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Thursday
May 10, 1979

Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or speech impaired persons who need information about documents published in the **Federal Register.** See the Reader Aids section for the telephone listing.

27377 **National Railway Labor Conference** Executive order creating emergency board to investigate a labor-management dispute

27431 **Banks and Banking** Treasury/Comptroller proposes to authorize foreign banks to establish Federal branches and agencies; comments by 7-9-79

27618, 27627 **Energy Conservation** HUD issues cost-effective and efficiency standards for certain programs; comments by 6-11-79, effective 7-9-79 (2 documents)

27448 **Outer Continental Shelf** Interior/GS issues proposals for oil and gas and sulfur operations; comments by 7-9-79

27606 **Natural Gas for Outdoor Lighting** DOE/ERA issues rules prohibiting sale and direct industrial use

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Presidential Documents

Title 3—

The President

Executive Order 12132 of May 8, 1979

Creating an Emergency Board To Investigate a Dispute Between the National Railway Labor Conference and Certain of Its Employees

A dispute exists between the National Railway Labor Conference and certain of its employees represented by the American Train Dispatchers Association, a labor organization;

This dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

This dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by the authority vested in me by Section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), it is hereby ordered as follows:

1–101. *Establishment of Board.* There is established a board of three members to be appointed by the President to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

1–102. *Report.* The board shall report its finding to the President with respect to the dispute within 30 days from the date of this Order.

1–103. *Maintaining Conditions.* As provided by Section 10 of the Railway Labor Act, as amended, from this date and for 30 days after the board has made its report to the President, no change, except by agreement, shall be made by the National Railway Labor Conference, or by its employees, in the conditions out of which the dispute arose.

Jimmy Carter

THE WHITE HOUSE,
May 8, 1979.

[FR Doc. 79-14721
Filed 5-8-79; 2:40 pm]
Billing code 3195-01-M

Editorial Note: The White House announcement of May 8, 1979, on establishing the Board and its membership, is printed in the Weekly Compilation of Presidential Documents (vol. 15, no. 18).

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

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 336

FDIC Ethics Counselor; Change in Designation

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: This provision amends present § 336.735–3(d) of the FDIC regulations to change the designated FDIC Ethics Counselor from the Assistant to the Chairman of the Board of Directors to the Executive Secretary of the FDIC. The Ethics Counselor is charged with offering counseling and guidance respecting statutes and regulations affecting employee responsibility and conduct and with receiving, reviewing, and maintaining custody of statements of employment and financial interest and disclosure statements filed by officers and employees of the FDIC. The Executive Secretary is a principal officer of the FDIC and has custody and responsibility for the safekeeping of the official records and official seal of the FDIC. In light of these responsibilities, the FDIC believes that the Executive Secretary should perform the duties of the Ethics Counselor. In addition, the Executive Secretary is a top-ranking employee with appropriate experience in whom the Chairman has complete confidence. Therefore, the amended section 336.735–3(d) will designate the Executive Secretary as the FDIC Ethics Counselor.

EFFECTIVE DATE: This amendment is effective on May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Scott A. Anenberg, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429 (202–389–4454).

SUPPLEMENTARY INFORMATION: The FDIC has determined that notice of, public participation in, and delaying the effective date of this proposed amendment are unnecessary and impracticable. The amendment merely changes the individual designated as FDIC Ethics Counselor and makes no substantive change. In addition, the Ethics Counselor is charged with reviewing the forms to be filed by May 15 under Title II of the Ethics in Government Act, Pub. L. 95–521, and delaying the effective date would interfere with this process. The requirements of sections 553(b) and 553(d) of Title 5 of the United States Code, and sections 302.1, 302.2, and 302.5 of the FDIC's regulations are therefore inapplicable.

Accordingly, 12 C.F.R. 336.735–3(d) is amended as follows:

1. Revise § 336.735–3(d) to read:

§ 336.735–3 Effective date, distribution, and counseling.

* * * * *

(d) The Executive Secretary of the Corporation shall act as the Corporation's Ethics Counselor.

(12 U.S.C. 1819; 5 C.F.R. 735.104; E.O. 11222).

By direction of the Board of Directors dated May 7, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Acting Executive Secretary.

[FR Doc. 79–14634 Filed 5–9–79; 8:45 am]
BILLING CODE 6714–01–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operation of Federal Credit Unions; Fees Paid by Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing the assessment of fees on Federal credit unions by replacing separate charges for chartering, supervision, and examination with a single operating fee payable by all operating Federal credit unions. Public Law 95–630 permits the NCUA Board to assess fees in accordance with schedules and for time periods in an amount necessary to offset the expenses of NCUA at a rate consistent with a credit union's ability to pay.

EFFECTIVE DATE: June 15, 1979.

ADDRESS: Comments on this final regulation may be submitted to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: John R. Sander, Budget Officer, Office of the Comptroller, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone (202) 633–6737.

SUPPLEMENTARY INFORMATION: On February 26, 1979, the Administration published a proposed rule to change the method of assessing fees on Federal credit unions. Public comment was invited to be received on or before March 26, 1979.

Based on an analysis of the comments received, the Administration has made no changes to the proposed rule.

ANALYSIS OF COMMENTS: The comments received from the credit union trade associations indicated substantial credit union support for the operating fee structure. However, some credit unions indicated concern with paying for an examination which they may not receive. The Administration recognizes that every Federal credit union will not be examined every calendar year. The frequency of examination of Federal credit unions is governed by the total employment authorized for NCUA by the Office of Management and Budget (OMB). In view of the current emphasis of the President and Congress to reduce Federal employment, NCUA must direct its limited examiner resources to those credit unions in most need of examination. Therefore, examinations will be conducted based on various operational factors such as size, complexity of operations, prevalence of critical problems, etc. Some credit unions will be examined less frequently than others, however, it is NCUA's objective that a Federal credit union will not be left unexamined for more than 24 months.

Additional comments were provided requesting that a separate operating fee schedule be adopted for assessing fees on corporate central Federal credit unions (CCFCU's). The proposed scale of fees would be significantly less than other Federal credit unions would pay since the commentor maintained that CCFCU's operate on a smaller spread between income and expense. The commentor stated that, when compared to the operating fees paid by other Federal credit unions as expressed as a percentage of total expenses, the CCFCU's would pay from 12 to 19 times more.

The Administration does not agree with this conclusion since the analysis compared the operating fee as a percentage of total operating expenses (before dividends) in other credit unions to the operating fee as a percentage of the spread between cost of funds and return on funds for CCFCU's. These amounts are not similar in nature and cannot be used to present an accurate analysis of the impact the operating fee has on CCFCU's. If, on the other hand, the operating fee is expressed as a percentage of total expenses including dividends for CCFCU's as well as other credit unions, the percentages are nearly the same. The Administration concludes as a result that the operating fee will not have a greater or lesser impact on CCFCU's than it has on other types of Federal credit unions.

Operating Fee Assessment for Calendar Year 1979: Invoices for the operating fee assessment for calendar year 1979 are being mailed to each Federal credit union as of the effective date of this regulation. The fee will be based on the total assets of each Federal credit union as of December 31, 1978, calculated in accordance with the operating fee scale presented in Attachment A. Federal credit unions that have been examined and have already paid an examination fee in 1979 will receive a credit towards the operating fee assessment. The operating fees are due and payable no later than July 15, 1979.

Accordingly, 12 C.F.R. 701 is amended as set forth below.

Lawrence Connell,

Administrator.

May 4, 1979.

(Sec. 105, 93 Stat. 3652 (12 U.S.C. 1755), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

§ 701.1 [Amended]

1. Section 701.1 Organization of Federal credit unions

Subsection (c) is amended:

(1) by deleting the language "together with a check or money order payable to the National Credit Union Administration in the amount of $25 in payment of the investigation fee of $20 and charter fee of $5. The Regional Director", and by inserting in lieu thereof the word "who"; and

(2) by inserting a "." after the word "action" in the sixth sentence and by deleting the language "and the charter fee of $5 shall be returned to them. Under no circumstances shall the investigation fee of $20 be returned."

2. Section 701.6 is revised to read as follows:

§ 701.6 Fees paid by Federal credit unions.

(a) *Basis for assessment.* Not later than January 31 of each calendar year, each Federal credit union shall pay to the Administration for the current calendar year an operating fee in accordance with a schedule as fixed from time to time by the National Credit Union Administration Board based on the total assets of each Federal credit union as of December 31 of the preceding year.

(b) *Coverage.* The operating fee shall be paid by each Federal credit union engaged in operations as of January 1 of each calendar year. Newly chartered Federal credit unions will not pay an operating fee until January 31 of the year following the first full calendar year after the date chartered. Federal credit unions merging with other Federal or state credit unions and Federal credit unions converting to state charter will not receive a refund of the operating fee paid to the Administration in the year in which the merger or conversion takes place. State chartered credit unions that convert to Federal charter will pay an operating fee on January 31 of the year following the conversion to a Federal charter. Federal credit unions in liquidation will not pay any operating fee after the date of liquidation.

(c) *Notification.* Each Federal credit union shall be notified at least 30 days in advance of the schedule of fees to be paid. A Federal credit union may submit written comments to the Board for consideration regarding the existing fee schedule. Any subsequent revision to the schedule shall be provided to each Federal credit union at least 15 days before payment is due.

(d) *Calendar Year 1979 Operating Fee.* For the calendar year 1979 the operating fees payable by each Federal credit union will be due 30 days after the effective date of this regulation. The basis for assessment and the coverage of the fees remain the same as stated in subsections (a) and (b) above.

§§ 701.7 and 701.8 [Deleted]

3. Sections 701.7 Fee for examination and 701.8 Fee for examination of Federal credit unions in liquidation are deleted.

Attachment A

Operating Fee Computation

Determine the total amount of assets of your Federal credit union as of December 31 of the calendar year shown in accordance with instructions for closing the books contained in the Accounting Manual for Federal Credit Unions. Enter the amount in the appropriate space.

Compute the amount of operating fee payable from the scale shown and enter the amount in the appropriate space.

Operating Fee Scale

Total Assets	Fee
Under $25,000	$3 per $1,000 but not less than $10.
Over $25,000	$75, plus $2.50 per $1,000 for assets in excess of $25,000.
Over $50,000	$137.50, plus $2.20 per $1,000 for assets in excess of $50,000
Over $100,000	$247.50, plus $1.40 per $1,000 for assets in excess of $100,000
Over $250,000	$457.50, plus $1.10 per $1,000 for assets in excess of $250,000
Over $500,000	$732.50, plus $.65 per $1,000 for assets in excess of $500,000
Over $1,000,000	$1,057.50, plus $.50 per $1,000 for assets in excess of $1,000,000
Over $2,000,000	$1,557.50, plus $.44 per $1,000 for assets in excess of $2,000,000
Over $5,000,000	$2,877.50, plus $.22 per $1,000 for assets in excess of $5,000,000
Over $20,000,000	$6,177.50, plus $.21 per $1,000 for assets in excess of $20,000,000
Over $50,000,000	$12,477.50, plus $.20 per $1,000 for assets in excess of $50,000,000.
Over $100,000,000	$22,477.50, plus $.19 per $1,000 for assets in excess of $100,000,000.

The above scale is applied to even thousand-dollar units with fractional parts of $1,000 dropped.

[FR Doc. 79-14556 Filed 5-9-79; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

Airworthiness Directives; Enstrom Helicopter Corp. Model F-28C and 280C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective on all Enstrom F-28C and 280C helicopters by airmail letter dated April 11, 1979. The

AD requires repetitive inspection of tail rotor blade grips for cracks and chamfering of the attachment bolt holes on the tail rotor blade grips and tail rotor blades. The AD was prompted by several reports of cracked tail rotor bladegrips.

DATES: Effective May 10, 1979. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable Service Bulletin may be obtained from Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 277, Menominee, Michigan 49858.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 424.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of the Federal Aviation Act of 1958, delegated by the Administrator, an AD was adopted on April 11, 1979, and made effective immediately by airmail letter and applicable to all Enstrom F-28C and 280C helicopters. Cracks have recently been found in several Enstrom wide chord tail rotor grips (P/N 28-150013-1). Since this condition is likely to exist or develop on other helicopters of the same type design, an AD was issued to require inspection of the tail rotor blade grips for cracks, and chamfering of the attachment bolt holes on the tail rotor blade grips and tail rotor blades on all Enstrom Model F-28C and 280C helicopters.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately. Since the possibility of this condition continues to exist, the AD is hereby published in the **Federal Register** as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

§ 39.13 [Amended]

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

Enstrom Helicopter Corporation. Applies to all Model F-28C and 280C helicopters.

Compliance required as indicated.

To prevent tail rotor failures as a result of tail rotor blade grip cracks, accomplish the following:

(A) Prior to next flight after receipt of this AD and prior to each flight thereafter, visually check the tail rotor blade grips in the vicinity of the blade retention bolt holes for any evidence of cracks with at least a 10X glass. Pilot may make this check. If any cracks are found, the blade and grip unit must be replaced with a serviceable unit before further flight.

(B) Prior to the next 50 hours time in service after receipt of this AD, unless already accomplished, remove the tail rotor blades from the blade grips and examine the grips in the vicinity of the blade retention bolt holes using standard dye penetrant inspection methods. Caution—care must be taken not to intermix blades and grips as they are match drilled sets. If any cracks are found, remove the blade-and-grip unit and replace with a serviceable unit before further flight.

C) If no cracks are found in (B), or if the unit is a replacement unit, then by hand with the use of a 100°—½" back countersink (#AT4021-4) and a $^{3}/_{16}$" pilot (#AT404-4), or equivalent tools, chamfer the edges (8 per grip) of the retention bolt holes in the blade grip .015×40°. Repeat the same operation on each tail rotor blade retention bolt hole (4 places). After chamfering, thoroughly inspect the grips and blades for any nicks, burrs, or sharp edges. If any are found, they should be blended out by crocus cloth. Note: Preflight check per paragraph A) is to be continued after this rework.

D) Replace the close tolerance bolts using a lubriplate compound and retorque to 50-75 in. lbs.

Enstrom Service Directive Bulletin No. 0048 also applies to the subject matter of this AD.

This amendment becomes effective upon publication in the **Federal Register**, as to all persons except those to whom it was made immediately effective by the airmail letter dated April 9, 1979, which contained this amendment.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Terry Fahr, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Issued in Des Plaines, Illinois, May 1, 1979.

Wayne J. Barlow,
Acting Director, Great Lakes Region.

[Docket No. 79-GL-6-AD; Amdt. 39-3465]
[FR Doc. 79-14565 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-13-M

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24 CFR Part 39

Boeing Model 727 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new Airworthiness Directive (AD) to require inspections and replacement, as necessary, of the outboard trailing edge foreflap sequence carriage sliders made of polyimide plastic due to in-service cracking. Cracking has resulted in improper operation of the flap system and may result in damage to the surrounding control systems.

DATE: Effective date May 18, 1979. Initial compliance: As prescribed in the body of the AD.

ADDRESS: Boeing service bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Mack, Airframe Section, ANW-212, Engineering and Manufacturing Branch, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Numerous reports of cracked or broken outboard trailing edge foreflap sequence carriage sliders made of polyimide plastic material, have been received. Cracking is attributed to brittleness of the plastic material. Cracked or broken sliders have caused improper operation of the outboard trailing edge flaps. Improper retraction of the foreflap can result in the foreflap being forced into the lateral control system components located in the wing rear spar resulting in inadvertent deflection of ailerons and speedbrakes. Unwanted extension of these surfaces could result in a hazardous situation.

Since this condition is likely to exist or develop in other Boeing Model 727 series airplanes with polyimide plastic outboard trailing edge foreflap sequence carriage sliders, an Airworthiness

Directive is being issued to require inspections for cracks or missing pieces within 200 landings and thereafter at intervals of 200 landings until replaced with a slider made of Beryllium Copper material.

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Model 727 series airplanes, certified in all categories, with outboard trailing edge foreflap sequence carriage sliders made from polyimide plastic. Compliance required as indicated.

A. Within the next 200 landings from the effective date of this AD, and thereafter at intervals not to exceed 200 landings inspect the sliders for cracks or missing pieces in accordance with Boeing Alert Service Bulletin No. 727–57–A147, or later FAA approved revisions, or an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

B. Cracked sliders are to be replaced prior to further flight, except that if a slider is cracked or missing pieces exist at only one attach bolt hole location, as noted in Boeing Alert Service Bulletin No. 727–57–A147, the slider may remain in service but must be inspected at intervals not to exceed 50 landings and must be replaced within 200 flights from detection of the initial cracking.

C. Terminating action of this AD consists of replacement of outboard trailing edge foreflap sequence carriage sliders with Boeing supplied Beryllium Copper sliders or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

D. Airplanes may be flown to a maintenance base for replacement in accordance with FAR 21.197.

The manufacturer's specification and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective May 18, 1979.

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

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures 44 FR 11034; February 26, 1979.

Issued in Seattle, Wash., on April 30, 1979.

C. B. Walk, Jr.,
Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[Docket No. 79–NW–11–AD; Amdt. 39–3463]
[FR Doc. 79–14283 Filed 5–9–79; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 39

Airworthiness Directives; DeHavilland Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment issues a new airworthiness directive applicable to DeHavilland DHC–6 type airplanes which requires operational restrictions, a repetitive inspection of the flap control rod tubes, and replacement where necessary. It appears that stress corrosion had developed in some airplanes which caused cracks. These cracks, if failure occurs, could be the source of an accident.

EFFECTIVE DATE: May 14, 1979. Compliance is required as set forth in the AD.

ADDRESSES: DeHavilland Service Bulletins may be acquired from the manufacturer at Downsview, Ontario, Canada M3K 145.

FOR FURTHER INFORMATION CONTACT: C. Birkenholz, Airframe Section, AEA–212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212–995–2875.

SUPPLEMENTARY INFORMATION: There had been a report of a flap failure resulting in an accident and reports of finding cracks in the flap control rod tubes during inspections. Since this deficiency can exist or develop in other airplanes of similar type design, an airworthiness directive is being issued requiring repetitive inspections and replacement where necessary and operational limitations. A telegraphic airworthiness directive was sent to all DHC–6 owners and operators of record on this same subject.

In view of the air safety problem, notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

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

DeHavilland: Applies to DeHavilland DHC–6 series certificated in all categories with affected parts which have exceeded 800 hours in service.

To prevent possible asymmetric failure of the flap system due to cracking in the flap control rod tubes, accomplish the following:

(1) Prior to next flight unless the requirements of paragraph (2) and (3) below are complied with, install the following placard in full view of the pilot—

Landplane and Floatplane Limitations

Maximum wing flaps extension 15°. Maximum flaps extended speed 1.3 times 15° flaps stall speed, reference AFM. Landing distances in AFM increase by 55%.

Additional Floatplane Limitations

(2) Within the next 20 hours in service or 30 days, whichever occurs first, after the effective date of this AD, unless previously accomplished within the last 380 hours or 60 days, inspect the tube ends of the rod assemblies, P/N's C6CW 1029–1 OR–3, C6CW 1051–1 OR–3, OR C6CW 1024–1, C6CF 1085–1, OR–3 OR–5, by dye penetrant method using at least a ten power glass.

(3) If cracks are found, the rod assembly must be replaced by a rod with the same part number or equivalent, inspected and found serviceable in accordance with paragraph (2) of this airworthiness directive, or by a new rod with the same part number or equivalent, before further flight.

(4) If cracks are not found repeat inspection in paragraph (2) at intervals not to exceed 400 hours in service or 90 days, whichever occurs first, from the last inspection.

(5) Report positive findings including crack length, from paragraph (2) inspection, to Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, within 10 days of inspection. (Reporting approved by Office of Management and Budget under OMB No. 04–R0174).

(6) Equivalent parts must be approved by Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, For Further Information Contact:

Note.—Particular attention must be paid for the dye penetrant inspection to the area of the tube where the swaging occurs and where the wing rib rollers contact the tubes.

Paint must be removed prior to the required inspections and parts must be repainted after inspection.

Effective Date: This amendment is effective May 14, 1979.

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

Issued in Jamaica, New York, on April 30, 1979.

Louis J. Cardinali,

Acting Director, Eastern Region.

[Docket No. 79-EA-16; Amdt. 39-3464]

[FR Doc. 79-14254 Filed 5-9-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

Designation of Transition Area, New Castle, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will designate a New Castle, Pa., Transition Area, over New Castle Municipal Airport, New Castle, Pa. This designation will provide protection to aircraft executing the new NDB RWY 22 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 GMT June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making was published in the **Federal Register** on Thursday, May 4, 1978, on page 19236, so as to provide controlled airspace protection for IFR arrivals into the New Castle, Pa., Transition Area.

Interested parties were given an opportunity to submit comments on the proposal. There were no objections.

The final rule as promulgated has corrected the coordinates of the New Castle NDB (erroneously referred to as RBN in the NPRM) but the change does not affect the size or location of the new controlled area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT June 14, 1979, by adoption of the amendment to read as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a New Castle, Pa., Transition Area, as follows:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 41°01'30"N., 80°24'45"W., of New Castle Municipal Airport, New Castle, Pa., within 3 miles each side of the 035° bearing of the New Castle, Pa. NDB, 41°01'25"N., 80°24'54"W., extending from the 5-mile radius area to 8.5 miles northeast of the NDB, excluding that portion which overlies the Youngstown, Ohio, 700-foot floor transition area.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, New York, on April 25, 1979.

Louis J. Cardinali,

Acting Director, Eastern Region.

[Airspace Docket No. 78-EA-21]

[FR Doc. 79-14255 Filed 5-9-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

Change to Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Rescission of a Final Rule.

SUMMARY: A recent amendment to § 73.31 with an effective date of June 14, 1979, changed the time of use of several restricted areas in the Hawaiian Island from "Continuous" to "Intermittent, activated by NOTAM 24 hours in advance." Subsequent to the publication of the amendment, it has been determined that the time of use as amended would not satisfy military requirements. This action rescinds that amendment so that the affected restricted areas will retain the continuous time of use.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION: Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) was amended and published in the **Federal Register** on April 16, 1979, (44 FR 22442) changing the "Time of Designation" for Restricted Areas R-3101, R-3103, R-3120, R-3104 and R-3107 and their Subareas, located in the Hawaiian Islands, from "Continuous" to "Intermittent, activated by NOTAM 24 hours in advance." Subsequent to the publication of the amendment it has been determined that the altered time of use would not satisfy military requirements, and the continuous time of use is therefore retained. Action is taken herein to rescind Airspace Docket No. 78-PC-1; however, this rescission does not preclude future action of a similar nature.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Airspace Docket No. 78-PC-1, published in the **Federal Register** on April 16, 1979, (44 FR 22442) under § 73.31 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is rescinded, effective upon publication in the **Federal Register** as follows:

Airspace Docket No. 78-PC-1, FR Doc. 79-11710, published on April 16, 1979, (44 FR 22442) is rescinded and the current provisions of § 73.31 are retained.

(Sec. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of regulatory evaluation.

Issued in Washington, D.C., on May 2, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[Airspace Docket No. 78-PC-1]

[FR Doc. 79-14284 Filed 5-9-79; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 302

Rules of Practice in Economic Proceedings: Notice to Alaskan Field Office

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. May 3, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule amends the CAB Rules of Practice to require an additional copy of any document filed with the Civil Aeronautics Board in a

route proceeding that affects a point in Alaska to be sent to the Alaskan field office. The reason for this proposal was to resolve the problems that arose when these documents were late in being transmitted from the Washington, D.C. office to Alaska, giving the parties there who were interested in submitting comments a significantly diminished period of time in which to comment.

DATES: Effective: June 9, 1979. Adopted: May 3, 1979.

ADDRESSES: Comments should be sent to: Docket 34679, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 714, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Rules and Legislation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking PDR-62 dated February 1, 1979 (44 FR 9395, February 13, 1979) the CAB proposed that, in any route proceeding affecting a point in Alaska, an additional copy of any documents filed in that proceeding should be sent directly to the Alaskan field office.

No comments were received. The address for the comments sent to the Alaskan field office has been modified slightly from the proposal.

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Accordingly, the Board amends § 302.3(c) of 14 CFR Part 302, *Rules of Practice in Economic Proceedings* by adding a new sentence to read as follows:

§ 302.3 Filing of documents.

* * * * *

(c) *Number of copies.* Unless otherwise specified, an executed original and nineteen (19) true copies of each document required or permitted to be filed under these rules shall be filed with the Docket Section, except that an original and five (5) copies of third party complaints, answers, documents dealing with discovery, and motions addressed to an administrative law judge may be filed in proceedings under Subpart B—Rules Applicable to Economic Enforcement Proceedings. In any route proceeding that affects a point in Alaska, the person filing shall send an additional copy to: Civil Aeronautics Board, 701 C Street, Box 27, Anchorage, Alaska 99513. The copies need not be signed but the name of the person signing the document, as distinguished from the firm or organization he or she represents, shall also be typed or printed on all copies below the space provided for signature.

* * * * *

(Section 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324(a).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[Regulation PR-204; Docket 34679; Amdt. 55]

[FR Doc. 79-14625 Filed 5-9-79; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

Prohibited Trade Practices and Affirmative Corrective Actions; Renault U.S.A., Inc.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violation of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires an Englewood Cliffs, N.J. seller and distributor of automobiles to cease limiting the duration of implied warranties; make available to purchasers who had been issued incorrect written limited warranties all relief provided by applicable state law, and refrain from raising any defense relating to the limitation of implied warranties in law suits brought by such purchasers. Additionally, the firm is required to notify all purchasers who had received incorrect written limited warranties that they have an implied warranty on the drive train of their vehicle for as long as four years, depending on state law; and furnish them with an explanation of how implied warranties protect consumers. The firm is also required to advise their dealers of their servicing obligations to purchasers who had been issued improper written warranties.

DATES: Complaint and order issued April 26, 1979.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PS, Michael E. K. Mpras, Washington, D.C. 20580. (202) 523-1642.

SUPPLEMENTARY INFORMATION: On Tuesday, February 13, 1979, there was published in the **Federal Register**, 44 FR 9400, a proposed consent agreement with analysis In the Matter of Renault U.S.A., Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.70 Fictitious or misleading guarantees; § 13.205 Scientific or other relevant facts; § 13.260 Terms and conditions. Subpart-Corrective actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-75 Warranties. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1647 Guarantees; § 13.1740 Scientific or other relevant facts; § 13.1760 Terms and conditions. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46; interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 110(b), 88 Stat. 2190; 15 U.S.C. 2310)

Carol M. Thomas,

Secretary.

[Docket C-2960]

[FR Doc. 79-14554 Filed 5-9-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Foreign Discriminating Duties of Tonnage and Impost With Respect to Vessels of and Certain Imports From the Republic of Nauru Suspended and Discontinued; Section 4.22, Customs Regulations, Amended

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule adds the Republic of Nauru to the list of nations whose vessels are exempted from the payment of higher tonnage duties than are applicable to vessels of the United

[1] Copies of the Complaint and Decision and Order filed with the original documents.

States and from the payment of light money. Satisfactory evidence has been obtained by the Department of State that no discriminating duties of tonnage or impost are imposed in Nauruan ports upon vessels belonging to citizens of the United States or on their cargoes.

EFFECTIVE DATE: The exemption became effective January 31, 1968.

FOR FURTHER INFORMATION CONTACT: Patrick J. Casey, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as "light money," on all foreign vessels which enter United States ports (46 U.S.C. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof satisfactory to the President that no discriminatory duties of tonnage or imposts are imposed by that foreign nation on United States vessels or their cargoes (46 U.S.C. 141). The President has delegated the authority to grant this exemption to the Secretary of the Treasury. Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

On November 22, 1978, the Department of State advised Customs that prior to independence on January 31, 1968, the Republic of Nauru, a former trust territory of Australia, enjoyed the same rights and obligations as Australia with respect to treaties with the United States (including the exemption for its registered vessels from the payment of special tonnage taxes and light money), and that following independence, Nauru chose to continue indefinitely the bilateral treaties that it had prior to independence. Consequently, there is satisfactory evidence which would permit the Secretary of the Treasury to find that vessels of the Republic of Nauru are entitled to the exemption, and the Department of State has requested that such vessels be afforded the exemption.

Declaration

Therefore, by virtue of the authority vested in the President by section 4228 of the Revised Statutes, as amended (46 U.S.C. 141), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951, as amended by Executive Order No. 10882, July 18, 1960 (3 CFR, 1959–1963 Comp., Ch. II), and pursuant to the authorization provided by Treasury Department Order No. 190, Rev. 15 (43 FR 11884), I declare that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, in respect to vessels of the Republic of Nauru and the produce, manufactures, or merchandised imported into the United States in such vessels from Nauru or from any other foreign country.

