PHA.

5. The explanation of Change No. 9 (page 12858, bottom of third column) is deleted in its entirety and replaced by the following.

Paragraph 5.d.(1) of Chapter 2 is amended by adding a new subparagraph (a) and changing the existing subparagraphs to (b) and (c). The new subparagraph (a) shall read as follows:

Effective Date: April 9, 1979.

Issued in Washington, D.C., on April 5, 1979.

Patricia Roberts Harris,

*Secretary of Housing and Urban Development.*

[Docket No. N-79-887]

[FR Doc. 79-11169 Filed 4-10-79; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### Discretionary Secretarial Appointment (Vacancies); Extension of Date for Receipt of Applications

On March 6, 1979 at 44 FR 12281-12285 notices of vacancies for discretionary secretarial appointments to the six Regional Technical Working Group Committees and a Scientific Committee of the Outer Continental Shelf Advisory Board were published. Effective with this notice, due date for recommendations and applications for those committees is extended until April 30, 1979.

Private sector members are needed for each of the following Regional Technical Working Group Committees: Alaska, Gulf of Mexico, Pacific, South Atlantic, Mid-Atlantic, and North Atlantic. Representation is sought from various individuals or groups who have an interest in, or might be affected by, OCS activities; for example, environmental, conservation or public interest organizations. The Regional Working Group committees will advise the Secretary of the Interior, through the Director of the Bureau of Land Management, on technical matters of regional concern relating to the OCS oil and gas leasing program. Term of appointment is two years, and only travel and per diem for attendance at Committee or Board meetings is compensated. Applications, recommendations and résumés should be sent to Director, Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240.

Private sector members are needed for the Scientific Committee which will advise the Secretary of the Interior through the Assistant Secretary, Land and Water Resources on the OCS environmental studies program conducted by the Bureau of Land Management in support of the OCS leasing program. Appointees will be selected based on scientific background and reputation within certain fields of expertise relevant to the OCS studies program. Term of appointment is two years and only travel and per diem for attendance at Committee or Board meetings is compensated. Applications, recommendations and résumés should be sent to the Assistant Secretary, Land and Water Resources, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

Prospective applicants are referred to the **Federal Register** notice cited above for additional information. The identification of female and minority candidates is encouraged. Prior nominations to these committees should not be resubmitted.

Arnold E. Petty,

*Acting Associate Director, Bureau of Land Management.*

Approved: April 5, 1979.

Guy R. Martin,

*Assistant Secretary for Land and Water Resources.*

[FR Doc. 79-11132 Filed 4-10-79; 8:45 am]

BILLING CODE 4310-84-M

### Oregon; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Department of Agriculture, on behalf of the Forest Service, on July 12, 1972, filed application Serial No. OR 9651 for a withdrawal in relation to the following described lands:

**Willamette Meridian**

*Rogue River National Forest*

●**Ashland Research Natural Area**

A tract of land within sections 21, 27, 28, 33, and 34, T. 39 S., R. 1 E., and sections 3, 4, 9, and 10, T. 40 S., R. 1 E., described as follows:

Beginning at a point 231 feet south and 825 feet west of the section corner common to sections 21, 22, 27, and 28, T. 39 S., R. 1 E., which point is on the centerline of Forest Service Road No. 3963 (Ashland Loop Road), thence southerly along the centerline of said road to its junction with Forest Service Road No. 3935 (Horn Gap Road), thence southerly, westerly, and northerly along the centerline

of said Road No. 3935 to its junction with Forest Service Road No. 3935D (Winburn Point Road), thence northerly along the centerline of said Road No. 3935D to a point on the north section line of section 33, T. 39 S., R. 1 E., which point is 1,782 feet west of the section corner common to sections 27, 28, 33, and 34, T. 39 S., R. 1 E., thence N. 49°00' W., 495 feet along crest of a ridgetop the divide between the East Fork and West Fork of Ashland Creek, thence No. 22°00' W., 726 feet, descending along crest of said ridge, thence No. 45°00' W., 1,320 feet, descending along crest of said ridge, thence N. 23°00' W., 891 feet along said ridge, thence N. 55°00' W., 858 feet to West Fork of Ashland Creek, thence N. 55°00' E., 726 feet along the southeastern edge of Reeder Reservoir, thence northerly 1,980 feet along the west ⅛th line of section 28, T. 39 S., R. 1E., to the top of a small ridge, thence No. 64°00 E., 1,716 feet, ascending along the top of said ridge, thence S. 74°00' E., 1,221 feet along the top of a ridge labeled "3842", thence S. 27°00' E., 1,188 feet, descending a spur of said ridge to the point of beginning.

Containing approximately 1,518 acres in Jackson County, Oregon.

**●Jackson Campground Extension**

T. 40 S., R. 3 W.,
Sec. 5, E½ of lot 3, NE¼ SE¼ NW¼, W½ SE¼ NW¼, W½ NE¼ SW¼, SE¼ NE¼ SW¼, E½ NW¼ SW¼, SE¼ SW¼.

Containing 139.66 acres in Jackson County, Oregon.

**●Kanaka Campground**

T. 40 S., R. 3 W.,
Sec. 19, lots 1, 2, 3, 4, and 6.
Containing 196 acres in Jackson County, Oregon.

The areas described aggregate approximately 1,853.66 acres in Jackson County, Oregon.

The applicant desires that the lands be reserved in aid of programs within the Rogue River National Forest. A notice of the proposed withdrawal was published in the **Federal Register** on November 8, 1973, Vol. 38, page 30894, FR Doc. 73–23837.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, at the address shown below, on or before May 15, 1979. Notice of the public hearing will be published in the **Federal Register**, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before May 15, 1979.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except public hearing requests) in connection with this pending withdrawal application should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: March 30, 1979.

**Harold A. Berends,**
*Chief, Branch of Lands and Minerals Operations.*

[OR 9651]
[FR Doc. 79–11155 Filed 4–10–79; 8:45 am]
**BILLING CODE 4310–84–M**

## Washington; Public Land In Okanogan County, Wash.; Realty Action—Noncompetitive Sale

The following described land has been identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, at no less than the fair market value shown:

**Willamette Meridian, Okanogan County, Washington**

| Parcel number | Legal description | Acreage | Value |
|---|---|---|---|
| 1 | T. 30 N., R. 24 E., Sec. 21, Lot 5. | 4.3 acres | $6,500.00 |

The sale will be made on approximately the 1st day of June 1979. The lands are being sold to Mrs. Charles J. (Jeanne) Miller because the location and physical characteristics of the tract make it difficult an uneconomic to manage as part of the public lands, and it is not suitable for management by another federal department.

The lot is surrounded by land deeded to Mrs. Miller. There is no legal access to the parcel. Physical access is limited to travel by foot. The parcel is extremely rocky and possesses no resource values of significance.

The Bureau plans to dispose of the tract since it does not complement any BLM programs.

The lands have no recreational, wildlife habitat, or general public occupancy potential.

The sale is consistent with the Bureau's planning for the lands involved and has been discussed with county, state, and city officials of Brewster and Pateros, and various other interested agencies and associations. The public interest would be served by offering these lands for sale. Direct sale of this parcel to Mrs. Miller is justified by the limited physical access, lack of legal access, and the position of the parcel totally within Mrs. Miller's deeded land. Sale of the parcel to a third party would place undue physical and legal hardship on both Mrs. Miller and the purchaser.

The terms and conditions applicable to the sale are:

1. The sale will be made upon the condition that Mrs. Miller reconvey that portion of the land which lies within the boundary of Federal Power Project No. 2149 to the Public Utility District No. 1 of Douglas County, Washington, licensee for the project, at a predetermined, reasonable cost.

2. The patent will include a reservation pursuant to the provisions of Section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075, as amended, (16 U.S.C. 818), which reserves to the United States and its permittees or licensees the right to enter upon, occupy, and use, any part or all of that portion of the land withing the boundary of Power Project No. 2149 for the purposes set forth in the act. This reservation will be effective only until this land is reconveyed to the licensee for the project.

3. The land will be subject to a reservation to the United States for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

4. All mineral rights in the land to be patented will be reserved to the United States.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions, is available for review at the Spokane District

Office, Room 551, U.S. Court House, W. 920 Riverside, Spokane, Washington.

On or before May 11, 1979, interested parties may submit comments to the Secretary of the Interior (LLM–320) Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become the final determination of the Department of the Interior and the required payment requested of Mrs. Miller. Such payment, in full, shall be in accordance with 43 CFR 1822.1–2.

Roger W. Burwell,
*District Manager.*

[OR 17930 (Wash.); 2710 (943.1)]
[FR Doc. 79–11156 Filed 4–10–79; 8:45 am]
BILLING CODE 4310–84–M

## Geological Survey

### Known Recoverable Coal Resource Area; Thompson, Utah

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94–377, August 4, 1976), Federal lands within the State of Utah have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

**(44) Utah**

Thompson (Utah) Known Recoverable Coal Resource Area; January 16, 1978; 41,325 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Managment. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: April 2, 1979.

J. S. Cragwall, Jr.,
*Acting Director.*

[FR Doc. 79–11157 Filed 4–10–79; 8:45am]
BILLING CODE 4310–31–M

## DEPARTMENT OF THE INTERIOR

## National Park Service

### Boston National Historical Park; Public Discussion

Notice is hereby given that a public discussion concerning water transportation between downtown Boston and the Charlestown Navy Yard will be conducted on April 18, 1979 at the Charlestown Navy Yard.

Public Law 95–344, Title III, approved on August 15, 1978 authorizes the National Park Service to develop plans and projects to improve access to units of the National Park System. It is proposed that a water shuttle operating between downtown Boston and the Navy Yard unit of Boston National Historical Park be instituted on a trial basis during the summer of 1979.

The public meeting will take place in the Hull Room of the former Officer's Club, Building #5, at the Charlestown Navy Yard at 7 p.m. All interested persons are invited to attend and participate in the discussion. They may also address their comments in writing to the Superintendent, Boston National Historical Park, 15 State Street, Boston, Massachusetts 02109.

Dated: March 28, 1979.

Larry J. Hovig,
*Acting Regional Director, North Atlantic Region.*

[FR Doc. 79–11122 Filed 4–10–79; 8:45 am]
BILLING CODE 4310–70–M

### Committee for the Preservation of the White House; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Committee for the Preservation of the White House will be held at 1:30 p.m. on Friday, May 18, 1979 in the Indian Treaty Room Executive Office Building, 17th & Pennsylvania Avenue NW., Washington, D.C.

The Committee was established for the purpose of advising the Director of the National Park Service so that he may make recommendations to the President concerning the preservation and the interpretation of the museum character of the principal corridor on the ground floor and the principal public rooms on the first floor of the White House. The Committee shall make recommendations as to the articles of furniture, fixtures, and decorative objects which shall be used or displayed in the aforesaid areas of the White House and to the decor and arrangements therein best suited to enhance the historic and artistic values of the White House and of such articles, fixtures, and objects.

Purpose of the meeting: The Committee will discuss and recommend priorities for acquisition to the White House Collection, receive subcommittee reports and reports on previous acquisitions and loans.

The meeting will be open to the public. Public attendance depending on available space will be limited to those who have notified the Executive Secretary of the Committee in writing at least 5 days prior to the meeting of their intention to attend the May 18 meeting.

Any member of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairman may allow public participation.

All communication regarding the Committee should be addressed to Mr. Elmer S. Atkins, Executive Secretary, Committee for the Preservation of the White House, Room 344, 1100 Ohio Drive SW, Washington, D.C. 20242.

Dated: March 30, 1979.

Manus J. Fish, Jr.,
*Regional Director, National Capital Region.*

[FR Doc. 79–11123 Filed 4–10–79; 8:45 am]
BILLING CODE 4310–70–M

## INTERNATIONAL TRADE COMMISSION

### Certain Multicellular Plastic Film; Commission Hearing on the Presiding Officer's Recommendation and on Relief, Bonding, and the Public Interest

**Recommendation of "No Violation" Issued**

In connection with the Commission's investigation under section 337 of the Tariff Act of 1930 of alleged unfair methods of competition and unfair acts in the importation and sale of certain multicellular plastic film in the United States, the presiding officer recommended on March 23, 1979, that the Commission determine that there is no violation of section 337. Interested persons may obtain copies of the presiding officer's recommendation by contacting the office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523–0161.

**Commission Hearing Scheduled**

The Commission will hold a hearing beginning at 10:00 a.m., e.d.t., on May 17, 1979, in the Commission's Hearing Room (Room 331), 701 E Street NW., Washington, D.C. 20436, for two purposes. First, the Commission will

hear oral argument on the presiding officer's recommendation that there is no violation of section 337 of the Tariff Act of 1930. Second, the Commission will receive oral presentations concerning appropriate relief, bonding, and the public interest in the event that the Commission determines that there is a violation of section 337. These matters are being heard on the same day in order to facilitate the completion of this investigation within statutory time limits and to minimize the burden of this hearing upon the parties to the investigation. The procedure for each portion of the hearing follows.

**Oral Argument on Presiding Officer's Recommendation**

A party to the Commission's investigation or an interested agency wishing to present to the Commission an oral argument concerning the presiding officer's recommendation will be limited to no more than 30 minutes. A party or interested agency may reserve 10 minutes of its time for rebuttal. The oral arguments will be held in this order: complainant, respondents, interested agencies, and the Commission investigative attorney. Any rebuttals will be held in this order: respondents, complainants, interested agencies, and the Commission investigative attorney.

**Oral Presentation on Relief, Bonding, and the Public Interest**

Following the oral arguments on the presiding officer's recommendation, a party to the investigation, an interested agency, a public-interest group, or any interested member of the public may make an oral presentation on relief, bonding, and the public interest.

1. *Relief.* If the Commission finds a violation of section 337, it may issue (1) an order which could result in the exclusion from entry of certain multicellular plastic film into the United States or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of multicellular plastic film.

2. *Bonding.* If the Commission finds a violation of section 337 and orders some form of relief, that relief would not become final for a 60-day period, during which the President would consider the Commission's report. During this period, the multicellular plastic film would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury.

3. *The public interest.* If the Commission finds a violation of section 337, prior to ordering some form of relief, the Commission must consider the effect of that relief upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

Those making an oral presentation on the issues of relief, bonding and the public interest will be limited to no more than 20 miniutes. Each participant will be permitted an additional 5 minutes for summation after all presentations have been made. Participants with similar interests may be required to share time. The order of oral presentations will be as follows: complainant, respondents, interested agencies, pubic-interest groups, other interested members of the public, and the Commission investigative attorney. Summations will follow the same order.

**How to Participate in the Hearing**

Any person desiring to appear at the Commission's hearing must file a written request to appear with the Secretary to the U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, no later than the close of business (5:15 p.m., e.d.t.) on May 10, 1979. The written request must indicate whether such person wishes to present an oral argument concerning the presiding officer's recommendation or an oral presentation concerning relief, bonding, and the public interest, or both. While only parties to the Commission's investigation and interested agencies may present an oral argument concerning the presiding officer's recommendation, public-interest groups and other interested members of the public are encouraged to make an oral presentation concerning the public interest.

**Written Submissions to the Commission**

The Commission requests that written submissions of two types be filed prior to the hearing in order to focus the issues and facilitate the orderly conduct of the hearing.

1. *Briefs on the presiding officer's recommendation.* Parties to the Commission's investigation and interested agencies are encouraged to file briefs concerning exceptions to the presiding officer's recommendation. Complainant's brief must be filed no later than the close of business on April 16, 1979; respondents' brief and the brief of the Commission investigative attorney must be filed no later than the close of business on April 30, 1979; complainant's reply brief, if any, must be filed not later than the close of business on May 7, 1979. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by references to the record.

2. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public-interet groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding and the public interest. These written submissions will be very useful to the Commission if it determines that there is a violation of section 337.

Written comments and information concerning relief, bonding, and the public interest shall be submitted in this order. First, complainant shall file a detailed proposed Commission action, including a proposed determination of bonding, a proposed remedy, and a discussion of the effect of its proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers with the Secretary to the Commission by no later than the close of business on April 30, 1979. Second, other parties, interested agencies, public-interest groups, and other interested members of the public shall file written comments and information concerning the action which complainant has proposed, any available alternatives, and the advisability of any Commission action in light of the public-interest considerations listed above no later than the close of business on May 7, 1979.

**Additional Information**

The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request in camera treatment. Such request should be directed to the Chairman of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Office of the Secretary.

Notice of the Commission's investigation was published in the **Federal Register** of June 29, 1978 (43 FR 28258).

By order of the Commission.

Issued: April 6, 1979.

Kenneth R. Mason,
*Secretary.*

[Investigation No. 337-TA-54]
[FR Doc. 79-11263 Filed 4-10-79; 8:45 am]
BILLING CODE 7020-02-M

## Methyl Alcohol From Canada; Notice of Investigation and Hearing

Having received advice from the Department of the Treasury on March 29, 1979, that methyl alcohol from Canada is being, or is likely to be, sold at less than fair value, the United States International Trade Commission, on April 4, 1979, instituted investigation No. AA1921-202 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), 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. Methyl alcohol, also known as methanol, is provided for in items 427.9600 and 427.9700 of the Tariff Schedules of the United States Annotated.

*Hearing.* A public hearing in connection with the investigation will be held on Tuesday, May 15, 1979, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10 a.m., e.d.t. Requests to appear at the public hearing should be filed with the Secretary to the Commission, in writing, not later than noon, Wednesday, May 9, 1979.

By order of the Commission.

Issued: April 5, 1979.

Kenneth R. Mason,
*Secretary.*

[AA 1921-202]
[FR Doc. 79-11262 Filed 4-10-79; 8:45 am]
BILLING CODE 7020-02-M

## DEPARTMENT OF JUSTICE

## Law Enforcement Assistance Administration

## DEPARTMENT OF TREASURY

## Office of Revenue Sharing Inter-Agency Civil Rights Agreement

**AGENCY:** Law Enforcement Assistance Administration, Department of Justice and Office of Revenue Sharing, Department of Treasury.

**ACTION:** Notice.

**SUMMARY:** This agreement describes the manner in which the Law Enforcement Assistance Administration (LEAA) and the Office of Revenue Sharing (ORS) will coordinate their efforts to secure the civil rights compliance of their recipients.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Madden, General Counsel, LEAA, (202) 376-3691, or Herman Schwartz, Chief Counsel, ORS, (202) 634-5182.

**SUPPLEMENTARY INFORMATION:**

### Background

In 1976, the civil rights provisions of both the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512) and the Omnibus Crime Control and Safe Streets Act of 1968, as amended (Pub. L. 90-351, as amended by Pub. L. 93-83, Pub. L. 93-415 and Pub. L. 94-430) were significantly changed. The Crime Control Act of 1976 (Pub. L. 94-503) and the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488) mandated new civil rights investigation and enforcement procedures for LEAA and ORS, respectively. Because the provisions of both Acts were substantially similar to each other, but different than any other Federal civil rights laws, LEAA and ORS representatives began to meet informally in order to exchange information and ideas about implementing the new Acts. In time, these meetings led to informal arrangements concerning the sharing of information and the investigation of particular complaints. As each agency's interests and needs became more clearly defined, the need for a formal agreement became more obvious. Accordingly, on February 7, 1979, Henry S. Dogin, LEAA Deputy Administrator for Policy Development, and Bernadine Denning, Director of ORS signed the agreement published below.

### Summary

The agreement calls for LEAA and ORS to exchange investigative files, computer printouts showing the status of active investigations, and other compliance information upon request. In this connection, the agencies agree to protect the confidentiality of complainants unless authorized by the complainants to do otherwise.

The agencies also agree to share personnel and resources in particular cases, and to coordinate investigations and enforcement actions where appropriate. Each agency will also advise recipients of its support of the other's compliance efforts. Each agency will give the other's investigative findings due consideration.

LEAA and ORS will exchange compliance agreements and assist each other in monitoring recipients' compliance with those agreements during any subsequent investigations of the same recipients.

The agencies will also exchange formal findings of non-compliance and act as required or authorized by their respective Acts.

### Authority

This notice is issued under the authority of Sections 501 and 508 of the Omnibus Crime Control and Safe Streets Act, as amended (42 U.S.C. 3751 and 3756, and Section 122(h) of the State and Local Fiscal Assistance Amendments of 1976, 31 U.S.C. 1242(h)).

### Department of Justice, Law Enforcement Assistance Administration; Department of Treasury, Office of Revenue Sharing

*Inter-Agency Agreement Between the Office of Revenue Sharing, Department of the Treasury and Law Enforcement Assistance Administration*

Because it is in the mutual interest of the Office of Revenue Sharing, Department of the Treasury, and the Office of Civil Rights Compliance, Law Enforcement Assistance Administration, to assist each other in carrying out the purposes of the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3701, *et seq.*, (Crime Control Act), the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, *et seq.*, (Juvenile Justice Act), and the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. 1221, *et seq.*, (Revenue Sharing Act), each agency agrees with respect to the other:

1. To furnish data, records or investigative and other files upon request, including, but not limited to, information gathered pursuant to 28 CFR 42.301, *et seq.*, and 31 CFR 51.50, *et seq.*

2. To exchange and share computer print-outs on actions in progress on a quarterly basis.

3. To furnish program divisions' annual enforcement plans and other planning documents which indicate investigative priorities and objectives.

4. To protect the confidentiality of complianants unless specifically authorized to disclose same.

5. To meet at least quarterly and as otherwise needed to discuss implementation of this Agreement.

6. To designate a specific person within each agency to attend said meetings and maintain interim liaison.

7. To provide notice on a monthly basis of receipt and nature of complaints alleging illegal discrimination within the other's jurisdiction.

8. To share civil rights enforcement personnel and resources and to support and coordinate enforcement activities and efforts in appropriate cases.

9. To conduct joint investigations where practical.

10. To accord the other's findings, whether as a result of compliant investigation or compliance review, due consideration in its determination of the recipient's compliance or noncompliance: *Provided,* That a determination by one agency shall not preclude the other from making a separate determination of compliance or noncompliance with respect to laws under its jurisdiction.

11. To determine the lead agency responsible for processing, investigating and settling compliants filed with both agencies after consideration of:

(a) Governing timetables

(b) Initial receipt

(c) Agency experience

(d) Staff resources

12. To provide a listing of all current compliance agreements upon request.

13. To assist each other in monitoring compliance with such agreements during new investigation of affected recipients.

14. To coordinate compliance reviews to avoid duplication of efforts, and upon request, to conduct joint compliance reviews where practical.

15. To provide copies of any findings of illegal discrimination (issued after opportunity for a hearing consistent with the Administrative Procedures Act) made by a Federal, State, or local administrative agency, Federal or State court, or Federal administrative law judge against a recipient and to take appropriate action as authorized or required by the Crime Control Act, Juvenile Justice Act, or the Revenue Sharing Act.

16. To provide immediate notification of any formal administrative actions instituted against a recipient alleging a violation of any Federal civil rights statute or regulations and to take appropriate action as authorized or required by the Crime Control Act, Juvenile Justice Act, or the Revenue Sharing Act.

17. To provide appropriate and timely written documents such as letters to recipients expressing support for the enforcement efforts of the other agency.

18. To review and evaluate this agreement one year after its execution.

**Bernadine Denning,**

*Director, Office of Revenue Sharing, Department of the Treasury.*

**Henry S. Dogin,**

*Deputy Administrator for Policy Development, Law Enforcement Assistance Administration, Department of Justice.*

[FR Doc. 79-11170 Filed 4-10-79; 8:45 am]

**BILLING CODE 4410-18-M**

**BILLING CODE 4810-26-M**

## LEGAL SERVICES CORPORATION

### Grants and Contracts

April 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 approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Legal Aid of Western Missouri in Kansas City, Missouri to serve Worth, Gentry, Harrison, Mercer, Grundy and Morgan Counties.