This suspension and discontinuance shall take effect from January 31, 1968, in respect to vessels of Nauru and shall continue only for so long as the reciprocal exemptions of vessels wholly belonging to citizens of the United States and their cargoes shall be continued.

Amendment to the Regulations

§ 4.22 [Amended]

In accordance with this declaration, section 4.22, Customs Regulations (19 CFR 4.22), is amended by adding "Nauru, Republic of" in the appropriate alphabetical sequence in the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

(R.S. 251 as amended, 4219, as amended, 4225, as amended, 4228, as amended, sec. 3, 23 Stat. 119, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 3, 121, 128, 141))

Inapplicablity of Public Notice and Delayed Effective Date Requirements

Because this amendment merely implements a statutory requirement, notice and public procedure are unnecessary, and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

Regulation Determined To Be Nonsignificant

In a directive published in the **Federal Register** on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the **Federal Register** and codified in the Code of Federal Regulations to be "significant". However, it has been determined that this amendment does not meet the Treasury Department criteria in the directive for a "significant" regulation because it is nonsubstantive, essentially procedural, does not materially change existing or establish new policy, and does not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and the Treasury participated in its development.

Dated: April 24, 1979.

Richard J. Davis,
Assistant Secretary of the Treasury.

[T.D. 79–134]
[FR Doc. 79–14611 Filed 5–9–79; 8:45 am]
BILLING CODE 4810–22–M

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19 CFR Part 134

Specific Country of Origin Marking Requirements for Imported Manhole Covers and Frames

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of specific country of origin marking requirements for imported covers and frames.

SUMMARY: The Customs Service has learned that the country of origin marking requirements are not being uniformly applied to imported manhole covers and frames. This document gives notice that, with certain exceptions set forth in the document, such merchandise shall be permanently and legibly marked with the country of origin by die stamping, molding, or etching and that such merchandise which is marked with the name of a location in the United States shall also be permanently and legibly marked with the country of origin in comparatively-sized letters preceded by words such as "Made in", although the country of origin marking need not be on the same side of a manhole cover as the name of the United States location.

DATES: This ruling shall be effective as to merchandise entered, or withdrawn from warehouse, for consumption on or after August 8, 1979.

FOR FURTHER INFORMATION CONTACT: Samuel A. Orandle, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–5765).

SUPPLEMENTARY INFORMATION:

Background

Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides, in general, that every article of foreign origin, or its container, imported into the United States shall be legibly and conspicuously marked to indicate the country of origin to an ultimate purchaser in the United States, with certain exceptions. Authority is provided in 19 U.S.C. 1304 for the promulgation of regulations by the Secretary of the Treasury.

Part 134 of the Customs Regulations (19 CFR Part 134) contains the regulations on country of origin marking. Section 134.42 of the Customs Regulations (19 CFR 134.42) provides that specific methods of marking merchandise with its country of origin may be required by the Commissioner of Customs, and that notice of such rulings shall be published in the **Federal Register** and the Customs Bulletin.

Customs has learned that the country of origin marking requirements are not being applied uniformly, at the different ports of entry, to imported manhole covers and frame sets. Some manhole covers and frame sets have been entered with the country of origin painted on them or written with a yellow crayon. In other instances, no marking other than the United States distributor's name was shown. Some distributors have been found to be painting out the country of origin marking or dip processing the cover and frame sets so that any painted markings are covered.

Specific Method of Marking Required

To provide for uniformity of application of the country of origin marking requirements of 19 U.S.C. 1304, and to clarify those marking requirements as applied to the subject merchandise, manhole covers and frames imported into the United States shall be marked with their country of origin as follows:

1. Manhole covers and frames imported in bulk by a distributor for resale to ultimate purchasers in the United States shall each be permanently and legibly marked with the country of origin by die stamping, molding, or etching. Covers or frames which are marked with the name of a location in the United States shall be permanently and legibly marked with the name of the country of origin in comparably sized letters, preceded by words such as "Made in" or "Product of." However, the country of origin marking need not be on the same side of the cover or frame on which the name of the United States location appears.

2. There are two exceptions from the general country of origin marking requirements stated above for imported manhole covers and frames which are *not* marked with the name of a location in the United States.

(a) If the manhole covers and frames are ordered directly from a foreign supplier by a contractor or other ultimate purchaser in the United States who will use them and not offer them for resale, and if Customs is satisfied that the covers and frames were made in the country named in the invoice, they may be excepted from country of origin under 19 U.S.C. 1304(a)(3)(H).

(b) If the manhole covers and frames are imported in containers properly marked with the country of origin marking and Customs officers at the port of entry are satisfied that the merchandise will reach the ultimate purchaser in the marked container and be used only in the manufacture of finished articles, the manhole covers and frames may be excepted from country of origin marking under 19 U.S.C. 1304(a)(3)(D).

Authority

This notice is being published in accordance with section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), and section 134.42, Customs Regulations (19 CFR 134.42).

Dated: May 4, 1979

Leonard Lehman,

Acting Commissioner of Customs.

[T.D. 79-135]

FR Doc. 79-14613 Filed 5-9-79; 8:45 am]

BILLING CODE 4810-22-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1917

Final Flood Elevation Determination for the City of Athens, Limestone County, Ala., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Athens, Limestone County, Alabama.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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 Athens, Limestone County, Alabama.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Athens, Limestone County, Alabama, are available for review at City Clerk's Office, City Hall, Athens, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (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 final determinations of flood elevations for the City of Athens, Limestone 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
Swan Creek	Just downstream of City Street.	635
	Just upstream of U.S. Highway 72.	657
	Just upstream of State Highway 251.	682
	Just downstream of Elkton Street.	706
Tributary to Swan Creek at Mile 9.74.	Just upstream of Hobbs Street.	676
	Just upstream of Elkton Street.	706

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Town Creek	Just upstream of Humane Road.	652
	Just upstream of Washington Street.	690
	Just downstream of Elm Street.	710
Tributary to Town Creek Mile 2.21.	Just downstream of Monroe Street.	675
	Just downstream of Levert Street.	687
	Approximately 100 feet downstream of Sommers Road.	696
Tributary to Town Creek Mile 3.91.	Approximately 110 feet downstream of Hines Street.	700
	Approximately 60 feet downstream of Westbrook Street.	706

(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); Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–4900]

[FR Doc. 79–14112 Filed 5–9–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

Final Flood Elevation Determinations for the Town of Indian River Shores, Indian River County, Florida, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Indian River Shores, 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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Indian River Shores, Florida.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Indian River Shores, are available for review at Town Hall, 6001 North Route A1A, Indian River Shores, Florida.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Administrator gives notice of the final determinations of flood elevations for the Town of Indian River Shores, Florida.

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

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

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

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Atlantic Ocean	Intersection of Island Creek Drive and Sabal Palm Lane.	5
	Intersection of Island Creek Drive and John's Island Drive.	6
	800 feet east from the intersection of State Highway A1A and Snook Alley.	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–4300]

[FR Doc. 79–14113 Filed 5–9–79; 8:45 am]

BILLING CODE 4210–23–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

24 CFR Part 1917

Final Flood Elevation Determinations for the Town of Montague, Franklin County, Mass., Under the National Flood Insurance Program; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Correction of final rule.

SUMMARY: This document corrects a final rule on base (100-year) flood elevations that appeared on page 15694 of the Federal Register of March 15, 1979.

EFFECTIVE DATE: March 15, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following correction is made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Turner's Falls Bridge—20 feet (upstream from centerline).	187

(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; Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–4666]

[FR Doc. 79–14114 Filed 5–9–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

Final Flood Elevation Determination for the Borough of Fair Haven, Monmouth County, N.J., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Fair Haven, Monmouth County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of New Haven, Monmouth County, New Jersey.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Fair Haven, Monmouth County, New Jersey, are available for review at the Fair Haven Municipal Building, Administrator's Office, Fair Haven, New Jersey.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 of 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 final determinations of flood elevations for the Borough of Fair Haven, Monmouth County, New Jersey.

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Downstream Corporate Limits.	9
	Fair Haven Road	9
	4th Creek at River Road	9
	Battin Road	9
	Grange Avenue	9
	Swenkers Pond Brook at River Road.	9
	Upstream Corporate Limits	9

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–4961]

[FR Doc. 79–14115 Filed 5–9–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

Final Flood Elevation Determination for the Town of Webster, Monroe County, N.Y. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Webster, Monroe County, New York.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Webster, Monroe County, New York.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Webster, Monroe County, New York, are available for review at the Town Hall, 1000 Ridge Road, Webster, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (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 final determinations of flood elevations for the Town of Webster, Monroe County, New York.

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fourmile Creek	Confluence with Lake Ontario.	249
	Lake Road	272
	Salt Road Upstream	284
	Basket Road Upstream	316
	Woodward Road Upstream	343
	Schlegel Road Upstream	385
	County Line Road Upstream	395
	Ridge Road Upstream	432
	Salt Road	441
	State Road	455
Mill Creek	Downstream Corporate Limits.	274
	Woodhull Road	288
	Imperial Drive Upstream	345
	Wall Road Upstream	352
	Klem Road	359
	Holley Road	375
	Orchard Street Upstream	398
	Sanford Street	449
	State Road	479
Shipbuilders Creek	Lake Road	264
	Vosburg Road	282
	Upstream Conrail	289
	Klem Road	336
	Gravel Road	389
	Adeline Drive	403
	Route 404	426
East Branch Shipbuilders Creek	Upstream Conrail	326
	Klem Road Upstream	349
	Independence Drive Upstream.	363
	Fivemile Line Road	396
	Route 104 (Ridge Road)	428

(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); Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI-4911]

[FR Doc. 79-14116 Filed 5-9-79; 8:45 am]

BILLING CODE 4210-23

24 CFR Part 1917

Final Flood Elevation Determination for the City of Clairton, Allegheny County, Pa. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Clairton, Allegheny 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).

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Clairton, Allegheny County, Pennsylvania, are available for review at the City Hall, 551 Ravensburg Boulevard, Clairton, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (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 final determinations of flood elevations for the City of Clairton, Allegheny County, Pennsylvania.

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
Monongahela River	Downstream Corporate Limits	746
	Glassport Highway Bridge	747
	Conrail Bridge	748
	Upstream Corporate Limits	748
Peters Creek	Ravensburg Boulevard Bridge	751
	Upstream Corporate Limits	752

(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; Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI-4926]

[FR Doc. 79-14117 Filed 5-9-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

Final Flood Elevation Determination for the Borough of Old Forge, Lackawanna County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Old Forge, Lackawanna 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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Old Forge, Lackawanna County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Old Forge, Lackawanna County, Pennsylvania, are available for review at the Office of the Circuit Writer, Town Hall, Old Forge, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (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 final determinations of flood elevations for the Borough of Old Forge, Lackawanna County, Pennsylvania.

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
Lackawanna River	Union Street Bridge	592
	South Main Street Bridge	611
	Third Street Bridge	636
	Upstream Corporate Limits	645
St. Johns Creek	Confluence w/Lackawanna River.	587
	Connell Street Bridge	606
	Mine Road Bridge	639
	Abandoned Railroad Bridge	661
	Milwaukee Street	675
	Oak Street	710
	Sibley Avenue	727
Mill Creek	Confluence w/Lackawanna River.	618
	Dick Street	622
	Abandoned Railroad Bridge	628
	Upstream County Boundary	636

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 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; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–4929]

[FR Doc. 79–14118 Filed 5–9–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

Final Flood Elevation Determination for the City of Wichita Falls, Wichita County, Tex., under the National Flood Insurance Programs

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Wichita Falls, Wichita County, Texas.

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 flood elevations, for the City of Wichita Falls, Wichita County, Texas.

ADDRESSES: Maps and other information showing the detail outlines of the flood-prone areas and the final elevations for the City of Wichita Falls, Wichita County, Texas are available for review at the City Planning Department, Wichita Falls, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (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 final determinations of flood elevations for the City of Wichita Falls, Wichita County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

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

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

Source of flooding	Location	Elevation, feet, National Geodetic Vertical Datum
Wichita River	Just downstream of Loop 11	950
	Approximately 1,000 feet upstream of Central Freeway.	948
	Just downstream of Eastside Drive.	945
Holliday Creek	Just upstream of Downstream Bridge.	967
	Just upstream of Southwest Parkway.	958
	Just upstream of Holliday Road.	950
Holliday Creek Tributary A.	Just upstream of South Access Road to Central Freeway.	984
	Just upstream of Lucas Avenue.	959
	Just upstream of Perigo Street.	946
Holliday Creek Tributary B.	Just downstream of Hatton Road.	961
	Just upstream of East Access Road to South Freeway.	955
	Just upstream of California Street.	947
Brenda Hursh Channel.	Approximately 100 feet upstream of Norman Street.	968
	Approximately 100 feet downstream of Weeks Street.	955
McGrath Creek	Just upstream of McNiel Avenue.	979
	Just upstream of Kemp Boulevard (Northbound).	970
	Just upstream of Weeks Park Lane.	951
McGrath Creek Tributary.	Just upstream of Kell Boulevard.	996
	Just downstream of Maplewood Avenue.	972
Holliday Creek Old Channel.	Approximately 200 feet upstream of Old Lake Road.	963
Lake Wichita Tributary	Just upstream of Trinidad Drive.	999
East Plum Creek	Approximately 200 feet downstream of Fisher Street.	947
Plum Creek	Just downstream of Nunn Street.	965
	Just upstream of Wrangler Drive.	975

(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; Executive Order 12127, 44 FR 19367, and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–3898]

[FR Doc. 79–14119 Filed 5–9–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

Final Flood Elevation Determination for the Town of Oceana, Wyoming County, West Virginia, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Oceana, Wyoming County, West Virginia.

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 Oceana, Wyoming County, West Virginia.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Oceana, Wyoming County, West Virginia, are available for review at the Oceana Town Hall, Cook Parkway, Oceana, West Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (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 final determinations of flood elevations for the Town of Oceana, Wyoming County, West Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234),

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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
Clear Fork	Downstream Corporate Limits.	1,240
	Old Mill Road	1,251
	Tyler Street	1,254
	Lois Street	1,281
	Upstream Corporate Limits	1,295
Laurel Fork	Confluence w/Clear Fork	1,267
	Sycamore Street (Extended)	1,272
	Private Drive	1,276
	Corporate Limits (Upstream)	1,295

(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; Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4965]

[FR Doc. 79–14120 Filed 5–9–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

Final Flood Elevation Determinations for the Town of Pownal, Bennington County, Vt., Under the National Flood Insurance Program; Cancellation

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Cancellation of final rule.

SUMMARY: The Federal Insurance Administration has erroneously published at 44 FR 12184 on March 6, 1979, the final flood elevation determination for the Town of Pownal, Bennington County, Vermont. This notice will serve as a cancellation of the publication. A new notice of final flood elevation determination will be published in the near future.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(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; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4580]

[FR Doc. 79–14121 Filed 5–9–79; 8:45 am]

BILLING CODE 4210–23–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

DEPARTMENT OF JUSTICE

U.S. Parole Commission

28 CFR Part 2

PAROLING, RECOMMITTING AND SUPERVISING FEDERAL PRISONERS

Correction

In FR Doc. 79–13677, appearing at page 26540 in the issue of Friday, May 4, 1979, make the following corrections:

In the table on page 26543, the seventh line under the heading "Low Moderate" should read ".01–.04 liters of hash oil)]" and the ninth line under the heading "Moderate" should read "hashish/.05–.19 liters of hash oil)]".

In the table on page 26545, the second line under the heading "Moderate" should read "exceed $19,999[2]".

In the table on page 26548, the first entry under the column heading "customary time to be served before release" should read "<6 months." and, under that same column, delete all the "Do's".

BILLING CODE 1501–01–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 631

Deletion of General Transport Regulations

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: This rule amends 32 CFR to delete Part 631. It has been determined that the regulatory provisions published in 32 CFR Part 631, which pertain solely to the shipment of intoxicating liquors, are no longer required. The Army regulation prescribing this rule is obsolete and has been rescinded.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. H. A. Baker, Military Traffic Management Command, Attn: MT–INM, Washington, DC 20315, Telephone: (202) 756–1765.

By authority of the Secretary of the Army.

Dated: May 3, 1979.

Rome D. Smyth,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

Accordingly, 32 CFR is amended by deleting: Subchapter I and Part 631 to read as follows:

Subchapter I—Transport [Deleted]

PART 631—GENERAL TRANSPORT REGULATIONS [DELETED AND RESERVED]

[SR55–155–1]

[FR Doc. 79–14597 Filed 5–9–79; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

St. Johns River, Fla.; Drawbridge Operation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Florida East Coast Railway (FEC), the Coast Guard is revising the regulations for the FEC railroad bridge across the St. Johns River, mile 24.9, in Jacksonville, to allow this bridge to operate on an automated system. The other FEC bridges near Jay Jay, Jupiter, Stuart and Port Mayaca, already use an automated system. This change is being made in order that all automated bridges operated by the

Railroad can be operated under the same system.

EFFECTIVE DATE: This amendment is effective on June 11, 1979.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–0942).

SUPPLEMENTARY INFORMATION: On november 18, 1976, the Coast Guard published a program rule (41 FR 50843) concerning this amendment. The Commander, sEventh Coast Guard District, also published these proposals as a Public Notice dated November 22, 1976. Interested persons were given until December 20, 1976 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L Teuton, Jr. Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Four objections were received. These objections were to removal of a radiotelephone presently installed on the bridge and the attendant thereto. After a discussion of these objections with the applicant, it was agreed that the bridge be manned with a bridge supervisor who would monitor the radiotelephone. This bridge supervisor will have a mechanical override capability in case of emergency. The Coast Guard feels that the applicant has overcome the objections was is therefore issuing these regulations as amended.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.429 immediately after § 117.408 to read as follows:

§ 117.429 St. Johns River, mile 24.9, automatic operation of the Florida East Cost Railway bridge, Jacksonville, FL.

(a) The bridge shall be constantly manned by a bridge supervisor who has a mechanical override capability for the automated operation.

(b) The bridge will normally be in the open position displaying flashing green lights to indicate that water traffic may pass.

(c) When a train approaches the bridge, large sign on both the upstream and downstream sides of the bridge will flash "bridge coming down," the navigational light will go to flashing red, and the standard siren signals will sound.

(d) After an eight/minute delay, the bridge will lower and lock if there are no vessels under the bridge.

(e) After the train has cleared, the bridge will open and the light signals will return to flashing green.

(f) Train crews can hold bridge down by pushing a hold button, and the bridge will remain down for a period of eight minutes or while the approach track circuit is occupied.

(g) A radiotelephone will be maintained at the bridge for the safety of navigation.

(Sec. 5, 28 Stat. 362, as amended, sec 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: May 4, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard, Commandant.

[CGD 76–178]
[FR Doc. 79–14627 Filed 5–9–79; 8:45 am]
BILLING CODE 4910–14–M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

41 CFR Parts 101–43, 101–44, and 101–45

Demilitarization of Munitions List Items

AGENCY: Federal Property Resources Service, General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration is amending the regulations for the control of personal property having unsafe or dangerous characteristics to provide policies and procedures for the transfer, donation, or sale of munitions list items identified as requiring demilitarization.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Duda, Director, Utilization Division (703–557–1540).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

PART 101–43—UTILIZATION OF PERSONAL PROPERTY

The table of contents for Part 101–43 is amended to add the following entry:

Sec.
101–43.4804 Demilitarization codes and related instructions.

Subpart 101–43.3—Utilization of Excess

Section 101–43.315–5 is amended to revise paragraph (h) as follows:

§ 101–43.315–5 Procedure for effecting transfers.

* * * * *

(h)(1) Any item of excess personal property having unsafe or dangerous characteristics must be rendered safe by the holding activity before shipment or pickup is made or advice must be given the transferee regarding the actual or potential danger and the property clearly labeled to show this danger.

(2) Items on the U.S. Munitions List (22 CFR Part 121) that are subject to demilitarization requirements in order to render innocuous that property which is dangerous to public health or safety or to preclude the compromise of security requirements shall be identified on the excess personal property report by the reporting activity with the appropriate one-letter demilitarization codes listed in § 101–43.4804. Federal agencies acquiring these items shall perpetuate the demilitarization codes in their property records and on subsequent reports of excess personal property submitted to GSA. Demilitarization codes shall also be perpetuated on records of nonreportable property. Demilitarization will be a condition of excess personal property transfers and surplus personal property donations, and demilitarization requirements, when applicable, will be carried out prior to transfer or donation unless otherwise excepted by GSA. The requirement to demilitarize certain munitions list items prior to transfer or donation will normally be waived for the following recipients:

(i) Federal agencies, when the agency requires the property for functional use and agrees to demilitarize the item prior to further disposition;

(ii) Project grantees, provided the granting agency determines that prior demilitarization is not in the best interest of the Government and the project grantee agrees to demilitarize the property and prior to further disposition; and

(iii) Authorized donees to whom title is being passed, subject to certification to the appropriate State agency or sponsoring Federal Agency that demiliterization will be accomplished prior to further disposition.

* * * * *

Subpart 101–43.48—Exhibits

Section 101–43.4804 is added as follows:

§ 101–43.4804 Demiliterization codes and related instructions.

There are 13 demilitarization codes in use; however, the provisions of § 101–43.315–5(h)(2) apply only to items identified with five of the codes. The five codes and related demilitarization instructions are as follows:

Code and Demilitarization Instructions

C—MLI—Remove and/or demilitarize installed key point(s), or lethal parts, components, and accessories.

D—MLI—Demilitarize by mutilation (make unfit for intended purpose) by melting, cutting, tearing, scratching, crushing, breaking, punching, or neutralizing. (As an alternative, burial or deep water dumping may be a used when authorized.)

E—MLI—Demilitarize by burning, shredding, or pulping.

F—MLI—Demilitarization instructions to be furnished by the item manager.

L—MLI—Demilitarize by mutilation (make unfit for intended purpose) by melting, cutting, tearing, scratching, crushing, breaking, punching, or neutralizing. (As an alternative, burial or deep water dumping may be used when authorized.) This code will be applied only to items identified as being a component of a key point on a major end item.

PART 101–44—DONATION OF PERSONAL PROPERTY

The table of contents for Part 101–44 is amended or revise the following entry.

Sec.
101–44.108–4 U.S. Munitions List items.

Subpart 101–44.1—General Provisions

Section 101–44.108–4, previously reserved, is added as follows:

§ 101–44.108–4 U.S. munitions list items.

(a) Applicable demiliterization codes, as listed in § 101–43.4804, shall be perpetuated on all property records and reports of excess personal property as provided in § 101–43.315–5(h)(2). A State agency requesting the transfer for donation of munitions list items identified as requiring demiliterization, pursuant to the provisions of Subpart 101–44.2, shall include the demilitarization code on the SF 123 and a statement that the State agency will obtain from the donee a certification that, prior to further disposition, demilitarization of the property will be performed by the donee in accordance with the demilitarization instructions for the codes set forth in § 101–43.4804. In the case of munitions list items requested for donation by service educational activities or public airports, pursuant to the provisions of Subparts 101–44.4 and 101–44.5, respectively the donee shall include a statement on the SF 123 that it will demilitarize the property prior to further disposition in accordance with the requirements of the codes as set forth in § 101–43.4804.

(b) Before disposing of munitions list items identified as requiring demilitarization, the donee may request demilitarization instructions from GSA through the State agency for donations made pursuant to Subpart 101–44.2 or through the Federal Aviation Administration for donations made pursuant to Subpart 101–44.5. For munitions list items identified as requiring demilitarization donated to service educational activities pursuant to Subpart 101–44.4, demilitarization instructions may be obtained directly from the Defense Logistics Agency (DLA).

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Subpart 101–45.3—Sale of Personal Property

Section 101–45.309–3 is revised as follows:

§ 101–45.309–3 Demiliterization and decontamination.

(a) Dangerous material shall not be disposed of pursuant to this Part 101–45 without first being demilitarized or decontaminated when a duly authorized official of the executive agency concerned determines this action to be in the interest of public health, safety, or security. This may include rendering the property innocuous, stripping from it any confidential or secret characteristics, or otherwise making it unfit for futher use.

(b) Demilitarization or decontamination of property to be donated to public bodies pursuant to Subpart 101–44.7 shall be accomplished in a manner so as to preserve so far as possible any civilian utility or commercial value of the property

(c) Except for those sales otherwise authorized by § 101–45.309–2 or other statutes, and for specialized sales authorized by the Secretary of Defense, U.S. Munitions List items identified as requiring demilitarization shall not be reported for public sale without first being demilitarized or requiring demilitarization to be a part of the terms and conditions of sale. GSA may refer technical questions on demilitarization to the Department of Defense for advice.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: April 27, 1979.

Clarence A. Lee,
Acting Administrator of General Services.

[FDMR Amdt. H–114]

[FR Doc. 79–14598 Filed 5–9–79; 8:45 am]

BILLING CODE 6820–96–M

GENERAL SERVICE ADMINISTRATION

Automated Data and Telecommunications Service

41 CFR Ch. 101

Teleprocessing Services Program; Appendix—Temporary Regulations

AGENCY: Automated Data and Telecommunications Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends to November 30, 1979, the expiration date of FPMR Temporary Regulation E–47, relating to teleprocessing services program.

DATES: Effective date: May 1, 1979. Expiration date: November 30, 1979.

FOR FURTHER INFORMATION CONTACT: L. Perlman, Policy and Evaluation Division (202–566–0834).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Supplement 4 (43 FR 45842, Oct. 4, 1978) to FPMR Temporary Regulation E–47 is canceled and deleted from the appendix at the end of Subchapter E in 41 CFR Chapter 101.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

In 41 CFR Chapter 101, this temporary regulation is listed in the appendix at the end of Subchapter E.

[Federal Property Management Regs.; Temporary Reg. E–47, Supplement 5]

Teleprossing Services Program

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation E–47.

2. *Effective date.* This regulation is effective May 1, 1979.

3. *Expiration date.* This supplement expires on November 30, 1979.

4. *Explanation of changes.* This supplement 5 revises the expiration date in paragraph 3 of FPMR Temporary Regulation E–47 to November 30, 1979, and cancels Supplement 4.

Dated: April 27, 1979.

Clarence A. Lee,

Acting Administrator of General Services.

[FPMR Temp. Reg. E-47; Supp. 5]

[FR Doc. 79-14599 Filed 5-9-79; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; New Pneumatic Tires—Passenger Cars

AGENCY: National Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice amends Federal Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires—Passenger Cars", by adding two new metric tire size designations to Appendix A of that Standard. These amendments are made in response to petitions by Michelin Tire Corporation and the Rubber Manufacturers Association (RMA). Issuance of this notice permits the introduction of these metric tire sizes into interstate commerce.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Crash Avoidance Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202-426-1715).

SUPPLEMENTARY INFORMATION: This notice establishes a final rule with respect to two separate rulemaking actions, one initiated pursuant to a petition by RMA and the other initiated pursuant to petition by Michelin Tire Corporation (Michelin). In response to a petition by RMA (January 17, 1978) supporting a Dunlop tire which would use a higher inflation pressure and is designed to be retained on the tire rim in the event of rapid tire deflation, the National Highway Traffic Safety Administration (NHTSA) published a notice of proposed rulemaking at 43 FR 8570, March 2, 1978. That notice also proposed the addition of a Goodyear tire designed to use a higher inflation pressure. Several comments objecting to the inclusion of these tires in Table I of Appendix A of Standard No. 109 were received by NHTSA.

In response to a petition by Michelin (October 3, 1977) requesting the addition of new metric tire size designations, NHTSA published a routine amendment to Table I at 43 FR 4860, February 6, 1978. Under the procedures established by NHTSA for routine tire table amendments (33 FR 14964, October 5, 1968, as amended by 39 FR 28980, August 31, 1974), new size designations are published as a final rule which becomes effective 30 days after publication in the **Federal Register**, unless objections are received before the expiration of that 30-day period. Objections were received, so the sizes were not added. Subsequently, NHTSA published a notice of proposed rulemaking to include these sizes in Table I of Appendix A of Standard No. 109; 43 FR 13903, April 3, 1978.

NHTSA resolved the issues raised by the comments on the inclusion of the Goodyear tire and all but one of the Michelin tire sizes, and published a final rule for these tire sizes at 43 FR 24310, June 5, 1978. In that rule, NHTSA indicated that it would publish separately a final rule dealing with the Dunlop and remaining Michelin tire sizes. This notice sets forth a final rule for those sizes.