2. Legal Aid Association of Greene County in Springfield, Missouri to serve Green, Stone, Taney, Christian, Webster, Barry and Lawrence Counties.

3. Mid-Missouri Legal Services Corporation in Columbia, Missouri to serve Chariton, Randolph, Moniteau, Cole, Miller and Osage Counties.

Interested persons are hereby invited to submit written comments or recommendations concering 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. 79-11227 Filed 4-10-79; 8:45 am]

**BILLING CODE 6820-25-M**

### Grants and Contracts

April 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 approval of any grant application or prior to entering into a contract or prior to the entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Legal Aid Service of Northeastern Minnesota in Duluth, Minnesota to serve Cass, Crow Wing, Aitkin, Pine and Kanabec Counties.

2. Legal Services Organization of Indiana, Inc. in Indianapolis, Indiana to serve Madison, Grant and Tipton 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 50504.

**Thomas Ehrlich,**

*President.*

[FR Doc. 79-11228 Filed 4-10-79; 8:45 am]

**BILLING CODE 6820-35-M**

### Grants and Contracts

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 approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Legal Services of Nashville and Middle Tennessee, Inc. in Nashville, Tennessee to serve Cannon, Dickson, Houston, Humphreys, Montgomery and Stewart Counties.

2. Rural Legal Services of Tennessee, Inc. in Oak Ridge, Tennessee to serve Clay, DeKalb, Jackson, Macon, Smith, Union, Van Buren and White Counties.

3. Southeast Tennessee Legal Services in Chattanooga, Tennessee to serve Bledsoe, Marion, Rhea and Sequatchie Counties.

4. Legal Services of South Central Tennessee, Inc. to serve Coffee,

Franklin, Giles, Lawrence, Lincoln, Maury, Moore and Warren Counties.

5. East Arkansas Legal Services in West Memphis, Arkansas to serve Lee and Phillips Counties.

6. Legal Services of Central Arkansas in Little Rock, Arkansas to serve Hot Spring and Clark Counties.

7. Western Arkansas Legal Services in Fort Smith, Arkansas to serve Scott and Yell 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
Atlanta Regional Office
615 Peachtree Street, N.E., 9th Floor
Atlanta, GA 30308.

**Thomas Ehrlich,**
*President.*
[FR Doc. 79-11229 Filed 4-10-79; 8:45 am]
**BILLING CODE 6820-35-M**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Media Arts (Programming in the Arts); Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts (Programming in the Arts) Advisory Panel to the National Council on the Arts will be held April 30, 1979, from 9:00 a.m. to 5:30 p.m., and May 1, 1979, from 9:00 a.m. to 5:30 p.m., in the 12th floor screening room, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9 (B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

**John H. Clark,**
*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

April 3, 1979.

[FR Doc. 79-11158 Filed 4-10-79; 8:45 am]
**BILLING CODE 7537-01-M**

### Music Panel (Chamber Ensembles); Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Chamber Ensembles) to the National Council on the Arts will be held April 30, 1979, from 9:00 a.m. to 5:30 p.m., in room 1422 and 1426, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on April 30, 1979, from 9:00 a.m. to 4:30 p.m. The topics of discussion will be the future of the program and guidelines.

The remaining sessions of this meeting on April 30, 1979, from 4:30 p.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b and Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

**John H. Clark,**
*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

April 3, 1979.

[FR Doc. 79-11159 Filed 4-10-79; 8:45 am]
**BILLING CODE 7537-01-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 April 26, 27, and 28, 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: *Thursday, Friday, and Saturday, April 26, 27, and 28, 1979, 8:30 a.m. until the conclusion of business each day.*

The Subcommittee will meet, 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.

The Subcommittee will also hold one or more open Executive Sessions to discuss Licensee Event Reports and a planned Subcommittee report to the full Committee.

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: April 4, 1979.

Samuel J. Chilk,
*Secretary of the Commission.*

[FR Doc. 79-11012 Filed 4-10-79; 8:45 am]

BILLING CODE 7590-01-M

## PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

### Meeting

Pursuant to section 10(a)(2) of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that the Annual Selection Meeting for the President's Commission on White House Fellowships will be held at the Cross Keys Inn, Columbia, Maryland on May 18-20, 1979.

The Annual Selection Meeting is part of the screening process of the White House Fellowships program. During this three-day meeting the thirty-three national finalists will be interviewed by the members of the Presidential Commission. At the conclusion of this meeting, the Commission recommends to the President fourteen to twenty persons to serve as White House Fellows. On May 21, 1979, the President will announce the 1979-80 class of White House Fellows.

It has been determined by the Director of the Office of Personnel Management that because of the very nature of the screening process where personnel records and confidential character references must be used which, if revealed to the public, would constitute a clear invasion of an applicant's privacy, the content of this meeting falls within the provisions of section 552b (c)(6) of title 5 of the United States Code and that this meeting will be closed to the public.

W. Landis Jones,
*Director.*

**Determination To Close the Final Selection Meeting of the President's Commission on White House Fellowships**

The final selection meeting of the President's Commission on White House Fellowships is part of the screening process leading to the selection of individuals for White House Fellowships. In this meeting, national finalists of the program are interviewed by the Commission members. The Commission also reviews confidential files and character references which we believe are exempt from disclosure under the provisions of the Freedom of Information and Privacy Acts. At the conclusion of the interviews, the Commission recommends to the President those individuals who should serve as White House Fellows.

This meeting is covered by the provisions of the Federal Advisory Committee Act; Public Law 92-463. That act provides that meetings may be closed to the public only as provided for by subsection (c) of section 552b of title 5, United States Code. That section contains the ten exemptions to the open meeting requirements of the "Government in the Sunshine Act." Exemption (6) permits closing of meetings where they would "disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy."

It is hereby determined that the final selection meeting of the President's Commission on White House Fellowships is concerned with personal information as described in exemption (6) above. Accordingly, the final selection meeting of the Commission to be held on May 18-20, 1979, shall be closed to the public.

Alan K. Campbell,
*Director, Office of Personnel Management.*

April 3, 1979.

[FR Doc. 79-11174 Filed 4-10-79; 8:45 am]

BILLING CODE 6325-01-M

## SMALL BUSINESS ADMINISTRATION

### Illinois; Declaration of Disaster Loan Area

Cook, DeWitt, Douglas, Iroquois, Kankakee, Peoria, Tazewell, Will, and Woodford Counties and adjacent counties within the State of Illinois constitute a disaster area as a result of damage caused by snowmelt, ice jams, rain and flooding which occurred on March 1, 1979 through March 16, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 29, 1979; and for economic injury until the close of business on December 27, 1979, at:

Small Business Administration, District Office, 219 South Dearborn Street, Chicago, Illinois 60604.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 27, 1979.

A. Vernon Weaver,
*Administrator.*

[Declaration of Disaster Loan Area #1602]

[FR Doc. 79-11114 Filed 4-10-79; 8:45 am]

BILLING CODE 8025-01-M

### Indiana; Declaration of Disaster Loan Area

White County and adjacent counties within the State of Indiana constitute a disaster area as a result of damage caused by ice jams, snowmelt and flooding which occurred on March 3-6, 1979. Applications will be processed under the provisions of Public Law 94-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 4, 1979, and for economic injury until the close of business on January 3, 1980, at:

Small Business Administration District Office, Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Indiana 46204.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: April 3, 1979.

A. Vernon Weaver,
*Administrator.*

[Declaration of Disaster Loan Area #1605]

[FR Doc. 79-11115 Filed 4-10-79; 8:45 am]

BILLING CODE 8025-01-M

### Lake Success Capital Corp.; Filing of an Application for a Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1979)), to transfer control of Lake Success Capital Corp. (LSCC), 5000 Brush Hollow Road, Westbury, New York 11590, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act).

Lake Success Capital Corp., was licensed by SBA on February 16, 1962. Its present paid-in capital and paid-in surplus is $700,000.

The proposed transfer of control and ownership is subject to and contingent upon approval by SBA.

All of the outstanding stock of LSCC is to be acquired by Mr. Theodore Geffner, 114 The Intervale, Roslyn Estates, New York 11576. The change in ownership and control would result from the sale of LSCC's outstanding stock presently owned by Herman H. Schneider, William Zicht, Warren Williams, and Annette Lang.

After the transfer of control the officers, directors and shareholders of LSCC will be as follows:

*Name and Title*

Herman H. Schneider, President, Treasurer, Director, 551 Mark Lane, Westbury, N.Y. 11590.

Margaret Mayer, Secretary, 38 Ramble Lane, Levittown, N.Y. 11756.

Kenneth K. Mabuchi, Director, 1019 19 Street N.W., Washington, D.C. 20036.

Benjamin Weiner, Director, 1666 K Street N.W., Washington, D.C. 20006.

Theodore Geffner, 100% stockholder.

Matters involved in the SBA consideration of the application include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations promulgated thereunder.

Any person may on or before April 26, 1979, submit to the SBA written comments on the proposed SBIC to the Deputy Associate Administrator for Finance and Investment, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59,011, Small Business Investment Companies.)

Dated: April 5, 1979.

Peter F. McNeish,
*Deputy Associate Administrator for Finance and Investment.*

[License No. 02/02-0140]
[FR Doc. 79-11187 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Ohio; Declaration of Disaster Loan Area

Clermont and Hamilton Counties and adjacent counties within the State of Ohio constitute a disaster area as a result of damage caused by heavy rains, melting snow and flooding which occurred on February 22, 1979, through March 7, 1979. Applications will be processed under the provisions of Pub. L. 95-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business of June 4, 1979, and for economic injury until close of business on January 3, 1979, at:

Small Business Administration, District Office, Federal Building—U.S.Court House, 85 Marconi Blvd, Columbus, Ohio 43215.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 3, 1979.

A. Vernon Weaver,
*Administrator*

[Declaration of Disaster Loan Area #1606]
[FR Doc. 79-11185 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Region I Advisory Council; Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Hartford, Connecticut, will hold a public meeting at 9:30 a.m. on Tuesday, May 1, 1979, at the Small Business Administration Hartford District Office, One Financial Plaza, Fourth Floor, Hartford, Connecticut, 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 Thomas E. Higgins, District Director, U.S. Small Business Administration, One Financial Plaza, Fourth Floor, Hartford, Connecticut 06103—(203) 244-2511

Dated: April 5, 1979.

K Drew,
*Deputy Advocate for Advisory Councils.*
[FR Doc. 79-11188 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Region III Advisory Council; Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Pittsburgh, Pennsylvania, will hold a public meeting at 9 a.m., on Wednesday, May 2, 1979, in Room 1216, Carlton House, Grant Street, Pittsburgh, Pennsylvania, 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 Jack C. Forbes, District Director, U.S. Small Business Administration, 1401 Federal Building, Pittsburgh, Pennsylvania 15222–telephone (412)-644-2780.

Dated: April 6, 1979.

K Drew,
*Deputy Advocate for Advisory Councils.*
[FR Doc. 79-11191 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M]

## Region VII Advisory Council; Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Wichita, Kansas, will hold a public meeting from 10:00 a.m. to Noon, on Monday, April 30, 1979, in the Conference Room, Wichita District Office, U.S. Small Susiness Administration, 110 East Waterman, Wichita, Kansas, to discuss such business as may be presented by members and staff of the Small Business Administration, or others attending.

For further information, write or call Clayton Hunter, District Director, U.S. Small Business Administration, 110 East Waterman, Wichita, Kansas 67202–(316) 267-6311–Extension 566.

Dated: April 5, 1979.

K Drew,
*Deputy Advocate for Advisory Councils.*
[FR Doc. 79-11190 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Region VII Advisory Council Executive Board; Meeting

The Small Business Administration Region VII Advisory Council Executive Board will hold a public meeting from 1:00 p.m. to 4:00 p.m., on Wednesday, May 23, 1979, in Room 2506, Old Federal Building, 911 Walnut, Kansas City, Missouri, to discuss such business as may be presented by members and the staff of the Small Business Administration, or others attending.

For further information, write or call Conrad E. Lawlor, Regional Director, U.S. Small Business Administration, or Lonah Birch, Public Information Officer, U.S. Small Business Administration, Room 2311, 911 Walnut, Kansas City, Missouri 64106—(816) 374-3316 or (816) 374-5288.

Dated: April 5, 1979.

K Drew,
*Deputy Advocate for Advisory Councils.*
[FR Doc. 79-11193 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Region X Advisory Council; Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Seattle, Washington, will hold a public meeting at 9:00 a.m., on Wednesday, May 2, 1979, in Room 1042, Federal Building, 915 Second Avenue, Seattle, Washington, 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 Robert F. Caldwell, District Director, U.S. Small Business Administration, Room 1744, Federal Building, 915 Second Avenue, Seattle, Washington 98174—(206) 442-7791.

Dated: April 6, 1979.

K Drew,
*Deputy Advocate for Advisory Councils.*
[FR Doc. 79-11189 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Region X Advisory Council; Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Anchorage, Alaska, will hold a public meeting at 9:00 a.m., on Monday, April 23, 1979, in the Voyager Room at the Captain Cook

Hotel, Fifth and K Street, Anchorage, Alaska, 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 Frank D. Cox, District Director, U.S. Small Business Administration, 1016 W. Sixth Avenue, Suite 200, Anchorage, Alaska 99501 (907) 271–4022.

Dated: April 5, 1979.

K Drew,
*Deputy Advocate for Advisory Councils.*
[FR Doc. 79-11192 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Vermont; Declaration of Disaster Loan Area

Chittenden and adjacent counties within the State of Vermont constitute a disaster area as a result of damage caused by ice jams and flooding which occurred on March 5–7, 1979. Applications will be processed under provisions of Public Law 94–305. Interest rate is 7⅜ percent. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on June 4, 1979, and for economic injury until the close of business on January 4, 1980, at:

Small Business Administration, District Office, 87 State Street, Montpelier, Vermont 05602.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 4, 1979.

Harold A. Theiste,
*Acting Administrator.*

[Declaration of Disaster Loan Area #1607]
[FR Doc. 79-11186 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Region VII Advisory Council Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Kansas City, Missouri, will hold a public meeting at 10:00 a.m., on Friday, May 11, 1979, in the sixth floor conference room, 1150 Grand Avenue, Kansas City, Missouri, to discuss such business as may be presented by members and the staff of the Small Business Administration, or others attending.

For futher information, write or call Gerald Jepson, District Director, U.S. Small Business Administration, 1150 Grand Avenue, Kansas City, Missouri 64106—(816) 374–5557.

Dated: April 5, 1979.

K Drew,
*Deputy Advocate for Advisory Councils.*
[FR Doc. 79-11194 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Region VII Advisory Council Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Omaha, Nebraska, will hold a public meeting from 10:00 a.m. to Noon, on Friday, April 27, 1979, in the Conference Room, Omaha District Office, U.S. Small Business Administration, 19th & Farnam, Omaha, Nebraska, to discuss such business as may be presented by members and staff of the Small Business Administration, or others attending.

For further information, write or call Rick Budd, District Director, U.S. Small Business Administration, 19th & Farnum, Omaha, Nebraska 68102—(402) 221–3620.

Dated: April 5, 1979.

K Drew,
*Deputy Advocate for Advisory Councils.*
[FR Doc. 79-11195 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Region VII Advisory Council Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Des Moines, Iowa, will hold a public meeting from 11:30 a.m. to 3:00 p.m. on Monday, May 14, 1979, on the 33rd floor in the Briefing Center, of the Bankers Trust—Ruan Building, Des Moines, Iowa, to discuss such matters as may be presented by members, staff of the Small Business Administration, and others present.

For further information, write or call J. Harold Sears, District Director, U.S. Small Business Administration, 210 Walnut Street, Des Moines, Iowa 50309—(515) 284–4567.

Dated: April 5, 1979.

K Drew,
*Deputy Advocate for Advisory Councils.*
[FR Doc. 79-11196 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Region VIII Advisory Council Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Helena, Montana, will hold a public meeting at 9:30 a.m., on Friday, May 4, 1979, at the Federal Building, 301 South Park, Room 289, Helena, Montana, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write of call Ottley R. Tschache, District Director, U.S. Small Business Administration, Federal Building, 301 South Park, Drawer 10054, Helena, Montana 59601—(406) 585–5381.

Dated: April 5, 1979.

K Drew,
*Deputy Advocate for Advisory Councils.*
[FR Doc. 79-11197 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## REGION IX ADVISORY COUNCIL MEETING

The Small Business Administration Region IX Advisory Council, located in the geographical area of Los Angeles, California, will hold a public meeting at 12:00 Noon, on Monday, May 7, 1979, at the Taix Les Freres French Restaurant, 1911 West Sunset Boulevard, Los Angeles, California, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For luncheon reservations and further information write or call Stewart L. Rollins, District Director, U.S. Small Business Administration, 350 South Figueroa Street, Suite 600, Los Angeles, California 90071 — (213) 688–2977.

Dated: April 5, 1979.

K Drew,
*Deputy Advocate for Advisory Councils.*
[FR Doc. 79-11198 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## Community Small Business Investment Company, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.101 (1978)) under the name of Community Small Business Investment Company, Inc. (Applicant) for a license to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (Act), and the Rules and Regulations promulgated.

The Applicant is incorporated under the laws of the State of Delaware and it will commence operations with a capitalization of a least $500,000, which amount will be raised through the sale of shares of the Applicant's Common Stock, $0.01 Par Value, on a private basis to a limited number of investors. There will be no more than 35 beneficial owners of the Applicant's Common

Stock at the completion of the initial offering and no corporation will beneficially own 10% or more of such Stock.

The Applicant will have its principal place of business at 639 Massachusetts Ave., Room 309, Cambridge, Massachusetts 02139 and intends to conduct operations primarily in the Commonwealth of Massachusetts.

The Officers and Directors of the Applicant will be:

| Name | Position |
|---|---|
| Robert Scott Swann, 12 Inman St., Cambridge, Mass. | President and director. |
| Terrence Jerome Mollner, 5 Hamlin Road, Newton, Mass. | Clerk and director. |
| Nathan George Gray, Jr., 18 Boylston Street, Jamaica Plain, Mass. | Marketing director and treasurer. |
| *Charles Davenport Knight, 93 Fayerweather Street, Cambridge, Mass. | Director. |
| Rober Brooke Zevin, Stewart Street, West Newberry, Mass. | Director. |
| Charles George Benello, 119 Bay Road, Hadley, Mass. | Director. |
| Edward Martin Kirshner, 556 Merritt Avenue, Oakland, Calif.. | Director. |
| Rochell Tina Korman, 45 West 10th Street, New York, NY. | Director. |
| Donald Wayne Silby, 3072, Que Street, NW., Washington, DC. | Director. |

*Charles Davenport White is the only individual investor who will own 10 percent or more of the Applicant's Common Stock.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their managment, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may on or before April 26, 1979, submit written comments on the Applicant to the Deputy Associate Administrator for Finance & Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Cambridge, Mass.

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

Dated: April 3, 1979.

**Peter F. McNeish,**

*Deputy Associate Administrator for Finance and Investment.*

[Proposed License No. 01/01-0296]

[FR Doc. 79-11160 Filed 4-10-79; 8:45 am]

**BILLING CODE 8025-01-M**

## National Advisory Council; Meeting

The Small Business Administration National Advisory Council will hold a public meeting from 8:30 a.m., on Wednesday, May 9, 1979, to 12:00 Noon, on Friday, May 11, 1979, at the Islandia Hyatt House, 1441 Quivira Road, San Diego, California, to discuss such business as may be presented by members, the staff of the Small Business Administration, and others attending.

For further information, call or write K Drew, Deputy Advocate for Advisory Councils, U.S. Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416—(202) 653-6748.

Dated: April 4, 1979.

**K Drew,**

*Deputy Advocate for Advisory Councils.*

[FR Doc. 79-11162 Filed 4-10-79; 8:45 am]

**BILLING CODE 8025-01-M**

## Region I Advisory Council; Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Providence, Rhode Island, will hold a public meeting at 12:00 Noon, on Thursday, April 26, 1979, at the Governor Dyer's Buffet House, Providence, Rhode Island, to discuss such matters as may be presented by members, staff of the Small Business Administration, and other attending.

For further information, write or call Charles J. Fogarty, District Director, U.S. Small Business Administration, 57 Eddy Street, Providence, Rhode Island 02903—(401) 528-4580.

Dated: April 2, 1979.

**K. Drew,**

*Deputy Advocate for Advisory Councils.*

[FR Doc. 79-11161 Filed 4-10-79; 8:45 am]

**BILLING CODE 8025-01-M**

## Region X Advisory Council; Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Spokane, Washington, will hold a public meeting at 9:00 a.m., (PST), on Friday, April 20, 1979, in Room 695, U.S. Court House Building, West 920 Riverside Avenue, in Spokane, Washington, to discuss such business as may be presented by members, the staff of the Small Business Administration, or others attending.

For further information, call or write William S. Schumacher, District Director, U.S. Small Business Administration, U.S. Court House, Room 651, Post Office Box 2167, Spokane, Washington 99210—(509) 456-3781—FTS 439-3781.

Dated: April 4, 1979.

**K Drew,**

*Deputy Advocate for Advisory Councils.*

[FR Doc. 79-11163 Filed 4-10-79; 8:45 am]

**BILLING CODE 8025-01-M**

# DEPARTMENT OF STATE

## Office of the Secretary

## Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (OCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (OCIR) will meet on May 2, 1979, at the NASA/Goddard Space Flight Center, Greenbelt Road, Building 12, Room N13, Greenbelt, Maryland. The meeting will begin at 9:30 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The purpose of the meeting will be to review the results of the Special Preparatory Meeting for the 1979 World Administrative Radio Conference, and development of a work program in preparation for the next international meeting of Study Group 7.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520 (telephone (202) 632-2592).

Dated: April 2, 1979.

**Gordon L. Huffcutt,**

*Chairman, U.S. OCIR National Committee.*

[Public Notice CM-8/181]

[FR Doc. 79-11165 Filed 4-10-79; 8:45 am]

**BILLING CODE 4710-01-M**

## Shipping Coordinating Committee; Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Tuesday, May 15, 1979 in Room 1101 West Tower, Waterside Mall, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C.

The purpose of the meeting is to review the proceedings of the February and March 1979 meetings of the Ad Hoc Group on Incineration at Sea and the Ad Hoc Scientific Group on Dumping under the Convention on the Prevention of Marine Pollution by Dumping of Wastes

and Other Matter. Also under discussion will be significant items agreed to by the Contracting Parties for the agenda of the Fourth Consultative Meeting of Contracting Parties to the Convention, scheduled to be held in London October 22–26, 1979.

Requests for further information should be directed to Ms. Norma Hughes, Executive Secretary, Ocean Dumping Committee (WH–548) Environmental Protection Agency, Washington, D.C. 20460. Ms. Hughes may be reached by telephone on (202) 245–3051.

The Chairman will entertain comments from the public as time permits.

Richard K. Bank,
*Chairman, Shipping Coordinating Committee.*
March 30, 1979.

[CM–8/180]
[FR Doc. 79–11164 Filed 4–10–79; 8:45 am]
BILLING CODE 4710–09–M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### Louisville & Nashville Railroad Co.; Emergency Order Limiting Movement of Hazardous Materials

On February 7, 1979, the Federal Railroad Administration (FRA) issued Emergency Order No. 11 placing certain restrictions on the movement of railroad freight cars containing materials required to be placarded in accordance with Department of Transportation regulations, 49 CFR Parts 170–189, over track owned or leased by the Louisville and Nashville Railroad Company (L&N). (44 FR 8402.) That Order provided, in part, that FRA would consider gradual removal of those restrictions dependent upon the L&N's progress in rectifying its safety deficiencies.

On March 1, 1979, the L&N requested that the order be modified to exclude coverage of its mainline between Flomaton, Alabama and Chattahoochee, Florida. In support of that request, L&N stated that the walking inspection over this segment required under paragraph 4 of the Order had been completed on February 12, 1979, and that all deficiencies discovered during that inspection had been corrected.

Following L&N's request, FRA safety inspectors performed a thorough investigation of all aspects of railroad operations over that track segment that bear on safety, including the condition of track and equipment, adequacy of training and testing of L&N operating personnel, L&N compliance with Federal safety regulations and its own rules, accident history, and the volume and character of hazardous materials moved. Based on the results of that investigation, I hereby order that, effective upon issuance of this notice, the requirements of Emergency Order No. 11 are rescinded with respect to the LN's mainline between Flomaton, Alabama and Chattahoochee, Florida (milepost 607 mainline connection to milepost 811, end of L&N ownership).

Issued in Washington, D.C. on April 6, 1979.

John M. Sullivan,
*Administrator.*

[FRA Emergency Order No. 11–Notice 5]
[FR Doc. 79–11283 Filed 4–10–79; 8:45 am]
BILLING CODE 4910–06–M

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

### Interest Rate on Treasury Notes of Series R–1981

April 6, 1979.

The Secretary of the Treasury announced on April 5, 1979, that the interest rate on the notes designated Series R–1981, described in Department Circular—Public Debt Series—No. 6–79, dated March 15, 1979, will be 9⅝ percent. Interest on the notes will be payable at the rate of 9⅝ percent per annum.

**SUPPLEMENTARY STATEMENT:** The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,
*Fiscal Assistant Secretary.*

[Supplement to Dept. Circular Public Debt Series—No. 6–79]
[FR Doc. 79–11178 Filed 4–10–79; 8:45 am]
BILLING CODE 4810–40–M

## INTERSTATE COMMERCE COMMISSION

### Assignment of Hearings

April 6, 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.

No. MC 96925 (Sub-No. 9F), Crown Motor Lines, Inc., now assigned for hearing on May 21, 1979 (1 week), at Tallahassee, FL., in a hearing room to be later designated.

No. MC 115826 (Sub-No. 361F), W. J. Digby, Inc., now assigned for hearing on May 10, 1979, (2 days), at Denver, CO., in a hearing room to be later designated.

No. MC 143978 (Sub-No. 2), Emerson Delivery, Inc., No. MC-143978 (Sub.-No. 3), Emerson Delivery, Inc., now assigned for hearing on May 14, 1979, (2 days), at Chicago, IL., in a hearing room to be later designated.

No. MC 145491F, Piggyback Transportation Service, Inc., now assigned for hearing on May 16, 1979, (3 days), at Chicago, IL., in a hearing room to be later designated.

No. MC 22301 (Sub-No. 26F), Sioux Transportation Company, Inc., now assigned for hearing on May 29, 1979, at Sioux Falls, South Dakota and will be held in Ramada Inn, 2400 North Louise.

H. G. Homme, Jr.,
*Secretary.*

[FR Doc. 79–11235 Filed 4–10–79; 8:45 am]
BILLING CODE 7035–01–M

### Policy Statement on Tariff Simplification

The Interstate Commerce Commission is issuing this statement of policy in recognition of the need to standardize, modernize, and simplify tariffs. The statement reflects the unanimous view of the Commission. The efforts of several groups in the private sector to automate tariffs have been brought to our attention; we have encouraged these efforts and urge others to follow suit.

A "tariff" is a document that lists rates and charges for the movement of specific commodities in "common carriage" such as by truck or rail. The tariff serves as a key reference point both for users of transportation and for providers of transportation services. Tariff data is used in facility location, product planning and pricing, distribution planning, logistics planning and operations, and freight bill auditing. The tariff also serves as the carrier's price list, as a planning, management and operations reference point; it is a key to successful performance of transportation services in a competitive market.

In many respects, the technology of tariff development and use has not kept pace with the changing and increasingly sophisticated needs of business and industry. The growing complexity of business operations, the increasing volume of daily business transactions,

rising labor costs and significant cost reductions in electronic technology applications have brought about an expansion in industrial use of automatic information handling and processing systems and electronic digital communications.

Moreover, there has been what appears to be an irreversible trend toward the use of electronic company-to-company communications for the conduct of normal business transactions. These developments signal a move away from paper as the principal medium for communicating information and highlight the importance of standardization—standard procedures, standard methods of expression, standard codes, and standard data formats.

Although the tariff is a basic planning, operations and economic tool in transportation and distribution management, tariffs have not been standardized. Tariffs differ for various forms of transportation and for different tariff publishing bureaus for carriers of the same form of transportation. The result is an increase in the cost of using and maintaining tariffs.

The lack of tariff compatibility also deters efforts to apply current information-handling technology at reasonable cost, increases the complexity of tariff use, and makes it difficult for rate personnel accurately to determine the applicable rate and most appropriate routing for each shipment. Expensive litigation often results. Therefore, it is essential that transportation tariffs be organized and presented in a format that meets the needs of principal users and permits effective and efficient use of modern data technology.

The Commission believes that tariff simplification can best be achieved through a comprehensive, joint effort involving shippers (including government shippers), carriers and tariff publishers for all forms of transportation. As far as the Commission knows, the principal effort to standardize tariffs is being conducted by the Transportation Data Coordinating Committee through its tariff modernization program.

The Commission wishes to encourage and support joint public/private efforts to standardize and simplify transportation tariffs. Uniform standards for all forms of transportation are necessary to identify carriers and describe commodities, geographic points, rules and routes, so tariff data can be exchanged.

During this year, the Commission also plans to modernize its own tariff rules. But before final rules are issued, the public will have an opportunity to comment. The seriousness of this problem and the urgency of the need for simplification will command our attention and resources as necessary to ensure that required improvements are made in tariffs filed with the Commission. The Commission also will work with other Federal agencies in joint efforts to aid in achieving tariff compatibility among different forms of transportation.

H. G. Homme, Jr.,
*Secretary.*

[FR Doc. 79-11236 Filed 4-10-79; 8:45 am]
BILLING CODE 7035-01-M

# Sunshine Act Meetings

Federal Register
Vol. 44, No. 71
Wednesday, April 11, 1979

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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| Federal Communications Commission | 1, 2 |
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| National Commission on Libraries and Information Science | 5 |

1

**FEDERAL COMMUNICATIONS COMMISSION.**

**TIME AND DATE:** 9:30 a.m., Thursday, April 12, 1979.

**PLACE:** Room 856, 1919 M Street NW., Washington, D.C.

**STATUS:** Closed Commission Meeting following the Open Meeting.

**MATTERS TO BE CONSIDERED:**

*Agenda, Item No., and Subject*

Hearing—1—Petition for "distress sale" relief in the Rhinelander, Wisconsin, television renewal proceeding (Docket Number 21266).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

If additional information is required concerning this meeting it may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: April 5, 1979.

[S-700-79 Filed 4-9-79; 10:19 am]

**BILLING CODE 6712-01-M**

2

**FEDERAL COMMUNICATIONS COMMISSION.**

**TIME AND DATE:** 9:30 a.m., Thursday, April 12, 1979.

**PLACE:** Room 856, 1919 M Street, NW., Washington, D.C.

**STATUS:** Open Commission meeting.

**MATTERS TO BE CONSIDERED:**

*Agenda, Item No., and Subject*

General—1—Modification to Public Notice which is required by the Sunshine Act.

Private Radio—1—Simplification of the FCC rules for recreational boaters.

Common Carrier—1—Exchange Network Facilities for Interstate Access ("ENFIA").

Common Carrier—2—Notice of Inquiry and Investigation of the Comstar Satellite System.

Common Carrier—3—Petition for reconsideration to permit the immediate termination of the rotational ("carrier-of-the-week") system of providing international television transmission service.

Common Carrier—4—Joint Motion by Western Union and IRCs for commission approval of Agreements and for deletion of issues from Docket No. 78-97.

Common Carrier—5—Western Union International, Inc. tariff revisions to establish rates for service to NASA between Goddard Space Flight Center and an Intelsat Atlantic Ocean Satellite.

Cable Television—1—Petition for Waiver filed by Cablecom-General of Kirksville, Inc., operator of a cable television system serving Kirksville, Missouri.

Cable Television—2—Petitions for reconsideration of Report and Order in Docket No. 21002, (federal franchise standards for cable television).

Cable Television—3—Application for Review filed by Springfield Television Broadcasting Corporation, WWLP, Springfield, Mass.

Renewal—1—Petition for Revocation of Licenses; Cease and Desist Orders: Immediate Submission of Renewal Applications: Discriminatory Programming and Employment Practices; Fairness Doctrine Complaints and Other Violations filed with regard to the National Broadcasting Company, Inc., several NBC affiliates in Mississippi, Louisiana, Tennessee, and Texas, and the National Collegiate Athletic Association.

Television—1—Application of Gadsden Television, Inc. for a construction permit for a new television station on channel 44, Gadsden, Alabama.

Broadcast—1—Vertical and horizontal blanking standards for in-school instructional television programs.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: April 5, 1979.

[S-701-79 Filed 4-9-79; 10:13 am]

**BILLING CODE 6712-01-M**

3

**FEDERAL ENERGY REGULATORY COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** Published April 9, 1979, 44 FR 21179.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** April 11, 1979, 10 a.m.

**CHANGE IN THE MEETING:** The following item has been added:

*Item No., Docket No., and Company*

CAM-2.—Section 404 Referral by the Secretary of Energy to the FERC of proposed amendments to the Crude Oil price regulations to provide incentive prices for newly discovered Crude Oil.

Kenneth F. Plumb,
*Secretary.*

[S-703-79 Filed 4-9-79; 1:35 pm]

**BILLING CODE 6740-02-M**

4

**FEDERAL ENERGY REGULATORY COMMISSION.**

### Notice of Meeting

April 9, 1979.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552b:

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission.

**TIME AND DATE:** April 6, 1979, 1 p.m.

**PLACE:** 825 North Capitol Street, NE., Washington, D.C. 20426, Room 9306.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** An additional matter relating to an investigation was added to the previously scheduled meeting.

**CONTACT PERSON FOR FURTHER INFORMATION:** Lois D. Cashell, Acting Secretary, (202) 275-4166.

[S-704-79 Filed 4-9-79; 1:35 pm]

**BILLING CODE 6740-02-M**

5

**NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.**

**TIME:** 9 a.m.–5 p.m., and 8:30 a.m.–4 p.m., respectively.

**DATE:** May 17 and 18, 1979.

**PLACE:** Holiday Inn East, Evanston, Illinois.

**STATUS:** Open.

**MATTERS TO BE DISCUSSED:**

Opening Remarks, Chairman
White House Conference on Library and Information Services—Status Report
Commission Committees—Report by Chairmen
National Periodicals System Advisory Committee—Report
Literacy Theme Conference—Report of Meeting held April 1–4, 1979
Public/Private Sector Task Force—Update
Commissioners' Comments
Executive Director's Comments
Old Business
New Business

**CONTACT PERSON FOR MORE INFORMATION:** Alphonse F. Trezza, Executive Director, 202–653–6252.

**Alphonse F. Trezza,**
*Executive Director.*

April 6, 1979.

[S–702–79 Filed 4–9–79; 10:42 am]

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Part II

# Department of Health, Education, and Welfare

National Institutes of Health

Recombinant DNA Research

Actions Under Guidelines

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### National Institutes of Health

### Recombinant DNA Research; Actions Under Guidelines

**AGENCY:** National Insitutes of Health, PHS, HEW.

**ACTION:** Notice of actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

**SUMMARY:** This notice sets forth actions taken by the Director, NIH, under the 1978 NIH Guidelines for Research Involving Recombinant DNA Molecules (43 FR 60108).

**EFFECTIVE DATE:** April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Additional information can be obtained from Dr. William J. Gartland, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

**SUPPLEMENTARY INFORMATION:** I am promulgating today several major actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules. These proposed actions were published for comment in the **Federal Register** of January 15, 1979 and reviewed and recommended for approval by the Recombinant DNA Advisory Committee (RAC) at its meeting on February 15–16, 1979. In accordance with Section IV–E–1–b of the NIH Guidelines, I find that these actions comply with the Guidelines and present no significant risk to health or the environment.

Part I of this announcement provides background information on the actions. Part II lists the major actions.

### I. Decisions on Actions Under Guidelines

*A. Lower Eukaryotes as Host-Vector Systems*

Consideration of the use of lower eukaryotes as host-vector systems was initiated at a meeting at NIH of a Working Group on Lower Eukaryote Host-vector Systems on September 16, 1978. The purpose of the meeting was to consider possible alternatives to the EK1 and EK2 systems. Based on the routes of escape, the possibility of mating with naturally occurring strains (and, therefore, potential transfer of cloned material) and the ecological niches available to *Saccharomyces cerevisiae* and *Neurospora crassa*, it was reasoned that considerable containment is afforded by normal laboratory strains of *S. cerevisiae* and mutationally modified strains of *N. crassa*. In addition, it was unanimously agreed that *S. cerevisiae* could meet the criteria of HV2 systems if transfer of cloned DNA was prevented by mutations that would prevent mating. A Working Group report was developed from this meeting and presented to the Recombinant DNA Advisory Committee (RAC) at its October 30–31, 1978 meeting. The report was modified and approved by the RAC. The recommendations were summarized and published for comment in the **Federal Register** on January 15, 1979. No comments were received during the 30-day period for comment. The RAC again considered the recommendations at its meeting on February 15–16, 1979.

1. *N. CRASSA* AND *S. CEREVISIAE* AS HV1 SYSTEMS. The RAC considered the following proposal for approval of *Neurospora crassa* and *Saccharomyces cerevisiae* as HV1 systems:

"*N. crassa* and *S. cerevisiae* as HV1 systems. Specified strains of *N. crassa* which have been modified to prevent aerial dispersion and unmodified laboratory strains of *S. cerevisiae* are acceptable as HV1 systems based on their natural containment. The following *N. crassa* strains can be used:

(1) inl (inositolless) strains 37102, 37401, 46316, 64001 and 89601.

(2) csp-1 strain UCLA37 and csp-2 strains FS 590, UCLA101 (these are conidial separation mutants)

(3) eas strain UCLA191 (an "easily wettable" mutant)."

At the February 15–16, 1979 RAC meeting, the report was summarized and some of the advantages of using the lower eukaryote host-vector systems were described. The organisms are structurally and genetically more related to the cells of higher eukaryotes and there is the possibility of obtaining gene expression that may not occur in *E. coli*, particularly due to possibility of processing intervening sequences. The extensive knowledge of the genetics of *Saccharomyces* and *Neurospora* will enable significant contributions by investigators who have worked extensively with these organisms.

It was explained that the basis for proposing these organisms for HV1 containment came from considerations of the modes of escape, the opportunity for establishment in nature, and the possibility of transferring cloned segments to other species or strains in nature. As discussed in the report, there is very little opportunity to mate with other strains or species in nature and, furthermore, there are no natural vectors known which might effect interspecific transfer or genetic material.

*Saccharomyces cerevisiae* and *Neurospora crassa* are nonpathogenic to man, animals, and plants, and not closely related to known pathogens. Therefore, the RAC feels that relevant and important experiments can be done safely without risk to man, animals, plants or the general environment. The ecological niche for *S. cerevisiae* is the surface of fruits or the nectar of flowers. *N. crassa* is found abundantly at barren, burned-out sites in the semi-tropics. Neither organism can colonize the gut of man. Large amounts of bread and beer are consumed without any pathogenic effects of the yeast that are present.

The RAC voted to accept this section of the report by a vote of 19 to 0 with 1 abstention.

2. USE OF UNMODIFIED LABORATORY STRAINS OF *N. CRASSA*. The RAC considered the following proposal for use of unmodified laboratory strains of *N. crassa:*

"Unmodified laboratory strains of *N. crassa* can be used in experiments that require the HV1 level of containment provided that these are carried out at physical containment one level higher than required for HV1. However, if P3 physical containment is specified for HV1, this level is considered adequate for unmodified *N. crassa*. For P2 physical containment, special care must be exercised to prevent aerial dispersal of macroconidia."

This action is essentially equivalent to allowing the use of *N. crassa* as an "HV0" system. The scientific reason for proposing this is that a wide variety of mutants are available in *N. crassa*. The restriction of experiments to a few strains would require considerable genetic manipulation and effort which could be avoided by use of unmodified laboratory strains.

Several RAC members were concerned about the escape of *Neurospora* in aerosols or into the air since it forms spores which are freely dispersed. Since the intent was to have investigators exercise caution in their use of wild-type strains, it was proposed that the original proposed action be made more specific by the addition of the statement "including the use of a biological safety cabinet" after the last word in the paragraph. The RAC voted 18 to 1 with 1 abstention to accept this section as amended.

However, later in the discussion on the equivalence of lower eukaryote HV systems with those of *E. coli*, the RAC voted 18 to 0 with 2 abstentions that unmodified laboratory strains of *N. crassa* be approved at the present time

only for certain experiments. Accordingly, this section will now read as follows:

"Unmodified laboratory strains of *N. crassa* are approved at the P3 level of containment for shotgun experiments with phages, plasmids, and DNA from Class 1 prokaryotes [1] and lower eukaryotes that do not produce polypeptide toxins. [34]"

3. *S. CEREVISIAE* AS AN HV2 SYSTEM. The RAC considered the following criteria for the use of *S. cerevisiae* as an HV2 system:

"*S. cerevisiae* as an HV2 system. Biological containment of yeast is a product of several factors: (a) probability of encounter of the host-vector with a wild type yeast outside the laboratory; (b) the abundance of wild type strains able to mate with a laboratory strain; (c) the frequency of mating under the dilute conditions simulating natural environments; (d) the reduction in mating fequency conferred by the sterility mutations; (e) the stability of the cloned segment and its vector; (f) the survival and growth ability of the host relative to wild types.

The following data are to be supplied in support of a candidate *S. cerevisiae* for HV2 certification:

(1) Genotype of the strain, description of the vectors and selective markers to be used, the nature and stability of the mutations(s) contributing to sterility and the mode of construction of the strain.

(2) The frequency of mating (in a worst case analysis under optimal conditions) with a fertile strain of opposite mating type.

(3) Relative growth rates of the candidate strain and suitable industrial wild types, separately and in mixed culture. (The specification of industrial strains reflects the rarity of *S. cerevisiae* in nature under non-domesticated conditions.)

(4) Data on the stability and maintenance of the cloned segment and vector in nonselective media.

(5) Measurement of the relative ability (in a worst case analysis) of fertile parents of the sterile HV2 candidate to mate at low cell density compared to optimal conditions.

(6) An experimental estimate of the frequency of transfer of a model cloned segment (in a worst case analysis, again with a fertile strain) to a non-mating, industrial strain, after prolonged cultivation in mixed culture.

Changes of auxotrophic selective markers in host and vector, or change in mating type allele, are trivial modifications not requiring certification, provided the level of sterility is not decreased. Certified EK2 *E. coli* vector DNA or fragments thereof can be used in HV2 *S. cerevisiae*."

This section addresses the criteria for the acceptance of *S. cerevisiae* as an HV2 system. One member of the RAC raised a question as to whether numerical values should be assigned to the containment criteria. It was stated that the combined effect of various containing features (the product) is the important consideration. Explicit in the Guidelines is the factor of $10^{-8}$ (See Guidelines, Section II–D–1–b). Investigators will have to present data that will at least satisfy this value.

The RAC voted to accept this section by a vote of 19 to 1 with no abstentions.

4. EQUIVALENCE OF LOWER EUKARYOTE HV SYSTEMS WITH THOSE OF *E. COLI*. The RAC considered a proposal for the equivalence of lower eukaryote HV systems with those of *E. coli*. The proposal appeared in the January 15, 1979 **Federal Register** as follows:

"Equivalence of lower eukaryote HV systems with those of *E. coli*. In accord with Section III–B–1, host-vector systems which have been approved as HV1 systems may be used under P2 containment conditions for shotgun experiments with phages, plasmids, and DNA from nonpathogenic prokaryotes which do not produce polypeptide toxins. [34] For other classes of recombinant DNA experiments with these HV1 systems, except for the cloning of complete genomes of eukaryote viruses, the *S. cerevisiae* and *N. crassa* HV1 systems and *S. cerevisiae* HV2 systems may be used at the physical containment levels applicable to EK1 and EK2 systems, respectively. Experiments involving complete genomes of class 1 eukaryote viruses will require P3+HV2 containment levels. Other eukaryote viruses are to be handled on a case-by-case basis. [45]"

This section contained a typographic error as it appeared in the **Federal Register** of January 15, 1979. The next to last sentence in the paragraph should have read:

"Experiments involving complete genomes of class 1 eukaryote viruses will require P3+HV1 or P2+HV2 containment levels."

The RAC decided to treat this proposal in two sections. Accordingly, the RAC first considered the following part of the proposal:

"Equivalence of lower eukaryote HV systems with those of *E. coli*. In accord with Section III–B–1, host-vector systems which have been approved as HV1 systems may be used under P2 containment conditions for shotgun experiments with phages, plasmids, and DNA from nonpathogenic prokaryotes which do not produce polypeptide toxins. [34] For other classes of recombinant DNA experiments with these HV1 systems, except for the cloning of complete genomes of eukaryote viruses, the *S. cerevisiae* and *N. crassa* HV1 sysems and *S. cerevisiae* HV2 systems may be used at the physical containment levels applicable to EK1 and EK2 systems, respectively."

In order to use the approved systems in various experiments it is necessary to assign containment levels. One RAC member pointed out that if equivalence was not adopted it would be necessary to go through the Guidelines and individually assign containment levels for each set of experiments.

The RAC proposed to equate HV1 to EK1 and HV2 to EK2 for the *S. cerevisiae* and *N. crassa* systems.

The RAC voted to accept the proposal by a vote of 18 to 2 with no abstentions.

The RAC then considered the second part of this section which was incorrectly printed in the **Federal Register** of January 15, 1979. The RAC in its deliberations took a less restricted position than either that of the **Federal Register** announcement or the report of the Working Group, and recommend that the following wording be substituted for the previous proposal:

"Experiments involving complete genomes of eukaryote viruses will require P3+HV1 or P2+HV2 containment levels."

This recommendation passed by a vote of 17 to 1 with 2 abstentions. Since this is a major change in the proposed action as it appeared in the **Federal Register** on January 15, 1979, additional opportunity for public comment is appropriate. Accordingly, this proposed action will be published for an additional 30-day comment period and will be reconsidered by the RAC at its next meeting.

B. *Saccharomyces Cerevisiae* HV2 Systems

The RAC reviewed an application submitted by Dr. David Botstein et al. for certification of sterile yeast hosts (SHY strains of *Saccharomyces cerevisiae)* as HV2 containment systems when used with a variety of composite vectors capable of replication and/or integration in yeast.

During the 30-day period for comment, no comments were received. Prior to consideration of this proposal, the RAC had recommended the criteria for *S. cerevisiae* as an HV2 system described in A above.