Comments objecting to the addition of these two tire size designations alleged that "intermix" or "mismatch" problems could accidentally occur when replacing a tire on a vehicle. Some of the commenters asserted that, because the nominal diameters of the proposed metric tires and corresponding metric rims (365mm and 370mm) are very nearly the same as those of certain existing English-unit tire/rim diameters (14 inch and 15 inch), it would be technically possible to mount an English-unit tire on the requested metric unit rim, or conversely, to mount a metric unit tire on an existing English-unit rim. Some commenters alleged that serious safety problems, such as tire explosions during, or road failures shortly after tire mounting could occur as a result of such intermixing. General Motors (GM) and the Armstrong Rubber Company (Armstrong) directed such allegations to both tires in this notice and the Department of California Highway Patrol directed its objection to the Michelin request. However, none of the objections summarized above were supported by data demonstrating that the safety hazards alleged had occurred or even that they could occur.

GM requested that the NHTSA defer action on all the proposed new tire sizes for one year to allow the tire and vehicle industries to work out a general solution to potential intermix problems raised by these and other metric tires. Dunlop requested that NHTSA take no final action on the tires proposed without considering the potential safety hazards involved. The Department of California Highway Patrol recommended that the trend toward proliferation of passenger car tire sizes be halted in view of the potential safety problems discussed above. Mercedes-Benz asserted that the differences among the proposed tires were sufficient to prevent intermix, but that the anticipated introduction of additional tire-rim combinations raised the possibility of mismatch problems. Mercedes stated that the anticipated proliferation of metric tire sizes raised the prospect that the spare parts industry might not expand quickly enough to meet after-market needs, in view of the fact that a vehicle owner would need to replace the tires on the vehicles with the same type of tires originally mounted thereon. Mercedes suggested that NHTSA encourage the development of uniform and interchangeable tires and rims. Armstrong objected to the Michelin proposal because of alleged confusion of the public and tire service personnel arising from the slight dimensional differences in metric and English unit tire/rim combinations.

With respect to this larger issue of general standardization of tires sizes, NHTSA believes it is not necessary to resolve it before permitting these tire sizes to be introduced. As explained below, the intermix problem has been alleviated with respect to these particular tire sizes. Since this is the case, it is inappropriate to delay the introduction of these sizes while awaiting a resolution of the larger issue.

In the June 5, 1978, notice establishing a final rule for the Goodyear tire and the 390mm Michelin tires, the agency indicated that it would defer final rulemaking on the Michelin 365mm tire and the Dunlop 370mm tire until agency intermix tests were performed on these tires. NHTSA subsequently conducted its own intermix tests at this agency's Safety Research Laboratory in Riverdale, Maryland. These tests indicated that these two tire sizes would not present the alleged intermix problems. Both Dunlop and Michelin have incorporated a design feature, called "blow-by," in the bead seat area which will not allow intermixing. "Blow-by" consists of flutes molded onto the lower bead area of the tire which bleed out air in the event the tire is not mounted on the proper rim. Hence, if one of these tires were mounted on an English-unit rim, the tires would not be able to hold air. In addition, the Michelin 365mm tire and rim concept cannot be intermixed with Dunlop 370mm tire and rim concept and vice

versa. Since this feature precludes any intermix problems, and no commenter raised any other issues regarding these tire sizes, NHTSA is proceeding with final rulemaking action on these proposed tire sizes.

In consideration of the foregoing, 49 CFR 571.109 is amended as specified below:

§ 571.109 [Appendix amended]

In Tables I–PP and I–TT the following new tire size designations and corresponding values are added:

Table I-PP.—*Tire Load Ratings, Test Rims, Minimum Size Factors, and Section Widths for All Millimetric "65 Series" Radial Ply Tires (TR or JM Rim)*

Tire size designation [1]	Maximum tire loads, (pounds) at various cold inflation pressures (psi)													Test rim width (mm)	Minimum size factor (mm)	Section width [2] (mm)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
180/65R365	700	750	795	840	885	925	960	995	1,030	1,065	1,100	1,135	1,165	135	771	184

[1] The letters "H", "S", or "V" may be included in any specified tire size designation adjacent to the "R".
[2] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

Table I-TT.—*Tire Load Rating, Test Rims, Minimum Size Factors and Section Widths for "P/65" Series ISO Type Tires for DL Millimetric Rims*

Tire size designation [2]	Maximum tire loads (kilograms) at various cold inflation pressures (kPa) [1]							Test rim width [3] (mm)	Minimum size factor (mm)	Section width (mm)
	120	140	160	180	200	220	240			
P195/65R370	405	435	465	495	520	545	570	135	805	194

[1] The designated cold inflation pressures may be increased to a maximum of 300 kPa to meet special vehicle performance requirements with no increase in load.
[2] The letters "D" for diagonal and "B" for bias-belted may be used in place of the "R".
[3] Actual section width and overall width shall not exceed the specified section width by more than the amount specified in S4.2.2.

The agency has reviewed the impacts of this rule and determined that they are minimal and that this is not a significant regulation within the meaning of Executive Order 12044.

The program official and attorney principally responsible for the development of this rule are Arturo Casanova and Stephen Kratzke, respectively.

Authority: Secs. 103, 119, 201, and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegation of authority at 49 CFR 1.51.

Issued on May 2, 1979.

Joan Claybrook,
Administrator.

[Docket No. 78–03; Notice 8; Docket No. 78–04; Notice 3]
[FR Doc. 79–14316 Filed 5–9–79; 8:45 am]
BILLING CODE 4910–59–M

49 CFR Part 571

Federal Motor Vehicle Safety Standards; New Pneumatic Tires—Passenger Cars

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice grants in part and denies in part a petition submitted by the Japan Automobile Tire Manufacturers Association requesting the addition of two new tire size designations to Appendix A of Federal Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires—Passenger Cars." The requested sizes have been redesignated using the alpha numeric system, because if the metric system were used, the values given for these tires would differ from those agreed upon by the International Organization for Standardization. When the alpha numeric system of designating tire sizes is used, one of the requested tire sizes duplicates a size currently included in the Appendix. Inclusion of that size again is unnecessary and therefore the request is denied. The request for inclusion of the other tire size is granted. Promulgation of this final rule permits the introduction of that size into interstate commerce.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: John Diehl, Office of Automotive Ratings, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1714).

SUPPLEMENTARY INFORMATION: According to agency practice, the National Highway Traffic Safety Administration (NHTSA) responds to petitions for adding new tire sizes to Appendix A of Standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendments. Guidelines for this procedure (33 FR 14964, October 5, 1968, as amended at 39 FR 28980, August 13, 1974) provide that these final rules become effective 30 days after their date of publication if no comments objecting to them are received by NHTSA during this 30-day period. If objections are received, rulemaking procedures for proposing and issuing motor vehicle safety standards (49 CFR Part 553) are to be initiated.

Pursuant to a petition from the Japan Automobile Manufacturers Association (July 26, 1977), a final rule amending

Appendix A by adding two new tire size designations was published at 42 FR 62386, December 12, 1977, using the abbreviated rulemaking procedure. An objection to this amendment was timely submitted by General Motors Corp. (GM) on January 11, 1978. Accordingly, the amendment did not become effective.

NHTSA published a notice of proposed rulemaking on this addition at 43 FR 22420, May 25, 1978. In response to that notice, comments on the proposed tire sizes were submitted by GM and the B. F. Goodrich Company (Goodrich).

The petition had requested that two tire sizes, 225/60R13 and 225/60R14, be added to the appendix. GM and Goodrich both commented that the proposed millimetric 225/60R14 size designation was already included in Table I–R, under the alpha numeric designation of DR 60–14. A millimetric size designation describes the tire's cross-section width in millimeters, while the alpha numeric system describes the tire's cross-section width in inches. All the tire loads and other values for the requested 225/60R14 tire size were identical with those already listed for the DR 60–14 size. The commenters suggested that it would be most appropriate for NHTSA to add the values for the requested 225/60R13 size, but designate this size as DR 60–13, and deny the request with respect to the 225/60R14 size, since that size already appears in the tables.

There were two reasons offered in the comments for redesignating the requested tire sizes from 225/60R13 and 225/60R14 to DR 60–13 and DR 60–14. First, according to the commenters, the test rim widths and section widths requested by the petitioner for those tire sizes did not agree with the test rim widths and section widths agreed upon for those size tires by the International Organization for Standardization. Second, the commenters stated that consistency with international standardization efforts required the load values for the requested sizes to be expressed in kilograms and kilo Pascals, rather than in pounds and pounds per square inch, as proposed. There would be no inconsistency with the international standardization efforts for tire size designations if the tire sizes were redesignated as shown above.

NHTSA concurs with the suggestion that the international standardization of tire size designations is a desirable goal. When this can be promoted without any unduly great burden to the manufacturers or the public, NHTSA will generally follow this course. With respect to this petition, a redesignation of the tire sizes does not impose any significant burden on the manufacturers. The redesignation allows the tires to be sold without any further computation of values or testing by the manufacturer. Therefore, the benefits to be gained from harmonization of tire size designations outweighs the minimal burden imposed on the manufacturer by having to redesignate these tire sizes.

With this redesignation, the requested new tire sizes 225/60R13 and 225/60R14 become DR 60–13 and DR 60–14. The request for the DR 60–13 size is granted with the values proposed in the notice of proposed rulemaking for the 225/60R13 size. The request for the DR 60–14 size is denied, because that size is already included in Table I–R of the Appendix to Standard No. 109.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations, Part 571.109 is amended to read as follows:

§ 571.109 [Appendix amended]

In Table I–R, the following new tire size designation and corresponding values are added.

Table I–R.—*Tire Load Ratings, Test Rims, Minimum Size Factors, and Section Widths for "60 Series" Radial Ply Tires*

Tire size designation [1]	Maximum tire loads, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
DR60–13	890	950	1,010	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	6½	32.40	9.05

[1] The letters "H," "S," or "V" may be included in any tire size designation adjacent to the "R".
[2] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

NHTSA has reviewed this rule and determined that it is not a significant regulation within the meaning of Executive Order 12044. Further this action does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.*).

The program official and attorney principally responsible for the development of this rule are John Diehl and Stephen Kratzke, respectively.

Authority: Secs. 103, 109, 201, and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegation of authority at 49 CFR 1.50.

Issued on May 1, 1979.

Joan Claybrook,
Administrator.

[Docket No. 77–02; Notice 7]
[FR Doc. 79–14318 Filed 5–9–79; 8:45 am]
BILLING CODE 4910–59–M

National Highway Traffic Safety Administration

49 CFR Part 571

New Pneumatic Tires for Passenger Cars

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: Pursuant to petitions by the Rubber Manufacturers Association (RMA), European Tyre and Rim Technical Organization (ETRTO), and Michelin Tire Corporation (Michelin), this notice amends Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passengers Cars*, by adding certain tire size designations to Appendix A of that standard. This amendment permits the introduction into interstate commerce of the new tire sizes.

EFFECTIVE DATE: June 11, 1979, if objections are not received before that date.

ADDRESS: Comments should refer to Docket 79–01 and be submitted to Docket Section, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:
John Diehl, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1714).

SUPPLEMENTARY INFORMATION:
According to agency practice, the National Highway Traffic Safety Administration (NHTSA) responds to petitions for adding new tire sizes to Table I of Appendix A of Standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendments. Guidelines for this procedure were published at 33 FR 14964, October 5, 1968, and amended at 36 FR 8298, May 4, 1971; 36 FR 13601, July 22, 1971; and 39 FR 28980, August 13, 1974. These guidelines provide that these final rules become effective 30 days after their date of publication if no comments objecting to them are received by the agency during this 30 day period. If objections are received, regular rulemaking procedures for issuing and amending motor vehicle safety standards are initiated.

On December 19, 1978, RMA petitioned for the addition of three new tire sizes to an existing table within Table I of Appendix A of Standard No. 109. RMA petitioned for the addition of seven new tire sizes to an exisitng table on January 23, 1979. RMA also petitioned on January 24, January 26, January 29, and February 1, 1979, for the addition of four other tire sizes to Table I. ETRTO petitioned on November 3, 1978, for the addition of a new table to Table I, and for three new tire sizes to be included in that table. ETRTO also petitioned on February 21, 1979 for the addition of five new tire sizes to existing tables in Table I. Michelin petitioned on January 19, 1979, for the addition of a new tire size to an existing table. The bases for accepting or denying requests to add new tire size designations are set forth in the introductory guidelines to Appendix A. Briefly, the tests are the appropriateness of the information submitted for inclusion in the tire tables, and the appropriateness of the requested location within the tables of the requested tire sizes. The 24 new tire size designations requested to be added to Standard No. 109 appear to meet these criteria. Accordingly, the Michelin, ETRTO, and RMA are granted, and 23 new tire size designations are added to Table I of Appendix A of the standard pursuant to the abbreviated rulemaking procedure.

In consideration of the foregoing, 49 CFR 571.109 is amended as specified below, subject to the 30-day comment period outlined above:

§ 571.109 [Appendix A amended]

1. In Tables I–N, I–JJ, I–KK, I–LL, I–MM, I–PP, I–RR, and I–SS. The following new tire size designations and corresponding values are added.

BILLING CODE 4910–59–M

TABLE I-N

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "70 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
145/70R13	545	560	580	600	615	630	650	665	685	700	720	735	750	4	26.44	5.67
165/70R14	640	680	725	765	800	835	875	905	940	970	1005	1035	1065	4 1/2	29.31	6.50

1/ The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall eidth shall not exceed the specified width by more than 7 percent.

TABLE I - JJ

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/70' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P 195/70R14	420	455	485	515	545	570	595	620	645	5 1/2	812	196
P 245/70R15	650	705	755	800	840	885	920	960	995	7	955	248

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - KK

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/60' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P 215/60R14	430	465	495	530	555	585	610	635	660	6	816	216
P 245/60R14	540	580	620	660	695	730	760	795	825	7	882	248
P 235/60R15	525	565	605	645	680	710	745	775	800	6 1/2	882	235

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - LL

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR "T" SERIES 60 LB/IN TIRE

Tire size 1/ designation	Maximum tire load (pounds) at 60 psi	Test rim width (inches)	Minimum size factor (inches)	Section 2/ width (inches)
	Cold inflation pressure			
T 125/80D16	60 psi 1775 lbs.	4	28.62	5.16

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - MM

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "65 Series" Radial Ply Tires

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
165/65R13	580	620	660	695	730	760	795	825	855	885	915	940	970	4 1/2	27.47	6.50
165/65R14	620	660	700	740	775	810	845	880	910	940	970	1000	1030	4 1/2	28.47	6.50
195/65R15	870	930	985	1040	1090	1140	1190	1235	1280	1325	1365	1410	1450	5 1/2	32.19	7.72

1/ The letter "H", "S", or "V" may be included in any specified tire size designation adjacent to the "R".

2/ Actual section width and overall width shall not exceed the specifed width by more than 7 percent.

TABLE I - PP

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR ALL MILLIMETRIC "65 SERIES" RADIAL PLY TIRE TR or JM RIM

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (mm)	Minimum size factor (mm)	Section width 2 (mm)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
240/65R390	1210	1295	1375	1450	1520	1590	1655	1720	1785	1845	1905	1965	1875	180	937	245

1/ The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I - RR

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/65' SERIES ISO TYPE TIRES FOR TR OR JM RIMS

Tire size 2/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa) 1/							Test rim width (mm)	Minimum size factor (mm)	Section 3/ width (mm)
	120	140	160	180	200	220	240			
P205/6/R390	455	490	525	560	590	615	645	150	850	208

1/ The designated cold inflation pressure may be increased to a maximum of 300 kPa to meet special vehicle performance requirements with no increase in load.

2/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

3/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - SS

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/50' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P215/50R13	350	380	405	430	450	475	495	515	535	6	749	216
P235/50R13	405	440	470	500	525	550	575	600	620	6 1/2	787	235
P245/50R14	460	495	530	565	595	625	650	675	705	7	835	248
P265/50R14	525	570	610	645	680	715	745	775	805	7	868	262
P265/50R15	550	595	635	675	710	745	780	810	840	7	893	262
P275/50R15	585	635	680	720	760	795	830	865	895	8	921	279
P295/50R15	660	715	765	810	855	895	935	975	1010	8	953	294

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

2. A new table, Table I-100 is added to Table I of Appendix A to read as set forth below.

TABLE I- 00

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "65 SERIES" RADIAL PLY TIRES ON DL RIMS

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (mm)	Minimum size factor (mm)	Section width 2/ (mm)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
150/65R320	415	445	480	510	545	575	605	640	670	700	730	765	800	95	655	149
160/65R345	495	530	570	610	645	685	725	760	795	835	875	910	950	110	704	162
180/65R345	605	655	700	745	795	840	885	935	980	1025	1070	1120	1165	110	744	177

1/ The letter "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than 7 percent.

BILLING CODE 4910-59-C

Interested persons are invited to submit comments on these additions. Comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

The agency has reviewed the impacts of this rule and determined that they are minimal and that this is not a significant regulation within the meaning of Executive Order 12044.

The program official and attorney principally responsible for the development of this rule are John Diehl and Stephen Kratzke, respectively.

(Secs. 103, 119, 201, and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 2, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[Docket No. 79-01; Notice 2]

[FR Doc. 79-14317 Filed 5-9-79; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

Federal Motor Vehicle Safety Standards; Designated Seating Position

Correction

Note.—This correction originally appeared at 44 FR 26884, Tuesday, May 8, 1979. It is being republished here today to conform to the Office of the **Federal Register's** assigned day of the week publication schedule (DOT/NHTSA documents are printed on Mondays and Thursdays).

In FR Doc. 79-11946, published at page 23229, on Thursday, April 19, 1979, after the signature on page 23235, the agency Docket No. was inadvertently left off and should be added to read "[Docket No. 78-13; Notice 2]".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Public Entry and Use; Special Regulations for Continued Opening of Clarence Rhode National Wildlife Range, et. al.

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that, with certain restrictions as delineated below under supplementary information, and in accordance with applicable State and Federal regulations, Clarence Rhode, Nunivak, Cape Newenham, Chamisso, Hazen Bay and Bering Sea National Wildlife Refuge shall open to public access, use and recreation. These regulations are compatible with the objectives for which the area was established, and will provide recreational opportunity to the public.

EFFECTIVE DATES: These regulations are effective from date of publication through May 31, 1980.

FOR FURTHER INFORMATION CONTACT: Charles Strickland, Refuge Manager, Clarence Rhode National Wildlife Range, P.O. Box 346, Bethel, Alaska 99559, Telephone Number (907) 543-3151.

SUPPLEMENTARY INFORMATION: The primary author of this document is Charles Strickland. Public access, use and recreation on portions of the described refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Special conditions applying to individual refuges and maps are available at refuge headquarters, Office of the Refuge Manager (addresses listed above). The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practical and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) such recreational use will not interfere with primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. Funds are available for the administration of the recreational activities permitted by these regulations. Permission to enter or use that portion of the refuges selected by the Native villages under the Alaska Native Claims Settlement Act should be obtained from the respective village.

§ 26.34 Special regulations concerning public access, use and recreation for above listed national wildlife refuges.

Alaska

Clarence Rhode, Nunivak, Cape Newenham, Chamisso, Hazen Bay, and Bering Sea National Wildlife Refuge

A. Recreational uses such as hiking, boating, camping, photography, aircraft landing and associated activites are permitted.

B. The use of snowmachines are permitted only during periods of complete snow cover. Motorized vehicles are prohibited on Nunivak Island NWR with the exception of:

1. Boats,

2. Snowmachines;

a. Snowmachines are allowed during periods of complete snow cover as determined by the Refuge Manager, or his delegate.

b. On Nunivak; except for removal of legally harvested muskox, snowmachines may not be operated within one mile of any living muskox or area known to be occupied by any living muskox as determined through normal visual means.

3. Aircraft;

a. Aircraft landing is permitted on all refuges except Nunivak. Aircraft landings on Nunivak is restricted to the airstrip situated near the village of Mekoryuk. Float and/or ski planes are restricted to within a three (3) mile radius of the village of Mekoryuk.

4. Registered guides providing commercial guiding services on Nunivak Island must obtain an annual permit from the Refuge Manager.

The provisions of these special regulations supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 26, and appropriate State regulations. The public is invited to offer suggestions and comment's at any time.

Dated: April 30, 1979.

LeRoy W. Sowl,

Deputy Alaska Area Director, Fish and Wildlife Service.

[FR Doc. 79-14555 Filed 5-9-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 33

Sport Fishing; Opening of Certain National Wildlife Refuges to Sport Fishing: Maryland, Virginia, and North Carolina

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildife Refuges in Maryland, Virginia and North Carolina is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1979 through December 31, 1979.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 33 and the following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established: and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1076. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the following areas: Chincoteague National Wildlife Refuge, Box 62, Chincoteague, Virginia 23336. Contact J. C. Appel, Refuge Manager, at 804–336–6122. Special conditions: Sport fishing, crabbing, and clamming (shellfishing) is permitted on areas designated by signs as open. Open areas: (a) Surf fishing—the entire beach including Tom's Cove is open except as posted; (b) Other fishing is permitted from banks of impoundments and salt-water areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other portions of the refuge including bay side waters as posted; (c) Shellfishing (clams, oysters, mussels, whelks, etc.)—the area between high and low tide marks in Tom's Cove, except as posted closed; (d) Crabbing—from the banks of impoundments and saltwater areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other areas including bay side waters as posted. Commercial fishing operations or methods are not permitted. A permit is required for fishing from 10:00 PM to 4:00 AM. At least one member of the fishing party must be actively engaged in fishing at all times. Open fires and sleeping are not permitted. No permit is required at other times.

Blackwater National Wildlife Refuge, RFD #1, Box 121, Cambridge, Maryland 21613. Contact Refuge Manager, at 301–228–2677. Special conditions: Sport fishing and crabbing is permitted during daylight hours on areas designated by signs from April 15 through October 15, 1979. Boat launching from refuge lands is not permitted. The use of airboats is prohibited. All fish and crab lines must be attended. No set tackle may be used.

Mackay Island National Wildlife Refuge, Knotts Island, North Carolina, under administration of Back Bay National Wildlife Refuge, Pembroke #2 Building, South 218, 287 Pembroke Office Park, Virginia Beach, Virginia 23462. Contact Glen Bond, Refuge Manager, at 804–490–0505. Special conditions: Sport fishing is permitted during daylight

hours on the areas designated by signs as open. Corey's Ditch and the canal adjacent to the Knotts Island Causeway are open year round to bank fishing only. The remainder of the refuge areas are open from March 15 to October 14, 1979. There is no horsepower limitation on outboard motors used for boat fishing. Airboats are prohibited.

Dismal Swamp National Wildlife Refuge, 680B Carolina Road, Suffolk, Virginia 23434. Contact Ralph Keel, Refuge Manager, at 804–539–7479. Special conditions: Bank and boat fishing is permitted during daylight hours in Lake Drummond. Public access is limited to boats entering Lake Drummond from the Feeder Ditch on the east side of the lake. Commercial fishing operations or methods are not permitted. Fishing will be with hand held line or rod and reel.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

William C. Ashe,
Acting Regional Director, Fish and Wildlife Service.

May 3, 1979.

[FR Doc. 79–14553 Filed 5–9–79; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Prohibition of Take Incidental to Commercial Fishing Operations—Common Dolphin

AGENCY: National Marine Fisheries Service.

ACTION: Notice of prohibition of take of the central and southern stocks of common dolphin incidental to commercial fishing operations.

SUMMARY: A prohibition on taking the central stock of common dolphin (*Delphinus delphis*) is being implemented because observer records show that the 1979 quota for that stock has been exceeded. A prohibition on the southern stock of common dolphin is also being implemented at this time due to a projection that the 1979 quota for that stock will be met by the implementation date of this notice. The quota on the northern stock of common dolphin was closed on April 12, 1979, therefore no common dolphin may be taken incidental to fishing operations pursuant to the general permit issued to the American Tunaboat Association, Category 2; Encircling gear, purse seining involving the intentional taking of marine mammals.

EFFECTIVE DATE: The effective date of this notice is May 16, 1979.

ADDRESSES: Observer records may be reviewed at the office of the Director, Southwest Region, 300 South Ferry Street, Terminal Island, California. Telephone (213) 548–2575.

FOR FURTHER INFORMATION CONTACT: William P. Jensen, Marine Mammal Program Manager, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, Telephone (202) 634–7461.

SUPPLEMENTARY INFORMATION: 50 CFR 216.24(d)(2)(i)(A)(3) and the permit issued to the American Tunaboat Association for 1978 through 1980, impose limits of four hundred (400) mortalities of the central stock and one thousand four hundred (1,400) mortalities of the southern stock common dolphin in 1979. The Assistant Administator for Fisheries, National Oceanic and Atmospheric Administration, has determined that this limit has been exceeded or will be exceeded by the effective date of this notice. Therefore, further taking of the central and southern stocks of common dolphin will be prohibited except as provided for in 50 CFR 216.24(d)(2)(i)(C) (accidental take policy), and notice of the effective date of this prohibition is hereby published in accordance with 50 CFR 216.24(d)(2)(i)(B).

Dated: May 4, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79–14537 Filed 5–9–79; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

Valencia Oranges Grown in Arizona and Designated Part of California; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document authorizes expenses and a rate of assessment for the 1978–79 fiscal period, to be collected from handlers to support activities of the Valencia Orange Administrative Committee which locally administers the Federal marketing order covering Valencia oranges grown in Arizona and designated part of California.

DATES: November 1, 1978 through October 31, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This document is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia 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). Based upon the recommendations and information submitted by the Valencia Orange Administrative Committee established under the order, and upon other information, it is found that the expenses and rate of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

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

§ 908.218 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Valencia Orange Administrative Committee during the period November 1, 1978, through October 31, 1979, will amount to $333,630.

(b) The rate of assessment for said period payable by each handler in accordance with § 908.41 is fixed at $0.0200 per carton of Valencia oranges.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable Valencia oranges handled from the beginning of such period which began November 1, 1978. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and rate of assessment is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and rate of assessment at an open meeting of the

committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

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

Dated: May 4, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-14586 Filed 5-9-79; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Marketing Service

7 CFR Part 908

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricutural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 11–17, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (17 CFR Part 908), regulating the handling of Valencia 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). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on May 8, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is improving.

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

§ 908.911 Valencia Orange Regulation 611.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 11, 1979, through May 17, 1979, are established as follows:

(1) District 1: 232,131 cartons;

(2) District 2: 109,009 cartons;

(3) District 3: 220,002 cartons.

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

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

Dated: May 9, 1979.

D. S. Kuryloski,

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

[Valencia Orange Reg. 611]

[FR Doc. 79-14922 Filed 5-9-79; 12:20 pm]

BILLING CODE 3410-02-M

7 CFR Part 932

Olives Grown in California; Findings and Determinations With Respect to the Continuation of the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains the determination with respect to continuation of the amended marketing agreement and order regulating olives grown in California. A referendum was conducted among olive growers March 31 through April 16, 1979, to ascertain if they favor termination of this regulatory program. The vote in that referendum shows that the required majority of such growers do not favor termination.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION OR A FINAL IMPACT STATEMENT CONTACT: Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone: (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* A notice was published in the **Federal Register** on February 12, 1979 (44 FR 8897), directing that a referendum be conducted among California olive growers to ascertain if such growers favor continuance of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Consistent with such notice, the referendum was conducted among growers who were engaged, in the State of California, in the production of olives during the representative period determined to be March 1 through December 31, 1978. The referendum period was March 31 through April 16, 1979.

Upon the basis of the results of the referendum, it is hereby found and determined that the termination of the marketing agreement and order is not favored by a majority of producers who produced more than 50 percent of the olives produced for market during the representative period.

Dated: May 7, 1979.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 79-14619 Filed 5-9-79; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1496

Procurement of Processed Agricultural Commodities for Donation

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the criteria that will be considered by Commodity Credit Corporation in awarding contracts for the purchase of processed agricultural commodities for use under Title II, Pub. L. 480, including the allocation of those commodities to United States ports of exportation. The basic consideration is the purchase of commodities in a manner which results in the lowest cost to deliver the commodities to the end of ship's tackle at the port of discharge. However, deviation from a lowest landed cost

procurement will be made when there are overriding factors affecting service to the donation programs in the country to which the commodities are being exported.