The application had been reviewed by the Lower Eukaryotic Host-Vector Working Group and recommended to the RAC for acceptance. The basis of containment in the HV2 systems is the inability of cloned DNA in a sterile yeast host to be transferred out of the host to other laboratory or wild type strains. The level of containment achieved by the HV2 system is acceptable based primarily upon the sterility, the probability of encountering an appropriate haploid strain in nature which is capable of mating, and the inefficiency of mating in dilute suspension.

The following sterile strains of yeast, all of which have the *ste*-VC9 mutation, are proposed as HV2 hosts: SHY1, SHY2, SHY3 and SHY4.

The proposed HV2 plasmid vectors have in common several characteristics. They all contain a bacterial replicon derived from the certified EK2 vector, pBR322, which makes possible the amplification of the DNA in *E. coli*. Another common characteristic is the presence of markers which enable selection in *E. coli* for the presence of the plasmid. Some of these markers are drug-resistance genes derived from pBR322. Others, however, are yeast DNA fragments which are expressed in *E. coli* K–12: these include the *ura*3, *leu*2, *his*3, and *trp*l genes.

Most of the vectors also carry one or more genes of yeast origin which can be used to select the presence of the vector in yeast, such as *ura*3, *leu*2, *trp*1, and *his*3. The SHY strains are arranged to make any or all of these genes selectable. All the vectors also carry fragments of yeast DNA which provide for the maintenance of the plasmid in yeast. The following are the proposed HV2 plasmid vectors: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, YIp33.

A complete discussion of the strains and the vectors proposed for certification is available from the Office of Recombinant DNA Activities.

The RAC voted 17 to 0 with 3 abstentions to recommend approval of the proposed systems because they were considered to meet adequately the criteria for HV2 *S. cerevisiae* systems.

C. *Prokaryots Other than E. Coli as Host-Vector Systems*

This issue was considered at a meeting held at Stanford University on September 12, 1978 of the Working Group on Prokaryote Host-Vectors Other than *E. coli*. The purpose of that meeting was to explore other candidate prokaryotic organisms as HV1 systems. The group considered *Bacillus* and *Streptomyces* systems as possible additions to the presently approved EK1 and EK2 systems. The Working Group report was considered by the RAC at its October 30–31, 1978 meeting. The report was modified and approved by the RAC. The recommendations were summarized and published for public comment in the **Federal Register** on January 15, 1979. No comments were received during the 30-day period for comment. The RAC again considered the recommendations at its meeting on February 15–16, 1979.

1. EXEMPTION OF *BACILLUS* SPECIES THAT EXCHANGE GENETIC INFORMATION. The RAC considered the following proposal for exemption of certain *Bacillus* species on the basis of exchange of genetic information:

"*Bacillus subtilis* related species that have been shown to exchange chromosomal DNA will be included under the exemption category of Section I–E–4 of the 1978 Guidelines. Any recombinant DNA molecules that are composed entirely of DNA segments from one or more of the organisms listed below and to be propagated in any of the organisms listed below are exempt from the Guidelines. (This list is to be separate from that which already exists in Appendix A for exchangers with *E. coli.)*

*Bacillus subtilis*
*Bacillus licheniformis*
*Bacillus globigii*
*Bacillus niger*
*Bacillus nato*
*Bacillus pumilus*
*Bacillus amyloliquefaciens*
*Bacillus aterrimus"*

The basis of this list is that these organisms exchange chromosomal DNA by transformation.

The RAC voted 17 to 0 with 3 abstentions to accept this section of the report.

2. *BACILLUS SUBTILIS* HV1 SYSTEM. The RAC considered the following proposal for acceptance of *B. subtilis* as an HV1 system:

"Asporogenic mutant derivatives of *B. subtilis* can be accepted as the host component of an HV1 system. These derivatives must not revert to sporeformers with a frequency greater than $10^{-7}$; data confirming this requirement must be presented to NIH for certification. The following plasmids are accepted as the vector components of certified *B. subtilis* HV1 systems: pUB110, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223."

The *Bacillus subtilis* system was recommended by the Working Group as a host system in conjunction with certain plasmids because it offers distinct advantages for genetic manipulation and is of little or no potential hazard. *B. subtilis*, an obligate aerobe, is not normally indigenous to man, is non-pathogenic to man, and is generally found in the soil. In Japan, a vegetable cheese composed of live *Bacillus nato*, almost identical to *B. subtilis*, is consumed in large quantities by an estimated 80% of the population. In France, deliberate ingestion of *B. subtilis* known as "Bactisubtil" is similarly widespread and is used therapeutically for certain digestive disorders. *B. subtilis* is not a normal inhabitant of the gut since it is an obligative aerobe.

The RAC voted 15 to 0 with 4 abstentions to approve the proposal.

3. EQUIVALENCE OF *BACILLUS SUBTILIS* HV1 SYSTEMS WITH THOSE OF *E. COLI*. The following statement regarding equivalency of *Bacillus subtilis* systems that had been approved by the RAC at its meeting on October 15–16, 1978 was omitted from the January 15, 1979 **Federal Register** announcement:

"HV1 *Bacillus subtilis* systems will be equivalent to EK1 in the physical containment requirements for specific experiments."

Section III–B–1 of the Guidelines states:

"Host-vector systems which have been approved as HV1 systems may be used under P2 containment conditions for shotgun experiments with phages, plasmids, and DNA from nonpathogenic prokaryotes which do not produce polypeptide toxins. [34] Other classes of recombinant DNA experiments with these HV1 systems will require prior approval and classification by NIH.

The RAC voted 12 to 0 with 6 abstentions that classes of recombinant DNA experiments with *B. subtilis* HV1 systems (other than those specified above) will be equivalent to EK1 in the physical containment requirements for specific experiments.

4. ADDITION TO SECTION III–B–3, NON–HV1 SYSTEMS. The RAC considered a proposal in the Working Group report to amend Section III–B–3 of the Guidelines by addition of the following:

"In those cases where genetic exchange has not been demonstrated between two bacterial species A and B, neither of which is pathogenic for man, animals, or plants, recombinant DNA experiments involving only A and B can be conducted under P3 containment.[2A]"

The RAC voted 19 to 1 to accept an amended statement which reads as follows:

"In those cases where genetic exchange has not been demonstrated between two bacterial species A and B, neither of which is known to be pathogenic for man, animals, or plants, recombinant DNA experiments involving only A and B can be conducted under P3 containment.[2A]"

D. *Specific Bacillus Subtilis Experiment.* The RAC considered a request to permit cloning in *B. subtilis*, under P2 conditions, of DNA derived from either *E. coli* K–12 or *Saccharomyces cerevisiae* using NIH-approved EK2 plasmid vectors. No comments were received during the 30-day period for comment.

The RAC agreed that propagation in *B. subtilis* of *E. coli* K–12 DNA on an *E. coli* vector would be an exempt experiment under Section I–E–3. The RAC passed a motion by a vote of 11 to 0 with 2 abstentions to permit the cloning in *B. subtilis*, under P2 conditions, of DNA derived from *Saccharomyces cerevisiae* using EK2 plasmid vectors provided that an HV1 *B. subtilis* host is used.

E. *Containment Levels for Shotgun Cloning of Primate and Other Mammalian DNA in E. Coli K–12*

The RAC considered proposed changes in the Sections III–A–1–a–(1) and –(2) of the Guidelines so as to include the possibility of P3+EK1 containment as an alternative to the present P2+EK2 containment requirement for the shotgun cloning of primate or other mammalian DNA into *E. coli* K–12. During the 30-day period for public response, no comments were received.

This proposal had been considered during the revision of the Guidelines and the issue is discussed in the Decision Document which accompanied the Revised Guidelines (**Federal Register**, December 22, 1978, page 60088).

The RAC considered the possibility of requiring an EK2 certified vector in EK1 hosts or even a "nonmobilizable vector" as had been proposed at the last RAC meeting. Two members emphasized that there should be no greater containment required for general cloning of primate or mammalian DNA than is already required for tumor viruses. One member described at length the physical containment provided by a P3 facility which under normal medical microbiological laboratory conditions is used only for serious pathogens.

The RAC voted 16 to 1 with 4 abstentions to amend Sections III–A–1–a–(1) and III–A–1–a–(2) of the Guidelines to read as follows:

"III–A–1–a–(1). *Primates.* P2 physical containment+an EK2 host-vector or P3+EK1. Any lowering of containment below these levels (i.e., for purified DNA or characterized clones) cannot be made solely by an institutional biosafety committee but requires NIH approval. (See Section IV–E–1–b–(3).)

III–A–1–a–(2). *Other Mammals.* P2 physical containment+an EK2 host-vector or P3+EK1."

The RAC also indicated its desire that these containment levels for EK1 systems should apply to other HV1 systems under equivalence provisions, discussed above.

F. *Amendment of Sections III–B–2 and III–C–5 of the Guidelines*

The RAC considered for approval changes in the Sections III–B–2 and III–C–5 of the Guidelines so as to include the words "into a lambdoid phage vector." This change had been previously recommended by the RAC at its October 1978 meeting. During the 30-day period for public response, no comments were received.

In the publication of proposed changes in the **Federal Register** on January 15, 1979, it was noted that the greated flexibility afforded with non-EK2 lambdoid phage vectors does not in any way compromise safety or containment in the final host. The continued requirement for EK2 plasmid vectors insures that the final cloning back into the host of origin can be done with a minimal introduction of *E. coli* genetic information.

It was emphasized that the subject of these sections is essentially the self-cloning of DNA with the introduction of either lambda or *E. coli* plasmid DNA. For the case of plasmid vectors there might be the possibility of the vector carrying some *E. coli* chromosomal DNA. This situation is less likely for the lambda bacteriophage vectors.

The RAC voted 19 to 0 with 2 absentions to amend Sections III–B–2 and III–C–5 of the Guidelines to read as follows:

"Section III–B–2. *Return of DNA segment to Non-HV1 host of origin* * * * * * For a prokaryote which does not exchange genetic information with *E. coli* (Host B), the following type of experiment may be carried out without Host B having been approved as a HV1 host: DNA from Host B may be inserted into a lambdoid phage vector or into a vector from a certified EK2 host-vector system and propagated in *E. coli* K–12 under the appropriate containment conditions [see Section III–A–1–b–(2)]. Subsequently, this recombinant DNA may be returned to Host B and propagated in Host B under P1 conditions. [43]

III–C–5. *Fungal or Similar Lower Eukaryotic Host-Vector Systems* * * * * * * In addition to the experiments described above, the following experiments may be carried out without the eukaryotic host (Host C) having been approved as an HV1 host: DNA from Host C may be inserted into a lambdoid phage vector or into a vector from a certified EK2 host-vector system and propagated in *E. coli* K–12 under the appropriate containment conditions [see Section III–A–1–(a)–(5)]. Subsequently, this recombinant DNA may be returned to Host C and propagated there under P1 conditions. [43] * * *

G. *Amendment of Section III–C–2. Invertebrate Host-Vector Systems*

The RAC recommended that Section III–C–2 concerning *invertebrate host-vector systems* be divided into two parts. The first part, III–C–2–a, would retain the present wording of this section; the second part III–C–2–b would enable the use of nonviral vectors. Section III–C–2 would therefore read as follows:

"III–C–2. *Invertebrate Host-vector systems.*

III–C–2–a. *Insect viral vectors.* As soon as information becomes available on the host range restrictions and on the infectivity, persistence, and integration of the viral DNA invertebrate and invertebrate cells, experiments involving the use of insect viruses to propagate DNA sequences will be evaluated by NIH on a case-by-case basis [45] and will be conducted under the recommended physical containment conditions. (See Section IV–E–1–b–(3)–(c)).

III–C–2–b. *Nonviral vectors.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these Guidelines (see section I–E). DNA recombinants formed between such vectors and DNA from cells other than the host species require P1 physical containment for invertebrate cells in culture since invertebrate cells in culture inherently exhibit a very high level of containment. Experiments which require the use of whole animals will be evaluated by NIH on a case-by-case basis [45]."

Section III–C–2–b is being added to permit the use of nonviral vectors in invertebrate host-vector systems. The revised Guidelines permit the use of nonviral vectors for plant host-vector systems, but do not address their use for invertebrate systems. No comments were received during the 30-day period for comment. The RAC voted 12 to 0 with 2 abstentions to recommended the proposed amendment of Section III–C–2.

H. *Addition of Section III–C–1–f, Vertebrate Host-Vector Systems—Non-Viral Vectors*

Similar to the proposal in G above, the RAC recommended that a comparable section be added to Section III–C–1 on vertebrate host-vector systems. The new sub-section would read as follows:

"III–C–1–f. *Nonviral vectors.* Organelle, plasmid and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these Guidelines (see Section I–E). DNA recombinants formed between such vectors and nonviral DNA from cells other than the host species require only P1 physical containment for cells in culture since vertebrate cells in tissue culture inherently exhibit a very high level of containment. Recombinants involving viral DNA or experiments which require the use of whole animals will be evaluated by NIH on a case-by-case basis [45]."

No comments were received during the 30-day period for comment. The RAC voted 10 to 0 with 4 abstentions to accept this proposal.

I. *Addition of Section III–C–6, Return of DNA Segments To a Higher Eukaryotic Host of Origin*

The RAC considered the following proposal to add a new Section (III–C–6) to the Guidelines to permit the return of DNA segments to a higher eukaryotic host of origin:

"III–C–6. *Return of DNA segments to a Higher Eukaryotic Host of Origin.* DNA from a higher eukaryote (Host D) may be inserted into a lambdoid phage vector or into a vector from a certified EK2 host-vector system and propagated in *E. coli* K–12 under the appropriate containment conditions [see Section III–A–1]. Subsequently, this recombinant DNA may be returned to Host D and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study. [2A]"

The RAC noted that the revised Guidelines do not address the question of cloning within a higher eukaryote or cultured cells derived therefrom of DNA taken from the same species, joined to a vector and cloned in *Escherichia coli* K–12, and then returned to cells of the species of origin. Analogous clauses exist for returning DNA from *Escherichia coli* to a species of origin from prokaryotes and lower eukaryotes. The experiment is essentially a "self-cloning" experiment and therefore does not require high levels of physical containment. Most such experiments would be exempt from the Guidelines altogether were it not for the fact that the DNA, when returned to the host of origin, is joined to the DNA of the cloning vector, which is of bacterial origin. These vectors comprise a small number of well-characterized harmless DNA molecules.

The types of physical containment (P1 through P4) defined in the Guidelines are applicable to the propagation of microorganisms and to tissue cultures, but not to whole multicellular organisms. Thus, it is impractical to require P1 containment, and more appropriate to require conditions providing a degree of containment comparable to P1.

The announcement in the January 15, 1979 **Federal Register** drew three letters of comment prior to the February 15–16, 1979 RAC meeting. All three comments requested that the proposal be changed to permit the transfer of DNA segments to a heterologous eukaryote instead of only to the host of origin. The RAC felt that adoption of this proposed change would constitute a major change that would require an additional period for comment.

The RAC voted 13 to 0 with 2 abstentions to accept the proposal as published in the January 15, 1979 **Federal Register** with the following interpretations:

1. the term "host" is interpreted to be "species;"

2. viral DNA from viruses endogenous to a species is considered to be DNA from the species; and

3. this does not include exogenous viruses at this time.

## II. MAJOR ACTIONS UNDER GUIDELINES

A. *N. Crassa and S. Cerevisiae as HV1 Systems*

Specified strains of *Neurospora crassa* which have been modified to prevent aerial dispersion, and unmodified laboratory strains of *Saccharomyces cerevisiae* are acceptable as HV1 systems based on their natural containment. The following *N. Crassa* strains can be used:

(1) inl (inositolless) strains 37102, 37401, 46316, 64001 and 89601.

(2) csp-1 strain UCLA37 and csp-2 strains FS 590, UCLA101 (these are conidial separation mutants).

(3) eas strain UCLA191 (an "easily wettable" mutant).

B. *Unmodified Laboratory Strains of N. Crassa*

Unmodified laboratory strains of *N. crassa* are approved at the P3 level of containment for shotgun experiments with phages, plasmids, and DNA from Class 1 prokaryotes [1] and lower eukaryotes that do not produce polypeptide toxins. [34]

C. *Criteria for Saccharomyces Cerevisiae as an HV2 System*

The following are criteria for *Saccharomyces cerevisiae* as an HV2 system. Biological containment of *Saccharomyces cerevisiae* is a product of several factors: (a) probability of encounter of the host-vector with a wild type yeast outside the laboratory; (b) the abundance of wild type strains able to mate with a laboratory strain; (c) the frequency of mating under the dilute conditions simulating natural environments; (d) the reduction in mating frequency conferred by the sterility mutations; (e) the stability of the cloned segment and its vector; (f) the survival and growth ability of the host relative to wild types.

The following data are to be supplied in support of a candidate *S. cerevisiae* for HV2 certification:

(1) Genotype of the strain, description of the vectors and selective markers to be used, the nature and stability of the mutation(s) contributing to sterility and the mode of construction of the strain.

(2) The frequency of mating (in a worst case analysis under optimal conditions) with a fertile strain of opposite mating type.

(3) Relative growth rates of the candidate strain and suitable industrial wild types, separately and in mixed culture. (The specification of industrial strains reflects the rarity of *S. cerevisiae* in nature under non-domesticated conditions.)

(4) Data on the stability and maintenance of the cloned segment and vector in nonselective media.

(5) Measurement of the relative ability (in a worst case analysis) of fertile parents of the sterile HV2 candidate to mate at low cell density compared to optimal conditions.

(6) An experimental estimate of the frequency of transfer of a model cloned

segment (in a worst case analysis, again with a fertile strain) to a nonmating, industrial strain, after prolonged cultivation in mixed culture.

Changes of auxotrophic selective markers in host and vector, or change in mating type allele are trivial modifications not requiring certification, provided the level of sterility is not decreased. Certified EK2 *E. coli* vector DNA or fragments thereof can be used in HV2 *S. cerevisiae.*

D. *Equivalence of Lower Eukaryote HV Systems with those of E. Coli*

In accord with Section III–C–5, host-vector systems which have been approved as HV1 systems may be used under P2 containment conditions for shotgun experiments with phages, plasmids, and DNA from nonpathogenic prokaryotes which do not produce polypeptide toxins. [34] For other classes of recombinant DNA experiments with these HV1 systems, except for the cloning of complete genomes of eukaryote viruses, the *S. cerevisiae* and *N. crassa* HV1 systems and *S. cerevisiae* HV2 systems may be used at the physical containment levels applicable to EK1 and EK2 systems, respectively.

E. *Certified Saccharomyces Cerevisiae HV2 Systems*

The following sterile strains of *Saccharomyces cerevisiae,* all of which have the *ste*-VC9 mutation, are certified as HV2 hosts: SHY1, SHY2, SHY3, and SHY4. The following plasmids are certified for use in an HV2 system: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, Yip32, and YIp33. These plasmids can be considered EK2 vectors when propagated in *x*1776.

F. *Exemption of Bacillus Species that Exchange Genetic Information*

The following *Bacillus subtilis* related species that have been shown to exchange chromosomal DNA are now included under the exemption category of Section I–E–4 of the 1978 Guidelines. Any recombinant DNA molecules that are composed entirely of DNA segments from one or more of the organisms listed below and to be propagated in any of the organisms listed below are exempt from the Guidelines. (This list is to be separate from that which already exists in Appendix A for exchangers with *E. Coli.)*

*Bacillus subtilis*
*Bacillus licheniformis*
*Bacillus pumilus*
*Bacillus globigii*
*Bacillus niger*
*Bacillus nato*
*Bacillus amyloliquefaciens*
*Bacillus aterrimus*

G. *Bacillus Subtilis HV1 System*

Asporogenic mutant derivatives of *B. subtilis* can be accepted as the host component of an HV1 system. These derivatives must not revert to sporeformers with a frequency greater than $10^{-7}$; data confirming this requirement must be presented to NIH for certification. The following plasmids are accepted as the vector components as certified *B. subtilis* HV1 systems: pUB11o, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223.

H. *Equivalence of Bacillus Subtilis HV1 Systems with Those of E. Coli*

Host-vector systems which have been approved as HV1 systems may be used under P2 containment conditions for shotgun experiments with phages, plasmids, and DNA from nonpathogenic prokaryotes which do not produce polypeptide toxins. [34] Other classes of recombinant DNA experiments with *B. subtilis* HV1 systems will be equivalent to EK1 in the physical containment requirements for specific experiments.

I. *Modification of Section III–B–3*

Section III–B–3 of the Guidelines is replaced with the following modified text:

III–B–3. *Non-HV1 Systems.* Containment levels for other classes of experiments involving non-HV1 systems may be approved by the Director, NIH. (See Sections IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).)

In those cases where genetic exchange has not been demonstrated between two bacterial species A and B, neither of which is known to be pathogenic for man, animals, or plants, recombinant DNA experiments involving only A and B can be conducted under P3 containment. [2A]

J. *Specific Bacillus Subtilis Experiment*

The following experiment has been approved: The cloning in *B. subtilis,* under P2 conditions, of DNA derived from *Saccharomyces cerevisiae* using EK2 plasmid vectors provided that an HV1 *B. subtilis* host is used.

K. *Modification of Sections III–A–1–a–(1) and III–A–1–a–(2), Containment Levels for Shotgun Cloning of Primate and Other Mammalian DNA E. Coli K–12*

Sections III–A–1–a–(1) and III–A–1–a–(2) of the Guidelines are replaced with the following modified text:

III–A–1–a–(1). *Primates.* P2 physical containment + an EK2 host-vector or P3 + EK1. Any lowering of containment below these levels (i.e., for purified DNA or characterized clones) cannot be made solely by an institutional biosafety committee but requires NIH approval. (See Section IV–E–1–b–(3).)

III–A–1–a–(2). *Other Mammals.* P2 physical containment + an EK2 host-vector or P3+EK1.

L. *Modification of Section III–B–2*

Section III–B–2 of the Guidelines is replaced with the following modified text:

III–B–2. *Return of DNA Segments to Non-HV1 Host of Origin.* Those prokaryotes that exchange genetic information with *E. coli* by known physiological processes will be exempt from these Guidelines if they appear on the "list of exchangers" set forth in Appendix A (see Section I–E–4). For a prokaryote which can exchange genetic information [35] with *E. coli* under laboratory conditions but which is not on the list (Host A), the following type of experiment may be carried out under P1 conditions without Host A having been approved as an HV1 host: DNA from Host A may be inserted into a vector and propagated in *E. coli* K–12 under P1 conditions. Subsequently, this recombinant DNA may be returned to Host A by mobilization, transformation, or transduction and may then be propagated in Host A in any desired vector under P1 conditions.

For a prokaryote which does not exchange genetic information with *E. coli* (Host B), the following type of experiment may be carried out without Host B having been approved as an HV1 host: DNA from Host B may be inserted into a lambdoid phage vector or into a vector from a certified EK2 host-vector system and propagated in *E. coli* K–12 under the appropriate containment conditions [See Section III–A–1–b–(2)]. Subsequently, this recombinant DNA may be returned to Host B and Propagated in Host B under P1 conditions. [43]

M. *Modification of Section III–C–5*

Section III–C–5 of the Guidelines is replaced with the following modified text:

III–C–5. *Fungal or Similar Lower Eukaryotic Host-Vector Systems.* The containment criteria for DNA recombinant experiments using these host-vectors most closely resemble those for prokaryotes, rather than those for the preceding eukaryotes, since the host cells usually exhibit a capacity for dissemination outside the laboratory

that is similar to that for bacteria. Therefore, the procedures established for certification of HV systems other than *E. coli* K–12 (Section II–D–2) will also apply to these fungal or similar lower eukaryotic host-vector systems.

Once an HV1 system is approved by NIH, it may be used under P2 containment for shotgun experiments with phages, plasmids, and DNA from Class 1 prokaryotes [1] and lower eukaryotes that do not produce polypeptide toxins. [34] Other classes of recombinant DNA experiments with these HV1 systems will require prior approval and classification by NIH. (See Sections IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).) If HV2 or HV3 systems of this type are developed and approved by NIH, guidelines for their use in other types of recombinant DNA experiments will also be established.

In addition to the experiments described above, the following experiments may be carried out without the eukaryotic host (Host C) having been approved as an HV1 host: DNA from Host C may be inserted into a lambdoid phage vector or into a vector from a certified EK2 host-vector system and propagated in *E. coli* K–12 under the appropriate containment conditions [see Section III–A–1–(a)–(5)]. Subsequently, this recombinant DNA may be returned to Host C and propagated there under P1 conditions. [43].

Containment levels for other classes of experiments involving non-HV1 systems may be expressly approved by the Director, NIH. (See Sections IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).)

N. *Modification of Section III–C–2, Invertebrate Host-Vector Systems*

Section III–C–2 of the Guidelines is replaced with the following modified text:

III–C–2. *Invertebrate Host-vector systems.*

III–C–2–a. *Insect viral vectors.* As soon as information becomes available on the host range restrictions and on the infectivity, persistence, and integration of the viral DNA in vertebrate and invertebrate cells, experiments involving the use of insect viruses to propagate DNA sequences will be evaluated by NIH on a case-by-case [45] and will be conducted under the recommended physical containment conditions. (See Section IV–E–1–b–(3)–(c)).

III–C–2–b. *Nonviral vectors.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNa recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from thee Guidelines (see section I–E). DNa recombinants formed between such vectors and DNA from cells other than the host species require P1 physical containment for invertebrate cells in culture since invertebrate cells in culture inherently exhibit a very high level of containment. Experiments which require the use of whole animals will be evaluated by NIH on a case-by case basis [45].

O. *Addition of Section III–C–1–f, Vertebrate Host-Vector Systems—Non-Viral Vectors*

A new Section III–C–1–f is added to the Guidelines as follows:

III–C–1–f. *Nonviral vectors.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these Guidelines (see Section I–E). DNA recombinants formed between such vectors and nonviral DNA from cells other than the host species require only P1 physical containment for cells in culture since vertebrate cells in tissue culture inherently exhibit a very high level of containment. Recombinants involving viral DNA or experimetns which require the use of whole animals will be evaluated by NIH on a case-by-case basis [45].

P. *Addition of Section III–C–6, Return of DNA Segments to a Higher Eukaryotic Host of Origin*

A new Section III–C–6 is added to the Guidelines as follows:

III–C–6. *Return of DNA Segments to a Higher Eukaryotic Host of Origin.* DNA from a higher eukaryote (Host D) may be inserted into a lambdoid phage vector or into a vector from a certified EK2 host-vector system and propagated in *E. coli* K–12 under the appropriate containment conditions [see Section III–A–1]. Subsequently, this recombinant DNA may be returned to Host D and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study. [2A]

Dated: March 30, 1979.

**Donald S. Frederickson,**
*Director, National Institutes of Health.*

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Part III

# Department of Housing and Urban Development

## Office of the Assistant Secretary for Community Planning and Development

## Comprehensive Planning Assistance

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Community Planning and Development

[24 CFR Part 600]

### Comprehensive Planning Assistance

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, (HUD).

**ACTION:** Proposed rule.

**SUMMARY:** These proposed amendments would make the Comprehensive Planning Assistance (701) program relate more directly to the following National Policy Objectives expressed by the President in his Urban Policy statement to Congress on March 27, 1978: (1) community conservation and aide to distressed cities and places; (2) explanation of housing and employment opportunities; and (3) promotion of orderly and efficient growth. These amendments would give applicants wide discretion in selecting work activities so long as planning and management activities funded under the 701 program clearly relate to these Objectives. The amendments would also substantially simplify application and planning and management requirements and would provide a new means for furthering the implementation of plans by HUD and other Federal agencies. Finally, there would be a new provision for waiver of areawide organizational requirements governing board composition, designed to encourage creation of single organizations for unified planning of multiple Federal planning programs.

**DATE:** Comments are due May 11, 1979. The public comment period is being limited to 30, rather than the usual 60 days. It is essential that a final rule be adopted in this proceeding as soon as possible in order to enable HUD to approve grant applications for FY 79. Applications for FY 79 must be completed prior to the end of June to allow applicants to begin work on July 1.

**ADDRESS:** All comments should be sent to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:** Trudy P. McFall, Acting Director, Office of Community Planning and Program Coordination, Washington, D.C., (202) 755–6308.

**SUPPLEMENTARY INFORMATION:** The Department had originally intended to publish an Advance Notice of Proposed Rulemaking (ANPR). This Notice was prepared and openly discussed at several meetings which HUD staff were invited to attend. A national organization has also published the notice in its newsletter and copies were provided upon request to the general public. Thus, although HUD has decided not to publish the Advance Notice of Proposed Rulemaking because of timing problems in initiating funding in Fiscal Year 1979, it has been widely discussed. Comments received as a result of these discussions were helpful and have been incorporated in the proposed rule. In addition to the discussions on the ANPR, HUD published a Notice in the **Federal Register** initiating a demonstration program entitled, Incentive Funding for State and Regional Strategies (43 FR 141, 7/21/78). This program was a one-time incentive program which provided supplemental grants to applicants whose work best carries out the National Policy objectives emphasized in this proposed rule. The extensive public attention and response that the program received is evidence of the public's familiarity with HUD's interest to orient the 701 program in the directions proposed in this rule.

HUD's emphasis on the National Policy Objectives builds upon the recently completed and approved land use and housing elements required of all applicants by statute. HUD will encourage applicants to build upon them consistent with the National Policy Objectives. Section 701(c) of the Housing Act of 1954, as amended, which is the statutory base for the 701 program, requires that land use and housing elements be consistent with each other and consistent with stated national growth policy, which is more definitively set forth in the program objectives in this proposed rule.

**PROGRAM OBJECTIVES AND ELIGIBLE ACTIVITIES.** The program objectives (§ 600.5) are proposed to be amended to require that all funded activities and plans be clearly supportive of the President's National Policy Objectives. In keeping with these changes, only those eligible activities clearly supportive of the National Policy Objectives set forth in these regulations will be funded. Section 600.55 covering eligible activities is proposed to be amended for clarification and simplification. Although this Section has been rewritten, general types of activities previously eligible are not changed and applicants will continue to be able to carry out any of the previously permitted activities so long as they clearly relate to the National Policy Objectives.

**COOPERATIVE AGREEMENTS.** In order to encourage the development of plans which have relevance and utility for HUD's own decision making and to facilitate to the maximum degree the implementation of plans developed by applicants, a new provision is proposed to be added as § 600.6. Applicants and HUD Area Office Managers may, as part of the annual work program and grant negotiations, identify specific plans, data, policies or priorities which would be particularly useful to the HUD Field Office in making funding or other decisions. If the applicant agrees to develop the plans or policies identified, HUD will agree to use them to the maximum extent possible in its decision making.

**DEFINITIONS.** The work "distressed" has been added to the list of definitions in § 600.7. Distress is used in these regulations in a relative sense as a measure of problems and needs. This definition is not intended for use under any other HUD program. The definitions of "Indian tribal group or body" and "on-going comprehensive planning process" have been revised to conform them to statutory changes.

**GRANT AWARD CRITERIA.** The grant award criteria in Section 600.10(d) are proposed for change. The change would incorporate demographic factors currently used in the National distribution of 701 funds to HUD Field Offices into the criteria. The emphasis placed on the National Policy Objectives, performance in planning implementation and coordination, along with the adequacy of program management will be part of the criteria in making grant awards.

**WHO MAY BE ASSISTED.** Section 600.25 has been revised to continue the prohibition on funding for large cities and urban counties.

**WAIVER OF AREAWIDE ADMINISTRATIVE REQUIREMENTS.** A new provision is proposed to be added to the areawide organizational requirements of § 600.40. This provision would encourage areawide planning organizations having difficulty in meeting conflicting Federal planning program organizational requirements to request a waiver from HUD requirements when such an action is appropriate. The provision is proposed to be added to facilitate the establishment of single agency to undertake coordinated planning for multiple Federl planning programs.

**ENVIRONMENTAL AND HISTORIC PRESERVATION ASSESSMENTS.** It is proposed to eliminate environmental

(§ 600.65) and historic preservation (§ 600.66) assessments which are presently required. Instead of a separate assessment after a plan is completed, applicants will be required to assure that these concerns are integrated into their on-going developmental planning. Thus, when a plan has been completed, the environmental and historic preservation concerns shall have already been included and separate assessment would not be necessary. This is in conformance with the recently announced proposal of the Council on Environmental Quality to insure that planning and decisions reflect environomental values (40 CFR § 1501.2, 43 FR 25230, 25234, June 9, 1978).

**TRIENNIAL REVIEW.** The 701 statute was amended by the "Housing and Community Development Amendments of 1978" to change the requirements for a biennial review § 600.73(e) of the land use and housing elements to a triennial review. This makes the review period consistent with the Community Development Block Grant program required three-year city strategy as well as with the three year overall program design period.

**OVERALL PROGRAM DESIGN (OPD).** A number of changes are proposed in keeping with the President's directive to reduce the reporting burden on recipients and to simplify administrative requirements. The Overall Program Design (OPD) (§ 600.105 and 600.115) is proposed to be simplified. The proposed change would: (1) require the submission of an OPD every fourth year instead of annually as at present; (2) separate the annual work program from the OPD and continue its annual submission; (3) allow applicants more flexibility in the organization of the OPD; (4) eliminate the requirement for a bar chart to schedule work; (5) eliminate the requirement for status and future actions reports previously required under § 600.70 and 600.72; (6) eliminate the requirement that states include a separate section in their OPD for each category of substate applicant in favor of a consolidated section; and (7) eliminate duplicative coordination requirements from the state OPD.

Additions to this section include reference to Section 504 of the Rehabilitation Act of 1973, as amended, relating to nondiscrimination against handicapped persons. A requirement that mapping proposals be cleared with the U.S. Geological Survey to avoid duplication and maximum use and availability of new mapping products has been added as is required by agreement between HUD and the U.S. Geological Survey in cooperation with the Office of Management and Budget.

**STATE ALLOCATION OF SUBSTATE ASSISTANCE.** The requirements for a State allocation system for providing assistance to substate applicants is split between areawide and local assistance. The areawide allocation system would use the same criteria as is used by HUD. The allocation of local assistance would be based on need and performance, as appropriate.

**ANNUAL HUD EVALUATION.** The criteria proposed to be used in the annual HUD evaluation of each grantee has been added in § 600.145. The criteria includes: (1) plan implementation and program achievement; (2) program coordination performance; (3) compliance with equal opportunity, citizen participation and other special requirements; and (4) program management and administration of subgrants. This evaluation will be used to determine the applicant's level of funding on the basis of the performance factors included in § 600.10(d).

**ADDITIONAL CHANGES.** The following additional changes are proposed (1) added reference to the President's National Urban Policy Statement (§ 600.67); (2) eliminate the requirements for the preparation of the land use and housing Status and Future Actions reports (§§ 600.70(c), 72(d); (3) identify more fully the nature of the triennial review to be conducted by each applicant (§ 600.73(e)); (4) added a requirement for compliance with Section 504 of the Rehabilitation Act of 1973, as amended, regarding nondiscrimination based on handicapped (§ 600.77); (5) added a requirement for the interchange of mapping data to avoid duplication (§ 600.81); (6) referenced mapping data requirement of § 600.81 and incorporated negotiation discussed formerly in § 600.130 (§ 600.90); (7) clarified the method by which State legislatures may participate in 701 funding as part of the State application (§ 600.95); (8) revised the requirement for the frequency of submission; (9) revoked section and incorporated text into § 600.90 (§ 600.130); (10) clarified State review and evaluation responsibilities to make them more consistent with criteria used by HUD (§ 600.135); (11) eliminated the requirement for a chief executive evaluation statement (§ 600.145); (12) the introductory text which constituted the whole of § 600.150 is revoked (§ 600.150); (13) the assessment of the impact of proposals on the National Policy Objectives is encouraged in the course of A–95 review (§ 600.160), and (14) the section dealing with OPD review and exchange has been revoked to avoid duplication with other coordinative requirements (§ 600.170). Interested persons are invited to participate in the proposed rulemaking by submitting such written statements or comments as they may desire on or before May 11, 1979. Communications should refer to document number and date and should be filed with the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

Accordingly, it is proposed that 24 CFR Part 600 be amended as follows:

1. Section 600.5 is revised to read as follows:

**§ 600.5 Objectives.**

The purpose of the Comprehensive Planning Assistance program is to assist recipients to undertake comprehensive planning and management strategies which further the following National Policy Objectives:

(a) The conservation and improvement of existing communities by correcting or modifying conditions of distress, blight or decline;

(b) Increasing housing and employment opportunities and choice for the poor, minorities and disadvantaged; and

(c) The promotion of orderly and efficient growth and development which prevent future conditions of distress and conserve existing communities.

2. A new § 600.6 is added to Subpart A to read as follows:

**§ 600.6 Cooperative agreements.**

(a) *Intent.* It is HUD's intent to encourage the development of plans which have relevance and utility for Area Office's decision-making and to facilitate the implementation of plans developed by applicants. This will be accomplished by encouraging applicants to enter into agreements with HUD Area Office Managers regarding the development of plans and their use by HUD Area Offices.

(b) *Contents of agreements.* Applicants, and the HUD Area Office

Manager or Managers covering their jurisdiction may agree to specific plans, data, policies or priorities which would be useful to the HUD Area Office Managers in making funding or other decisions for HUD Programs for which they have responsibility. If such plans, data, policies or priorities are developed and adopted by the applicant as agreed to, HUD will use them as specified in the agreement to the maximum extent possible in its decision-making. Such plans and policies must be consistent with the National policy Objectives contained in § 600.5 and the assisted activities must be eligible under § 600.55.

(c) *Form of agreements.* Where such agreements are entered into by HUD and the applicant, they shall be in writing and clearly state both the contents of the plans, policies or priorities to be developed by the applicant and HUD's intended use of them. Provision for HUD participation in plan development and review may be spelled out in the agreement. Additional matters deemed appropriate by the parties to the agreement may also be included.

(d) *Plan implementation assistance.* Cooperative agreements may include not only how HUD will use the plans in its own decision-making but also how HUD will assist the applicant in implementing its plan with other Federal agencies. HUD shall encourage and facilitate to the maximum degree possible interagency coordination in the implementation of the applicant's plans and policies.

3. In § 600.7 a new paragraph (f) is added, paragraphs (f) through (q) are redesignated (g) through (r) and redesignated paragraphs (g) and (k) are revised to read as follows:

**§ 600.7 Definitions.**

* * * * *

(f) "Distressed", for purposes of this Part, means communities or places within a State or region which the State or areawide planning organization determine require greater attention and assistance than other communities or places within the State or region because of their relatively greater proportion of physical, social and economic problems. Factors indicating distress may include, but need not be limited to, income levels, unemployment rates, fiscal disparity, population change, economic base change, declining revenue base, poverty and dependent population, percentage of population requiring public assistance and substandard housing units.

(g) "Indian tribal group or body" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512).

* * * * *

(k) "Ongoing comprehensive planning process" means a process, which includes chief executive leadership, coordination and citizen involvement where major plans, policies, priorities, or objectives are being determined and that involves the development and subsequent modification of a comprehensive plan and provides for at least triennial review of the elements thereof for necessary or desirable amendments. For the purposes of this Part, the comprehensive plan shall include, as a minimum, the housing and land use elements described in §§ 600.70 and 600.72.

* * * * *

4. In § 600.10 paragraphs (c) and (d) are revised to read as follows:

**§ 600.10 Financial support.**

* * * * *

(c) *Project period.* Grant assistance will ordinarily cover a 12-month work period, but may cover a different period in appropriate cases. HUD may authorize applicants to incur costs prior to the award of a grant in appropriate cases. An authorization to incur costs will not obligate HUD to make a grant nor to reimburse the applicant for costs incurred if a grant is not made. A grant, if made, will be subject to a HUD determination of the eligibility of costs incurred and to any other conditions included as a part of the authorization.

(d) HUD will determine the amount of assistance to an individual applicant based upon the following:

(1) *Demography.* The population, proverty and housing deficiencies of jurisdictions within a given State or region compared to other States or regions. For States land area will also be used. Equal weighting is given for all these factors.

(2) Implementation performance. An applicant's progress in maintaining a comprehensive planning process; establishing and updating a comprehensive plan, including the statutorily prescribed elements; implementing the comprehensive plan, consistent with the National Policy Objectives; and otherwise designing and implementing strategies in support of the National Policy Objectives.

(3) *Coordination performance.* An applicant's prior success and continuing potential for coordinating the development and implementation of policies and strategies by various agencies within its jurisdiction and by other levels of government. In evaluating coordination, HUD will emphasize the pursuit of common strategies in aiding distressed areas, improving housing and employment opportunities and fostering orderly growth.

(4) *Program management performance.* An applicant's ability to manage program funds properly. The following factors, at a minimum, shall be included:

(i) ability to undertake work for which assistance is requested;

(ii) compliance with requirements for fiscal management and accountability for the use of program funds, and

(iii) timely completion of all projects, and submission of program reports.

5. In § 600.25 paragraphs (c) and (d) are revised to read as follows:

**§ 600.25 Who may be assisted.**

* * * * *

(c) *Large cities.* although eligible for assistance, large cities will not be funded. This decision is based on Congressional intentions that large cities should use their Community Development Block Grant (CDBG) funds for planning;

(d) *Urban Counties.* Although eligible for assistance, urban counties will not be funded. This decision is based on Congressional intentions that urban counties should use their CDBG funds for planning;

* * * * *

6. In § 600.40 paragraph (b)(2)(iv) is revised and new paragraphs (b)(2)(v) and (b)(3) are added to read as follows:

**§ 600.40 Grants for areawide planning and managment assistance.**

* * * * *

(b) * * *

(2) * * *

(iv) Provide that at least two-thirds of the voting membership be composed of, or responsible to the elected officials of a unit of general local government within the planning jurisdiction. HUD will waive this requirement on a case by case basis where HUD determines that it impedes the development of a unified organization meeting other Federal organizational requirements. Applicants are encouraged to foster the development of unified organizations and to seek HUD assistance and cooperation in doing so.

(v) Provide, to the maximum extent possible, proportional representation for minorities, and adequate representation for women.

(3) *Proportional representation.* HUD strongly encourages areawide planning organizations to provide for proportional voting representation on the basis of population.

7. Section 600.55 is revised to read as follows:

**§ 600.55 Eligible activities: All applicants.**

(a) *Relation to Program Objectives.* (1) Beginning with FY 1979, the Department will award grants only for those planning and management activities which clearly further the National Policy Objectives listed in § 600.5. Activities which HUD finds are not clearly related to these objectives will not be funded. Applicants shall have the discretion to select work tasks and activities which relate to their local needs and priorities, so long as all work can be shown to be clearly related to aiding distressed places, expanding housing and employment opportunities, and promoting orderly growth.

(2) The specific activities undertaken should comprise or contribute to a State, areawide, or local strategy directed toward the Program Objectives. A strategy consists of a coordinated and consisted set of plans, policies, programs and related implementation activities which are directed toward achieving the Program Objectives. In the case of States and local governments, a strategy would include the adoption of plans and policies and the coordinated use of the powers to tax, spend, regulate, legislate and administer and coordinate federal, State and local programs. In the case of areawide planning organizations, a strategy would include the adoption of plans and policies, the establishment of priorities, recommendations for needed programs and legislative changes, the promotion of intergovernmental cooperation, and the provision of services and technical assistance in support of the Program Objectives.

(3) The strategies of all applicants should emphasize coordination of federal, State and local programs directed toward the achievement of the Program Objectives.

(b) *Eligible Activities.* In combination, Section 701 (b), (c), and (m)(4) of the Housing Act of 1954, as amended, define the planning and management activities that are eligible for Comprehensive Planning Assistance grants. These activities are:

(1) *Developing comprehensive plans and processes,* including:

(i) Identification of economic, physical and social needs within the jurisdiction;

(ii) Establishing or revising long term goals and short term objectives;

(iii) Formulating comprehensive plans, policies, and priorities to meet identified needs;

(iv) Preparing or revising a housing element, as part of a comprehensive plan, pursuant to Section 600.70;

(v) Preparing or revising a land use element, as part of a comprehensive plan, pursuant to Section 600.72;

(vi) Preparing any other comprehensive plan elements such as for commercial or industrial development, community facilities and services, transportation, economic development, social services, parks and recreation, energy conservation, public utilities or facilities, flood protection, environmental or historic preservation, natural resource protection, or government services.

(2) *Implementation of comprehensive plans and policies,* including:

(i) Preparation of regulatory or legislative measures;

(ii) Design of fiscal reform programs and setting of public and private investment priorities;

(iii) Design of legislative, administrative or structural reform;

(iv) Capital improvement programming;

(v) Coordination of the implementing programs;

(vi) Evaluation of progress in achieving the comprehensive plan/strategy and relative effectiveness of each implementing measure.

(3) *Developing or improving the recipent's capacity for policy planning and evaluation,* particularly for the Chief Executive Officer. Policy planning and evaluation include the analytical ability of a receipient to identify its needs and problems more rationally, set long term policy goals and short term objectives to meet its needs, devise programs and activities and evaluate its progress towards meeting those goals and objectives. Development of such capacity may involve, e.g., studies to identify problems in one or more policy areas; strengthening budgeting systems; improving capability to gather, process and analyze data necessary for rational decisionmaking; devising programs and reorganizing governmental structures, and strengthening the capacity for analyzing the impact of programs in meeting policy objectives.

(c) *HUD Suggested Activities.* In order to provide direction to applicants and to illustrate the kinds of activities the Department has determined to be clearly related to achieving the National Policy Objectives, and to provide a more precise guide for negotiating annual grants, the Department offers a list of suggested activities that grantees, at their option, may undertake. Appendix I to this Part contains a list of activities. The list is not intended to be an exclusive list of eligible activities. Applicants may undertake other activities which are clearly related to the National Policy Objectives.

8. Section 600.65 is revised to read as follows:

**§ 600.65 Environmental requirements.**

(a) *Requirements.* This subsection applies to planning and management activities, funded in whole or part by a Comprehensive Planning Assistance grant, which directly relate to physical development policies and programs of the applicant. Such physical developmental planning and management must conform to the provisions of the National Environmental Policy Act of 1969. For such activities, applicants must include in their comprehensive planning process adequate consideration of environmental problems, and formulation of policies and programs to address such problems to assure that environmental matters are addressed during the comprehensive planning process.

(b) *Inclusion of Environmental Planning in the Comprehensive Planning Process.* Each applicant throughout all phases of the physical developmental planning aspects of its assisted comprehensive planning work must:

(1) Identify environmental problems and issues, including applicable Federal, State and local environmental policies and standards, which it determines to be of major significane within the planning area; examples of the types of issues which may need to be considered include: land resources, air and water quality, noise, flood plain management, wetlands and historic preservation.