EFFECTIVE DATE: This regulation shall become effective on May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Ronald L. Wilson, Chief, Donations Branch, Procurement and Sales Division, ASCS, 202–447–3995

SUPPLEMENTARY INFORMATION: Section 201 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides that Commodity Credit Corporation (hereinafter, CCC) may furnish agricultural commodities to the President for use to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas; and, for needy persons and non-profit school lunch and preschool feeding programs outside the United States. Section 203 provides that the CCC may, in addition to the cost of acquisition, pay with respect to commodities made available under this title costs for packaging, enrichment, preservation, and fortification; processing, transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in United States ports; ocean freight charges from United States ports to designated ports of entry abroad; transportation from United States ports to designated points of entry aboard in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, and (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports; and charges for general average contribution arising out of the ocean transport of commodities transferred pursuant thereto.

The rigid use of a lowest landed cost determination in procuring and allocating commodities to U.S. ports has not always adequately serviced program needs in terms of delivery of commodities in time to meet needs and minimize losses sustained prior to delivery.

On November 3, 1978, there was published in the **Federal Register** (43 FR 51406) a proposal that CCC continue to consider the lowest landed cost, but also consider other factors that would override the lowest landed cost determination, in making Title II contract awards and port allocation decisions. Interested persons were asked to comment on the proposed rule.

A total of fifty responses was received. Three were from labor organizations; sixteen were from ports, port authorities, and/or port terminals; fifteen were from millers and/or processors; ten were from steamship lines, shipping agents, etc.; two were from other federal governmental agencies; two were received from congressional offices; one was from the governor of a State; and one was from a railroad. Responses from agents of certain interests or trade associations representing segments of commerce or industry were treated as coming from the interests they represent. Many respondents commented on several issues.

Of the responses received, all but one agreed in principle with the proposed rule or some variation thereof. They included four comments from ocean carriers; fourteen from United States ports; three from labor interests; five from millers and/or processors; one from the governor of a State; one from another agency of the United States; and one from a United States congressman.

One comment from a miller or processor was received that disagreed with the principles set forth in the proposed rule.

After consideration of the comments, it has been determined to issue a final rule altering the lowest landed cost concept to permit consideration of other factors, some of which could be overriding.

Two of the comments from ocean carriers and fourteen from millers and processors objected to the extension of the time period utilized by CCC to analyze bids and award contracts from 24 hours, as presently used, to 72 hours under the proposed rule. Some respondents suggested that if the 72 hour period is essential, bids be closed late on Thursday with awards made at least 30 minutes prior to market opening the following Monday, thereby restricting a bidder's exposure to market fluctuations to 24 hours as is now the case. Some respondents also suggested that if the additional time, as proposed, is needed to analyze the additional factors, the analyses should be made in advance of the deadline for bid submission rather than after, thereby obviating the need for extra time.

In implementing the final rule, market exposure will be limited to one market day.

One governor, eight port interests, and three labor interests commented that in considering delivery time, the total transit time from processing plant to final destination should be considered and/or that availability of, and effective use of, railcars should be considered in making procurement/allocation decisions.

Insofar as delivery time is concerned, CCC's prime objective is that the commodity be delivered to the country of distribution within a time frame that will satisfy program needs. Therefore, transit time is a factor as it relates to a final delivery date. CCC will consider total transit time, or any part thereof, in its decision making process within that context. CCC believes that the problem of availability and effective utilization of railcars will be effectively considered by bidders on procurement contracts. Provisions of the procurement contracts regarding late delivery will provide the economic incentive necessary for bidders to do so.

Eight comments from port interests and three from labor interests were received suggesting that CCC consider efficient utilization of energy resources in its procurement allocation decisions. CCC believes that the efficient use of energy resources, or the lack thereof, will impact on a bidder's cost of fulfilling a contract. Therefore, the usage of energy resources will necessarily be a consideration in arriving at the total bid price.

Several comments were received regarding the data that will be used as a basis for decision making. For example, one port interest commented that only current data should be used while another commented that only historical data should be used. One ocean carrier commented that no data should be used that will result in a contracting officer having to make a judgmental decision. Two ocean carriers, three port interests, three labor interests and one miller or processor expressed concern about the validity of the data used in the draft impact statement; the data which will be used as a basis for decision making; whether or not the data used will provide true measures of program performance; and/or how CCC will reasonably quantify the factors that will be used to override lowest landed cost.

CCC believes that efficiency in conducting program operations requires judgment and flexibility in the procurement process. In fact, one of the main purposes of the proposed rule is to increase judgment in the procurement process. The exercise of good judgment requires that it be based on the best information and most complete data available at the time decisions are made. Accordingly, CCC will use all available valid historical and current

data as a basis for decision making, including evaluation and decisions regarding the physical facilities and performance of ports. Heavy reliance will be placed upon current port conditions as determined from first hand observations and reports from USDA and other reliable sources.

Comments were received from four port interests, three labor interests, and one governor concerning how CCC will judge the adequacy of ports' physical facilities. All of the comments received on this matter urged that historical performance data not be used for this purpose, but that current data, preferably based on CCC's firsthand observation of physical facilities, be used.

The primary source of historical data will be documents used in the normal course of conducting business. Sources include contract documents, ocean bills of lading, survey and/or outturn reports made by commercial cargo surveyors, claim settlement agreements, claim payment documents, etc. CCC will utilize only such data and make only those analyses that it believes will provide a valid measure of program performance.

Comments were received from two port interests and two labor interests stating that CCC should consider the economic impact on a port and its surrounding economy and industry in making allocation decisions.

CCC believes that its mandate is to obtain maximum utilization of the monies spend to the extent that program needs can be met. Thus, the overriding factors to be considered in the bid process should be limited to those which can improve or strengthen administration of the Title II, Pub. L. 480, program.

One comment was received from an ocean carrier stating that utilization of United States vessels should be maximized. The final rule will be implemented in a manner consistent with the stated policy of the Agency for International Development of the Department of State with respect to United States flag vessels carrying Title II, Pub. L. 480, commodities.

The KCCO shall be responsible for making lowest landed cost determinations. KCCO shall provide that information to an Ad Hoc Committee designated by the Administrator, ASCS, to review the lowest landed cost determinations as a result of any or all of the factors referred to herein. If, after the Committee makes its review and it is recommended that contracts should be awarded based on the additional factors which would override lowest landed cost determinations, these recommendations will be presented to the Contracting Officer for a final decision. These decisions will be fully documented and explained as to the reasons the lowest landed cost was not selected.

The remaining twenty-four comments were not sufficiently clear to determine the respondent's concern or were not germane to the specific issues of CCC's commodity procurement or port allocation activities. There were no comments received on the balance of the proposed rule.

Final Rule

Accordingly, Chapter XIV of Title 7 of the Code of Federal Regulations is amended by adding Part 1496—Procurement of Processed Agricultural Commodities for Donation under Title II, Pub. L. 480—which reads as follows:

PART 1496—PROCUREMENT OF PROCESSED AGRICULTRUAL COMMODITIES FOR DONATION UNDER TITLE II, PUB. L. 480

Sec.

1496.1 General statement.
1496.2 Administration.
1496.3 Definitions.
1496.4 Issuance of invitations.
1496.5 Consideration of bids.
1496.6 Data to be used.
1496.7 Final contract determinations.

Authority.—Secs. 201, 202 and 203, 68 Stat. 454, as amended (7 U.S.C. 1721, 1722, 1723); sec. 2, 80 Stat. 1537, as amended (7 U.S.C. 1721, 1722, 1723).

§ 1496.1 General statement.

(a) This subpart sets forth the policies, procedures and requirements governing procurement, including allocation to U.S. ports, of processed agricultural commodities for donation under Title II, Pub. L. 480.

(b) The full implementation of this rule and its administration as described herein will require the development of new automatic data processing systems and programs in order to obtain, in a timely manner, the data and information needed for making decisions. These systems are already in the process of being developed, and it is estimated that they will be operational in approximately six months.

(c) Until the new systems are operational, the rule will be implemented to the extent possible by using present data systems and the information they generate. Although present data processing programs are out of date and do not provide the information needed to fully implement the rule, every effort will be made to consider, within the limitations of the present system, factors in addition to lowest landed cost, thus making possible the exercise of judgment in the decision making process.

§ 1496.2 Administration.

(a) The program will be carried out by the Agricultural Stabilization and Conservation Service (referred to in this subpart as "ASCS") under the general supervision and direction of the Executive Vice President of CCC. The program will be administered through the office of the Deputy Administrator, Commodity Operations and the Procurement and Sales Division, ASCS, Washington, D.C.; and the Kansas City ASCS Commodity Office (KCCO), Shawnee Mission, Kansas. Procurement will be administered in accordance with requirements specified in Volume 41 of the Code of Federal Regulations, "Public Contracts and Property Management, Chapter I," in USDA-1, as amended, "General Terms and Conditions for the Procurement of Agricultural Commodities or Services," and CMO-1, as amended, "Specifications for Packaging and Packing of Dairy Products, Processed Grains, Salad Oil and Shortening."

(b) Purchases are made to fulfill commodity requests received in ASCS, Washington, D.C. from the Agency for International Development (AID), or as authorized by AID, from American Voluntary Relief Agencies, engaged in overseas relief and development, which are registered with and approved by the Advisory Committee on Voluntary Foreign Aid.

§ 1496.3 Definitions.

As used in the regulations in this subpart and in the forms and documents related thereto, the following terms shall have the meaning assigned to them in this section.

(a) "AID" means the Agency for International Development, an agency within the United States Department of State.

(b) "ASCS" means the Agricultural Stabilization and Conservation Service, an agency within the United States Department of Agriculture.

(c) "DACO" means the Deputy Administrator, Commodity Operations, ASCS.

(d) "CCC" means Commodity Credit Corporation, a corporate agency within the United States Department of Agriculture.

(e) "Commodity Office" means the Kansas City ASCS Commodity Office, the office within ASCS which is responsible for assigned inventory management, acquisition, disposition,

and related programs and activities of CCC.

(f) "F.A.S." means free alongside ship, a trade term which implies that the goods should be placed by the shipper within reach of ship's tackle in a condition fit for shipment.

(g) "Lowest Landed Cost" means the lowest combined total cost of the f.a.s. price plus ocean freight to the port of discharge.

(h) "PSD" means the Procurement and Sales Division of ASCS.

§ 1496.4 Issuance of invitations.

From time to time, CCC will issue invitations to purchase or process agricultural products for utilization in the Title II, Pub. L. 480 program. The invitations will specify the contract terms; the closing date for acceptance of bids; the date contracts will be awarded; and other pertinent information. Invitations will be issued at least 10 days prior to the deadline for submission of bids. The bid submission deadlines and contract awards will be timed so not more than one market day elapses between bid opening (bid submission deadline) and contract awards.

§ 1496.5 Consideration of bids.

(a) *Lowest landed cost.* The general principle of awarding contracts that will result in the lowest landed cost will prevail. However, the following additional factors will be considered in awarding contracts.

(b) *Availability of ocean service.* (1) Prior to receipt of offers from commodity suppliers, checks will be made of available information from sources including, but not limited to, trade journal newspapers, port publications, steamship publications, and any other available information to determine the availability of appropriate steamship service.

(2) Additional information will be gathered, if necessary by direct contact with the steamship company involved, regarding such factors as the minimum tonnage and/or revenue required to perform the service needed.

(3) Special emphasis will be placed on assuring that under normal conditions the vessels will be calling at U.S. ports to coordinate loading with cargo arrival from suppliers.

(4) Freight rates will be obtained from published ocean tariffs to make cost comparisons between various steamship companies and coastal ranges.

(5) Available service will be analyzed to ensure that the port or coastal range selected for exportation has available ocean transportation service that will provide maximum compliance with the stated policy of AID with regard to the utilization of U.S. and other flag vessels to carry commodities shipped under Title II, Pub. L. 480.

(c) *Adequacy of service.* (1) Prior to the selection of a coastal range or U.S. port from which commodities will be shipped, the ocean transportation service available may be examined to determine adequacy of service. The data utilized may include, but not necessarily be limited to, the past performance of a particular vessel or steamship line in terms of loss and/or damage to cargo when received at destination port; past performance in meeting established delivery schedules, etc. CCC may eliminate from consideration ports or coastal ranges where ocean transportation service is considered inadequate by CCC. When clearly superior service is available at another port or coastal range it may be selected over other service.

(d) *Port performance.* (1) Each port will be contacted prior to bid evaluation to determine their cargo handling capabilities for Title II, Pub. L. 480, commodities when it is reasonably expected that quantities of 1,000 tons or more may be shipped. Allocations to that port will be governed by the minimum or maximum quantities indicated.

(2) Limits of quantities purchased for delivery to a port or coastal range may also be imposed by the amount of vessel space available during the expected delivery and loading period.

(3) Prior to the final selection of a U.S. port from which commodities will be shipped, the adequacy of the port to receive, accumulate, warehouse, handle, store, and protect the cargo will be considered.

(4) Factors which will be considered in this determination will include, but are not necessarily limited to, the adequacy of building structures, proper ventilation, freedom from insects and rodents, cleanliness, and overall good housekeeping and warehousing practices.

(5) When it is determined that the U.S. port is congested, facilities are overloaded, and a vessel would not be able to dock and load cargo without delay, or when labor disputes or lack of labor will prohibit the loading of the cargo onboard a vessel in a timely manner, another coastal range or port will be considered.

(e) *Transit time.* CCC will consider total transit time, as it relates to a final delivery date, in order to satisfy program requirements.

§ 1496.6 Data to be used.

(a) CCC will use all available historical and current data as a basis for procurement considerations, including evaluations and decisions regarding the physical facilities and performance of ports. Heavy reliance will be placed upon current port conditions as determined from first hand observations and reports from USDA and other reliable sources.

(b) The primary source of historical data will be documents used in the normal course of conducting business. Sources include contract documents, ocean bills of lading, survey and/or outturn reports made by commercial cargo surveyors, claim settlement agreements, claim payment documents, etc. CCC will utilize only such data and make only those analyses that it believes will provide a valid measure of program performance.

§ 1496.7 Final contract determinations.

The KCCO shall be responsible for making lowest landed cost determinations. KCCO shall provide that information to an Ad Hoc Committee designated by the Administrator, ASCS, to review the lowest landed cost determinations as a result of any or all of the factors referred to herein. If, after the committee makes its review and it is recommended that contracts should be awarded based on the additional factors which would override lowest landed cost determinations, these recommendations will be presented to the Contracting Officer for a final decision. These decisions will be fully documented and explained as to the reasons the lowest landed cost was not selected.

Note.—This regulation has been determined significant under the USDA criteria implementing Executive Order 12044. An approved final Impact Statement is available from Ray Voelkel, ASCS, 202–447–7865.

Signed at Washington, D.C. on May 3, 1979.

Bob Bergland,
Secretary.

[FR Doc. 79-14588 Filed 5-9-79; 8:45 am]
BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Parts 1823, 1888, 1901, and 1942

Revision, Redesignation

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule with comments requested.

SUMMARY: The Farmers Home Administration (FmHA) amends and redesignates its regulations on development grants for community domestic water and waste disposal systems. The intended effect of this action is to redesignate and clarify the regulations, delete the requirement for interim financing on grant only projects and that priority be given to water facility projects, and to reflect Agency reorganization regarding responsibilities for various aspects of the development grant program. The amendment is the result of an administrative decision to reorganize program regulations, conform the regulations with Agency field office reorganization and to comply with OMB Circular A–102.

EFFECTIVE DATE: Date of publication in the **Federal Register**. Comments must be received on or before July 9, 1979.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Byron E. Ross, telephone (202) 447–5717.

SUPPLEMENTARY INFORMATION: Subpart P of Part 1823 of Subchapter B, Chapter XVIII, Title 7, Code of Federal Regulations is revised and redesignated as Subpart H of Part 1942 of Subchapter H, Chapter XVIII, Title 7, Code of Federal Regulations. Subpart P of Part 1823 is hereby deleted and reserved. Various references in Chapter XVIII to the deleted Subpart P of Part 1823 are also being made. Changes that have been made are for clarification purposes for overall restructuring of the regulation, and to reflect an Agency reorganization. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is merely to renumber and clarify. However, the agency is interested in receiving comments or suggestions which should be submitted to the address given above.

Accordingly, various reference changes are made, Subpart P of Part 1823 is deleted and reserved, and Subpart H of Part 1942 is added as follows:

PART 1823—SUBPART P [RESERVED]

1. Subpart P of Part 1823 is hereby deleted and reserved.

PART 1888—SPECIAL ASSISTANCE TO DROUGH STRICKEN AREAS

§ 1888.13 [Amended]

2. In § 1888.13 change the reference from "FmHA Instruction 442.13" to "Subpart H of Part 1942 of this Chapter".

3. In § 1888.13(d) change the reference from "paragraph (b), (b)(1), and (b)(2) of § 1823.472" to "§ 1942.356 (b), (b)(2) and (b)(3) of Subpart H of Part 1942".

4. In § 1888.13(e) change the reference from Subpart "P" to "H" of Part 1942".

PART 1901—PROGRAM RELATED INSTRUCTIONS

§ 1901.702 [Amended]

5. In § 1901.702 change the reference to Subpart P of Part 1823 to Subpart H of Part 1942 and "442.13" to "1942–H".

§ 1901.707 and § 1901.708 [Amended]

6. In § 1901.707(a) and 1901.708(a) change "Part 1823 Subpart P of this chapter (FmHA Instruction 442.13, Appendix A)" to "Subpart H of Part 1942 of this Chapter".

§ 1901.719 [Amended]

7. In § 1901.719(a) and paragraph 2 of Exhibit B change the reference to Subpart P of Part 1823 to Subpart H of Part 1942 and "442.13" to "1942–H".

PART 1942—ASSOCIATIONS

§§ 1942 through 1942.400, Subpart H [Added]

8. A new subpart H of Part 1942 is established and reads as follows:

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

Sec.

1942.351 General.
1942.352 Processing applications and docket preparation.
1942.353 Applicant eligibility and priority.
1942.354 Use of grant funds.
1942.355 Grant limitations.
1942.356 Determining the need for development grants.
1942.357 Application review and approval.
1942.358 Preparation of appraisal reports.
1942.359 Borrower contracts.
1942.360 Grant approval and obligating funds.
1942.361 Preparation for grant closing.
1942.362 Grant closing and delivery of funds.
1942.363 Planning and performing development.
1942.364 Actions subsequent to loan closing.
1942.365 Grant servicing.
1942.366 Grant cancellation.
1942.367 Subsequent grants.
1942.368 Regional Commission grants.
1942.369 Management assistance.
1942.370 State Supplements and guides.
1942.371 Delegation of authority.
1942.372 Grant-aid-information.
1942.373–1942.400 [Reserved]
Exhibit A—Memorandum of Agreement Between the Federal Cochairman of the Appalachian Regional Commission and the Administrator of the Farmers Home Administration
Exhibit B—Project Management Agreement
Exhibit C—Association Water or Sewer System Grant Agreement

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

§ 1942.351 General.

(a) This Subpart outlines the policies and authorizations and sets forth the procedures for making and processing grants to assist in financing the development cost of domestic water and waste disposal systems to rural communities and other associations of farmers, ranchers, rural residents, and other rural users. Farmers Home Administration (FmHA) will maintain continuous liaison and coordination with State and substate planning district officials. FmHA shall cooperate fully with appropriate State agencies in making grants in a manner which will assure maximum support of the State's strategies for development of rural areas. State and substate A–95 agencies may recommend priorities for applications. FmHA will give due consideration to all A–95 agency review comments and priority recommendations in selecting applications for funding. FmHA State Directors are reminded that funds allocated for use as prescribed in this Subpart are to be considered for use by Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. It is essential that Indians residing on such reservations have equal opportunity to participate in the benefits of these programs on as equal a basis as other residents of the State. This is intended to include an equal application of the outreach activities of FmHA County and District Offices.

(b) It is the policy that the County Office will normally be the entry point for preapplications and applications and serve as the local contact point. However, grants will be processed to the maximum extent possible by the District Office staff. The State Office staff will monitor grant making and servicing and will provide assistance to District Office personnel to the extent

necessary to assure that the activities are being accomplished in an orderly manner consistent with FmHA regulations. The District Director will supply information on grant activity within the County Office service area to the County Supervisor at key points throughout the grant making process.

(c) It is the policy of FmHA to extend its financial program without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (possess capacity to enter into legal contract.)

§ 1942.352 Processing applications and docket preparation.

(a) Preapplications and applications for water and waste disposal development grants will be processed in accordance with paragraph 1942.2 of Subpart A of Part 1942 of this Chapter.

(b) Grant dockets will be prepared in accordance with this Subpart and applicable portions of §§ 1942.17, 1942.18 and 1942.19 of Subpart A of Part 1942.

§ 1942.353 Applicant eligibility and priority.

(a) *Eligibility*—Applicant eligibility shall be determined in accordance with § 1942.17(b) of Subpart A of Part 1942. Also grants shall not be made in connection with any project unless the project:

(1) Will serve a rural area which, if such project is carried out, is not likely to decline in population below that for which the project was designed.

(2) Is designed and constructed so that adequate capacity will or can be made available to serve the present population of the area to the extent feasible and to serve the reasonably foreseeable growth needs of the area. Also, water systems must have sufficient capacity to provide for reasonable fire protection.

(3) Is necessary for orderly community development consistent with a comprehensive community water, waste disposal, or other development plan of the rural area in which the project is located.

(b) *Applicant priorities.* Preference for grant funds will be given to applicants and projects in accordance with § 1942.17(c) (1) and (2) of Subpart A of Part 1942.

§ 1942.354 Use of grant funds.

Funds may be used only for the following purposes:

(a) *Domestic water and waste facilities.* Install and improve community domestic water and waste disposal facilities including:

(1) Facilities for the development, storage, treatment, purification and distribution of water.

(2) Sanitary sewer facilities including collection lines, treating plants, outfall lines, disposal fields, and stabilization ponds.

(3) Storm sewers for the collection and disposal of surface drainage.

(4) Solid waste disposal projects including facilities for the collection, treatment, or disposal of human, animal, agricultural and other wastes. Items such as garbage trucks and equipment, sanitary landfills, and incinerators are included.

(b) *Purchase or rent equipment necessary to extend, protect, develop or utilize facilities.* Such purchases or rentals must be necessary to provide efficient service, to enable the facility to remain in operation, and to fulfill the purposes and intent of the loan and/or grant. However, funds may not be used to pay any annually recurring costs, including purchases or rentals, that are normally considered to be operation and maintenance expenses.

(c) *Acquire land and rights.* Acquiring land, interest in land, and rights such as water rights, leases, permits, rights-of-way, and other evidence of land or water control which are necessary for development of the facility.

(d) *Buildings, fences, secondary facilities, and relocation.* (1) Construct buildings of modest design, size, and cost, and fences essential to the successful operation or protection of authorized facilities and to provide storage for tools and supplies needed to operate the facility.

(2) Construct secondary facilities such as gas or electric service lines to convey fuel or energy for, or utilities for, primary facilities.

(3) Construct or relocate roads, bridges, utilities, fences, and other public improvements or relocate roads, bridges, utilities, fences, and other private improvements.

(e) *Services and fees.* Pay costs incidental to establishment of such facilities or for services necessary to accomplish any of the above purposes, including, but not limited to:

(1) Paying fees or other legal expenses of establishing water rights through appropriation, agreement, permit, or court decree.

(2) Paying for other services necessary in planning and completing the facilities to be financed.

(3) Acquiring a water supply by purchasing of water stock or membership in a water users association.

(f) FmHA grant funds may be used on projects where other types of financial assistance are available on all or part of the project, provided the other assistance is on reasonable rates and terms. In such cases the maximum percentages allowed under other agencies' authorities will apply to their participation in the project. However, the FmHA grant may not exceed seventy-five percent (75%) of the eligible project development cost. The need for FmHA grant funds must meet the requirements of § 1942.356 of this Subpart after considering all project financing.

§ 1942.355 Grant limitations.

(a) Grant funds may not be used to:

(1) Pay for the construction of any new combined storm and sanitary sewer facilities.

(2) Pay any annually recurring costs that are generally considered to be operation and maintenance expenses.

(3) Construct or repair electric generating plants, electric transmission lines, or gas distribution lines to provide services for commercial sale.

(4) Purchase fire trucks, hoses, and other firefighting equipment or construct housing for such equipment.

(5) Pay rental for the use of equipment or machinery owned by the association.

(6) Pay for salesrooms or other purposes not directly related to operation and maintenance of the facility being installed or improved.

(7) Purchase existing systems.

(8) Refinance existing indebtedness.

(9) Pay any portion of the cost of a facility when the annual reserve based on a typical year exceeds one-tenth of the average annual debt service requirement unless State regulatory agencies require a larger reserve, or when it is anticipated that facility replacement costs on a relatively short-term basis will require a higher reserve.

(10) Pay interest.

(b) An FmHA development grant may not be made in excess of seventy-five percent (75%) of the eligible project development costs. Facilities previously installed will not be considered in determining the development costs.

§ 1942.356 Determining the need for development grants.

(a) FmHA District Directors are responsible for determining applicant eligibility for grants and the amount of such grants. Form FmHA 1942–51, "Water and Waste Disposal Development Grant Summary," will be used to determine the amount of FmHA grant assistance for which the applicant qualifies. A separate form will be used

to record the determination of FmHA grant assistance for each water, sewer collection and treatment, solid waste, and storm drainage project. A copy of each such form along with the letter of conditions and Form FmHA 442–45, "Project Summary—Water and Waste Disposal and Other Utility-Type Projects," will be submitted to the National Office, Attention: Water and Waste Disposal Loan Division by the State Director not later than the time of issuance of the letter of conditions.

(b) Grants will be used for water and waste disposal projects serving the most financially needy communities to reduce user costs to a reasonable level for farmers, ranchers, and rural residents. Other rural users whose needs are met or, if there is no meter, could be met by a single residential-size water meter may also be considered eligible. For example, a user on a waste system may be considered for a grant when the water needs of the waste user are met or could be met by such residential-size meter. This method of computing grants will be used for all water and waste disposal projects. Reasonable user rate is defined as that which is not less than existing prevailing rates in communities being served by an established system constructed at similar cost per user and having similar economic conditions. User costs shall include charges, taxes, and assessments attributable to the project. An exception to the reasonable user rate may be granted by the FmHA National Office in justifiable cases for areas of extremely low income when it is necessary to meet the needs of a particular community. Such an exception will only be considered when comparable systems are not available or the user rates from the comparable systems appear to be too high for the average user of the applicant, and the median income in the applicant service area is less than $4,000. When it is determined that such an exception should be considered, the FmHA State Director will submit information to the National Office concerning health conditions of the area, median income of the service area, and user rates and median incomes of other like or most similar communities in the region, employment conditions, and any other information to justify the recommendation for the exception.

(1) Grants may not exceed seventy-five percent (75%) of the eligible project development costs listed in § 1942.354 of this Subpart.

(2) Ordinarily, an applicant will be considered for grant assistance only when the debt service portion of the average user cost for either water or waste service, for only those users in the applicant service area, exceeds the following percentages of median incomes:

(i) .75 percent when the median income is under $6,000.

(ii) 1.00 percent when the median income is $6,000 to $10,000.

(iii) 1.25 percent when the median income is over $10,000.

Median income will be determined in accordance with paragraph (b)(6) of this section. Except as provided for in paragraphs (b) and (b)(4) of this section, the grant will be limited to an amount necessary to reduce the debt service portion of the user cost to the applicable percent level listed above. If the median income is not available, the average income may be used. This procedure shall not be used to result in a rate below that deemed to be reasonable as defined in paragraph (b) of this section. However, an exception to the reasonable user rate may be authorized by the FmHA National Office in accordance with paragraph (b) of this section.

(3) When the applicant will be furnishing bulk service to rural residents served by another system, a grant to such applicant may also be considered for an amount to reduce the user costs on a similar basis as provided in this section for users of such other system. An agreement between the applicant and the other system (entity) will be obtained that clearly shows that the benefit of the grant will accrue only to the users intended to be benefited by the grant. For purposes of grant determination, all other systems which will receive bulk service may either:

(i) Be considered as part of the total by averaging the median incomes of the systems involved and averaging the debt service portion for the particular service of the other systems; or

(ii) Consider the median income and the debt service portion for the particular service for each entity separately.

(4) If, after applying the formula described in paragraph (b)(2) of this section, FmHA determines that a reasonable user cost has not been achieved due to unusually high operation and maintenance costs, construction or water acquisition costs, or other factors, FmHA may proceed with a grant in an amount necessary to reduce the user cost to not below a reasonable level as defined in paragraph (b) of this section. However, an exception to the reasonable user rate may be authorized by the FmHA National Office in accordance with paragraph (b) of this section.

(5) If, after applying the formula described in paragraph (b)(2) of this section, FmHA determines that a reasonable average annual cost to the applicant for delivery of service to residential type users has not been achieved, FmHA may proceed with a grant in an amount necessary to reduce such cost to not below a reasonable user rate as defined in paragraph (b) of this section, provided this option is only available to an applicant that imposes uniform user charges for similar classes of service throughout their service area. Reasonable average annual cost to the applicant is defined as that which is not less than existing prevailing costs in communities, being served by an established system, having similar economic conditions.

(6) The median income in the applicant community or those reference communities used in comparing the proposed system with similar systems will be determined by the FmHA District Director as follows:

(i) The median income will be determined from the U.S. Department of Commerce, Bureau of the Census, Publication PC (1)–C series or from reliably extracted unpublished Bureau of Census data for individual enumeration districts; or

(ii) For those projects where the FmHA District Director has reason to believe that the census data is not an accurate representation of the median income within the area to be served, the District Director may determine the median income taking into consideration the following:

(A) Data from responsible public or private sources.

(B) The District Director's knowledge of the community based on available FmHA data gained through individual loans.

(C) The results of a survey conducted by the applicant.

(D) By using a combination of the above.

(7) Preliminary engineering reports and suggested operating budgets included herein will be prepared without taking a grant into consideration.

§ 1942.357 Application review and approval.

(a) When an FmHA loan and grant are being processed simultaneously, the application review and approval procedures outlined in § 1942.5 of Subpart A of Part 1942 will be followed. Grants will be approved in accordance with this Instruction and FmHA Instruction 1901–A which is available in any FmHA Office. When a grant only (no FmHA loan) is being made, only

those provisions will apply which are necessary to assure:

(1) That the proposed development is completed in accordance with approved plans and specifications.

(2) That grant funds are expended for authorized purposes.

(3) That the terms of the grant agreement are complied with.

(b) Each letter of conditions involving a grant will contain the following:

(1) An item which reads:

"You shall execute the attached Form FmHA 1942–31, 'Association Water or Sewer System Grant Agreement.' "

(2) All items contained in § 1942.5 (a) (1) of Subpart A of Part 1942 applicable to the grant funding.

(3) Other relative requirements.

§ 1942.358 Preparation of appraisal reports.

When the grant approval official requires an appraisal, Form FmHA 442–10, "Appraisal Report—Water and Waste Disposal System," with appropriate supplements may be used. Appraisal reports will be prepared by the FmHA engineer or, if desired by the grant approval official, another qualified appraiser.

§ 1942.359 Borrower contracts.

The requirements of § 1942.17 (1) and (3) of Subpart A of Part 1942 will be followed when concurring in agreements between grantees and third parties.

§ 1942.360 Grant approval and obligating funds.

(a) FmHA State Directors are authorized to approve grants being made in accordance with this Subpart and Exhibit B of FmHA Instruction 1901–A which is available in any FmHA Office.

(b) State Directors may obligate funds including Regional Commission grant funds when they are available, in accordance with § 1942.5 (d) of Subpart A of Part 1942.

§ 1942.361 Preparation for grant closing.

Section 1942.6 of Subpart A of Part 1942 will be followed when preparing for grant closing.

§1942.362 Grant closing and delivery of funds.

(a) Grants will be closed in accordance with instructions received from the Office of the General Counsel (OGC). FmHA policy is not to disburse grant funds from the Treasury until they are actually needed by the applicant. Borrower funds will be disbursed before the disbursal of any FmHA grant funds.

(1) FmHA loan funds will be disbursed before the disbursal of any FmHA grant funds except when:

(i) Interim financing of the total FmHA loan amount is arranged,

(ii) All interim funds have been disbursed, and

(iii) FmHA grant funds are needed before the FmHA loan can be closed.

(2) The FmHA loan should be closed as soon as possible after the disbursal of all interim funds; however, the loan should be closed no later than construction completion. If grant funds are available from other agencies and are transferred to the Finance Office for disbursement by FmHA, these grant funds shall be disbursed in accordance with the agreement governing such agencies' participation in the grant. Any grant funds remaining will be handled in accordance with Section 1942.17 (p) (6) of Appendix A of FmHA Instruction 1942–A.

(b) When FmHA is not making a loan, FmHA grant funds will be disbursed by using multiple advances in accordance with § 1942.17 (p) (2) of Subpart A of Part 1942.

(c) Form FmHA 1942–31 will be completed and executed in accordance with the requirements of approval and closing instructions. Both District Directors and State Directors are authorized to sign the grant agreement on behalf of FmHA. For grants that supplement FmHA loan funds, the grant should be closed simultaneously with the closing of the loan. However, when grant funds will be disbursed before loan closing as provided for in paragraph (a) (1) of this section, the grant will be closed not later than the delivery date of the first advance of grant funds. The grant will be considered closed when Form FmHA 1942–31 has been properly executed. Incorporated as a part of this regulation is Form FmHA 1942–31 which appears as Exhibit C in the **Federal Register.**

§ 1942.363 Planning and performing development.

Planning and performing development will be handled in accordance with §§ 1942.9 and 1942.18 of Subpart A of Part 1942.

§ 1942.364 Actions subsequent to loan closing.

Section 1942.8 of Subpart A of Part 1942 will be followed for water and waste disposal development grants.

§ 1942.365 Grant servicing.

Grants will be serviced in accordance with paragraph XIV of FmHA Instruction 451.5.

§ 1942.366 Grant cancellation.

The District Director or State Director may prepare and execute Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," in accordance with the Forms Manual Insert. If the docket has been forwarded to OGC, that office will be notified of the cancellation by a copy of Form FmHA 440–10. The borrower's attorney and engineer, if any, should be notified of the cancellation. The borrower's attorney and engineer may be provided with a copy of the notification to the applicant.

§ 1942.367 Subsequent grants.

Subsequent grants will be processed in accordance with this Subpart.

§ 1942.368 Regional commission grants.

Grants are sometimes made by regional commissions for projects eligible for FmHA assistance. FmHA has agreed to administer such funds in a manner similar to FmHA assistance.

(a) When FmHA has funds in the project, no charge will be made for administering commission funds.

(b) When FmHA has neither loan nor grant funds in the project, an administrative charge will be made pursuant to the Economy Act of 1932 (31 U.S.C. 686). A fee of five percent (5 percent) of the first $50,000 of a regional commission grant and one percent (1 percent) of any amount over $50,000 will be paid FmHA by the commission.

(1) Appalachian Regional Commission. The attached Exhibit A will be followed in determining the responsibilities of FmHA. The Federal Cochairman and the State Director will provide each other with the necessary notification and certification.

(2) Other regional commissions. Title V of the Public Works and Economic Development Act of 1965 authorizes other commissions similar to the Appalachian Regional Commission. The attached Exhibit B will be used to develop a project management agreement between FmHA and the commission separately for each project. The agreement should be prepared by the FmHA State Director as soon as notification is received that a commission grant will be made and the amount is confirmed.

(c) Regional commission grants should be obligated as soon as possible in accordance with § 1942.5(d) of Subpart A of Part 1942 and regional commission grants will be obtained from the Finance Office in the same manner as FmHA funds are obtained.

§ 1942.369 Management assistance.

Grant recipients will be supervised to the extent necessary to assure that facilities are constructed in accordance with approved plans and specifications to assure that funds are expended for approved purposes.

§ 1942.370 State supplements and guides.

This Subpart may be supplemented by State Supplements and guides in accordance with § 1942.16 of Subpart A of 1942.

§ 1942.371 Delegation of authority.

The State Director is responsible for implementing the authorities contained in this Subpart and may redelegate such authority to appropriate FmHA employees.

§ 1942.372 Grant aid information.

Appropriate action should be taken in accordance with Subpart J of Part 1901.

§§ 1942.373–1942.400 [Reserved]

EXHIBIT A

Memorandum of Agreement Between the Federal Cochairman of the Appalachian Regional Commission and the Administrator of the Farmers Home Administration

Part I

Background and Purpose

1.1 The Appalachian Regional Development Act of 1965 (hereinafter also styled the Appalachian Act or ARDA) authorizes a special program to assist the Appalachian Region to meet its special problems and to promote its economic development. Section 214 of the Appalachian Act authorizes, among other assistance, grants for all or any part of the basic Federal contribution to projects under certain Federal grant-in-aid programs upon certain conditions and, in addition, authorizes supplemental grants to basic grants under such Federal grant-in-aid programs; *provided* that in no case shall the total Federal grant be for more than 80 percent of the project cost.

1.2 Section 306(a) of the Consolidated Farm and Rural Development Act (CFRDA) (7 USC 1926) authorizes Farmers Home Administration to make grants for up to 75 percent of the cost of water and waste facility projects. Section 310B of the CFRDA (7 USC 1932) authorizes Farmers Home Administration to make grants (not to exceed $50 million annually) to public bodies for measures designed to facilitate development of private business enterprises including the development, construction or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refinancing, services and fees.

1.3 The purpose of this agreement, between the Federal Cochairman of the Appalachian Regional Commission (ARC) and the Administrator of the Farmers Home Administration (FmHA), is to establish procedures, terms and conditions to facilitate cooperation between the Commission and FmHA. Under these procedures, terms, and conditions ARC will approve grant assistance pursuant to the general provisions and procedures in Sections 214, 223 and 303 of the Appalachian Regional Development Act and will transfer funds therefor to FmHA and FmHA will award, administer, monitor and report upon such grants.

1.4 This agreement is made in furtherance of the responsibilities of the ARC Federal Cochairman under Section 104 of the ARDA and authorized under Section 106(7) of the ARDA which authorizes the ARC to enter into and perform such cooperative agreements, as may be necessary to carry out its functions.

Part II

General Provisions for Transfer of Funds for Use for Projects Approved Under the Appalachian Regional Development Act, Reporting Requirements and Administrative Expenses

2.1 The Federal Cochairman, subject to such conditions and limitations as he or she may prescribe, will from time to time transfer on SF 1151, NonExpenditure Transfer Authorizations, funds to FmHA for the award of grants under Section 214 of the Act approved by the Appalachian Regional Commission pursuant to the provisions and procedures of Section 223, through the framework authority of the CFRDA. The Federal Cochairman will likewise transfer funds for the reasonable administrative expenses of FmHA incident to special basic grants approved under this Act (see Part IV). The Federal Cochairman may withdraw the unobligated balances of any funds transferred to FmHA pursuant to this agreement, or may direct a transfer of any such balances, in whole or in part, from one program account to another.

2.2 It is understood that, notwithstanding the provisions of any other laws, Appalachian assistance may be provided up to the levels of Federal participation authorized in ARDA Section 214, as set forth in this section. ARDA Section 214 provides authority for grants of Federal financial assistance under the Appalachian Act to supplement grant assistance under other Federal grant-in-aid programs including the CFRDA. This assistance can be of two types:

(1) To supplement such Federal grants by providing Appalachian Act funds to add on to such other Federal grant thereby increasing the Federal contribution above the percentage of Federal share authorized for such grant under such basic program; or

(2) Where sufficient funds are not available under a qualifying Federal grant program, to provide Appalachian Act funds to be used for all or part of the basic (or "first dollar") grants of Federal financial assistance under such program.

In either case the total Federal contribution for projects assisted under Section 214 is limited to 80 percent of total project costs.

2.3 The Commission will inform FmHA in writing of each project to be assisted; the amount approved for each, the costs and funding plan on which it premised its approval; and any specific terms, conditions, and limitations thereon not otherwise provided for in this agreement.

2.4 For each project involving transferred funds, FmHA will incorporate, in the grant agreement or other appropriate implementing document, appropriate provisions as necessary to carry out this agreement, to insure compliance with applicable Federal laws and Commission regulations, and to effectuate grant terms and conditions approved by ARC. (See paragraph 3.6(5), Part III of this agreement.) FmHA will also incorporate in each grant agreement or other implementing document, a copy of the applicable Commission approval of Appalachian Act funding and any special conditions thereof and transmit same to the grantee.

2.5 FmHA will furnish to the Commission (a) a copy of all executed grant agreements (or other implementing documents) and amendments thereto, for each project involving transferred funds; (b) copies of such information, data documents, or other materials pertaining to projects as the Commission may require; (c) information on any unusual problems (including degree of enforcement of the Davis-Bacon Act) encountered and any ameliorative action taken; (d) a final report on the costs of each program or project, in sufficient detail to permit a reasonable review of the expenditures and which includes final total eligible project costs, total ineligible project costs, and the amounts of FmHA, ARC and non-Federal funds indicating source, i.e., State or local, used to meet such project costs, as well as FmHA certification that the reported costs are final and in accord with agency program and accounting records; and (e) progress reports, including the following:

(1) Monthly Report. SF 133 "Report on Budget Execution" (OMB Circular A–34).

(2) *Quarterly Report* on the status of the funds transferred to FmHA by ARC, providing for each project the following information:

- Both FmHA and ARC project identification number
- Location of project
- Amount of ARC funds approved by ARC for the project
- Cumulative obligations
- Unobligated balance
- Unliquidated obligation
- Accrual expenditures
- Disbursements

This report shall also provide totals of the above information items so as to show current fiscal year data consistent with amounts reported on SF–133 by FmHA. The information in the report shall be provided in the form and content specified in Attachment A to this Memorandum of Agreement.

(3) *Annual Reports*

(i) Copy of SF–220, "Statement of Financial Conditions," as required by Treasury Circular No. 966, due by October 31, for the year ending September 30.

(ii) Treasury TFS Form 2108, "Statement of Unexpended Balances of Appropriations and Funds," as required by Circular No. 965, due by October 31 for the year ending September 30.

(iii) Copy of "Report on Federal Grants-in-Aid to States," as required by Chapter 7000 of Treasury Fiscal Requirements Manual, due by November 15 for the year ending September 30. (Treasury Circular 1014)

2.6 The Commission may revoke or revise its approval of any program or project if the work intended to be undertaken is not started or placed under contract within 18 months after the date of the grant agreement or contract by FmHA.

2.7 Payments by FmHA involving transferred funds will be made in accordance with this agreement and any specific terms, conditions and limitations prescribed by the Appalachian Regional Commission.

2.8 Subject to paragraphs 2.9 and 2.10, each disbursement of funds for a project receiving assistance from more than one Federal source will be deemed to be a proportionate disbursement from each source.

2.9 (1)(a) Section 224(c) of the Appalachian Act provides that "Funds may be provided for programs and projects in a State under this Act only if the Commission determines that the level of Federal and State financial assistance under Acts other than this Act or the same type of programs or projects in that portion of the State within the region, will not be diminished in order to substitute funds authorized by this Act." (b) Further, Section 224(a)(3) requires that the ARC consider the financial resources available to the State or political subdivisions or instrumentalities thereof which seek to undertake the project (i.e., the relative ability to pay).

(2) Therefore, whenever there is, or it appears that there will be, any change in project funding cost or the project funding plan including, but not limited to, underrun cases, FmHA will inform the Commission promptly of any such change or projected change. Also because of these same provisions, whenever there is such a change, the Commission may, as a result, approve an appropriate increase or decrease in the amount of transferred funds available for such project. Generally, unless the Commission specifically provides otherwise, the provisions in 2.10 shall apply to the cases specified therein.

2.10 If the actual eligible project costs are less than the estimated costs on which the Commission based its approval of a supplemental or special basic grant (or if the non-214 basic federal grant(s) or the non-federal funds are increased for a project without any change in eligible project costs), the amount of Section 214 funds available for the project shall be reduced to the difference between the actual eligible costs and the sum of (i) the non-214 basic grant(s) and (ii) the non-federal funds shown in the approved Section 214 application unless, because of changed circumstances, the Commission directs otherwise.

Part III

Provisions Relating to Procedure for Review and Processing of Grant Applications and Construction Management

3.1 Applications for grant assistance under Section 214 of the Appalachian Regional Development Act (ARDA) will be submitted through the appropriate State Member to the Appalachian Regional Commission (ARC) and to the appropriate state office of the Farmers Home Administration (FmHA).

Where ARDA funds will be requested under the framework of the CFRDA, ARC and FmHA will receive applications for such grant assistance. Such applications will be made on the FmHA forms appropriate to such project and on ARC Form 1. Such applications shall include, but not be limited to:

(1) Description and purpose of the project;

(2) The amount of the basic grant (and the amount of the supplemental grant, where applicable) being requested;

(3) The total project cost;

(4) The amount and source of the non-Federal share, including the method of obtaining such funds; and

(5) Whether an application for the proposed project has been filed with any Federal grant-in-aid agency, the date of filing, the identification of the agency and the current status of the application.

Such applications will be processed in general accord with the applicable procedural regulations of FmHA and ARC, unless otherwise provided in accordance with Section 223 of the ARDA.

3.2 If a project proposed to the Commission appears to qualify for funding under the ARDA and CDRDA, the Commission will request in writing that FmHA provide the following:

(A) For all Grants:

A certification that the level of FmHA financial assistance which would otherwise be available for projects in that portion of the State within the Appalachian Region will not be diminished in order to substitute ARC funds; and

(B) *For Supplemental Grants—in addition to the requirement above:*

A Notification that FmHA will approve a CFRDA grant and certification of the amount of FmHA assistance to be provided and the portion of eligible project costs which that assistance will meet; and

(C) *For Special Basic Grants—in addition to the requirement of (A) above:*

(1) a certification that the project is not incompatible with the statutory provisions and objectives of the (CFRDA);

(2) a certification that there are no FmHA funds available for the projects within the current fiscal year allocations and priorities; and

(3) advice as to when FmHA grant funds are likely to or will become available for such project under its funding program.

(D) Should FmHA fail to give the certification in (C)(1) above, FmHA shall state specifically the reasons therefor.

3.3 The FmHA State office and the Commission will arrange to keep each other informed of the progress of their respective processing, will exchange appropriate information, and will advise each other of any apparent, significant problems which may cause delay in processing or which may preclude, delay or affect approval.

3.4 In accordance with Section 223 of the ARDA, the ARC will review the project application to determine that the project:

(1) meets the applicable criteria under Section 224 of the ARDA;

(2) meets the requirements of the development planning process under Section 225 of the ARDA;

(3) will contribute to the development of the Region; and

(4) is well designed to meet the goals and objectives established by the Commission for the development of the Region.

3.5 After consideration of the reviews conducted by FmHA and ARC, the ARC Federal Cochairman will approve grants under Section 214 and advise FmHA in writing as provided in paragraph 2.3 of Part II. Announcement of approval will be made by ARC at the time of this determination by the ARC Federal Cochairman.

3.6 The Administrator of the FmHA or his delegate shall make grant awards after ARC approval under paragraph 3.5 of this Part, and accept responsibility for:

(1) The payment of grant funds;

(2) The full and accurate reporting of grant expenditures by grantees;

(3) Provision of complete and accurate fiscal reports to the ARC. This shall be accomplished in accordance with grant terms and conditions jointly determined by FmHA and ARC;

(4) General grant administration; and

(5) The ensurance of compliance with all applicable laws, including, but not limited to, Title VI of the Civil Rights Act of 1964, including regulations in 15 CFR, Subtitle A, Part 8; the National Environmental Protection Act; Section 112 of the Public Works and Economic Development Act of 1971 (42 U.S.C. 3123), the Davis-Bacon Act (40 U.S.C. 27a *et seq.*); Parts II, III, IV of Executive Order 11246, regulations of the Department of Labor (41 CFR, Chapter 60); Sections 224(b), 302(e) and 402 of the Appalachian Act; and ARC Code Section 200C–1 regarding employment of local labor, and any other applicable Federal laws and regulations. Copies of Sections 224(b), 302 and 402 of the ARDA and of ARC Code Section 200C–1 are included as Attachment A to this agreement.

3.7 FmHA shall take all practical steps to insure that ARC's grants (in the combined amount of the basic and supplementary grants, where applicable) are obligated within the fiscal year in which they are approved.

3.8 FmHA will administer the projects, after the grants are made, in general accordance with its procedural regulations unless otherwise provided in accordance with Section 223 of the ARDA.

3.9 (A) The forms and format for the documents shall conform to the requirements in FmHA regulations. Generally, the following items shall be included:

(1) Contract documents

(2) Specifications

(3) Plans

(B) FmHA will approve the plans and specifications.

(C) FmHA will obtain a nonpollution certificate from the appropriate State agency for 306(a) type of assistance.

(D) FmHA will make periodic inspections.

(E) Contract change orders will not become effective until approved by FmHA.

(F) Final inspection will be conducted by FmHA.

Part IV

Administrative Expenses

(A) It is agreed that in cases where there are no FmHA funds involved, the total costs of services to be performed on each project by FmHA will be five percent of the ARC grant up to $50,000 and an additional one percent of any amount over the first $50,000 of the Commission grant.

(B) All funds for grant and administrative costs will be provided to FmHA by SF 1151.

(C) FmHA shall report administrative expenses in the manner similar to that use in Attachment B.

Dated: March 8, 1979.
Appalachian Regional Commission.
Robert W. Scott,
Federal Cochairman.

Dated: February 15, 1979.
Farmers Home Administration.
Gordon Cavanaugh,
Administrator.

§ 224 *Program development criteria.*

(b) No financial assistance shall be authorized under this Act to be used (1) to assist establishements relocating from one area to another; (2) to finance the cost of industrial plants, commercial facilities, machinery, working capital, or other industrial facilities or to enable plant subcontractors to undertake work theretofore performed in another area by other subcontractors or contractors; (3) to finance the cost of facilities for the generation, transmission, or distribution of electric energy; or (4) to finance the cost of facilities for the production, transmission, or distribution of gas (natural, manufactured, or mixed).

(c) Funds may be provided for programs and projects in a State under this Act only if the Commission determines that the level of Federal and State financial assistance under Acts other than this Act for the same type of programs or projects in that portion of the State within the region, will not be diminished in order to substitute funds authorized by this Act.

§ 302. *Grants for administrative expenses of local development districts and for research and demonstration projects.*

(a) The President is authorized—

(1) to make grants to the Commission for administrative expenses, including the development of areawide plans or action programs and technical assistance activities, of local development districts, but (A) the amount of any such grant shall not exceed 75 per centum of such expenses, (B) no grants for administrative expenses shall be made for a State agency certified as a local development district for a period of excess of three years beginning on the date the initial grant is made for such development district, and (C) the local development district contributions for administrative expenses may be in cash or in kind, fairly evaluated, including but not limited to space, equipment, and services;

(2) to make grants to the Commission for assistance to States for a period not in excess of two years to strengthen the State development planning process for the region and the coordination of State planning under this Act, the Public Works and Economic Development Act of 1965, as amended, and other Federal and State programs; and

(3) to make grants to the Commission for investigation, research, studies, evaluations, and assessments of needs, potentials, or attainments of the people of the region, technical assistance, training programs, demonstrations, and the construction of necessary facilities incident to such activities, which will further the purposes of this Act. Grant funds may be provided entirely from appropriations to carry out this section or in combination with funds available under other Federal or Federal grant-in-aid programs or from any other source. Notwithstanding any provision of law limiting the Federal share in any such other program, funds appropriated to carry out this section may be used to increase such Federal share, as the Commission determines appropriate.

(b)(1) Notwithstanding the provisions of section 224(b) (2), (3), or (4), the Commission may provide assistance under this section for demonstrations of enterprise development, including site acquisition or development where necessary for the feasibility of the project, in connection with the development of the region's energy resources and the development and stimulation of indigenous arts and crafts of the region. No more than $3,000,000 shall be obligated for such energy resource related demonstrations in any fiscal year, and no more than $2,500,000 shall be obligated for such indigenous arts and crafts demonstrations.

(2) In carrying out the purposes of this Act, including section 2(b), and in implementing this section, the Federal Energy Administration, the Energy Research and Development Administration, the Environmental Protection Agency, and other Federal agencies shall cooperate with the Commission and shall provide such assistance as the Federal Cochairman may request.

(3) The Commission shall conduct a study and report on the status of Appalachian migrants in the destinations to which they have migrated, current migration patterns and implications, and the impact which the Commission program has had, and the potential for such impact, on out-migration and the welfare of Appalachian migrants. The Commission is authorized to conduct pilot projects and demonstrations within the region in connection with such study.

(4) The Commission shall conduct a study of physical hazards which are constraints on land use in the Appalachian region (with emphasis on mudslides, landslides, sink holes, and subsidence) and the risks associated with such hazards. To the extent practicable, such study shall identify high-risk hazard areas throughout the Appalachian region. The Commission shall submit its report on such study together with recommendations for means to remove or avoid such constraints on land use, to the Congress not later than twenty-four months after the enactment of this paragraph.

(c)(1) The Commission shall, as required by the President, maintain accurate and complete records of transactions and activities financed with Federal funds and report thereon to the President. The records of the Commission shall be available for audit with respect to such grants by the President and the Comptroller General or their duly authorized representatives.

(2) Recipients of Federal assistance under the provisions of this section shall, as required by the Commission, maintain accurate and complete records of transactions and activities financed with Federal funds and report thereon to the Commission. Such records shall be available for audit by the President, the Comptroller General, and the Commission or their duly authorized representatives.

(d) Not to exceed $11,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1960, shall be available to carry out this section. Not to exceed $3,000,000 of such authorization shall be available for the purposes of subsection (b).

(e) No part of any appropriated funds may be expended pursuant to authorization given by this Act involving any scientific or technological research or development activity unless such expenditure is conditioned upon provisions effective to insure that all information, copyrights, uses, processes, patents, and other developments resulting from that activity will be made freely available to the general public. Nothing contained in this subsection shall deprive the owner of any background patent relating to any such activity, without his consent, of any right which that owner may have under that patent. Whenever any information, copyright, use, process, patent or development resulting from any such research or development activity conducted in whole or in part with appropriated funds expended under authorization of this Act is withheld or disposed of by any person, organization, or agency in contravention of the provisions of this subsection, the Attorney General shall institute, upon his own motion or upon request made by any person having knowledge of pertinent facts, an action for the enforcement of the provisions of this subsection in the district court of the United States for any judicial district in which any defendant resides, is found, or has a place of business. Such court shall have jurisdiction to hear and determine such action, and to enter therein such orders and decrees as it shall determine to be required to carry into effect fully the provisions of this subsection. Process of the district court for any judicial district in any action instituted under this subsection may be served in any other judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any such action is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

§ 402. *Applicable labor standards.*

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are financially assisted through the Federal funds authorized under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 2 of the Act of June 13, 1934, as amended.

Chapter 200C Other Provisions of General Application

Section 200C–1 Recommended Policy on Use of Local Labor.

Section 200C–1.1 Federal Agencies. The Commission recommends that heads of Federal Departments and Agencies administering programs of construction with the aid of funds authorized by or in connection with the Appalachian Regional Development Act of 1965 adopt regulations to assure the use of local labor, to the maximum extent practicable, in the implementation of such programs. (Res. 31)

Section 200C–1.2 Contractors. The Commission recommends that—

(1) Every contractor or subcontractor undertaking to do work on any project assisted under the Act which is or reasonably may be done as onsite work, in carrying out such contract work shall give preference to qualified persons who regularly reside in the labor area as designated by the United States Department of Labor wherein such project is situated, or the subregion, or the Appalachian counties of the State wherein such project is situated, except:

(a) To the extent that qualified persons regularly residing in the area are not available;

(b) For the reasonable needs of any such contractor or subcontractor, to employ supervisory or specially experienced individuals necessary to assure an efficient execution of the contract; or

(c) For the obligation of any such contractor or subcontractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, *Provided* that in no event shall the number of non-resident persons employed under this subparagraph (c) exceed 20 percent of the total number of employees employed by such contractor and his subcontractors on such projects.