(2) Identify and analyze any adverse environmental effects which cannot be avoided, resulting from proposed developmental policies and programs;

(3) Formulate policies and programs, including possible alternative solutions, to address such problems, and

(4) Identify Federal, State and local environmental programs and mitigation measures which can assist in alleviating identified problems and indicate how such resources and mitigation measures shall be utilized.

9. Section 600.66 is revised to read as follows:

**§ 600.66 Historic preservation requirements.**

This section applies to physical development planning and management activities, funded in whole or part by a Comprehensive Planning Assistance grant, which may adversely impact any property or district included in, or found by the Secretary of the Interior pursuant to 36 CFR Part 800 to be eligible for inclusion in, the National Register of Historic Places. Where the applicant determines that assisted planning and management activities are likely to impact on such properties, and applicant must:

(a) Consult with the appropriate State Historic Preservation Officer, designated under agreements between the State and the Secretary of the Interior, concerning action to be taken to avoid the adverse impacts on the property or district; and

(b) Formulate and carry out a program of actions, in coordination with other Federal, State, local or private entities having an interest in historic preservation, to mitigate or avoid the adverse impacts on the property or district.

10. In § 600.67 paragraphs (b) and (c) are revised to read as follows:

**§ 600.67 Comprehensive planning requirement.**

* * * * *

(b) *Comprehensive plan requirement.* Each recipient of assistance shall develop a comprehensive plan that, over time, addresses the elements of comprehensive planning as described in § 600.55, as the recipient determines to be appropriate to its needs and responsibilities. Such plan shall include, as a mimimum, a housing element and a land use element, which elements shall be consistent with each other and with stated national policy objectives inlcuding the President's National Urban Policy. The elements shall specify broad goals and annual objectives (in measurable terms wherever possible); programs designed to accompish the objectives and procedures, including criteria set forth in advance for evaluating programs and activities to determine whether the objectives are being met.

(c) *Limitations.* No grant shall be made to any applicant identified in § 600.25(a) through (f) unless the applicant has satisfied the requirements of the housing and land use elements in § 600.70 and 600.72, except that this prohibition shall not be applicable if the applicant has never been a prior recipient of a comprehensive planning grant (other than a special needs grant pursuant to § 600.50). For the purpose of making the determination whether an applicant has received a prior 701 grant, a 701 grant is defined as (1) The use of 701 funds by or on behalf of a recipient who provides all or a portion of the non-Federal match or (2) The use of 701 funds to support a recipient's staff regardless of who provides the non-Federal match. Services, financed in whole or in part with 701 funds, provided at no cost to recipients are not considered grants.

* * * * *

11. In § 600.70 paragraph (c) is deleted and paragraph (d) is redesignated as paragraph (c).

**§ 600.70 Required housing element.**

* * * * *

(c) Agreements for housing planning.

* * * * *

12. In § 600.72 paragraph (d) is deleted and paragraph (e) is redesignated as paragraph (d).

**§ 600.72 Required land use element.**

* * * * *

(d) Agreements for land use planning.

* * * * *

13. In § 600.73 paragraphs (f)(4) and (5), (k) and (l) are revised to read as follows:

**§ 600.73 Land use and housing elements; review and approval process.**

* * * * *

(f) * * *

(4) Section 600.65—Environmental requirements describing the environmental considerations required for developmental plans or policies including land use and housing plans and policies.

(5) Section 600.66—Historic preservation requirements describing the historic presevation consideration required for developmental plans or policies which may impact properties included in, or found by the Secretary of Interior purusant to 36 CFR Part 800 to be eligible for inclusion in the National Register, including land use and housing plans and policies.

* * * * *

(k) *HUD review of State approvals of required elements.* (1) HUD shall review and concur in all State actions on land use and housing elements for an applicant applying to the State on a voluntary basis pursuant to § 600.120(j): A state may not award any grants to such an applicant, except as provided in § 600.67(c) until HUD concurrence has been obtained on the State approval of the applicant's land use and housing element. When mutually agreeable between HUD and the State, a joint review and approval process may be established to facilitate the review of land use and housing elements for applicants applying to the State on a vountary basis.

(2) For monitoring purposes HUD will also selectively review State actions on applicants required to apply to the State.

(l) *Triennial review.* Each applicant whose land use and housing elements are approved pursuant to this section shall submit an evaluation to HUD or the State triennially, beginning no later than three years from the date the last element was approved.

(1) *Applicant's evaluation.* The evaluation of progress shall indicate:

(i) the extent to which the comprehensive plan (including land use, housing and any other elements) is consistent with the National Policy Objectives;

(ii) actions taken to implement HUD approved land use and housing elements, and other elements of the comprehensive plan or strategies which are consistent with the National Policy Objectives;

(iii) relative effectiveness and impacts of actions taken to implement the comprehensive plan, its elements or strategies; and,

(iv) the reasons for lack of implementation, where such actions have not been carried out.

(2) *Triennial review criteria.* HUD or the State will review the applicant's evaluation and otherwise monitor applicant performance in order to determine:

(i) progress in achieving the National Policy Objectives through implementation of comprehensive plans or strategies;

(ii) potential need for technical assistance to the applicant regarding:

(*a*) failure to address the National Policy Objectives adequately and additional actions to be taken to achieve consistency with National Policy Objectives;

(*b*) the relationship of the applicant's strategies to other State, areawide or local strategies and implementation actions, and

(*c*) the feasibility and utility of comprehensive plans or strategies as aids for administration of Federal, State, and local housing and community and economic development programs.

14. A new § 600.77 is added to Subpart B to read as follows:

**§ 600.77 Handicapped requirements.**

Recipients of Comprehensive Planning Assistance shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, regarding nondiscrimination

based on Handicapped in programs or activities receiving Federal financial assistance.

15. In § 600.80 paragraph (a) is revised to read as follows:

**§ 600.80 Citizen involvement.**

(a) *Requirement.* The ongoing comprehensive planning process required by § 600.67 shall make provision for citizen involvement where major plans, policies, priorities, or objectives are being determined. Consideration must be given to insuring that handicapped citizens may also participate in this process.

* * * * *

16. A new § 600.81 is added to Subpart B to read as follows:

**§ 600.81 Interchange of cartographic data.**

(a) *General.* HUD and the U.S. Geological Survey (USGS) have agreed to establish procedures for the interchange of cartographic data to support the needs of HUD and other Federal programs. USGS will provide 701 grantees with information on basic cartographic data from existing sources, and in turn cartographic data generated by 701 grantees will be entered into the USGS data bases and made available to other users.

(b) *Implementation.* Applicants proposing to undertake mapping projects as part of the program shall comply with the following procedures.

(1) Submit the specific needs for aerial photographs and/or base map data to the USGS National Cartographic Information Center (NCIC) on the Cartographic Information Inquiry form available from HUD or USGS.

(2) Conduct a local search to determine whether other suitable cartographic data is available.

(3) Determine from the USGS response, which will be made within 30 days on a Cartographic Information Response form, and the local search whether existing aerial photographs and base map sources can serve the needs identified.

(4) Include a copy of the USGS response with the application for 701 assistance.

(5) Submit to USGS, and to HUD as a part of the Project Completion Report, a copy of the Cartographic Products Description Report form that will be enclosed with the USGS response to the initial inquiry.

(c) *Funding limitation.* HUD will not fund any mapping activities that are undertaken without following the procedures in (b) hereof.

17. In § 600.90 paragraphs (b) and (d) are revised to read as follows:

**§ 600.90 Steps for application submission negotiation and approval.**

* * * * *

(b) Notification of the appropriate designated clearinghouse(s) of the intent to submit an application consistent with OMB Circular A–95. Notification to USGS of proposed mapping activities in accordance with § 600.81, if appropriate.

* * * * *

(d) Holding a negotiation conference with HUD officials. The Governor, mayor, or city or county executive or the highest policy officer of an areawide planning organization shall be represented at the negotiation conference. Negotiations with HUD will focus on:

(1) Relevance of the proposed activities to the National Policy Objectives of § 600.5;

(2) Applicant performance relative to the criteria of § 600.10(d), and

(3) Relationship of proposed activities to the applicant's three year overall program design required by § 600.15.

* * * * *

18. Section 600.95 is revised to read as follows:

**§ 600.95 Applications by States.**

States are required to submit a single application which shall include sections for statewide planning, assistance to legislatures, if applicable, and for all substate applicant categories (large city, urban county, metropolitan, nonmetropolitan and locality). States may request separate grants based upon one Overall program design.

19. In § 600.100 paragraphs (b) and (c) are revised to read as follows:

**§ 600.100 The application package.**

* * * * *

(b) Overall Program Design, every fourth year beginning in FY 1979 as described by §§ 600.105 and 600.115;

(c) Annual Work Program, as described in § 600.107, and Annual Work Program Summary (Form HUD–7026.2) listing all subcategories (or portions thereof) to be undertaken during the first work year;

* * * * *

20. Section 600.105 is revised to read as follows:

**§ 600.105 Overall Program Design.**

(a) *Content.* The Overall Program Design (OPD) is a statement of the objectives the applicant intends to achieve over the next three years with Comprehensive Planning Assistance, as well as with other Federal or non-Federal assistance. The OPD must address the objectives identified in § 600.5. An OPD shall be submitted every fourth year beginning with the Fiscal Year 1979 submission, except for new or intermittant applicants who need only prepare an annual work program.

(b) *Format.* The following format shall be followed unless HUD approves a different one.

(1) Program categories. A program category is a general area of concern, e.g., housing, economic development, orderly growth, etc. A separate program category for general administration of the grant may be included in the OPD. Each program category shall include:

(i) A brief description of the program category's key issues, problems and opportunities, and

(ii) A brief statement of program category goals.

(2) Program subcategories. A program subcategory is a specific objective that will be undertaken by carrying out activities specified in the annual work program. One or more program subcategories must be included that address each of the program objectives in § 600.5. Program subcategories must be supportive of program categories. Each program subcategory must include a brief statement of the specific or measurable objective to be achieved.

21. A new § 600.107 is added to Subpart C to read as follows:

**§ 600.107 Annual work program.**

An annual work program shall be submitted as part of each application. The annual work program shall describe the activities proposed to be undertaken in the upcoming program year. It shall include the following information:

(a) *Work elements.* A brief identification of major work elements to be conducted to achieve program subcategory objectives. Over a three year period activities must be proposed to further the achievement of all of the objectives identified in § 600.5.

(b) *End products.* A brief statement of the end products and anticipated impacts of the proposed work activities.

(c) *Coordination statement.* A brief statement which describes how the applicant will coordinate its work elements with related activities being performed by other agencies, other levels of government, or the private sector, in support of the Objectives in § 600.5.

(d) *Citizen involvement statement.* A brief statement of how the applicant will meet the citizen involvement requirements of § 600.80.

(e) *Mapping response.* For applicants proposing to undertake the preparation of base maps or aerial photograpy, a copy of the U.S. Geological Survey response as required by § 600.81.

22. In § 600.115 paragraph (d) is revised to read as follows:

**§ 600.115 State overall program design.**

* * * * *

(d) A section, developed in consultation with the advisory group required by § 600.120(b), that addresses the following:

(1) State strategies and objectives for the use of substate assistance which clearly relate to the objectives in § 600.5 and state and substate needs;

(2) Identification of the responsibilities of all units of government for implementing State, regional and local strategies clearly supporting objectives in § 600.5;

(3) State allocation systems to be used in determining grant awards to substate applicants applying to the State, which shall incorporate the following:

(i) Allocations to areawide planning organizations based on all of the factors of § 600.10(d). Additional factors may be developed in consultation with the advisory group required by § 600.120(b).

(ii) Allocations to local governments, must be based on need factors which may include, but are not limited to, income levels, unemployment rates, fiscal distress, population change, economic base change, declining revenue base, poverty, dependent population, percentage of population requiring public assistance and substandard housing units. Performance may be used as a factor in appropriate cases. Additional factors may be developed in consultation with the advisory group required by § 600.120(b)

23. In § 600.120 paragraphs (a), (e), (h) and (j) are revised to read as follows:

**§ 600.120 Summary of substate planning and management assistance procedures.**

* * * * *

(a) Intent. It is HUD's intent to give States major responsibility and discretion, in consultation with substate applicants, for administering a program of planning and management assistance and services for substate applicants required under § 600.25, or electing to apply to the State under paragraph (j) of this section. HUD's main concern will be with the State's administration of substate assistance and services according to the requirements of this Part.

* * * * *

(e) *OPD section copies.* State shall provide each substate applicant eligible to apply directly to HUD a copy of the section of the OPD required by § 600.115(d). Substate applicants required by law to apply to the State shall be provided copies at the time they make inquiry for assistance.

* * * * *

(h) *Annual grant budget.* The grant amounts for substate categories will be included in the State annual grant and will appear as subtotals in the annual grant budget (Form HUD 7026.3). States may use a portion of the metropolitan, nonmetropolitan and local assistance funds they are administering to defray the cost of its administration. The amount to be used for such purpose must be negotiated with HUD and should be identified separately in the annual grant budget. States may also use a portion of local assistance funds to provide services to substate governments. The amount of local assistance funds proposed to be retained for such services shall be reviewed in the State consultation with its advisory group and approved by HUD. A portion of the funds budgeted for localities may be utilized by States or areawide planning organizations to provide services through their own staff. Reasonable opportunities shall be provided to localities to use local staff or to obtain the professional services of public or private consultants.

* * * * *

(j) *Voluntary agreements.* Substate applicants who are eligible to apply directly to HUD may decide voluntarily to enter into agreements with States providing for State administration of 701 grant funds. The substate applicant's decision must be communicated to the State in writing and be endorsed by the Chief Executive Officer, or in the case of an areawide planning organization, the highest policy officer. Once a substate applicant has committed itself in the manner indicated above, it may not change its decision during the Federal fiscal year in question. The State shall accept or reject substate requests for State administration and notify HUD by the date annually established by HUD. The State notification to HUD must identify the applicants to be assisted by the State and include copies of the substate applicant requests. If the State agrees to administer assistance to a voluntary applicant, the State application must include a copy of the voluntary applicant's OPD and/or annual work program.

* * * * *

**§ 600.130 [Revoked]**

24. Section 600.130 is revoked.

25. Section 600.135 is revised to read as follows:

**§ 600.135 State review and evaluation.**

The State shall review the planning activities of recipients on a continuing basis. The following specific items shall be reviewed:

(a) Applicant performance relative to the criteria of § 600.10(d).

(b) The quality of citizen involvement;

(c) The value of the planning work in improving the chief executive's management capability; and

(d) The recipient's compliance with Equal Opportunity requirements.

26. Section 600.145 is revised to read as follows:

**§ 600.145 Evaluation and review.**

(a) *Annual HUD evaluation.* HUD will annually evaluate each applicant's performance. This evaluation will serve as a major factor in making a determination pursuant to § 600.10(d). The major factors to be consideed in the evaluation are as follows:

(1) Plan implementation and program achievement.

(i) Assessment of grantee's ability to initiate programs to achieve program objectives.

(ii) Assessment of grantee's efforts to undertake cooperative activities between private enterprise, citizens and governmental entities.

(iii) Assessment of grantee's use of plans as a guide for governmental decision-making.

(iv) Assessment of grantee's ability to achieve improvements in the provision of facilities and the delivery of services.

(2) Program coordination performance.

(i) Assessment of grantee's progress in achieving effective coordination on an inter and intra-governmental basis;

(ii) Assessment of State and areawide grantee's use of A–95 process as a coordination mechanism; and

(iii) Assessment of grantee's progress in implementing housing and community development programs on a coordinated basis.

(3) Compliance with special requirements. Assessment of grantee's compliance with the following special requirements;

(i) Equal Opportunity;

(ii) Citizen involvement;

(iii) Environmental and historic preservation;

(iv) Handicapped requirements;

(v) Interchange of mapping data; and

(vi) Implementation of interagency agreements.

(4) Program management and administration of subgrants.

(i) Assessment of grantee's compliance with the requirements of 24 CFR 600, Subpart G, and

(ii) Assessment of State's administration of substate and voluntary agreement pass-through grants.

(b) *Evaluation review.* Each applicant will receive a written assessment of the results of the HUD evaluation and be provided an opportunity to comment on HUD findings. The applicant may discuss the evaluation at the time it is completed and/or during the annual negotiation conference.

(c) *Evaluation process.* The annual HUD evaluation will be based on all reports, documents, applications and other material provided by an applicant. In addition, the findings of HUD staff obtained as a result of site visits will also be used. Applicants may provide any additional data that they believe will be useful to HUD in making the annual evaluation.

(d) *Administration of substate assistance.* The evaluation of State performance will include an assessment of State administration of substate assistance.

**§ 600.150 [Revoked]**

27. Section 600.150 is revoked.

28. In § 600.160 paragraph (d) is revised to read as follows:

**§ 600.160 OMB Circular A-95 coordination procedures.**

* * * * *

(d) Clearinghouse comments. State and regional clearinghouses, in addition to commenting on the basis of the criteria contained in OMB Circular No. A-95, are encouraged to provide HUD with comments on substate applications on the basis of their impacts on the National Policy Objectives.

**§ 600.170 [Revoked]**

29. § 600.170 is revoked.

(Section 7(d), Department of HUD Act 42 U.S.C. 3535(d), Section 701 of the Housing Act of 1954, as amended, 40 U.S.C. 461, et seq.)

Issued at Washington, D.C., February 16, 1979.

Robert C. Embry, Jr.,

*Assistant Secretary for Community Planning and Development.*

30. Appendix I is added to Part 600 to read as follows:

**Appendix I**

*Comprehensive Planning Assistance*

*Department of Housing and Urban Development*

This list contains illustrations of the types of comprehensive planning and management activities that States, areawide planning organizations and localities may undertake, beginning in FY 1979, which would be clearly supportive of program objectives.

*I. States*

A. *To conserve and revitalize communities:*

- formulate State investment and development programs, and State governmental structures, and fiscal reform programs to qualify for assistance proposed under the State Community Conservation and Development Act.
- reform State income, sales, business and property tax systems and laws, including tax revenue sharing formulas, to provide more cost efficient public services and facilities; assure that distressed population groups are equitably treated; and the needs of distressed communities and populations are adequately addressed.
- identify disparities among communities in State services, facilities and assistance and reprogram State aid to alleviate such disparities.
- conduct "fair share" analyses of State aid and State administered Federal aid to communities.
- develop program(s) for targeting the development, rehabilitation or modernization of State facilities to distressed communities.
- seek State legislative endorsement for priorities and programs designed to carry out community conservation and revitalization objectives.
- increase State role to finance and deliver aid to communities for such local functions as education, public transit and economic development.
- enhance communities' borrowing capacity.
- establish a State Development Cabinet, or equivalent mechanism, to enable Governors to coordinate State and local strategy actions.
- establish an urban impact review capacity.

B. *To expand housing choice:*

- develop State and regional policies to guide major public and private decisions on priority areas where growth should occur, including policies and 3 year guidelines for where conventional housing should be located and HUD and FMHA should provide insured housing.
- develop a three year State housing allocation plan and coordinate the provision of State assisted housing with HUD and FmHA assisted housing.
- establish or increase State funding for State programs of housing loans, grants, and guarantee programs.
- establish a system for constructing State facilities or allocating State expenditures which gives priority based on a comunity's provision of low moderate income housing.
- provide new authority for State, regional, or local housing authorities to develop a wide variety of housing and rehabilitation programs and assistance.
- develop model housing rehabilitation standards and/or process to assist in a revitalization program.
- develop model single family and multi-family rehabilitation codes which foster revitalization efforts and encouage their adoption by regional bodies and local governments.
- establish a State Housing Finance Agency.
- reform tax policies to encourage rehabilitation and ensure equity in property taxes for the elderly and low income homeowners.
- reform tax policies to ensure equity in property taxes for renters and reform landlord-tenant, consumer protection and fair housing laws, including the strengthening of administrative and enforcement actions.
- reform model and existing building codes by eliminating unjustified cost increasing requirements, and encouraging the use of new technology in construction materials and methods for conventional and factory-built housing.
- establish laws and regulations for financial institutions that prevent red-lining.
- reform State laws relating to lending and land title practices which tend to increase housing costs.
- establish uniform State building and housing maintenance codes.
- reform local zoning, subdivision, and other land-use ordinances to facilitate the construction of assisted and unassisted, modest cost, multi-family and single family housing, including approaches such as metropolitan or State zoning appeals boards, State-established maximums for house and lot size, garage, density, site development requirements, and fees and charges.
- develop and carry out a comprehensive fair housing strategy (New Horizons Fair Housing Assistance Project)

C. *To expand employment opportunities:*

- establish State financed economic development programs for distressed communities and allocate State resources on a preferential basis to such communities.
- coordinate and target State programs and State administratered Federal programs for employment assistance, such as CETA, to benefit distressed communities.
- establish State programs to encourage the restoration, rehabilitation and more efficient utilization of existing public and private commerical and industrial structures and facilities in distressed and declining communities.
- eliminate or reduce State and local government barriers which restrict private investment or inhibit the creation of employment opportunities in distressed or declining communities.

D. *To promote orderly growth:*

- develop policies which coordinate State resources and State administratered Federal community and housing development resources for transportation access, major utility sites, and air and water quality management actions.
- develop State policies and guidelines for land use and development which will assure that adequate amounts of reasonably priced developable land will be available for the development of modest-cost housing.
- streamline regulatory mechanisms to reduce the cost of procedural delay in the administration of State and local regulations governing housing development and renovation.
- provide assistance to develop data needed to fulfill Community Development Block Grant, Urban Development Action Grant, Housing Opportunity Plan and other

HUD program application or regulatory requirements.

● assess extent to which HUD approved land use and housing elements address the Program Objectives and modify the elements, as necessary, to formulate a State strategy for community conservation and orderly growth.

● develop or modify enabling legislation for municipal annexation, county government modernization, and other local government reorganization actions or mergers to encourage community conservation and inhibit sprawl development.

● promote legislative initiative and actions which address the needs of distressed communities and populations.

II. *Areawide Planning Organizations* (Metropolitan and Nonmetropolitan)

A. *To conserve and revitalize communities:*

● prepare a three year strategy to include a regional development guide for major public and private investments coordinated with air quality and transportation control strategies and regional housing strategies.

● implement HUD approved areawide land use and housing elements that are consistent with the Program Objectives.

● prepare regional economic development programs to identify job requirements and preferred major development sites.

● strengthen APO's by moving to establish proportional representation voting systems during the 1979–81 period.

B. *To expand housing choice:*

● develop three year regional housing guide and implementation programs for conventional housing to promote reinvestment and reduce sprawl.

● develop and carry out a comprenhensive fair housing strategy (New Horizons Fair Assistance Project)

● develop a three year assisted housing allocation plan and implementation program, to include guidelines for coordinating the program of State, HUD and FmHA assistance, or establish or refine a Housing Opportunity Plan pursuant to 24 CFR 891.

● establish mutijurisdictional housing authority which operates programs to expand opportunities for low income households outside areas of concentration.

● establish procedures to ensure consistency of areawide housing opportunity plan (HOP) goals with housing assistance plans (HAP) goals of CDBG applicants.

● promote fair and equal housing and facilitate interjurisdictional mobility, by means such as an Areawide Affirmative Marketing Plan, counseling programs, relocation information and assistance, advertising or promotional campaigns, establishing fair housing groups or agencies, adoption of fair housing ordinances and recommendations for new legislation.