Every such contractor and subcontractor shall furnish the appropriate United States Employment Service offices with a list of all positions for which it may from time to time require laborers, mechanics and other employees; and

(3) Every such contractor and subcontractor shall be required to furnish periodic reports to the contracting agency on the extent to which local labor has been used in carrying out such contract work. (Res. 31)

Exhibit A

Attachment B.—*U.S. Department of Agriculture; Farmers Home Administration—Finance Office*

Attachment To Accompany Standard Form 133, September 30, 1978,

Appropriation: 12–11x0090—Appalachian Regional Development Program, Executive (Transfer to Agriculture)

State and Location	ARC No.	Paid	Unpaid	Obligation
	Section 214			
Alabama:				
Athens	6373		$150,000	$150,000
Brent	3743			−2,601
Central	5933	$255,000		255,000
Colbert	5366		500,000	
East Lauderdale	3985	367,000		
North East Alabama	4061	513,000	72,000	
Georgia:				
Barrow	5726		89,000	
Chatsworth	3518		258,000	
Chickamauga	5836		450,000	450,000
Lavonia	6182		247,000	247,000
Pettit Creek	4810		300,000	
Union	5718		104,003	
Winder	4774	90,000		
Kentucky:				
Abbott—Little	6389		150,000	150,000
Adair	5625	271,600	378,400	
Bath	4973	105,000		
Beattyville	3706	60,000	100,000	
Benham	4064	260,000		
Booneville	6108		181,000	181,000
Campton	3269A&B	2,900		
David	4892	56,000		
			19,000	
East Clark	4807		275,000	
Fivco	4152		238,000	
Flatwoods	4908		173,500	
Garrard	5585		100,000	
Green Taylor	6253		257,000	257,000
Greenup	3824	235,000	45,000	
Harlan	4893		8,420	
Hindman	5126	123,911	72,089	
Industrial Utility	3877	40,000	50,000	
Jackson	5797		350,000	350,000
Liberty	3976	200,000		

Attachment B.—*U.S. Department of Agriculture; Farmers Home Administration—Finance Office*

State and Location	ARC No.	Paid	Unpaid	Obligation
Section 214—Continued				
London	6406		300,000	300,000
Manchester-Goose Rock	4910		220,000	
Monroe	5389		180,000	
Morehead	6407		510,000	510,000
Morris Creek	3428	21,000	29,000	
Northern Rockcastle	5560		64,000	
Quicksand	3720	16,330	38,802	
Rockcastle	3658		139,000	
Rowan	4911	42,000		
Russell	4962	135,000	20,000	
Sandy Hook	4293	310,000	187,600	
Shelby	5134		120,000	
Water Gap-Bull Creek	5459		110,000	
Western Fleming	6175		217,500	217,500
Maryland:				
Corriganville	6116		523,400	523,400
Eckhart	5840		230,000	
Friendville	2850		39,200	
Frostburg	5099		408,800	
Gorman	5640		85,500	
Kitzmiller	5638		253,000	
Mississippi:				
Alcorn County	6068		115,000	115,000
Baldwyn	4880		31,800	
Blue Mountain	6070		150,000	150,000
Booneville	4879		68,200	
Byhalia	5388 A&B	100,000	56,000	
Clay	6444		60,000	60,000
ECRU Pontotoc County	6045		41,000	41,000
	4001			
Golden Triangle:				
Lowndes			2	
Winston			—1	
Mantachie	5378		187,000	
Marshall	5409		153,346	
Northeast Collection and Disposal System	4046		38	
Okolona	6047		110,000	110,000
Oktibbeha	6445		44,000	44,000
Potts	5460		138,000	
Rienzi	4782	122,000	29,100	
Saltillo	5377	40,000	72,000	
Short-Coleman	4881		300,000	
Tippah	5030		200,000	50,000
Tishomingo	4781	180,000		
Tishomingo	6069		80,000	80,000
Tremont	6095		105,000	105,000
New York				
Cattaraugus	4281		225,160	
Cortlandville	5004	30,000		
Erwin Shell	6173		152,000	152,000
Franklinville	4914		120,000	
Hobart	6222		109,425	109,425
Hornell	5620	376,000		
Hornell	5940		400,000	400,000
Industrial waste	5663		240,000	
Kirkwood	5324	135,000		
Marathon	4283 B		67,434	
Port Dickinson	5511	104,800		
Salamanca	5008		395,000	
Schuyler	4721		15,000	
Sidney	5442		438,120	
Tompkins	3010		20,048	
Waverly	4951		400,000	
Watkins Glen	6080		48,000	48,000
Wayland	3724			—48,000
North Carolina:				
Arlington	3203	10,500	42,930	
Banner Elk	5290		311,000	
Blowing	4506	300,000		
Buncome County	5295		350,000	
Burke	4508		300,000	
Hudson	5960		45,000	45,000
Morganton	5958		264,800	264,800
Newland	4889A&B		205,000	
Salem	4513	325,000		
Valdese	5289		324,000	
Walnut Cove	3205		106,426	
Yadinville	3204	48,867	28,603	
Ohio:				
Bowerston	6119		339,000	33,000
Byseville-Cuernsey	6197		150,000	150,000
Carrollton	3021	25,000		
Greenfield—phase I	4275		200,000	
Muskingum County	4260		125,000	
North Zanesville	4246		125,000	
Perry	3741		300,000	
Village of Zoar	4563		139,000	
Washington County	4329	107,520		

Attachment B.—*U.S. Department of Agriculture; Farmers Home Administration—Finance Office*

State and Location	ARC No.	Paid	Unpaid	Obligation
Section 214—Continued				
Pennsylvania:				
Barkeyville Borough	6023		398,400	398,400
Bedford	3637		35,000	
Berlin	6013		370,000	370,000
Curryville	6103		19,000	19,000
Indiana	5489		330,000	330,000
Lewis Run	4718	346,750	181,250	
Reynoldsville	4775		225,000	
Somerset Borough	5695		181,000	
Woodland	6029		206,955	206,955
South Carolina:				
Enoree	5738	51,000		
Greer	5724		455,200	
Honea Path	6428		143,500	143,500
Walhalla	6431		480,000	480,000
Tennessee:				
Alcoa/Blount	5611		500,000	
Anderson County	4248	1,000,000		
Bean Station	6102		106,590	106,590
Big Creek	6123		261,300	261,300
Bradley	4862		490,000	
Bradley Industrial Park	6421		490,000	490,000
Bristol	5702		500,000	
Bristol	4006		625,000	
City of Clinton	4175	240,000		
Clay/Jackson	5097	98,000		
Cleveland	6211		146,390	146,390
Clinton Community Center	4891	240,000		
Clinton Wastewater	6148		146,000	146,000
Clinton Water	6146		272,000	272,000
Coffee County	4182		10	
Collegedale	5652		59,500	
Crossville	3480	150,000	50,000	
Decatur	6122		550,000	550,000
Dixie Lee	6101		143,500	143,500
Franklin Industrial	4858		522,000	
Gatlinburg	5655	395,500		
Greene County	6300		159,000	159,000
Greenville	6297		132,500	132,500
Greenville	5653		160,100	
Hamilton	5819		91,200	
Hawkins County	6100		150,000	150,000
Hermitage Springs	5824		86,250	
Jackson Industrial	5825	18,000	28,080	
Jasper	5827		500,000	
Johnson City	5826		500,000	
Johnson City, Phase II	3952		363,900	
Kingsport	6299		500,000	500,000
Knox County, Phase II	5613	199,500	380,500	
Knox County, Phase III	6150		500,000	500,000
Lafollette	6151		501,000	501,000
Lenior City, Phase II	4907		213,400	
Macon County, Part B	4913	15,000		
Madisonville	6298		400,000	400,000
Madisonville	5654	260,000		
McMinnville	6126		500,000	500,000
Morristown-Water	4906	196,200		
Mountain City	3969	258,000		
North Anderson	5701		720,000	
Oliver Springs	5822	20,000	204,000	
Pickett County	6137		463,000	463,000
Pikeville Industrial	4258	105,000		
Polk County	5704		174,245	
Rockwood Library	5690		159,100	
Rockwood Water	6147		500,000	500,000
Rutledge	5699		382,300	
Sevierville	6210		291,500	291,500
Smithville	5703		500,000	
Sneedville	4895	100,000		
South Carthage Sewer	6149		500,000	500,000
Sparta Sewer	4896		420,160	
Tri-City Airport	5612		200,000	200,000
Tullahoma Industrial	5823	59,500		
U of Tennessee Space Institute:				
Research	4193		94,200	
Water Storage	4898	26,100		
Union County	5705		281,000	
Valley Industrial	5706		276,000	
Washington	2000		54,000	
West Hamblen County	6138		500,000	500,000
Virginia:				
Bath	5773		101,300	
Big Stone	6167		1,020,200	1,020,200
Bluefield	4837		47,855	
Botetourt County	3895		350,000	
Buchanan County	5774		750,000	
Buchanan County	3897 A&B		2,418,400	
Cumberland	6170		120,200	120,200
Duffield	5964		776,377	776,377

Attachment B.—*U.S. Department of Agriculture; Farmers Home Administration—Finance Office*

State and Location	ARC No.	Paid	Unpaid	Obligation
Section 214—Continued				
Fincastle	4850	80,905	50,010	
Floyd County landfill	6384		127,300	127,300
Foote Mineral	4842		13,420	
Gate City	6168		208,100	208,100
Giles	5781		65,200	
Highland County	4841	107,000		
Hillsville	6169		259,700	259,700
Ivanhoe	6005		20,000	20,000
John Flannagan	3896		322,500	
Norton-Wise	4225		283,000	
Pound	2152		75,000	
Pulaski County	5775	743,000	257,000	
Pulaski County	4838	272,800		
Rural Retreat	6166		76,900	76,900
Troutville	5779		119,900	
Washington County	6385		958,400	958,400
West Virginia:				
Chestnut Ridge	4509	15,000		
Clay Battelle	5285		189,000	
Elkins Road	6160		522,000	522,000
Fenwick Mountain	5313	137,000	100,000	100,000
Gauley River	6192		143,500	143,500
Hamrick	4364	24,500		
Hodgesville	5314		122,000	
Masontown	4361		112,000	
Middle Bourne	6163		455,000	455,000
Muddlety-Glade	6194		446,000	446,000
Page-Kincaid	6159		582,000	582,000
Parsons	3103		194,000	
Paw Paw	4878		84,500	
Wilderness	5273		320,000	
Williamson	6000		519,000	519,000
Total grants		10,217,203	47,263,937	20,950,336
Total line 4A (+)				2,641
Administrative expenses				
12-11X0090 (schedule A)				
Current year (22 projects)		$0	$92,489	$92,489
Prior year (24 projects*)		84,680	19,109	−40
12-135/82051 (schedule B) current year		0	0	0
Total				
Total line 8				$21,045,426
Total line 13C			$47,375,535	
Total line 14		10,301,883		
Administrative Expenses				
Georgia: Barrow*	5726	2,890		
Kentucky: Rockcastle*	3658		1,440	
Mississippi:				
Clay	6444		2,600	2,600
Marshall*	5409	3,533		
Oktibbeha County	6445		2,200	2,200
New York:				
Erwin Shell	6173		3,520	3,520
Franklinville*	4914	3,200		
Hobart	6222		3,094	3,094
Hornell*	5620	5,760		
Hornell	5940		6,000	6,000
Industrial Waste*	5663	4,400		
Watkins Glen	6080		2,400	2,400
Ohio: Washington County*	4329	328		
Pennsylvania: Somerset Borough*	5695	3,810		
South Carolina: Greer*	5724	6,552		
Tennessee:				
Anderson County*	4248	10,000		
Bean Station	6102		3,066	3,066
Bradley	6421		6,900	6,900
Bristol*	5702		7,000	
Clay/Jackson*	5097	2,980		
Cleveland	6211		3,464	3,464
Clinton Wastewater	6148		3,460	3,460
Clinton Water	6146		4,720	4,720
Collegedale*	5652		2,595	
Cumberland County	6209		2,175	2,175
Gatlinburg*	5655	5,955		−40
Greene County	6300		3,590	3,590
Greenville	6297		3,325	3,325
Greenville*	5653	3,601		
Hamilton*	5819	2,912		
Hawkins County	6100		3,500	3,500
Johnson*	5826	7,000		
Kingsport	6299		7,000	7,000
Knox*-Phase II	5613	7,800		

Attachment B.—*U.S. Department of Agriculture; Farmers Home Administration—Finance Office,*

State and Location	ARC No.	Paid	Unpaid	Obligation
Administrative Expenses				
Knox-Phase III	6150		7,000	7,000
Lenoir City*-Phase II	4907		4,134	
McMinnville	6126		7,000	7,000
Rockwood Library*	5690	3,591		
Tri-City Airport	5612		4,000	4,000
Tullahoma Industrial*	5823	2,595		
Valley Industrial*	5706	4,760		
West Hamblen County	6138		7,000	7,000
Virginia:				
Bath*	5773	3,013		
Cumberland	6170		3,202	3,202
Floyd County Landfill	6384		3,273	3,273
West Virginia: Parsons*	3103		3,940	
Total		84,680	111,598	92,449

*Prior year obligations.

FmHA Instruction 1942–H Exhibit B

Project No.

Project Management Agreement Between the ———— Regional Commission and the Farmers Home Administration, Department of Agriculture Pertaining to ————. (grantee) ———— County, ————.

I Introduction

A. The ———— Regional Commission is providing a basic grant for ———— (purpose) to ———— (grantee), and the U.S. Department of Agriculture, Farmers Home Administration (FmHA) has approved and will administer that grant. The FmHA has determined that funds cannot be made available under its funding program for this fiscal year for the project although it meets all the requisites for assistance under Section 306(a) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926). In order to accomplish these purposes, the ———— Regional Commission's Federal Cochairman and the FmHA State Director hereby enter into this Memorandum of Understanding which is in accordance with 31 U.S.C. 686.

B. This agreement is intended to cover the application phase, construction phase, and final audit.

II General

A. *Project Cost.* The project costs for the purposes of this agreement shall include the costs of construction, technical services, legal services, land acquisition, permits and rights-of-way, interest during construction, and contingencies.

B. *Grant.* The ———— Regional Commission shall make a basic grant of $———— up to but not exceeding ——% of the total cost of the project. These funds will be transferred to the Treasury Account of the Farmers Home Administration by Standard Form 1151, "Nonexpenditure Transfer Authorization."

C. The undersigned FmHA State Director on behalf of FmHA, in concurring with this Project Management Agreement, hereby assures the Federal Cochairman that: 1. The estimated cost of the project is reasonable and the basic grant, with the funds to be supplied by the applicant, is, in FmHA's judgment, sufficient to complete the project.

2. The funds to be supplied by the applicant are available or FmHA is reasonably satisfied that the applicant has the capability of supplying such funds.

3. FmHA is reasonably satisfied that the facility will be properly and efficiently administered, operated, and maintained and that the applicant will provide sufficient funds to assure the successful and continuing operation of the facility.

D. The ———— (grantee) is subject to Executive Order 11246 and will be required to evidence compliance by execution of the following:

1. Form FmHA 400–1, "Equal Opportunity Agreement."

2. Form FmHA 400–4, "Nondiscrimination Agreement."

E. The ———— (grantee) shall execute assurances of nonrelocation.

III Construction Management

A. The forms and format for the documents shall conform to the requirements in FmHA Instruction 1942–A. Generally, the following items shall be included.

1. Contract Documents
2. Specifications
3. Plans

B. FmHA will approve the plans and specifications.

C. FmHA will obtain a certification of adequacy from the Federal Environmental Protection Agency.

D. FmHA will obtain a non-pollution certificate from the ———— (state) ———— (agency).

E. FmHA will make monthly inspections.

F. Contract change orders will not become effective until approved by FmHA.

G. Final inspection will be conducted by FmHA.

IV Financial Management

A. Financial Management of the project shall be according to FmHA Instruction 1942–A.

B. FmHA will provide the ———— Regional Commission with a copy of the audit report.

C. If actual costs fall below the costs on which the grant was calculated, the Federal and non-Federal shares will be reduced proportionately.

D. FmHA will conform to the financial reporting requirements for transferred funds as required by the attached copy of "Reporting of Funds Transfer by Participating Agencies."

V Compensation

Services rendered by FmHA for the processing and administration of Commission grants in cases where neither FmHA loan nor grant funds are involved shall be on a reimburseable basis. Reimbursement will be based on five percent (5%) of the amount of the grant up to $50,000 and an additional one percent (1%) of any amount over the first $50,000 of the Commission grant. The full amount of the reimbursement will be transferred to FmHA at the time the grant funds are transferred to FmHA.

VI No provisions in this agreement shall abrogate the legal reguirements of administrative responsibilities as set forth in the Consolidated Farm and Rural Development Act or Section 509 of the Public Works and Economic Development Act of 1965, as amended.

For the ———— Regional Commission.

———————

(name) Federal Cochairman ————, 19—.

For the Farmers Home Administration, USDA

———————

(name) State Director ————,19—.

Exhibit C

United States Department of Agriculture
Farmers Home Administration
Association Water or Sewer System Grant Agreement

This Agreement dated ————, 19—, between

———————

a public corporation organized and operating under

(Authorizing Statute)
herein called "Grantee," and the United States of America acting through the Farmers Home Administration, Department of Agriculture, herein called "Grantor,"
WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (sewer) system to serve the area under its jurisdiction at an estimated cost of $———— and has duly authorized the undertaking of such project.

Grantee is able to finance not more than $———— of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of $———— has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed $———— or ———— percent of said development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the Conditions of the grant.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 306(a) of The Consolidated Farm and Rural Development Act for the purpose only of defraying a part not to exceed ——— percent of the development costs, as defined by applicable Farmers Home Administration instructions.

Grantee Agrees That Grantee Will:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes of service, adopted by resolution date ————, 19—, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute Form FmHA 400–1, "Equal Opportunity Agreement," and to execute Form FmHA 400–4, "Nondiscrimination Agreement," and to execute any other agreements required by Grantor which Grantee is legally authorized to execute. If any such form has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another form of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated hereinabove with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant progrms or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(c) The Grantee may be directed to tansfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

L. Abide by the following conditions pertaining to nonexpendable personal property which is furnished by the Grantor or acquired wholly or in part with grant funds. Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

1. Use of nonexpendable property.

(a) The Grantee shall use the property in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the property in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the FmHA.

(2) Activities sponsored by other Federal agencies.

(b) During the time that nonexpendable personal property is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the property was originally acquired. First preference for such other use shall be given to FmHA sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of nonexpendable property. When the Grantee no longer needs the property as provided in paragraph (a) above, the property may be used for other activities in accordance with the following standards:

(a) Nonexpendable property with a unit acquisition cost of less than $1,000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The Grantee may retain the property for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the property exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the property and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the property elsewhere the Grantee shall be reimbursed by the benefitting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the property, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for nonexpendable personal property shall also include:

(a) Property records which accurately provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage (at the end of budget year) of Federal participation in the cost of the project for which the property was acquired; location, use and condition of the property and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(e) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described nonexpendable property (use continuation sheets as necessary).

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in sufficient detail to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentalities of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. In construction contracts in excess of $2,000 and in other contracts in excess of $2,500 which involve the employment of mechanics or laborers, to include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR, Part 5).

U. To include in all contracts in excess of $100,000 a provision that the contractor agrees to comply with all the requirements of Section 114 of the Clean Air Act (42 U.S.C. § 1875C–9) and Section 308 of the Water Pollution Control Act (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. Such regulations and guidelines can be found in 40 CFR 15.4 and 40 FR 17126 dated April 16, 1975. In so doing the Contractor further agrees:

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR 15.20 as of the date of contract award.

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant,

agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed $———— which it will advance to Grantee to meet not to exceed —— percent of the development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Ageement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized ———— and attested and its corporated seal affixed by its duly authorized

_____

_____

_____

Attest:

_____

By_____

By_____

(Title)_____

(Title)_____

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION

By_____

(*Title*)_____

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

A copy of the Final Impact Analysis prepared by FmHA is available in the Office of the Chief, Directives Management Branch, Room 6346, South Building, Washington, D.C. 20250. This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Authorities: 7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

Dated: May 4, 1979.

Gordon Cavanaugh,

Administrator Farmers Home Administration.

[FR Doc. 79–14539 Filed 5–9–79; 8:45 am]

BILLING CODE 3410–07–M

Proposed Rules

Federal Register
Vol. 44, No. 92
Thursday, May 10, 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 AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 911 and 944]

Limes Grown in Florida and Imported Limes; Proposed Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposal which would extend the current grade and size requirements for Florida limes and imported limes through April 30, 1980. Under the current regulation these requirements would expire June 17, 1979. The proposed extension of these requirements is designed to assure the continued shipment and importation of ample supplies of limes of acceptable grades and sizes for the rest of the 1979–80 season, in the interest of producers and consumers.

DATES: Comments must be received on or before June 4, 1979.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: Section 911.341 Lime Regulation 39, and § 944.206 Lime Regulation 7, which were published in the April 26, 1979, issue of the **Federal Register** (44 FR 24561), set forth grade and size requirements for limes grown in Florida and for limes imported into the United States for the period May 1, through June 17, 1979. The Florida lime regulation was issued under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 43 FR 39319), regulating the handling of limes grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The lime import regulation was issued under § 8e (7 U.S.C. 608e–1) of this act, which requires that when specified commodities, including limes, are regulated under a federal marketing order, imports of the commodity must meet the same or comparable grade, size, quality, or maturity requirements as those for the domestically produced commodity. The regulation applicable to limes grown in Florida was based on information submitted by the Florida Lime Administrative Committee, which requested that the regulatory requirements be effective for the entire 1979–80 season, and upon other available information. This proposed rule would amend both the Florida and import lime regulations, to extend them for the rest of the 1979–80 season. These proposed amendments have not been determined significant under the USDA criteria for implementing Executive Order 12044.

Under these proposed amendments, both Florida limes and imported limes would need to continue meeting the following minimum requirements: *True "seeded" limes*—U.S. No. 2 grade, except as to color, with no minimum size; and *Persian "seedless" limes*—U.S. Combination, Mixed Color, except that stem length is not considered a factor of grade, and a minimum diameter of 1¾ inches. Florida limes shipped within the production area would be exempted from the grade requirements, if they have at least 42% juice content and are in containers not authorized for shipment of Florida limes out of the production area. Appropriate packing tolerances, with reaspect to the minimum size requirement, for limes smaller than 1¾ inches apply.

Production of Florida limes for the 1979–80 season is expected to amount to about 1,800,000 bushels, a level which indicates a complete recovery from the 1977 freeze. About 900,000 bushels of Florida limes are expected to be shipped to fresh markets in 1979–80, with the remainder of the crop being utilized in processing. Mexico is expected to continue supplying substantial quantities of limes to the U.S. market, during the 1979–80 season. More than adequate supplies of limes should be available to fill domestic fresh market demands.

The proposal is that § 911.341 Lime Regulation 39, and § 944.206 Lime Regulation 7, be amended to read as follows:

§ 911.341 Lime Regulation 39.

(a) During the period June 18, 1979, through April 30, 1980, no handler shall handle:

(1) Any limes of the group known as true "seeded" limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 Grade for Persian (Tahiti) Limes, except as to color: *Provided,* That true limes, grown in the production area, which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and the minimum juice content requirement prescribed in the U.S. Standards for Persian (Tahiti) Limes, and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area and any point outside thereof;

(2) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which do not grade at least U.S. Combination, Mixed Color: *Provided,* That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the U.S. Standards for Persian (Tahiti) Limes shall apply: *Provided further,* That Persian limes, grown in the production area, which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and meet the same minimum juice content requirement prescirbed in the U.S. Standards for such limes and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area any point outside thereof; or

(3) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which are of a size smaller than 1¾ inches in diameter: *Provided,* That not more than 10 percent, by count,

of the limes in any lot of containers, other than master containers of individual bags, may fail to meet the applicable minimum size requirement: *Provided further,* That no individual container of limes having a net weight of more than four pounds may have more than 15 percent, by count, of the limes which fail to meet such applicable size requirement.

(b) Terms used in this section shall have the same meaning as in the marketing order, and terms relating to grade and diameter shall have the same meaning as in the U.S. Standards for Persian (Tahiti) Limes (7 CFR 2851.1000–1016).

§ 944.206 Lime Regulation 7.

(a) *Applicability to imports.* Pursuant to § 8e of the act, Part 944—Fruits; Import Regulations, the importation into the United States of any limes is prohibited during the period June 18, 1979, through April 30, 1980, unless such limes meet the minimum grade and size requirements specified in § 911.341 Lime Regulation 39.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Divison, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of limes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of limes, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Requred Inspection of Certification (7 CFR Part 944; 43 FR 19340).

(c) *Minimum quantity exemption.* Any person may import up to 250 pounds of limes exempt from the requirements specified in this section.

Dated: May 7, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-14621 Filed 5-9-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 912]

Grapefruit Grown in the Indian River District in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposed amendment which would modify procedures for nominating committee members, to permit nominations by methods other than use of written ballots when only one person is nominated for a member or alternate member position on the committee. This proposed action is intended to make it easier to elect nominees in such instances, thereby facilitating the conduct of nomination meetings.

DATES: Comments must be received on or before May 25, 1979. Proposed effective date: June 4, 1979.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This proposed rule is issued under the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida. 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 recommendations and information submitted by the Indian River Grapefruit Committee, and upon other available information. The committee reports that it is time consuming and not necessary to vote by written ballot when only one person is nominated for a particular position on the committee. As § 912.120 *Nomination procedure* currently requires a written ballot for each position to be filled on the committee, it is proposed that this section be amended to permit alternative methods of voting, when only one person is nominated for a particular position. The proposed rule would also make minor changes to clarify and simplify the language in § 912.120. This proposed rule has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The proposal is to amend 7 CFR Part 912, Subpart-Rules and Regulations (§§ 912.100–199), by revising the introductory language and paragraphs (a), (d), (e), and (f) of § 912.120, to read as follows:

§ 912.120 Nomination procedure.

The designated representative of the Secretary shall hold or cause to be held, not later than July 10 of each year, a meeting, or meetings of growers and handlers, in accordance with the provisions of § 912.22 and § 912.24, for the purpose of making nominations for members and alternate members of the Indian River Grapefruit Committee. The manner of nominating members and alternate members of said committee shall be as follows:

(a) At each such meeting the Secretary's representative shall announce the requirements as to eligibility for voting for nominees and the procedure for voting, and shall explain the duties of the committee.

* * * * * *

(d) At each meeting of handlers there shall be presented for nomination and there shall be nominated not less than six handler members, all of whom shall have the qualifications specified in § 912.20 and § 912.25, as modified by § 912.124. Any person authorized to represent a handler may cast a ballot for such handler. Each person voting at such meeting shall submit his name and address to the chairman or secretary of the meeting.

(e) Voting may be by written ballot, except that in the event there is more than one nominee for a particular position, voting shall be by written ballot for that position. If the voting method used is by written ballot, all ballots shall be delivered by a nomination meeting official to the Secretary's representative. If written ballots are not used, the meeting official shall deliver a listing of each person nominated and the number of votes cast for each and a register of eligible voters who participated in the election. For the handler nomination meetings, documentation shall also include the volume of shipments voted for each nominee.

(f) The Secretary's representative shall give reasonable notice of each meeting to be held pursuant to this section.

Dated: May 7, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-14620 Filed 5-9-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 1049]

Milk in the Indiana Marketing Area; Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the present order provisions based on proposals by a cooperative association that were considered at a public hearing held January 9, 1979. The proposed amendments would increase the Class I differential 6 cents and would modify the location adjustment and payment provisions of the order. The proposed changes are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

DATE: Comments are due on or before May 30, 1979.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy, Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Hearing: Issued December 14, 1978, published December 20, 1978 (43 FR 59390).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Indiana marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before May 30, 1979. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing conducted at Indianapolis, Indiana, on January 9, 1979. Notice of such hearing was issued December 14, 1978 (43 FR 59390).

The material issues on the record of the hearing relate to:

1. Level of Class I price.
2. Location adjustments.
3. Payments to producers and to cooperative associations.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Level of Class I price.* The Class I differential (the amount added to the basic formula price of the second preceding month in computing the Class I price) should be increased from the present $1.47 to $1.53.

A cooperative association proposed a 10-cent increase in the Class I differential, to $1.57. Another cooperative supported the proposal. The cooperatives claimed that the higher Class I differential is needed to assure a continuing adequate supply of milk for the fluid milk needs of pool distributing plants under the Indiana order, and to improve the alignment of Class I prices between the Indiana and Chicago Regional markets and other nearby markets.

A spokesman for a group of milk handlers in the Indianapolis, Indiana, area opposed the proposed 10-cent increase. The witness for the group stated that some of the handlers who are regulated by the Indiana milk order compete for fluid milk sales with handlers who are regulated by the Southern Illinois and Central Illinois orders. He stated that increasing the Class I differential for the Indiana order only would place such handlers at a disadvantage in competing for fluid milk sales in part of western Indiana. The witness stated that the Class I price issue of this proceeding should be deferred until it can be considered in connection with other milk orders in the Midwest region which may also require higher Class I prices.

The witness testified further that if the Indiana Class I differential is increased on the basis of this proceeding, the increase should not exceed 6 cents per hundredweight. He stated that the Class I differentials of the Chicago Regional and Upper Midwest orders have been increased 6 cents per hundredweight in recent years, while the Indiana Class I differential remained unchanged. He testified that a 6-cent increase in the Indiana Class I differential would achieve better alignment with the Chicago Regional market and that such improvement would be a benefit to the Indiana market.

Two Wisconsin-based cooperatives that operate plants pooled on the Chicago Regional market also opposed the proposal to increase the Indiana Class I differential 10 cents. The witnesses for the cooperatives stated that the prices paid to the Indiana order producers residing in Wisconsin are higher than the prices the two cooperatives can pay to their members on the Chicago market. This, they claimed, has caused their cooperative associations to lose members to the proponent cooperative, which is then marketing their milk on the Indiana market. In their view, any increase in the Indiana Class I price which would increase producer pay prices would result in a further loss of their producer-members to the Indiana market. These spokesmen urged that any Class I price increase, or any change in location adjustment rates under the orders, be done on a regional or national basis. In their view, the question of proper Class I differentials and location adjustment rates for milk orders is an important current concern throughout the dairy industry and cannot properly be addressed in piecemeal fashion.

The Class I price under an order must be established at a level which, in conjunction with other class prices, results in sufficient returns to producers to maintain an adequate supply of milk for consumers' needs. While the class prices of individual milk orders attract milk to a particular market, such as Indiana, the aggregate result under the milk order program, in conjunction with the price support program, is an adequate supply of milk for the nation.

The present price system under Federal orders operates in such a way that it provides uniform Class I price changes in all orders. This is accomplished by adding a specific differential directly to a basic formula price (the Minnesota-Wisconsin price) that is the same under all orders. The system evolved from the necessity to coordinate Class I price changes within regions and also to provide coordination on an interregional basis.

Further, the coordination of Class I prices is needed throughout the milk order program because milk can move readily between and among Federal order markets. Without price coordination, disparities in the normal price relationships will encourage

uneconomic movement of milk and disruption of markets. Accordingly, inter-order Class I price alignment is a necessary pricing feature under the milk order program.

There is extensive overlapping of route distribution between Indiana handlers and handlers regulated by other Federal milk orders. The record evidence established that Indiana pool plants account for about 85 percent of all fluid milk products distributed in the Indiana marketing area. Handlers regulated by the Indiana order also distribute fluid milk products in seven other Federal order areas, while handlers regulated by four Federal milk orders distribute a substantial quantity of milk in the Indiana marketing area.

Also, there is a major overlapping of the Indiana order supply area with that of the Chicago Regional order which stems from circumstances unique to the Indiana market. Even though there is sufficient fluid grade milk produced in the State of Indiana to meet the fluid milk needs of handlers regulated by the Indiana order, not all of it is pooled under the Indiana order. As a result, the proponent cooperative association, which has assumed the function of supplying a major portion of the Indiana market's fluid milk needs, must import about 45 million pounds of milk each month from producers whose farms are in Wisconsin. The milk is assembled at reload stations in the supply area and delivered to Indiana pool distributing plants where it is considered as a receipt of producer milk. In 1978, this milk represented about 29 percent of all the producer milk pooled under the Indiana order.

With this incidence of overlapping sales, in which handlers regulated under nine Federal orders [1] actively compete for fluid outlets, and with a substantial proportion of the supply for the Indiana market coming from the supply area of the Chicago Regional market, it would not be possible to maintain orderly marketing over time without a close intermarket alignment of Class I prices.

The existing Class I pricing structure under the Indiana order was established at the time the order was promulgated—January 1, 1969. In the intervening period, price adjustments made in competing markets (particularly the 1970 increase in the Class I differential under the Chicago regional order from $1.20 to $1.26) were not made in the Indiana order. However, both producer and handler witnesses testified that the prices being paid in the Indiana market and in nearby Federal order markets for Class I milk currently are in relatively close alignment due to the over-order charges being paid to suppliers by handlers regulated by the respective orders. In their view, this is the reason that little or no disorderly marketing has resulted from the present relationship of order Class I differentials. Nevertheless, the existing institutional arrangements should not be the sole means of achieving continued orderly marketing. The Class I differential of the Indiana order should be increased somewhat to improve the interorder Class I price alignment that is a necessary pricing feature of the milk order program.

The Chicago milkshed has been a major source of supplemental milk supplies for markets throughout the United States, including the Indiana market. The record established that supplemental milk is supplied to Indiana order pool plants from Chicago Regional pool plants. This is in addition to the producer milk obtained from the Chicago order supply area. In some months these supplemental supplies amount to as much as 13 million pounds. To reflect the variable cost of moving milk from the Chicago milkshed to distant markets, Class I prices in Federal order markets are generally structured to increase in relation to the distance from the Chicago milkshed. Generally, the gradation of prices from market to market from north to south reflects a differential approximating 1.5 cents per hundredweight of milk per 10 miles.

The Class I differentials in some order markets reflect the variable cost of moving milk from the heavy milk production areas within the Chicago Regional market (e.g., Madison, La Crosse and other locations in Wisconsin). However, the Class I differentials in the nearby markets to the east and south of the Indiana market (Ohio Valley and Louisville-Lexington-Evansville) reflect the variable costs from the city of Chicago, Illinois. It is appropriate, as provided herein, to use Chicago as the basing point for determining the Indiana Class I differential due to the competition for retail sales between Indiana handlers and handlers regulated under the Ohio Valley, Chicago Regional and Louisville-Lexington-Evansville orders.

The Class I differential under the Chicago Regional order is $1.26. The amount computed at 1.5 cents per 10 miles for the 177 miles from Chicago to Indianapolis is 27 cents. Relating the $1.26 Chicago Regional order Class I differential to Indianapolis would indicate a Class I differential at Indianapolis of $1.53 ($1.26+.27), 6 cents above the present level. The record established that the Indiana Class I differential was established in relation to the Class I differential of the Chicago Regional order when it was $1.20.

A Class I differential of $1.53 under the Indiana order not only would improve the alignment of the Indiana Class I price with the Chicago Regional Class I price but also with the Class I prices under the orders for the neighboring Louisville-Lexington-Evansville and Ohio Valley markets. Each of these orders has a Class I differential of $1.70. A principal city in the Louisville-Lexington-Evansville market is Louisville, Kentucky, while in the Ohio Valley market a prinicpal city is Cincinnati, Ohio. The distance from Chicago to Louisville is 292 miles and from Chicago to Cincinnati it is 287 miles. The $1.70 Class I differential at these two cities reflects the Chicago $1.26 Class I differential plus 44 cents that reflects a rate of 1.5 cents per 10 miles distance from Chicago. Louisville is 111 miles south and Cincinnati is 106 miles southeast of Indianapolis.[2] Based on the 1.5 cents per 10 mile rate, the Class I differential at Indianapolis should be 18 cents lower than at Louisville and 16.5 cents lower than at Cincinnati. Thus, the $1.70 Class I differential under these two orders would suggest a Class I differential at Indianapolis of $1.52 ($1.70−.18) and $1.535 ($1.70−.165), respectively.

In the interest of assuring market stability throughout the region, some improvement of interorder price alignment is appropriate, even though it is clear on the record that prevailing Class I prices in the Indiana and surrounding Federal order markets exceed the order prices. To this end it is concluded that the Class I differential of the Indiana order should be increased from the present $1.47 to $1.53. This will result in an Indiana Class I price level under the order that is more closely aligned with the Class I prices of neighboring Federal order markets, and particularly with the Chicago Regional market from which Indiana pool plants obtain a substantial portion of their supply. To the extent that some distributing plants may not be paying over-order charges, the possibility for disorderly marketing exists. Such condition would create economic pressures to change the existing institutional arrangements. This means

[1] Indiana, Ohio Valley, Southern Michigan, Louisville-Lexington-Evansville, Chicago Regional, Southern Illinois, Central Illinois, Iowa and Georgia orders.

[2] Official notice is taken of the "Household Goods Carriers' Bureau Mileage Guide No. 10", issued by Household Goods Carriers' Bureau, Arlington, Virginia 22201, July 1, 1973.

that if the over-order charges that are presently being paid were discontinued, the resulting Class I price would be too low to attract needed supplies of milk for the market. The action adopted herein to raise the Class I differential would tend to mitigate this problem.

The unit cost of a 6-cent increase in the Indiana Class I differential would be one-eighth of a cent per quart or one-half cent per gallon. If the increase had been in effect in 1978, it would have raised the order Class I prices one-half of one percent. The higher order prices would have applied to 13,259,180 hundredweight of Class I milk with an additional value of $795,550. However, since the effective Class I prices in the market have exceeded minimum order prices by more than the adopted 6-cent increase, such price adjustment could have reduced by 6 cents the "over order payment" negotiated by the cooperatives, thereby resulting in no impact on consumer prices.

The cooperative supplying milk from the Wisconsin part of the Chicago market has been paying competitive prices to Indiana market producers in Wisconsin. The funds for this payment by the cooperative have been obtained by charging handlers more than the order Class I price and is consistent with the competitive supply and demand situation. With the higher Class I differential provided herein, the cooperative will not need to rely as much as heretofore on an over-order price structure to supply milk to the market.

The Class I differential should not be increased by 10 cents as was proposed by proponent. Proponent's testimony was directed mainly at justifying the proposed 6-cent increase based on price alignment with nearby markets. No testimony was offered supporting the need for a 10-cent increase. Instead, proponent testified that a much larger increase in the Class I differential was justified but that probably 10 cents was the maximum amount the Class I differential could be raised and still retain interorder price alignment. As indicated, the structure of Class I prices under Federal orders generally reflects a transportation rate of 1.5 cents per 10 miles. On this basis, raising the Indiana Class I differential 6 cents improves the alignment of Class I prices throughout the region. Within the same price framework, raising the differential an additional 4 cents would worsen the alignment of prices by that magnitude.

The adoption of a higher Class I differential should not be deferred due to the competition in western Indiana of some Indiana order handlers with handlers in other markets. The witness for the Indianapolis handlers stated that some Indiana handlers compete for fluid milk sales in western Indiana with several handlers regulated by the Central Illinois and Southern Illinois orders. His primary concern, however, appeared to be the competition of Indiana handlers with two handlers regulated under the Southern Illinois order. One of the Southern Illinois handlers operates a distributing plant at Champaign, Illinois, a major consumption center in that market. The witness testified that the territory in western Indiana in which Indiana and Southern Illinois handlers compete is about equidistant from Champaign and Indianapolis. He claimed that presently the Class I prices are in reasonable alignment because the Southern Illinois Class I differential at Champaign is $1.46, which is one cent below the Indiana Class I differential. He stated that any increase in the Indiana Class I differential would disadvantage the Indiana handlers who are competing for fluid milk sales in western Indiana.

Champaign is 135 miles south of Chicago, or about 40 miles closer to Chicago than is Indianapolis. Applying the differential of 1.5 cents per 10 miles, it would be reasonable to expect the Class I price level at Champaign to be 6 cents lower than at Indianapolis instead of the one-cent difference that applies presently. To the extent that some Indiana order handlers distribute milk in western Indiana in competition with Southern Illinois handlers, a $1.53 Class I differential at Indianapolis would increase the Indiana Class I price level for these handlers by 6 cents per hundredweight relative to the Southern Illinois Class I price level at Champaign, or to within one cent of the price alignment that results from using 1.5 cents per 10 miles from Chicago. However, the overriding purpose in establishing the higher Class I price level adopted herein is to assist the Indiana market in maintaining adequate supplies of milk. In achieving this, however, it may not be possible to assure each handler an identical procurement cost with competitors at any location in which he may choose to sell milk.

The witness for the two Wisconsin cooperative associations expressed concern that the higher uniform prices that would result from increasing the Indiana Class I differential would be reflected in the pay price to Wisconsin producers. In 1978, a 6-cent increase in the Class I differential would have raised the order uniform prices about 4 cents per hundredweight. This, they testified, would allow proponent cooperative to attract producers away from the Chicago Regional order plants of the Wisconsin assocations and put them on the Indiana market.

It does not appear, however, that this would happen as a result of increasing the Class I differential by 6 cents. A witness for the proponent cooperative testified that the individual producers pay the cost of hauling milk from their farms in Wisconsin to the Indiana pool distributing plants. Currently, he stated, the average cost for transporting the milk is 85 cents per hundredweight. In the areas of Wisconsin where producers shipping to Indiana are located, cheese plant operators pay dairy farmers more for their milk than the Indiana uniform price at Indianapolis minus the 85-cent hauling charge. For November 1978, the average price paid by cheese plants to dairy farmers at 7 locations in the Wisconsin supply area was $11.09 per hundredweight for milk of 3.5 percent content. The Zone 1 Indiana uniform price for milk from the same area less the average hauling charge was $10.29—a difference of 80 cents.

To meet this disparity in pay prices, it has been necessary for proponent cooperative to use revenue obtained from over-order prices received from Indiana distributing plants to pay a competitive price to its producers in the Wisconsin supply area. To do otherwise would jeopardize the ability of the cooperative to obtain a continuous supply of milk from the Wisconsin supply area for the Indiana market. In this circumstance, it does not appear that the limited increase in the Indiana uniform price as a result of the higher Class I differential would induce producers to shift from the Chicago Regional market to the Indiana market.

The witnesses for the Indianapolis handlers and the two Wisconsin cooperative associations urged that the present hearing be recessed and that a new hearing be held to consider increasing the Class I differentials on a regional or national basis. If such parties desire another hearing that would involve more markets and additional issues, they may, of course, petition the Department for such a hearing at any time. However, as described previously in this decision, there is sufficient reason for increasing the Indiana Class I differential 6 cents at this time. Accordingly, the request to defer such an increase until it can be considered at an expanded hearing is denied.

2. *Location adjustments.* The order should provide that when the Class I price is adjusted for the location of the plant the adjusted price shall be not less

than the Class III price for the month. The order also should provide that when adjusting the uniform price for location the adjusted uniform price plus 5 cents, which represents the amount of the advertising and promotion program deduction, shall be not less than the Class III price for the month, except for the months of April-July and September-December when an additional factor must be recognized. For the months of April through July, the order should provide that the adjusted uniform price plus 5 cents plus an additional 20 cents for the seasonal incentive plan "takeout" shall be not less than the Class III price. For the months of September through December the order should provide further that the adjusted uniform price plus 5 cents but minus the amount of the "payback" specified in § 1049.61(i) for the seasonal incentive plan shall be not less than the Class III price.

A cooperative in the market proposed that in adjusting the Class I and uniform prices for location such adjusted prices should be floored at the Class III (basic formula) price. Proponent's witness testified that the Class III price should be the minimum price under the order for all milk since dairy farmers presumably would be able to get at least this price if they were off the regulated market. There was no opposition to this proposal and it was supported by another cooperative.

Presently, there is no limit on the location adjustment applied to either the Class I price to handlers or the uniform price to producers. Even though the Class I price is equal to the basic formula price for the second preceding month plus a Class I differential of $1.47 (as presently provided in the order), there have been instances in the past few years when the Class I prices, adjusted to locations in Wisconsin, have nearly equalled the basic formula price, i.e., the Class III price for the month. This has occurred when the basic formula price (the Minnesota-Wisconsin price) has increased sharply in a two-month period.

Similarly, there have been times when the adjusted uniform price could have been less than the Class III price in cases where producer milk was diverted to manufacturing plants located in western Wisconsin. Exhibits introduced at the hearing indicated that producer milk under the Indiana order has at times been diverted to plants in western Wisconsin that are subject to a minus 75-cent location adjustment. Thus, any time the difference between the announced uniform price (the base zone price) and the Class III price is less than 75 cents, producer milk diverted to these western Wisconsin plants would be subject to a uniform price that is less than the Class III price. On 12 different occasions during the 47-month period of January 1975 through November 1978, the base zone uniform price (exclusive of the seasonal incentive plan adjustments and the 5 cents for the advertising and promotion program deduction) did not exceed the Class III price by at least 75 cents. The evidence does not indicate, however, that producer milk was diverted to these western Wisconsin plants during those 12 months.

Any Grade A milk pooled under the order should have a value equal to at least the value of manufacturing grade milk, since there are manufacturing plants throughout the Wisconsin segment of the supply area that could realize at least the manufacturing use value for such milk. Therefore, it is inappropriate to charge a handler less than the Class III price or for producers to be paid a price that is below the Class III price (except for the adjustments for the seasonal incentive plan and advertising and promotion program). If the uniform price were substantially below the Class III price, this could discourage producers from making milk available to the Indiana market for fluid use. Producers might find it more profitable to deliver their milk to an unregulated manufacturing plant and receive the manufacturing price for it. This would make it more difficult to assure distributing plants of an adequate supply of milk.

In limiting the amount the location adjustment may lower the uniform price, as provided herein, it can happen that during the "takeout" months of April through July, the pay price to a producer in outlying areas may actually be less than the Class III price by the amount of the seasonal incentive plan deduction, and the advertising program deduction (the latter being refundable on request). However, such occurrence would be at a time of year when alternative opportunities for switching markets is not readily available to producers because manufacturing plants normally are operating at capacity. If such opportunity to switch markets were available at the Class III price or better, a producer should have the option of seeking such outlet or in participating in the seasonal incentive plan.

In the fall months, when seasonal incentive payments are added to a producer's pay price, the method of adjustment adopted herein would provide the incentive in outlying areas to assure the delivery of milk to the Indiana market by providing blend prices, adjusted for location, that are above the Class III price by the amount of the seasonal incentive payment, less the refundable advertising program deduction.

In the course of proponent's testimony, it was stated that under the proposal the Class I price should not be reduced to a level that is less than the Class III price plus 90 cents. In proponent's view the 90-cent limit would be justified because 90 cents has long been accepted in the industry as the minimum fluid differential under Federal milk orders because it is the Class I differential under the Chicago Regional order at Eau Claire, Wisconsin.

In a 1977 decision the minimum Class I differential of the Chicago Regional order was established at 90 cents.[3] This was accomplished by limiting the location adjustment on Class I milk to 36 cents ($1.26−.36=.90). In the decision the Department found that it was necessary to limit the location adjustment to maintain proper alignment of Chicago Regional order Class I prices with Class I prices under the Upper Midwest order at the same plant locations. It was found that some distributing plants regulated by the two orders were located relatively close to one another and competed for Class I sales. There is no indication on the present record that a similar situation exists between plants regulated under the Indiana order and plants regulated under other nearby Federal orders. Accordingly, the proposal is denied.

3. *Payments to producers and to a cooperative association.* The provisions authorizing a cooperative association to collect payments on behalf of its members from a pool plant handler should be changed.

The order now provides that a cooperative association may collect such payments for producer milk if it *caused* the milk to be delivered to a pool plant and it is authorized to collect such payments for its members. The change adopted herein will permit a cooperative association to collect monies that are due a producer member of the association whether or not the cooperative actually directed the delivery of the member's milk to a pool plant.

The witness for the cooperative proposing this change testified that the cooperative markets the milk of all its members, as provided by a written membership agreement. However, he

[3] Official notice is taken of the Assistant Secretary's decision on proposed amendments to the Chicago Regional order that was issued on July 15, 1977 (42 FR 37400).

indicated that an isolated instance might occur in which a member might shift deliveries of milk from one handler to another on the member's own initiative. The spokesman stated that even though the cooperative did not cause the milk to be delivered to the new handler it should not be precluded from collecting the proceeds for the member's deliveries and paying the member. As indicated, the present order provisions would prevent the cooperative from collecting the proceeds in the situation described.

A cooperative association normally performs certain obligations under the terms of its contract with individual producer members. For example, it bargains for the collective sale of members' milk and assures them of a market for their milk. A cooperative association normally receives payment from handlers of the money that is due individual members for the milk delivered to the handlers' plants. Receiving the payments assures the cooperative that handlers are paying their obligations fully and promptly.

Also, a cooperative performs numerous management, financial, and marketing services that are established by policy of the cooperative's elected officials. The total program is financed by members of the cooperative. By collecting the money that is due their individual members, a cooperative can implement the total market program it is obligated to carry out. This means of carrying out its marketing obligations to members should not be denied to a cooperative association over the question of whether the cooperative or the member had caused a given load of milk to be delivered to a pool plant. It is concluded that the order should be revised to provide that a cooperative association may collect from handlers on all member milk, regardless of who causes the milk to be delivered to the handler, if the association is authorized by the member producer to collect such payments.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findngs and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The following findings and determinations 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 confirmed, except where they conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) 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 marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be 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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commerical activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regualtory provisions of it would be the same as those contained in the order that is proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Indiana marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In §1049.50, paragraph (a) is revised to read as follows:

§1049.50 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.53.

* * * * *

2. In §1049.52, the introductory text of paragraph (a) (immediately preceding subparagraph (1)) is revised to read as follows:

§1049.52 Plant location adjustments for handlers.

(a) For producer milk which is received at a pool plant located outside the area for which zero location adjustment is specified in paragraph (a)(1)(i) of this section, which milk is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to §1049.50(a) shall be reduced on the basis of the applicable amount or rate for the location of such plant pursuant to paragraph (a)(1) or (2) of this section, respectively, except that in no event shall the adjustment result in a price less than the Class III price for the month. For the purpose of this section and §1049.75, the distances to be computed shall be on the basis of the shortest hard-surfaced highway distances as determined by the market administrator:

* * * * *

§1049.73 [Amended]

3. Section §1049.73(b) is amended by deleting the language, "which it caused to be delivered to such handler"

4. In §1049.75, paragraph (a) is revised as follows:

§1049.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in §1049.52(a), except that the adjusted uniform price plus 5 cents, and, for the months of April through July plus an additional 20 cents, or for the months of September through December minus the amount computed pursuant to §1049.61(i), shall not be less than the class III price for the month.

* * * * *

(This recommended decision constitutes the Department's Draft Impact Analysis Statement for this proceeding.)

Signed at Washington, D.C., on: May 7, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[Docket No. A 0-319-A29]
[FR. Doc. 79-14567 Filed 5-9-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 28]

Federal Branches and Agencies of Foreign Banks

AGENCY: Comptroller of the Currency.

ACTION: Proposed rule.

SUMMARY: This proposed regulation implements the International Banking Act of 1978 (Pub L. 95–369), which for the first time authorizes foreign banks to establish Federal branches and agencies in the United States. Such Federal branches and agencies will be licensed, supervised and regulated by the Comptroller of the Currency.

DATES: Written comments must be received on or before July 10, 1979.

ADDRESSES: Comments should be addressed to Mr. John E. Shockey, Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT: Mr. William B. Glidden, Senior Attorney, Comptroller of the Currency, Washington, D.C. 20219, (202) 447–1880.

SUPPLEMENTARY INFORMATION: Except as otherwise provided in the International Banking Act of 1978 (Pub. L. 95–369; hereafter, "IBA") or any rules, regulations or orders of the Comptroller, Federal branches and agencies of foreign banks can exercise the same rights and privileges and will be subject to the same duties, restrictions, penalties, liabilities, conditions and limitations that apply to a national bank doing business at the same location. The Comptroller recently has published in other issues of the **Federal Register** a proposed policy statement on the applicability of U.S. banking laws to Federal branches and agencies of foreign banks and a revision in final form of 12 CFR Parts 4, 5 and 8 to provide for various corporate applications and for assessment of fees for such Federal branches and agencies. See, 44 FR 15728–30 and 44 FR 20063–66.

Section 4(a) of the IBA states that a foreign bank, with the approval of the Comptroller, may establish one or more Federal branches or agencies in any State in which (1) it is not already operating a State branch or agency and (2) the establishment of a branch or agency, as the case may be, by a foreign bank is not "prohibited" by State law. State law silence concerning branches and agencies of foreign banks does not amount to a prohibition. In the same vein, it cannot be said that a State prohibits such branches and agenices merely because certain restrictions or limitaions are imposed. For example, in some States a foreign bank which applies for a branch or agency must be able to demonstrate that the country under whose laws it was organized permits free access to U.S. banks. Such a reciprocity approach would not be binding upon the Comptroller's Office because it is incompatible with the national theme of the IBA and, further, it is in the nature of a condition or limitation rather than a prohibition on foreign entry.

Section 4(g) (4) of the IBA states that a foreign bank shall hold in each State in which it has a Federal branch or agency assets of such type and in such amounts as the Comptroller may prescribe. At this time, as indicated by § 28.9 of the proposed regulation, the Comptroller chooses not prescribe any general or specific asset maintenance requirements. It seems desirable to gain some experience with Federal branches and agencies of foreign banks before possibly imposing such requirements, which would necessarily be in addition to the capital equivalency deposits described in § 28.6 of the proposed regulation and any reserves that may be mandated by the Federal Reserve Board.

The proposed 12 CFR Part 28 sets forth general parameters within which Federal branches and agencies licensed by the Comptroller will be required to conduct their business. Because the Federal option for branches and agencies of foreign banks is new and untested, the Comptroller is particularly hopeful of receiving relevant comments from interested persons concerning the supervisory strategies and approaches adopted in this document.

DRAFTING INFORMATION: The principal drafters of this document were William B. Glidden, Senior Attorney, and William Ryback, National Bank Examiner, Comptroller of the Currency.

Proposed Rule

For the reasons stated above, the Comptroller proposes to adopt a new regulation at 12 CFR Part 28 to read as follows:

PART 28—FEDERAL BRANCHES AND AGENCIES OF FOREIGN BANKS

Sec.

28.1 Scope.
28.2 Definitions.
28.3 Applications.
28.4 Applicability of laws.
28.5 Limitations based upon capital stock and surplus of a foreign bank.
28.6 Capital equivalency deposits for Federal branches and agencies.
28.7 Reserves.
28.8 F.D.I.C. insurance.
28.9 Maintenance of assets; surety bond; pledge of assets.
28.10 Maintenance of accounts, books and records.
28.11 Service of process.
28.12 Obligations of management.
28.13 Regulation and supervision generally.

Authority: Secs. 4 and 13(a) of the International Banking Act of 1978 (Pub. L. 95–369, 12 U.S.C. 3101 *et seq.*).

§ 28.1 Scope.

This part implements the International Banking Act of 1978 (Pub. L. 95–369) and applies to the operations of foreign banks at Federal branches and agencies in the United States.

§ 28.2 Definitions.

(a) "Credit balances", as distinct from deposits, consist of funds, received at a Federal branch or agency incidental to or arising out of the exercise of banking powers, that are not intended to be deposits and that do not remain in the receiving institution after the transaction(s) to which they relate is completed.

(b) A "Federal agency" is an office or place of business, licensed by the Comptroller and operated by a foreign bank in any State of the United States, which can engage in the business of banking but cannot exercise fiduciary powers or accept deposits from citizens or residents of the United States. A Federal agency may, however, maintain credit balances.

(c) A "Federal branch" is an office or place of business, licensed by the Comptroller and operated by a foreign bank in any State of the United States which can engage in the business of banking including the exercise of fiduciary powers and the acceptance of deposits from citizens and residents of the United States.

(d) A "Limited Federal branch" is a Federal branch licensed by the Comptroller which, pursuant to an agreement between the parent foreign bank and the Federal Reserve Board, can receive only such deposits as would be permissible for an Edge corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611). Except for this restriction a Limited Federal branch can exercise the full range of powers avaliable to any Federal branch.

(e) As a general rule of construction, the terms "foreign bank", "foreign country", and "State" have the meanings assigned to them by § 1 of the International Banking Act of 1978, Pub. L. 95–369, codified at 12 U.S.C. 3101.

§ 28.3 Applications.

(a) *Corporate applications.* A foreign bank may apply to the Comptroller of the Currency to establish a Federal branch or agency, to convert any State branch or agency or commercial lending company to a Federal branch or agency, to relocate a Federal branch or agency or change the designation of its initial Federal branch or agency to any other Federal branch or agency, in accordance with the regulations in 12 CFR Parts 4 and 5 and any rules, instructions or forms issued thereunder.

(b) *Application to exercise fiduciary powers.* A foreign bank shall not exercise fiduciary powers at a Federal branch unless it obtains approval of the Comptroller of the Currency in accordance with 12 CFR Part 4.7b. An application to exercise fiduciary powers may be submitted by a foreign bank at the time of filing for a Federal branch license or at any subsequent date.

(c) *Application to establish a Limited Federal branch.* Before submitting to the Comptroller an application to establish a Limited Federal branch, a foreign bank shall enter into an agreement with the Federal Reserve Board to receive at such branch only those types of deposits that would be permissible for an Edge corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611).