● operate programs to expand housing choice directed at assisting local governments to modify their practices which affect housing cost or restrict housing choice particularly in the area of inclusionary and exclusionary land use and zoning ordinances.

● operate programs directed at assisting (builders and financial institutions), and the public sector, to modify their practices which affect housing cost or restrict housing choice.

● propose and encourage programs to eliminate red-lining or other public or private practices which contribute to the problems of distressed areas.

● propose programs to reduce involuntary relocation of low income households in areas undergoing redevelopment and reinvestment.

● use A–95 or other review authorities established by State law or voluntary agreements to implement State and regional housing plans.

● establish standards for local regulations so as to facilitate the construction of assisted and unassisted modest-cost housing and monitor compliance with such standards, which may cover house and lot size requirements, allowable densities, site-development requirements, fees and charges, and procedures governing changes in zoning.

● develop and implement procedures for monitoring land prices so as to determine that development policies and controls are not unreasonably driving up land prices.

C. *To expand employment opportunities:*

● designate preferential locations for new employment through development of regional public facilities within communities to be conserved.

● identify sites for major new private economic development and otherwise assist private developers to provide new employment to serve areas of greatest need.

● promote improved transportation services to job centers from areas of high employment.

● establish priorities to promote the redevelopment or modernization of commercial and industrial areas in older, highly urbanized areas.

● use A–95 or other authorities to divert new employment opportunities into areas of highest unemployment and poverty.

D. *To promote orderly growth:*

● develop regional public investment programs an schedules for regional public facilities which include timing and staging of facilities coordinated with orderly urban development in existing communities or neighborhoods, and promoting revitalization of distressed areas.

● delineate priority areas where private sector growth should occur, in order to minimize the cost of additional government services and maximize the use of existing services.

● establish and operate an urban impact review system.

● implement HUD approved land use and housing elements that are consistent with the Program Objective.

● establish or strengthen programs to assist localities to apply for and manage CDBG Small City funds, including analysis of local needs and problems, formulation of housing assistance plans and local community plans, and establishment or improvement of local CDBG program management systems.

III. *LOCALITIES:* (Municipalities under 50,000 population and counties other than urban counties as defined in Title I, HUD Act of 1974, as amended).

A. *To conserve and revitalize communities:*

● develop and carry out a comprehensive plan, or strategy, and action programs to identify, conserve, and rehabilitate neighborhoods and business areas within the locality.

● prepare community development plans, annual programs, and plans for neighborhood strategy areas, and develop applications to qualify for assistance under the CDBG Small Cities program.

● develop programs for land clearance and site aggregation for private or public developments within distressed areas.

● promote infilling of vacant land within the locality.

● survey sites, structures, and districts, and develop programs for historic preservation.

● develop energy conservation measures and facility siting plans.

B. *To expand housing choice:*

● develop plans and develop implementation programs to conserve an rehabilitate the existing housing stock.

● formulate the production of new housing to reduce the isolation of income groups and families within the locality and to foster interjurisdictional mobility.

● develop and carry out a comprehensive fair housing strategy (New Horizons Fair Housing Assistance Project).

● develop, promulgate and adopt single and multi-family rehabilitation codes which encourage revitalization efforts.

● develop programs to promote assisted housing, such as land write-downs, establishment of a housing authority or joining a multijurisdiction housing authority, and identification and improvement of sites for assisted housing.

● develop outreach programs and informational services to promote interjurisdictional mobility and expand housing opportunities for non-residents.

● update, modernize, and adopt land development and structural codes and ordinances, to remove exclusionary barriers and create inclusionary opportunities consistent with 701 Program Objectives.

● streamline local administrative procedures pertaining to the regulation of land development and building construction so as to reduce the costs of delay and increase the degree of predictability of the governmental review and approval process.

C. *To promote employment opportunity:*

● develop and carry out plans and programs to attract or retain business and industry, to retain or upgrade the local labor force, or to create new job opportunities for the unemployed or underemployed in the locality.

● revise local tax and business regulation structures to remove barriers and encourage new economic development consistent with Program Objectives.

● prepare applications and development plans necessary to qualify for assistance under the Urban Development Action Grant program.

D. *To promote orderly growth:*

● develop and carry out a comprehensive plan (including the statutorily prescribed land use and housing elements) as a guide for public and private development, redevelopment, or resource conservation, as appropriate within the locality, to include

priority areas for Federal community development and housing assistance (insured and subsidized). Such comprehensive plan to consider the needs of all population groups, the availability of land, the public sector costs and benefits of additional growth, and the incidence of their impact, on the population, energy consumption, and the environment.

- assess and revise functional plans and investment programs, such as for transportation, parks and recreation, and social services to alleviate any disparities and to provide services to meet the special needs of distressed areas and population groups within the locality.
- plan local facilities consistent with a regional or state public investment programs.
- carry out programs to detail and implement a regional development guide at the local level.
- conduct flood control studies and develop programs for flood plain management.

[Docket No. R-79-635]

[FR Doc. 79-11218 Filed 4-10-79; 8:45 am]

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federal register

Wednesday
April 11, 1979

Part IV

# Department of Housing and Urban Development

## Office of the Assistant Secretary for Community Planning and Development

## Section 312 Rehabilitation Loan Program; Legislative Amendments

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Community Planning and Development

### 24 CFR Part 510

### Section 312 Rehabilitation Loan Program; Legislative Amendments

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development (HUD).

**ACTION:** Interim rule.

**SUMMARY:** The Secretary is amending the section 312 Rehabilitation Loan Program as a result of changes made in the program by the Housing and Community Development Amendments of 1978. Congress has placed new limitations and conditions on the approval of rehabilitation loans for multifamily properties (5 or more units), has added new language on the priority for low and moderate income applicants, and has raised the loan limit on nonresidential properties from $50,000 per property to $100,000 per property. This interim rule is needed immediately to implement these important program changes.

**DATE:** Comments due: July 10, 1979. This interim rule is effective May 11, 1979.

**ADDRESS:** Interested persons may participate in this rulemaking by submitting written comments, suggestions or data to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each person submitting comments should indicate his or her name and address and should refer to the date of publication of this interim rule and give the docket number that appears in the heading. Reasons should be given for the commenter's opinion. Copies of all written comments will be available for examination and copying by interested persons in the Office of Rules Docket Clerk at the address to which comments are submitted. After public participation has concluded, the Secretary will issue a final rule in this proceeding, adopting the interim rule with such changes as may be appropriated in light of the public rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Dennis Manning, Rehabilitation Management Division, Department of Housing and Urban Development, 451 Seventh St., SW., Washington, D.C. 20410. Phone number 202–755–5890.

**SUPPLEMENTARY INFORMATION:** There are no comprehensive published regulations for the section 312 program. The program is administered according to procedures contained in the Rehabilitation Financing Handbook (HUD 7375.1) and other operating policy documents which will remain in effect except as modified or supplemented by published interim or final regulations. The handbook is available for inspection at all HUD Area Offices. Formal Regulations for the entire program are being drafted to be issued for comment in the near future. Pending issuance of complete program regulations, the following regulations are issued to implement statutory requirements contained in the Housing and Community Development Amendments of 1978 (the act). Comments received on this Part will be incorporated in the proposed regulations for the entire program when they are published for comment.

The Secretary is directed by the act to minimize involuntary displacement caused by rehabilitation loans for multifamily properties. Accordingly, § 510.105(g)(1) of this rule directs participating localities to minimize such involuntary displacement for all section 312 loans. Further, § 510.(g)(2) requires the localities to provide relocation benefits for any tenant involuntarily displaced. The intent is to not only protect involuntary displacees but also to minimize involuntary displacement by placing the burden of providing displacement benefits on the localities. Each participating locality will find it necessary under this rule to evaluate each project with a view toward minimizing displacement in order to minimize the costs the locality must otherwise bear in the form of expenditures (from the Block Grant or local funds) for relocation payments and assistance.

The Department is also requiring that relocation assistance be provided to displaced tenants of one-to-four unit properties rehabilitated with section 312 funds, even though this requirement is not specifically directed by the Act. This requirement will provide equal treatment to all tenants of properties rehabilitated with section 312 funds and not just to those residing in multifamily properties.

The rent regulatory agreement provided for in section 510.105(e) is required by the Act. A guideform containing all of the required provisions will soon be available from HUD Area Offices.

Section 510.105(h) continues existing policy which requires the chief executive officer of a corporation, and each partner of a partnership, borrowing section 312 funds to assume personal liability for the debt in addition to the security offered by a mortgage on the property.

Congress has simplified the definition of low and moderate income by deleting the reference to the section 221(d)(3) income limits and by inserting in its place 95% of the median income for the area (see § 510.107). This figure will still be adjusted for family size. It is basically a simplified restatement of the previous definition of low and moderate income used in the section 312 program. That same low/moderate income definition is used to apply to tenants in § 510.105(a) which requires that at least 51 percent of the tenants be of low- or moderate-income in a multifamily project not located in a low- or moderate-income area.

To determine which areas are considered to be low/moderate income areas, § 510.103 cross-references the Community Development Block Grant Regulations. Use of the block grant test to delineate low/moderate income areas should be an administrative convenience to localities because, for the most part, separate areas will not need to be developed solely for section 312 multifamily purposes. Areas already delineated for the block grant may be used.

The statutory test for low- or moderate-income under the block grant is, however, 80 percent of the area median income rather than the 95 percent of median income standard used for section 312. As a result, two different definitions of low or moderate income are used, one for the neighborhood (based on the block grant) and a different standard for tenants and homeowners benefiting from section 312 loans (based on the section 312 statutory definition).

The limit on section 312 rehabilitation loans for nonresidential properties is increased to $100,000 per property (see § 510.109). The previous loan limit was $50,000 per property. All other procedures for processing and approving nonresidential and mixed-use loans are still in effect.

Section 510.111 provides that priority shall be given to loan applications in which section 312 funds are used to leverage private resources for rehabilitation. For example, if a given loan would be feasible at a rate of interest above 3%, the rehabilitation

may be financed with a combination of private, unsubsidized funds and a section 312 loan. The proportion of private funds used may be varied to provide the maximum interest rate and amortization schedule feasible for that project, thus getting maximum leverage from the section 312 funds.

The following is a summary of additional section 312 program changes included in the Act which are not being implemented by this interim rule:

1. The Congress has directed that within 270 days of the date of enactment of the Amendments (October 14, 1979), all improvements funded with section 312 loans must meet cost effective energy conservation standards. Further information on the implementation of this requirement will be made available in the future.

2. The Secretary has been authorized to charge more than 3 percent for loans made to applicants whose incomes are above 80 percent of the median income for the area. The implementation of this new authority is currently being reviewed.

3. The Secretary has been authorized to allow the use of Section 312 funds for the refinancing of existing mortgage debt on multifamily properties, in addition to covering the costs of rehabilitation, where this is necessary to minimize the displacement of existing tenants. The implementation of this new authority is also under review.

The Department is not providing for public comment in advance of the effective date of this part since there is an urgent need for the multifamily rehabilitation funds made available by Congress for this fiscal year. Any significant delay in implementing the legislative changes will prevent these funds from being effectively committed to projects this fiscal year. The considerable planning and packaging times required by multifamily loans make it imperative that our Area Offices be authorized to begin approving loan packages as quickly as possible. For these reasons the Department finds it impracticable and unnecessary to provide for public comment in advance of the effective date of this part.

Though these regulations are published as an interim rule because of the importance of immediate implementation of these legislative changes, the Department recognizes the need for public comment and the safeguards and acceptance resulting from such comments. Accordingly, as indicated above, a 90-day comment period is provided.

A finding of inapplicability with respect to environmental impact has been prepared in accordance with Procedures for Protection and Enhancement of Environmental Quality. A copy of this finding is available for inspection and copying in the Office of the Rules Docket Clerk at the above address.

Accordingly, 24 CFR Part 510 is established as follows:

## PART 510—SECTION 312 REHABILITATION LOAN PROGRAM

Sec.

510.101 Purpose.
510.102 General.
510.103 Definitions.
510.105 Multi-Family Property Loans.
510.107 Low and Moderate Income Priority.
510.109 Nonresidential Loan Limit.
510.111 Priority For Leveraging Local Funds.

Authority: Sec. 312 of the United States Housing Act of 1964 (42 U.S.C. 1452b), and sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

## PART 510–SECTION 312 REHABILITATION LOAN PROGRAM

### § 510.101 Purpose.

The purpose of this part is to implement legislative amendments to the Rehabilitation Loan Program, authorized by section 312 of the Housing Act of 1964.

### § 510.102 General.

These regulations supersede any inconsistent provisions in the Rehabilitation Financing Handbook, HUD Handbook 7375.1.

### § 510.103 Definitions.

(a) Multifamily Property. A property containing five or more dwelling units after rehabilitation.

(b) Low- or moderate-income neighborhood. A neighborhood that meets the definition of an area as described in the Community Development Block Grant regulations (24 CFR Part 570 § 570.302(d)(2)(i)), i.e., an area, delineated by the applicant, where the majority of the residents are low- and moderate-income persons as defined in 24 CFR 570.3(p).

(c) Low and Moderate Income Tenants and Homeowners: Tenants or homeowners whose total family income, adjusted for family size, does not exceed 95% of the median income for the area.

### § 510.105 Multi-family Property Loans.

The following limitations and conditions shall apply to all section 312 rehabilitation loans for multi-family properties.

(a) The property must be located in a low- or moderate-income neighborhood or at least 51% of the property's initial tenants after rehabilitation must be of a low or moderate income. The property shall also be in an area otherwise qualified for section 312 lending.

(b) The loan shall be consistent with the current overall community development strategy developed pursuant to Title I of the Housing and Community Development Act of 1974.

(c) The locality shall certify compliance with paragraphs (a) and (b) of this section by making the following certification in Block N of the loan application HUD–6243: "The property is located in a low- or moderate-income neighborhood or at least 51% of the property's initial tenants after rehabilitation will be of low or moderate income. The loan is consistent with the community's current overall community development strategy developed pursuant to Title I of the Housing and Community Development Act of 1974."

(d) The property must have fewer than 100 units after rehabilitation unless HUD determines that the loan is essential to meet the community development needs of a neighborhood and alternative sources of financing are not available. The Area Manager or his designee is hereby authorized to grant an exception to the 100 unit limit. Exceptions must be requested in writing from the Area Manager or his designee and must include clear evidence of the importance of the specific project to the community development needs of a specific neighborhood. Before granting the request the Area Manager or his designee must make the following determinations:

(1) The rehabilitation of the project will provide needed housing units for low or moderate income tenants, *or*

(2) The revitalization of the target area would be significantly hindered if the property were not rehabilitated.

(3) Under either paragraph (d) (1) or (2) of this section, alternate sources of financing which would be adequate for the specific project are not available.

(e) A rent regulatory agreement shall be executed for all multi-family properties rehabilitated with Section 312 funds, for the purpose of limiting increases in rents caused by the rehabilitation of the property over the first five years of the loan commencing on the completion of rehabilitation work. Such an agreement shall be between the borrower and the United States of America acting by and through the Secretary of Housing and Urban Development and shall be executed by the HUD Area Office Manager or his designee on behalf of the Secretary. The agreement shall include:

(1) HUD loan number.

(2) The number of units after rehabilitation.

(3) Borrower's name and address.

(4) Address of the property to be rehabilitated.

(5) Mortgage recordation information.

(6) A provision to be in effect for a five year period from the date of completion of the rehabilitation, which shall limit the amount of rents charged tenants of the property. The total monthly rents charged for all dwelling units in the property shall not exceed an amount computed in accordance with paragraph (f) of this section.

(7) A provision to allow periodic rent increases to cover increases in operating costs. Such increases in costs shall be documented in the files of the borrower, to be maintained for HUD inspection at its option for a period of two years following the expiration of the agreement. The borrower shall notify the local agency administering the loan of any rent increases and the reasons therefor during the period of the agreement.

(8) A provision for declaring the loan in default and/or for taking other appropriate legal action if the borrower fails to correct violations of the Rent Regulatory Agreement.

(9) A provision that the tenants of the property be provided with information in writing by the borrower regarding the terms of the Rent Regulatory Agreement.

(10) The agreement shall bind any successors in interest and shall be recorded with the mortgage which shall specifically incorporate the rent regulatory agreement by reference.

(f) The monthly rent amount to be used as a basis for the rent regulatory agreement (see paragraph (e) of this section) shall be computed by:

(1) Totaling i through v of this subparagraph:

(i) The estimated annual operating expense and taxes after rehabilitation;

(ii) The annual principal and interest payments on pre-existing mortgage debt, but only if the original term was at least 10 years;

(iii) The annual principal and interest payments on the Section 312 loan;

(iv) The annual principal and interest payments on other rehabilitation financing, but only if the term is at least 10 years;

(v) An amount which is a reasonable return on investment as determined by HUD, on recommendation of the processing locality, which shall not exceed a 20 percent return on equity defined as: (A) Appraised market value prior to rehabilitation plus (B) cost of rehabilitation minus (C) after rehabilitation indebtedness (of at least a ten-year term) secured by the property.

(2) Dividing the total calculated in paragraph (f)(1) by .93 to adjust for vacancies.

(3) Dividing the amount calculated in paragraph (f)(2) by 12 to calculate monthly rent.

(g) Potential involuntary displacement shall be addressed as follows:

(1) To the extent feasible, the locality shall minimize involuntary displacement in all aspects of its Section 312 program operations.

(2) If involuntary displacement does occur as a result of a Section 312 loan, relocation benefits to the tenants of both one-to-four unit properties and multifamily properties shall be provided by the locality.

(i) Relocation benefits in Urban Renewal or Model Cities Projects shall be the same as those provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646.

(ii) Relocation benefits in connection with the Section 312 loan program under the Community Development Block Grant program shall be comparable to those provided tenants occupying a private-owner property located in a Neighborhood Strategy Area that is to be rehabilitated under the Section 8 Substantial Rehabilitation Program, Subpart C, 24 CFR, § 881.309.

(3) No Section 312 loan shall be approved unless the locality certifies to HUD that relocation benefits to tenants involuntarily displaced will be available as required in this section.

(h) The Chief Executive Officer of a Corporation borrowing Section 312 funds and each partner of a partnership shall assume personal liability for the resulting debt. This shall be in addition to the security provided by a mortgage on the property.

### § 510.107 Low and Moderate Income Priority.

The Secretary shall, in making loans under this Part, give priority to applications by low and moderate income persons who own the property to be rehabilitated and will occupy such property upon the completion of the rehabilitation, including applications by condominiums and cooperatives in which the residents are principally (at least 51% or more) of low and moderate income. For the purpose of the preceding sentence, the term "low and moderate income" means family income adjusted for family size which does not exceed 95% of median income for the area.

### § 510.109 Nonresidential Loan Limit.

A Section 312 loan for rehabilitation of a nonresidential property, or nonresidential portion of a mixed-use property, shall not exceed $100,000.

### § 510.111 Priority for Leveraging Other Loan Funds.

To the extent feasible, priority shall be given to applications for Section 312 loans in which Section 312 funds are used to leverage additional funds from private sources. In the case of leveraging arrangements, subordination of the Section 312 loan mortgage instrument to the mortgage of the private lender is acceptable.

Issued at Washington, D.C., March 15, 1979.

Robert C. Embry, Jr.,

*Assistant Secretary for Community Planning and Development.*

[Docket No. R–79–631]

[FR Doc. 79–11219 Filed 4–10–79; 8:45 am]

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# Federal Register

Wednesday
April 11, 1979

## PART V

# Environmental Protection Agency

**Primary Aluminum Plants; Draft Guideline Document; Availability**

## ENVIRONMENTAL PROTECTION AGENCY

### Primary Aluminum Plants; Draft Guideline Document; Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Availability of Draft Guideline Document.

**SUMMARY:** The purpose of this notice is to announce the availability of a draft guideline document for the control of fluoride emissions from existing primary aluminum reduction plants, and to invite public comment on the document. Guidance to the States for control of existing facilities is required whenever a standard of performance for new sources for control of a designated pollutant is promulgated. After consideration of comments received, a final guideline document will be issued.

**DATES:** Comments must be received on or before June 11, 1979.

**ADDRESSES:** Comments should be submitted to the Emission Standards and Engineering Division (MD–13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Stanley Cuffe.

Copies of the draft guideline document may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, N.C. 27711, telephone 919–541–2777. Please refer to Primary Aluminum: Draft Guidelines for Control of Fluoride Emissions From Existing Primary Aluminum Plants (EPA–450/2–78–049a).

The draft guideline document and all public comments received may be inspected and copied at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5271.

**SUPPLEMENTARY INFORMATION:** The Clean Air Act applies to three general categories of pollutants emitted from stationary sources. The first category consists of pollutants (often referred to as "criteria pollutants") for which air quality criteria, national ambient air quality standards, and state implementation plans are established under sections 108–110 of the Act. The second category consists of pollutants listed and controlled as hazardous pollutants under section 112 of the Act.

The third category consists of pollutants that are (or may be) harmful to public health or welfare but are not or cannot be controlled under sections 108–110 or 112. Section 111(d) requires control of existing sources of such pollutants whenever standards of performance (for those pollutants) are established under section 111(b) for new sources of the same type. For convenience of reference, such pollutants are referred to as "designated pollutants" and existing facilities whose emissions of such pollutants must be controlled under section 111(d) are referred to as "designated facilities." Since standards of performance for fluoride emissions from new primary aluminum reduction plants have been promulgated (40 FR 3826), a draft guideline document has been prepared for control of fluoride emissions from existing primary aluminum reduction plants and is being made available for public comment.

Subpart B to 40 CFR Part 60 sets forth the procedures and requirements for submittal of state plans for control of designated pollutants from designated facilities under section 111(d) of the Act. A summary of subpart B and a discussion of the basic concepts underlying it appear in the preamble published in connection with its promulgation (40 FR 43340). In brief, subpart B provides that after a standard of performance applicable to emissions of a designated pollutant from new sources is promulgated, the Administrator will publish a draft guideline document containing information pertinent to the control of the same pollutant from designated (i.e., existing) facilities. He will also publish a notice of availability of the draft guideline document, and invite comments on its contents. After publication of a final guideline document for the pollutant in question, the States will have nine months to develop and submit plans for control of that pollutant from designated facilities. Within four months after the date for submission of plans, the Administrator will approve or disapprove each plan (or portion thereof). If a state plan (or portion thereof) is disapproved, the Administrator will promulgate a plan (or portion thereof) within six months after the date for plan submission. These and related provisions of subpart B are basically patterned after section 110 of the Act and 40 CFR Part 51 (concerning adoption and submittal of state implementation plans under section 110).

As discussed in the preamble to subpart B, a distinction is drawn between designated pollutants which may cause or contribute to endangerment of public health (referred to as "health-related pollutants") and those for which adverse effects on public health have not been demonstrated (referred to as "welfare-related pollutants"). For health-related pollutants, emission standards and compliance schedules in State plans must ordinarily be at least as stringent as the corresponding emission guidelines and compliance times in EPA's guideline documents. As provided in subpart B, States may apply less stringent requirements when economic factors or limitations make such application significantly more reasonable. For welfare-related pollutants, States may balance the emission guidelines, compliance times, and other information in EPA's guideline documents against factors of public concern in developing their plans, as explained more fully in the preamble to subpart B and in the introductory portion of each guideline document. Thus, the States have more flexibility in establishing plans for welfare-related pollutants than is provided for plans involving pollutants that may affect public health.

For reasons discussed in the draft guideline document, the Administrator has determined that atmospheric fluoride emissions in the primary aluminum industry may cause or contribute to endangerment of the public welfare but that adverse effects on public health have not been demonstrated. This determination is consistent with the determination made in conjunction with the final guideline document for phosphate fertilizer plants which was made available on March 1, 1977 (42 FR 12022). As indicated above, this means that fluoride emissions will be considered a welfare-related pollutant and the States will have greater flexibility in developing their plans than would be the case if public health might be affected.

The emission guidelines and compliance times specified in the draft guideline document reflect the Administrator's judgment on: (1) the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for existing primary aluminum reduction plants; and (2) the

time within which those systems can be purchased and installed.

The guidelines are specific to the various cell types and are based on good collection of emissions and treatment of emissions with dry or wet scrubbers. The guidelines allow the States in applying their standards of performance to take into consideration, among other factors, the remaining useful life of the existing plant.

Dated: April 5, 1979.

**Douglas M. Costle,**

*Administrator.*

[FRL 1034-4]

[FR Doc. 79-11255 Filed 4-10-79; 8:45 am]

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## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| DOT/COAST GUARD | USDA/ASCS | | DOT/COAST GUARD | USDA/ASCS |
| DOT/NHTSA | USDA/APHIS | | DOT/NHTSA | USDA/APHIS |
| DOT/FAA | USDA/FNS | | DOT/FAA | USDA/FNS |
| DOT/OHMO | USDA/FSQS | | DOT/OHMO | USDA/FSQS |
| DOT/OPSO | USDA/REA | | DOT/OPSO | USDA/REA |
| CSA | MSPB*/OPM* | | CSA | MSPB*/OPM* |
| | LABOR | | | LABOR |
| | HEW/FDA | | | HEW/FDA |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

## REMINDERS

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

### Rules Going Into Effect Today

**ENVIRONMENTAL PROTECTION AGENCY**

13479 3–12–79 / Air quality implementation plans; Louisiana

### Next Week's Deadlines for Comments On Proposed Rules

**CIVIL AERONAUTICS BOARD**

9579 2–13–79 / Construction, publication, filing and posting of tariffs of air carriers and foreign air carriers; Rules of practices in economic proceedings; comments by 4–16–79

18646 3–29–79 / Intrastate pairs of points, joint fares; comments by 4–16–79

17191 3–21–79 / Public charters, extending consumer protection requirements to other charter types; comments by 4–16–79

**COMMUNITY SERVICES ADMINISTRATION**

16455 3–19–79 / Summer Youth Recreation Programs; purposes and conditions; funding, financial policies, and application procedures; comments by 4–18–79

**CONSUMER PRODUCT SAFETY COMMISSION**

47197 10–13–78 / Consumer products containing Benzene; comments extended to 4–16–79

[Originally published at 43 FR 27852, June 27, 1978]

**ENERGY DEPARTMENT**

Economic Regulatory Administration—

9570 2–13–79 / Natural gas for outdoor lighting, sale and direct industrial use; comments by 4–16–79

Federal Energy Regulatory Commission—

18517 3–28–79 / Rules relating to investigations; comments by 4–16–79

Office of the Secretary—

16952 3–20–79 / Northern tier and inland States; petroleum supply alternatives through the year 2000; draft report, Missoula, Mont., 4–18–79

12486 3–7–79 / Northern Tier Study Report; comments by 4–20–79

**ENVIRONMENTAL PROTECTION AGENCY**

15741 3–15–79 / Alabama, air quality plan; comments by 4–16–79

9404 2–13–79 / Air quality implementation plans, approval and promulgation; Maine; comments by 4–16–79

17193 3–21–79 / Air programs; approval and promulgation; State plans for designated facilities and pollutants; New Jersey, et al.; comments by 4–20–79

16033 3–16–79 / Interpretive rule on fuel and fuel additives; comments by 4–16–79

19002 3–30–79 / Primary nonferrous smelter orders; comments period extended to 4–16–79

[Originally published at 44 FR 6284, 1–31–79]

15738 3–15–79 / Use of higher sulfur fuel and higher ash content fuel in Massachusetts; comments by 4–16–79

**ENVIRONMENTAL QUALITY COUNCIL**

16024 3–16–79 / Public meeting procedures; comments by 4–16–79

**FEDERAL COMMUNICATIONS COMMISSION**

3732 1–18–79 / FM quadraphonic broadcasting; comments by 4–16–79

51650 11–6–78 / Television receiver noise figures, measurement techniques; comments by 4–15–79

**FEDERAL RESERVE SYSTEM**

10509 2–21–79 / International banking operations; comments by 4–15–79

13035 3–9–79 / Provisions for loans to executive officers, directors and principal shareholders; comments by 4–20–79

**FEDERAL HOME LOAN BANK BOARD**

11090 2–27–79 / Federal Savings and Loan System; limited area-wide branching in interstate metropolitan areas; comments by 4–16–79

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

Health Care Financing Administration—

9605 2–14–79 / Review responsibility and authority of professional standards review organizations; medicaid State agency review; comments by 4–16–79

Human Development Services Office—

16399 3–19–79 / Child care services and services for drug and alcohol abusers; comments by 4–18–79

Public Health Service—

16394 3–19–79 / Medicare and medicaid regulations; conformance with professional standards review regulations on review, certification, and payment activities; comments by 4–18–79

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

Federal Housing Commissioner—Office of Assistant Secretary for Housing—

8900 2–12–79 / Minimum leasehold terms with reference to property improvement and mobile home loans; comments by 4–16–79

8901 2–12–79 / Use of copper clad aluminum conductors in mobile homes; comments by 4–16–79

Office of Assistant Secretary for Community Planning and Development—

9700 2–14–79 / Local public agencies and public housing agencies and employee benefit plans; comments by 4–16–79

**INTERIOR DEPARTMENT**

National Park Service—

16021 3–16–79 / Operation of motor vehicles on Fire Island National Seashore; comments by 4–16–79

**INTERSTATE COMMERCE COMMISSION**

17534 3–22–79 / Calculation of Off-Branch costs; comments by 4–16–79

12074 3–5–79 / Collective ratemaking agreements; modified terms and conditions for approval; comments by 4–19–79

**LABOR DEPARTMENT**

Federal Contract Compliance Programs Office—

17136 3–20–79 / Equal employment opportunity compliance responsibility; comments by 4–19–79

Occupational Safety and Health Administration—

17757 3–23–79 / Means of egress; hazardous materials and fire protection; comments period extended to 4–16–79

[Originally published at 43 FR 60048, Dec. 22, 1978]

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

16020 3–16–79 / Criteria and procedures for space transportation system personnel reliability program; comments by 4–16–79

**POSTAL SERVICE**

17192 3–21–79 / Inspection service authority, requesting financial records from a financial institution; comments by 4–20–79

**SECURITIES AND EXCHANGE COMMISSION**

19003 3–30–79 / Tender offers; comments period extended to 4–16–79

[Originally published at 44 FR 9956, 2–15–79]

**TRANSPORTATION DEPARTMENT**

Coast Guard—

15984 3–1–79 / Great Lakes Pilotage rates; comments by 4–16–79

9039 2–12–79 / Inert gas and deck foam systems; comments by 4–16–79

8984 2–12–79 / Tank vessels; design, equipment, operating and personnel standards; comments by 4–16–79

9035 2–12–79 / Tank vessels; improved steering gear standards; comments by 4–16–79

Federal Aviation Administration—

16430 3–19–79 / Aircraft tires; revision of technical standards; comments by 4–18–79

12688 3–8–79 / Alteration of control zone and transition area, Rhinelander, Wisc.; comments by 4–16–79

Materials Transportation Bureau—

15748 3–15–79 / Air transportation of limited quantities of low level radioactive materials; comments by 4–16–79

National Highway Traffic Safety Administration—

10995 2–26–79 / Federal motor vehicle safety standards; passengr cars; fields of direct view, rearview mirror systems; comments by 4–17–79

St. Lawrence Seaway Development Corporation—

12065 3–5–79 / Navigation closing procedures; comments by 4–17–79

**TREASURY DEPARTMENT**

Comptroller of the Currency—

15734 3–15–79 / Privacy Act, exemption of system of records; comments by 4–16–79

Customs Service—

16941 3–20–79 / Privacy Act of 1974; exemption of system of records from certain requirements; comments by 4–19–79

## Next Weeks Meetings

**ADMINISTRATIVE CONFERENCE OF THE UNITED STATES**

6167 1–31–79 / Committee on Rulemaking and Public Information, Washington, D.C. (open), 4–20–79

**AGING, FEDERAL COUNCIL**

19535 4–3–79 / Long Term Care Committee, Washington, D.C. (open), 4–17–79

**AGRICULTURE DEPARTMENT**

Agricultural Marketing Service—

18540 3–28–79 / Meat Pricing Task Force, Washington, D.C. (open), 4–17–79

Farmers Home Administration—

18035 3–26–79 / Energy Impacted Area Development Assistance Program, Bismarck, N. Dak., (open), 4–17–79

Rural Electrification Administration—

19498 4–3–79 / Colorado-Ute Electric Association public information meeting, Craig, Colo. (open), 4–19–79

**ARMS CONTROL AND DISARMAMENT AGENCY**

14609 3–13–79 / General Advisory Committee, Washington, D.C. (closed), 4–19 and 4–20–79

**ARTS AMD HUMANITIES, NATIONAL FOUNDATION**

16503 3–19–79 / Humanities Panel, Washington, D.C. (closed), 4–19–79

19077 3–30–79 / Museum Advisory Panel, Washington, D.C. (partially open), 4–17 and 4–18–79

**CIVIL RIGHTS COMMISSION**

19218 4–2–79 / Connecticut and Idaho advisory committees, Meridian, Conn. and Boise, Idaho (open) (2 documents), 4–18 and 4–21–79

17764 3–23–79 / Kansas Advisory Committee, Topeka, Kans. (open), 4–21–79

17765 3–23–79 / Maine Advisory Committee, Augusta, Maine (open), 4–17–79

14612 3–13–79 / Minnesota Advisory Committee, St. Paul, Minn. (open), 4–18–79

17542 3–22–79 / Missouri Advisory Committee, Kansas City, Mo. (open), 4–18–79

17765 3–23–79 / New Mexico Advisory Committee, Grants, N. Mex. (open), 4–18–79

**COMMERCE DEPARTMENT**

Industry and Trade Administration—

18542 3–28–79 / Electronic Instrumentation Technical Advisory Committee, Washington, D.C. (closed), 4–17–79

13059 3–9–79 / Exporters' Textile Advisory Committee, Washington, D.C. (open), 4–18–79

19503 4–3–79 / Hardware Subcommittee of the Computer Systems Technical Advisory Committee, Washington, D.C. (closed), 4–18–79

National Oceanic and Atmospheric Administration—

19221 4–2–79 / New England Fishery Management Council, Peabody, Mass. (open), 4–18 and 4–19–79

**DEFENSE DEPARTMENT**

Army Department—

18724 3–29–79 / Army Medical Research and Development Advisory Panel, Ad Hoc Study Group on Viral and Rickettsial Diseases, Washington, D.C. (partially open), 4–17 and 4–18–79

Office of the Secretary—

17207 3–21–79 / Defense Intelligence Agency Advisory Committee, Palos Verdes Peninsula, Calif. (closed), 4–19 and 4–20–79

11268 2–28–79 / Department of Defense Wage Committee, Washington, D.C. (closed), 4–17–79

17545 3–22–79 / DOD Advisory Group on Electron Devices, New York, N.Y. (closed), 4–18–79

12728 3–8–79 / Organization of the Joint Chiefs of Staff; Defense Intelligence School Panel of the National Defense University and the Defense Intelligence School, Washington, D.C. (open), 4–17–79

**ENERGY DEPARTMENT**

Federal Energy Regulatory Commission—

19012 3–30–79 / Revision of Rules of Practice and Procedure Advisory Committee, Washington, D.C. (open), 4–16–79

**ENVIRONMENTAL PROTECTION AGENCY**

18551 3–28–79 / Science Advisory Board, Water Quality Criteria Subcommittee, Arlington, Va. (open), 4–17 and 4–18–79

17216 3–21–79 / Science Advisory Board Risk Assessment Subcommittee, Washington, D.C. (open), 4–19–79

17216 3–21–79 / Science Advisory Board Task Group in Biological Monitoring Systems, Arlington, Va. (open), 4–19–79

**FEDERAL COMMUNICATIONS COMMISSION**

19245 4–2–79 / Advisory Committee on UHF–TV Receiver Noise Figure measurement standards, Guilford, Md. (open), 4–18–79

19028 3–30–79 / Cable Signal Leakage Advisory Committee, Washington, D.C. (open), 4–17–79

18734 3–29–79 / Radio Technical Commission for Marine Services, Washington, D.C. (open), 4–16–79

**FEDERAL PREVAILING RATE ADVISORY COMMITTEE**

15537 3–14–79 / Federal Wage System pay matters, Washington, D.C. (open), 4–19–79

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

19538 4–3–79 / MIT Nitrite Chronic Toxicity Studies, Bethesda, Md. (open), 4–19–79

Disease Control Center—

18737 3–29–79 / Community Organization for Preventive Health Services, Atlanta, Ga. (open), 4–17–79

Education Office—

17218 3–21–79 / Adult Education National Adisory Council, Chicago, Ill. (open), 4–18 through 4–21–79

Food and Drug Administration—

16037 3–16–79 / Advisory Committees, Rockville, Md. and Jefferson, Ariz. (open), 4–17 through 4–20–79

National Institutes of Health—

14642 3–13–79 / Mental Retardation Research Committee, Bethesda, Md. (partially open), 4–16 through 4–18–79

Office of Assistant Secretary for Health—

15540 3–14–79 / President's Council on Physical Fitness and Sports, Washington, D.C. (open), 4–19–79

**INTERIOR DEPARTMENT**

Heritage Conservation and Recreation Service—

16966 3–20–79 / Consulting Committee to the National Survey of Historic Sites and Buildings, Washington, D.C. (open), 4–19 and 4–20–79

Land Management Bureau—

13589 3–12–79 / Bakersfield District Grazing Advisory Board, Bakersfield, Calif. (open), 4–19 and 4–20–79

16499 3–19–79 / Socorro District Grazing Advisory Board, Socorro, N. Mex. (open), 4–18–79

17597 3–22–79 / Utah wilderness inventory, open house, Fillmore, Utah (open), 4–17–79

17597 3–22–79 / Utah wilderness inventory, open house, Tooele, Utah (open), 4–17–79

17597 3–22–79 / Utah wilderness inventory, open house, Nephi, Utah (open), 4–18–79

17597 3–22–79 / Utah wilderness inventory, open house, Brigham, Utah (open), 4–18–79

17597 3–22–79 / Utah wilderness inventory, open house, Vernal, Utah (open), 4–18–79

17597 3–22–79 / Utah wilderness inventory, open house, Salt Lake City, Utah (open), 4–19–79

National Park Service—

17807 3–23–79 / Sleeping Bear Dunes National Lakeshore Advisory Commission, Traverse City, Mich. (open), 4–20–79

Office of the Secretary—

16967 3–20–79 / Outer Continental Shelf Advisory Board—Policy Committee, Birmingham, Ala. (open), 4–18–79

**LABOR DEPARTMENT**

Employment and Training Administration—

19551 4–3–79 / Federal Committee on Apprenticeship, Austin, Tex. (open), 4–19 and 4–20–79

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

19076 3–30–79 / NASA Advisory Council, Aeronautics Advisory Committee, Informal Ad Hoc Advisory Subcommittee on Advanced Aeronautical Propulsion Technology Requirements, Cleveland, Ohio (open), 4–17 through 4–19–79

19261 4–2–79 / NASA Advisory Council, Space and Terrestrial Applications Advisory Committee (STAAC), Washington, D.C. (open), 4–19 and 4–20–79

18305 3–27–79 / Space and Terrestrial Applications Advisory Committee, Cleveland, Ohio (open), 4–17 and 4–18–79

**NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS**

12782 3–8–79 / Meeting, Washington, D.C. (open), 4–19 and 4–20–79

**NATIONAL SCIENCE FOUNDATION**

19077 3–30–79 / Advisory Council Task Group No. 7; Washington, D.C. (open), 4–16 and 4–17–79

19078 3–30–79 / Applied Science and Research Applications Policy Advisory Committee, Integrated Basic Research Advisory Subcommittee, Washington, D.C. (open), 4–17 and 4–18–79

16503 3–19–79 / Environmental Biology Advisory Committee, Ecological Sciences Subcommittee, Washington, D.C. (closed), 4–19 and 4–20–79

19077 3–30–79 / Post-International Phase of Ocean Drilling Science Advisory Committee, Washington, D.C. (partially open), 4–19–79

**NUCLEAR REGULATORY COMMISSION**

19558 4–3–79 / Reactor Safeguards Advisory Committee, Subcommittee on Waste Management, Richland, Wash. (open), 4–18 and 4–19–79

**SMALL BUSINESS ADMINISTRATION**

18579 3–28–79 / Region I Advisory Council, Concord, N.H. (open), 4–20–79

18127 3–26–79 / Region I Advisory Council (open), 4–19–79

20531 4–5–79 / Region IV Advisory Council, Jamestown, Ky. (open), 4–19 and 4–20–79

18762 3–29–79 / Region V Advisory Council, Cleveland, Ohio (open), 4–20–79

17249 3–21–79 / Region V Advisory Council, Indianapolis, Ind., 4–16–79

17250 3–21–79 / Region IX Advisory Council, Scottsdale, Ariz., 4–18–79

**SOCIAL SECURITY NATIONAL COMMISSION**

19261 4–2–79 / Washington, D.C. (open), 4–18–79

**STATE DEPARTMENT**

Agency for International Development—

17613 3–22–79 / Advisory Committee on Voluntary Foreign Aid, Minneapolis, Minn. (open), 4–18 and 4–19–79

Office of the Secretary—

20329 4–4–79 / Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 4–19–79

17845 3–23–79 / Advisory Committee on International Investment, Technology, and Development, Washington, D.C. (open), 4–17–79

17845 3–23–79 / Shipping Coordinating Commitee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 4–18–79

**TRANSPORTATION DEPARTMENT**

Federal Aviation Administration—

18766 3–29–79 / Radio Technical Commission for Aeronautics Special Committee 134—Electronic Test Equipment for General Application, Arlington, Va. (open), 4–19 and 4–20–79

Federal Highway Administration—

12793 3–8–79 / Use of Citizens Band Radio by Commercial Motor Carriers of Passengers for Hire, Washington, D.C. (open), 4–17–79

National Highway Traffic Safety Administration—

15823 3–15–79 / NHTSA—Public Industry Technical Meetings, Ann Arbor, Mich. (open), 4–18–79

12794 3–8–79 / Safety, Bumper and Consumer Information Programs, Ann Arbor, Mich. (open), 4–18–79

**TREASURY DEPARTMENT**

Alcohol, Tobacco, and Firearms Bureau—

13620 3–12–79 / Explosives Tagging Advisory Committee, Washington, D.C. (closed), 4–19–79

**VETERANS ADMINISTRATION**

18131 3–26–79 / Medical Research Service Merit Review Boards (partially open), 4–17 through 4–21–79

20331 4–4–79 / Special Medical Advisory Group, Washington, D.C. (open), 4–19 and 4–20–79

17251 3–21–79 / Wage Committee, Washington, D.C., 4–19–79

## Next Week's Public Hearings

**CIVIL RIGHTS COMMISSION**

15755 3–15–79 / Philadelphia, Pa., 4–16–79

**COMMERCE DEPARTMENT**

National Oceanic and Atmospheric Administration—

20467 4–5–79 / Atlantic surf clam and ocean quahog fisheries, Fairhaven, Mass., 4–16–79

18539 3–28–79 / New England Fishery Management Council, Peabody, Mass., 4–16–79

**ENERGY DEPARTMENT**

18640 3–29–79 / Extension of special set aside program for middle distillates, Washington, D.C., 4–19–79

16546 3–19–79 / Residential Conservation Service Program, Boston, Mass., 4–17 through 4–19–79

**FEDERAL TRADE COMMISSION**

57269 12–7–78 / Trade regulation, standards and certification for product marketing, San Francisco, 4–16–79 *(See also* 43 FR 59517, 12–21–78)

**INTERIOR DEPARTMENT**

Land Management Bureau—

18742 3–29–79 / Coal leases in Gunnison County, Colo., Paonia, Colo., 4–18–79

**POSTAL RATE COMMISSION**

12306 3–6–79 / Express mail metro service, 1978, 5–4–79

**TRANSPORTATION DEPARTMENT**

Materials Transportation Bureau—

12826 3–8–79 / Cryogenic liquids, Washington, D.C., 4–17–79

## List of Public Laws

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

[Last Listing April 6, 1979]

## Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

**RULES GOING INTO EFFECT**

20382 4–4–79 / HEW/PHS—Protection of identity of research subjects; effective 4–4–79

20994 4–6–79 / HUD/CPD—Community Development Block Grants; administration requirements for lump sum drawdown of funds for property rehabilitation financing; effective 5–7–79

20627 4–6–79 / USDA/FNS—Apportionment of funds to States for nutrition education and training; effective 4–6–79

**APPLICATIONS DEADLINES**

20300 4–4–79 / HEW/HDSO—Rehabilitation Long-Term Training Grant Program; funds for fiscal year 1979; apply by 5–18 and 6–1–79

20302 4–4–79 / HEW/HDSO—Rehabilitation Short-Term Training Grant Program of National Scope; funds for fiscal year '79; apply by 6–15–79

20800 4–6–79 / HEW/NIE—National Assessment of Educational Progress (NAEP) Grant Competition; correction (*See* 44 FR 19039, 3–30–79 for original publication)

**MEETINGS**

19539 4–3–79 / HEW/NIH—Aging, National Advisory Council, Bethesda, Md. (partially open), 5–22 and 5–23–79

19541 4–3–79 / HEW/NIH—Arthritis, Metabolism, and Digestive Diseases National Advisory Council, Bethesda, Md. (partially open), 5–17 and 5–18–79

19539 4–3–79 / HEW/NIH—Child Health and Human Development National Advisory Council, Bethesda, Md. (partially open), 5–14 and 5–15–79

19540 4–3–79 / HEW/NIH—National Dental Research Council, Bethesda, Md. (partially open), 5–21 and 5–22–79

19540 4–3–79 / NEW/NIH—Neurological and Communicative Disorders and Stroke National Advisory Council, Bethesda, Md. (partially open), 5–24 thru 5–26–79

19540 4–3–79 / HEW/NIH—Neurological and Communicative Disorders and Stroke National Advisory Council, Planning Subcommittee, Bethesda, Md. (partially open), 5–14–79

19541 4–3–79 / HEW/NIH—Research Manpower Review Committee, National Heart, Lung, and Blood Institute, Bethesda, Md. (partially open), 4–19 and 4–20–79

20299 4–4–79 / HEW/OE—National Advisory Council on Indian Education, Washington, D.C. (partially open), 4–19 through 4–22–79

**OTHER ITEMS OF INTEREST**

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20511 4–5–79 / Justice/LEAA—Discretionary Grant Programs Guide, fiscal year 1979

20321 4–4–79 / LSC—Grants and contracts; Alabama; comments invited

20513 4–5–79 / LSC—Grants and contracts applications under consideration; Illinois; written comments and recommendations invited

20321 4–4–79 / NFAH—Federal-State Partnership Advisory Panel; reestablishment

20321 4–4–79 / NFAH—Media Arts: Film/Radio/Television Advisory Panel; reestablishment

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