§ 28.4 Applicability of laws.

Except as otherwise provided by the International Banking Act or any rules, regulations or orders of the Comptroller, operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges and subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations, that would apply to a national bank at the same location.

§ 28.5 Limitations based upon capital stock and surplus of a foreign bank.

Any limitation or restriction based upon the capital stock and surplus of a national bank shall be deemed to refer, as applied to a Federal branch or agency, to the dollar equivalent of the capital stock and surplus of the foreign bank. A foreign bank's capital stock and surplus shall be defined in a manner that is consistent with Interpretive Ruling 7.1100(b) (12 CFR 7.1100(b)). Any questions with respect to the types of accounts includable within a foreign bank's capital stock and surplus shall be resolved by the Comptroller when an application for an initial Federal branch or agency is approved. If a foreign bank has more than one Federal branch or agency, the business transacted by all such branches and agencies shall be aggregated in determining compliance with limitations based upon the capital stock and surplus of the foreign bank. The foreign bank shall designate one office in the United States to maintain consolidated information on all Federal branches and agencies so that such compliance can be monitored.

§ 28.6 Capital equivalency deposits for Federal branches and agencies.

(a) *Deposit of certain assets.* Upon the opening of a Federal branch or agency in any State and thereafter, a foreign bank shall keep on deposit with a member bank, in such amount as the Comptroller specifies, dollar deposits or investment securities of the type that may be held by national banks for their own account pursuant to 12 U.S.C. 24(7). The depository bank shall be located in the State where such Federal branch or agency is located and shall be subject to approval by the Comptroller if it is a national bank or by the Federal Reserve Board if it is a state member bank. The aggregate amount of deposited dollars and investment securities (calculated on the basis of principal amount or market value, whichever is lower) for each Federal branch or agency shall, at a minimum, equal the greater of (1) The amount of capital that would be required of a national bank being organized at the same location, or (2) 5 percent of the total liabilities of such Federal branch or agency, excluding accrued expenses and amounts due and other liabilities to other offices of the foreign bank. The Comptroller may require, in individual cases or otherwise, that the capital equivalency deposits be increased to conform to generally accepted banking practices in the area where the Federal branch or agency is located.

(b) *Deposit arrangements.* The capital equivalency deposits shall be maintained pursuant to a deposit agreement entered into between the foreign bank and the depository bank on a contract form approved by the Comptroller. Funds deposited and investment securities placed in safekeeping at the depository bank to satisfy the capital equivalency requirements of the foreign bank shall be segregated on the books and records of the depository bank, shall not be diminished in aggregate value by withdrawal without the prior approval of the Comptroller, shall be pledged to the Comptroller, and shall be free from any lien, charge, right of setoff, credit or preference in connection with any claim of the depository bank against the foreign bank. So long as it continues business in the ordinary course the foreign bank shall be permitted to collect income on the securities and the funds so deposited and from time to time examine and exchange such securities.

(c) *Maintenance of capital equivalency ledger account.* Each Federal branch or agency shall maintain a capital equivalency account and shall record for each business day the amount of liabilities requiring capital equivalency coverage (total liabilities minus accrued expenses and amounts due and other liabilities to offices of the foreign bank). On the last business day of each month, the average daily balance of such liabilities shall be computed. Based upon this computation, any increase in the capital equivalency deposits that may be necessary to maintain the ratio described in paragraph (a) of this section shall be made within the first two business days of the following month. If a foreign bank has more than one Federal branch or agency in a State, the capital equivalency deposits and the amount of liabilities requiring capital equivalency coverage shall be determined on an aggregate basis for all such Federal branches or agencies in the State.

§ 28.7 Reserves.

Consistent with section 7(a) of the International Banking Act, a Federal branch or agency shall be subject to such reserve requirements as may be prescribed in rules and regulations of the Federal Reserve Board.

§ 28.8 F.D.I.C. insurance.

An uninsured Federal branch may not receive deposits of less than $100,000 unless the Comptroller determines by order or regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts.

§ 28.9 Maintenance of assets; surety bond; pledge of assets.

In addition to any capital equivalency deposits and reserves that may be required pursuant to §§ 28.6 and 28.7, a foreign bank shall hold in each State in which it has a Federal branch or agency assets of such type and in such amount as the Comptroller may prescribe by general or specific regulation or ruling. Any insured Federal branch shall comply with any pledge of assets or surety bond requirements, or maintenance of assets rule, that may be contained in general or specific

regulations or rules of the Federal Deposit Insurance Corporation.

§ 28.10 Maintenance of accounts, books and records.

Each Federal branch or agency shall maintain its accounts separate from those of the foreign bank and any other Federal branch or agency. It shall keep a set of accounts and records in English, reflecting all transactions on a daily basis. In addition, a foreign bank having more than one Federal branch or agency in a State shall also designate one of these offices to maintain consolidated asset, liability, and capital equivalency accounts for all Federal branches or agencies in such State.

§ 28.11 Service of process.

A foreign bank operating at any Federal branch or agency is subject to service of process at such location. A summons and complaint, a notice, and order, a subpoena or any other legal paper may be served by delivering a copy thereof, or mailing a copy by certified mail, to any officer or managing agent at such Federal branch or agency or to any other person designated as agent for service of process by the foreign bank or by the branch or agency in a general registration or pursuant to a specific agreement. Service of process may also be accomplished in any manner prescribed by a court of competent jurisdiction in the judicial district where such Federal branch or agency is located, or in any manner whereby actual notice is given to an officer or employee of such Federal branch or agency prior to the return date.

§ 28.12 Obligations of management.

Individuals assigned to managerial responsibilities at any Federal branch or agency have the legal duty to diligently and honestly administer the affairs of such institution and to not knowingly violate or willingly permit any violation of applicable laws. Laws relevant to this concern are 12 U.S.C. 73, 93, 375, 375a, 376, 503, and 1818.

§ 28.13 Regulation and supervison generally.

A Federal branch or agency shall be examined at least once each calendar year, is subject to all the recordkeeping and reporting requirements that apply to national banks and shall comply with such additional requirements as may be prescribed in general or specific rules, regulations or instructions of the Comptroller. A Federal branch or agency, and its parent foreign bank, shall furnish any information relating to the affairs of the institution that the Comptroller may from time to time request.

Authority: Secs. 4 and 13(a) of the International Banking Act of 1978 (Pub. L. 95-369, 12 U.S.C. 1301 *et seq.*).

Dated: April 25, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79-14626 Filed 5-9-79; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

Proposed Alteration of Control Zone & Transition Area; Rochester, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to alter the Rochester, N.Y., transition area and Rochester-Monroe County Airport, N.Y., control zone. A review of the subject controlled airspace indicates a need to increase controlled airspace. This increase will provide protection to aircraft executing the instrument approaches by increasing the controlled airspace. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before June 25, 1979, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.171 Part 71 of the Federal Aviation Regulations (44 FR 353) in its entirety the description of the Rochester Monroe County Airport, N.Y. control zone and substitute the following:

Within a 5.5-mile radius of the Rochester-Monroe County Airport, N.Y. (Latitude 43°07'11"N., Longitude 77°40'18"W); within 3.5 miles each side of the Rochester VORTAC 214° radial extending from the 5.5-mile radius zone to 9 miles southwest of the VORTAC; within 3 miles each side of the Rochester VORTAC 280° radial, extending from the 5.5-mile radius zone to 8.5 miles west of the VORTAC; within 2 miles each side of the Rochester ILS Localizer east course, extending from the 5.5-mile radius zone of the LOM.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations (FR 44-442) in its entirety the description of the Rochester, New York 700 foot floor transition area and substitute the following:

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Rochester-Monroe County

Airport, N.Y. (latitude 43°07'11"N., longitude 77°40'18"W.); within 3.5 miles each side of the Rochester ILS Localizer east course, extending from the 9.5-mile radius area to 11.5 miles east of the LOM; within 5 miles each side of the 141° bearing from the Briet LOM, extending from the 9.5-mile radius area to 13 miles southeast of the LOM; within 4 miles each side of the Rochester VORTAC 214° radial extending from the 9.5-mile radius area to 10.5 miles southwest of the VORTAC; within 4 miles each side of the VORTAC 280° radial extending from the 9.5-mile radius area to 10 miles west of the VORTAC; within a 5-mile radius of the Ledgedale Airpark, Brockport, N.Y. (latitude 43°10'52"N., longitude 77°54'50"W.); excluding that airspace which overlies the Rochester, N.Y. 700 foot transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)), of sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Jamaica, New York, on April 23, 1979.

Louis J. Cardinali,

Acting Director, Eastern Region.

[Airspace Docket No. 79-EA-14]

[FR Doc. 79-14282 Filed 5-9-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Parts 71 and 73]

Designation of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a restricted area at Blanding, Utah, to contain the launching and patterns of Advanced Strategic Air Launched Missiles (ASALM). The proposed action would provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations within the restricted area during its time of designation.

DATES: Comments must be received on or before June 5, 1979.

ADDRESSES: Send comments on the proposed in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 78-RM-35, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch, (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received on or before June 5, 1979, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering amendments to § 71.151 of Part 7 and § 73.64 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate a restricted area identified as R-6410, Blanding, Utah, to contain the launching and patterns of Advance Strategic Air Launched Missiles (ASALM). Since the restricted area would penetrate the continental control area, it would be listed under § 71.151 to provide controlled airspace above 14,500 feet MSL. ASALM launchings will begin about September 1 during daylight hours. The launchings and patterns will require that the area be void of nonmission aircraft from the surface to unlimited ceiling during operations. The ASALM will be launced at about 9,500-10,000 feet MSL and climb to an excess of 60,000 feet within the proposed restricted area. Impact will occur on R-5107B, White Sands Missile Range, N. Mex. The area would be activated only long enough to clear the area of air traffic and complete the operations. Immediately thereafter the airspace would revert back to FAA. Requested airspace time should not exceed 15 minutes. The controlling agency for the proposed restricted area would be the FAA, Denver Air Route Traffic Control Center.

The U.S. Army, White Sands Missile Range, will serve as the lead agency for the purpose of compliance with the National Environmental Policy Act. Comments on land use problems may be addressed to: U.S. Army White Sands Missile Range/FE, White Sands Missile Range, New Mexico 88002.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.151 of Part 71 and § 73.64 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (44 FR 344 and 713, January 2, 1979) as follows:

Under § 71.151 (44 FR 344, January 2, 1979), the following restricted area is added:

"R-6410, Blanding, Utah"

Under § 73.64 (44 FR 713), the following is added:

R-6410 Blanding Utah

Boundaries. Beginning at Lat. 37°34'08"N., Long. 109°34'16"W.; to Lat. 37°16'10"N., Long. 109°16'00"W.; to Lat. 37°11'40"N., Long. 109°25'15"W.; to Lat. 37°32'36"N., Long. 109°36'54"W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. To be activated by NOTAM at least 12 hours in advance.

Controlling agency. Federal Aviation Administration, Denver Air Route Traffic Control Center.

Using agency. Deputy for Air Force, Armament Development and Testing Center, White Sands Missile Range, New Mex.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which

frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 1, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[Airspace Docket No. 78-RM-35]

[FR Doc. 79-14281 Filed 5-9-79; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

[14 CFR Parts 325, 385]

Evaluation of Essential Air Transportation Needs of Small Communities; Proposed Amendment of Delegation of Authority to the Director, Bureau of Pricing and Domestic Aviation

Dated: May 3, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB proposed procedures under a newly added section of the Federal Aviation Act for evaluating essential air transportation needs of small communities. This rule is being adopted on the Board's own initiative of provide uniform procedures for the CAB's essential air service determinations.

DATES: Comments by: June 25, 1979.

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

ADDRESSES: Twenty copies of comments should be sent to Docket 35464, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5408.

SUPPLEMENTARY INFORMATION: Section 33(a) of the Airline Deregulation Act of 1978 (Pub. L. 95-501) amends the Federal Aviation Act by adding a new section 419 "Small Community Air Service" to guarantee essential air service to all eligible points. Eligible points are those communities currently certificated for airline service, and those deleted from a section 401 certificate between July 1, 1968 and October 24, 1978, that the Board designates as eligible points. Additional eligible points in Alaska and Hawaii will be selected by the Board after January 1, 1982. Section 419 requires the Board to guarantee essential air service to small communities and authorizes it to use inducements in the form of subsidies, as well as orders to continue service, to ensure that they continue to have at least this guaranteed level of air transportation.

Our first task in implementing section 419 is to determine what is essential air service for each eligible point. Currently these determinations are being made on an ad hoc and interim basis. In PSDR-59, issued simultaneously, the Board is proposing guidelines for use in essential air service determinations. In this notice, we are proposing the procedures that are to be followed in implementing those guidelines in specific cases.

By October 24, 1979, we are required to set the essential service level for 555 eligible points that were receiving air service from one or no certificated air carriers on October 24, 1978. By July 1, 1982, we will have to make similar determinations for some of the 129 points that were deleted from a § 401 certificate after July 1, 1968. In addition, eligible points that have their air service reduced to service by no more than one certificated air carrier, and other points in Alaska and Hawaii, will require essential air service determinations. The procedures for these determinations must therefore take into account the short time available for making such decisions.

These procedures must also meet our statutory obligation to consider the views of the interested community and the State before making each determination of essential air service. We have already had public meetings in nine regions of the country. These meetings discussed the general question of what level of service should be considered essential. The procedures proposed here will provide the framework in which a community can address the question of what level of air service is essential for its specific locale.

Obtaining community advice would be initiated under § 325.4 by mailing a questionnaire to local and State officials. Initially only those communities for which the Act requires an essential level of air service to be set will be sent the questionnaire. These 555 points will receive questionnaires in May, which must be returned by July 15th. This will give communities approximately 60 days to send the Board such information as the results of any traffic studies and data on population, degree of isolation, communities of interest, alternate surface transportation, seasonal variations in traffic, and the traffic-generating potential of their point. The Board, however, specifically requests comments on less burdensome ways of acquiring the necessary data and on any duplicative requests from other Federal agencies. Because of the short time for the Board to make essential air service determinations, the communities should make every effort to meet the deadline for responses. Communities that fail to do so may have their essential service set at the statutory minimum until their situation can be fully analyzed.

In order to ensure an adequate representation of community views, we propose in § 325.4 to mail this questionnaire to the chief executive of the principal city or other unit of local government and to the individual or the entity with direct supervision over the airport at the eligible point. In the case of a hyphenated point, consisting of two or more communities, each chief executive and airport manager would be sent a questionnaire. A questionnaire would also be sent to the State agency with jurisdication over air transportation at the point. Suggestions would be welcome concerning ways of coordinating our data gathering with just one community official. Although the Board will mail the first set of questionnaires before all comments have been received, the form itself may be revised in response to the suggestions of interested persons. Even those persons who do not receive a questionnaire would still be permitted, of course, to submit views at the same time as the designated officials. After reviewing all responses, the Board may request additional information if needed to make an accurate determination.

The determinations of essential air service levels for Alaskan points presents a special situation, because we are required under section 419 not only to consult with the communities and the State agency, but also to reach agreement with that State agency whenever the Board believes that an Alaskan point should not be guaranteed the statutory minimum level of service. The Board has already been in contact with Alaskan representatives concerning the framework for reaching these agreements, but would welcome suggestions from Alaskan commenters on an appropriate procedure.

Under proposed § 325.5, an initial determination of the essential level of air transportation would be made for a specific community. The Board has not yet decided whether decisions concerning essential air service should be made in the first instance by the staff under delegated authority, or by the Board itself. In either case, of course, an appeal of such a decision could be made to the Board by an aggrieved party. There will be a large number of determinations (around 555) to be made in a short period of time under the statutory deadline of October 24, 1979. By either method the processing and initial drafting will be done by the staff; the question is whether each determination would be sent to the Board for final action, or would be issued by the Director, BPDA, who at his discretion would forward controversial matters to the Board for decision.

The delegated method would be administratively more efficient, with fewer decisional steps and senior personnel involved in the general run of cases. It would allow the Board to concentrate on those items selected by the staff as needing Board consideration at the initial determination stage. Such a delegation scheme might also create a greater appearance of fairness, since the initial decision and any appeal would be at different levels within the Board. On the other hand, this difference may actually be more apparent than real, since controversial cases would probably be referred to the Board at the outset. Even without delegated authority the staff could indicate to the Board those cases (probably a large majority) that are routine and non-controversial and therefore do not need detailed study by the Board Members. Under the non-delegated method the Board Members would have the opportunity to oversee, and as appropriate reverse, the staff decisions as to what matters deserved routine handling. At a minimum, this would expose the determination to review by a larger number of persons with decisional authority, and increase the chances that potential problems will be detected. The Board is hereby proposing the delegation in order to focus comments on this procedural question, while leaving it open to be decided after the comments have been received and studied.

At the regional meeting, some participants asked that the Board hold hearings in the community before setting their essential air service level. Limitations of time, staff, and money prevent us from holding meetings at every community. As explained further, any person may appeal the initial determination to the Board, which could hold an informal conference at that time.

Proposed section 325.7 states that if a community disagrees with the level of service set in the initial determination, it can by filing an appeal takes its case to the Board. The Board could then revise the initial determination. The Director, BPDA would again be given delegated authority to make revisions when the initial determination was based on a clearly erroneous factual determination. This is similar to authority that Board staff already have under § 385.53 (14 CFR Part 385.53), to reverse a decision made under delegated authority. If the dispute goes beyond a mere mistake of fact, the Board would then have several further options under the proposal: additional written submissions could be requested, or an informal conference could be held.

Section 419 requires the Board to consider "the views of any interested community and the State agency." This does not mean that formal hearings must be held. A statutory directive to hold formal hearings on a matter is normally worded that the agency will act only "after notice and a hearing." In section 419(a)(11), for example, Congress used this notice and hearing language in cases where the Board seeks to replace a carrier receiving § 406 subsidy with one who will receive § 419 subsidy. Similar language is absent from the provisions of section 419 involving essential air service determinations.

Although many participants used the word "hearing" to describe their desired method of community input, it appears that they were actually asking that informal conferences be held. The communities sought a procedure that is simple and inexpensive. They evidently do not want swearing of witnesses, formal rules of evidence or other procedures associated with formal hearings. An informal conference will provide this simplicity and allow interested persons to give the Board their views on their air service needs. These conferences would be conducted by the Board, a Board member, or senior Board staff chosen by the Board. Any reasonable procedure will be considered.

Participation by Board staff in an informal conference procedure would not pose any conflict with our separation of functions rule (14 CFR 300.4), because that rule only applies to formal hearings. There is also no violation of our ex parte rules (14 CFR Part 300). Section 300.2 (14 CFR Section 300.2) was amended by PR–192, 44 FR 4655, January 23, 1979, to permit the staff to hold discussions with community representatives when such contacts are needed in section 419 matters.

A potential problem at this stage is what level of service the Board should guarantee to a community while an appeal involving that community is pending. One possibility is to require the carrier to continue the level of service that it is currently providing to the point involved until the appeal is resolved. This would require that the essential level be defined as the existing level of service at that point. Requiring carriers to continue to provide the same service pending appeals would, however, have the effect of freezing existing service patterns, potentially for large parts of the national system.

We are therefore proposing to make an initial determination immediately effective, although it may be later modified by the Board. Even if this determination sets the essential level lower than the existing level of service, a carrier would not necessarily use the issuance as an occasion to reduce its service. Before the issuance of initial determinations, carriers have the right in any event to reduce service to the minimum level established by § 419(f) of the Act. The Board specifically requests comments on this proposal, and any alternatives.

In cases where the existing level of service was lower than that set in the initial determination, we would not seek applications for carriers to provide the additional service until appeals were resolved and service patterns were ultimately defined. We propose, however, to handle these appeals first so that service at poorly served points can be brought up to the essential level in a short period without having to institute a service pattern only to reroute it several months later.

After a final determination was made by the Board, communities would still have an opportunity to request changes in the established essential service level. In objections to a notice of termination, suspension or reduction of service, any person already can, under § 323.9 of this chapter (14 CFR Part 323), suggest a different level of essential air service for the affected point. In addition, we propose in § 325.9 to allow a person to petition for modification of the essential service level at any time. When a petition for modification is filed, any person would be allowed to file an answer, and the Board would be required to reevaluate the air service needs of that community. The Board will also conduct a periodic review of the determination for each eligible point under the same procedure used to set the original level of essential service.

At the regional meetings, several participants expressed an interest in an experimental program that would involve a large amount of initial subsidy that would gradually taper off, placing the risk of loss of service on the community if the service did not develop as expected. It was argued that, if successful, such a program could better lead to economically self-sufficient air service in their community. We are considering this and other experimental programs for certain selected points. The procedural rules could be waived for these communities. Their procedures would be set forth in the order establishing the particular experimental program.

Section 325.12 declares that any person seeking to change the essential level of air service to their community need not file the environmental evaluations and energy information usually required by 14 CFR Parts 312 and 313. In the Small Community Air Service Program, Congress has directed to Board to guarantee all eligible points essential air transportation. This, however, will not result in substantially greater traffic in a market or to a point. Also, the service will be provided by small aircraft rather than by jets. Therefore, the Board finds that the commuter aircraft used in this program will not have a significant impact on the quality of the human environment. In particular cases where larger aircraft are employed, we will consider preparing an analysis of the environmental and energy impact.

Having made this finding, we believe that the environmental evaluations would impose an undue burden on communities. However, no one would be precluded from submitting environmental information under §§ 325.4, 325.7, or 325.9.

The Civil Aeronautics Board proposes to amend Chapter II of Title 14, CFR as follows:

1. A new Part 325, *Essential Air Service Procedures*, would be added to read:

PART 325—ESSENTIAL AIR SERVICE PROCEDURES

Sec.

325.1 Purpose.
325.2 Applicability.
325.3 Definitions.
325.4 State and local participation.
325.5 Initial determinations.
325.6 Periodic reviews.
325.7 Appeal of the initial determination.
325.8 Informal conferences.
325.9 Modification of the designated level of essential air service.
325.10 Form of documents.
325.11 Service of documents.
325.12 Environmental evaluations and energy information not required.
325.13 Conformity with Subpart A of Part 302.

Authority—Sec. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 5 U.S.C. Appendix.

§ 325.1 Purpose.

The purpose of this part is to establish procedures to be followed in determinations of essential air transportation levels for eligible points, and in the appeals and periodic reviews of these determinations, under section 419 of the Act.

§ 325.2 Applicability.

This part applies to essential air service determinations only for those points designated as eligible under section 419 of the Act. It applies to the gathering of data by the Board, and to the participation of State and local and other officials and other persons in the determination process. Guidelines that the Board will follow in making each essential air service determination are contained in Part 398 of this chapter.

§ 325.3 Definitions.

As used in this part, "eligible point" means—

(a) Any point in the United States, the District of Columbia, and the several territories and possessions of the United States to which any direct air carrier was authorized, under a certificate issued by the Board under section 401 of the Act, to provide air service on October 24, 1978, whether or not such service was actually provided;

(b) Any point in the United States and the several territories and possessions of the United States that was deleted from a section 401 certificate between July 1, 1968 and October 24, 1978, inclusive, and that the Board designates as an eligible point under the Act; or

(c) Any other point in Alaska or Hawaii that the Board designates as an eligible point under the Act.

§ 325.4 State and local participation.

(a) The Board will send a questionnaire to each eligible point that is served by not more than one certificated air carrier, or is designated as an eligible point under section 419(b) of the Act, or has received an essential air service determination by the Board. The questionnaire will be addressed to:

(1) The chief executive of the principal city, or other unit of local government at the affected point, that is named, or has been previoulsy named, in a qualifying section 401 certificate. For points in Alaska or Hawaii that are named by the Board as eligible points without having been listed on a section 401 certificate, the principal city is the most populous municipality at the point;

(2) The individual or entity with direct supervision over and responsibility for the airport at the eligible point; and

(3) The State agency with jurisdiction over air transportation in the State containing the eligible point. If there is no such State agency, the questionnaire will be sent to the governor of that State.

(b) Within 60 days after the date of the questionnaire, five copies of the response shall be filed in the Docket Section, unless the Board specifies another date. If no response is received within the period, essential air service for that eligible point may temporarily be set at the minimum level prescribed in section 419(f) of the Act.

(c) Any other interested person may, during the 60-day response period, submit information relevant to the essential air service level of that eligible point by filing in the Docket Section five copies of a document titled with the name of the point involved.

(d) As necessary, the Board may request additional information to supplement the questionnaire.

§ 325.5 Initial determinations.

(a) Not later than October 24, 1979, after reviewing all information submitted, the Board will issue initial determinations of the essential level of air service for eligible points that, on October 24, 1978, were served by not more than one direct air carrier holding a certificate under section 401 of the Act for scheduled service to the point.

(b) The Board will issue an initial determination of the essential level of air service for a point within 6 months after (1) it receives notice that service to an eligible point will be reduced to only one carrier that holds a section 401 certificate, (2) it designates that point as an eligible point under section 419(b) of the Act, or (3) it conducts a review of essential air service of that point under § 325.6.

§ 325.6 Periodic review.

The Board will institute a periodic review of essential air service within 1 year of the date of the previous determination of essential air service for eligible points receiving subsidized service, within 2 years of the date of the previous determination for eligible points in Alaska, and within 3 years of the date of the previous determination for eligible points without subsidized air service.

§ 325.7 Appeal of the initial determination.

(a) Any person objecting to an initial determination may within 30 days of its issuance file a document titled "Appeal of Inital Determination."

(b) The appeal shall contain specific objections to the initial determination, including support for all such objections, and shall state the level of essential air service that should be substituted.

(c) If no appeal is filed within the 30-day period, an initial determination will become final, unless stayed by the Board.

(d) After an appeal is filed, the Board may order that an informal conference be held, or may request more information, before issuing its final determination.

(e) Pending the outcome of the appeal, the essential air service for the point involved shall be the level set by the initial determination.

§ 325.8 Informal conferences.

(a) If the appeal raises an issue that cannot be satisfactorily resolved on the basis of written submissions, the Board may order that an informal conference be held.

(b) The informal conference will be conducted by the Board, a Board member, or senior Board staff designated by the Board.

(c) Any interested person may attend the informal conference.

§ 325.9 Modification of the designated level of essential air service.

(a) Any person may file with the Board a petition titled "Petition for Modification of Essential Air Service Level," asking to modify the essential air service level at a point.

(b) The petition shall identify the point affected, and specifically state the reasons why the designated essential level is inadequate. It should contain any facts and arguments that support its requests, and state the level of essential air service that should be substituted.

(c) Any person may, within 15 days of the filing of a petition for modification, file an answer to that petition titled "Answer to Petition for Modification."

(d) After review, the Board may order an informal conference or request more information, before issuing its decision on the petition.

§ 325.10 Form of documents.

All documents filed under this part shall be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and on their front page state:

(a) The title of the document;

(b) The name, address, and telephone number of a person who can be contacted for further information concerning the subject of the document; and

(c) In the case of a responsive document, the docket number of the document to which it responds.

§ 325.11 Service of documents.

Any person, except one filing indivudually as a consumer, who files a document under this part shall serve that document upon those listed in § 325.4(a) of this part and upon the following:

(a) The governor of the State in which the eligible point is located.

(b) Each air carrier providing scheduled service to the affected eligible point.

(c) In the case of a responsive document, the one who filed the document to which it responds.

(d) The Secretary of Transportation.

§ 325.12 Environmental evaluations and energy information not required.

Notwithstanding any provision of Part 312 or Part 313 of this chapter, a person filing a petition or appeal under this part is not required to file an environmental evaluation or energy information with the application.

§ 325.13 Conformity with Subpart A of Part 302.

Except where they are inconsistent, the provisions of Subpart A of Part 302 of this chapter shall apply to proceedings under this part.

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATIONS; NONHEARING MATTERS

2. New paragraphs (rr) and (ss) would be added to § 385.13 of 14 CFR Part 385 to read:

§ 385.13 Delegation to the Director, Bureau of Pricing and Domestic Aviation.

* * * * *

(rr) Issue initial determinations of essential air service levels for eligible points under § 325.5 of this chapter.

(ss) Revise initial determinations of essential air service when based on a clearly erroneous factual determination.

(Sec. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389. Reorgainzation Plan No. 3 of 1961, 75 Stat. 837, 5 U.S.C. Appendix.)

By the Civil Aeoronautics Board.

Phyllis T. Kaylor,
Secretary.

[PDR-66; ODR-17; Docket 35464]

[FR Doc. 79-14624 Filed 5-9-79; 8:45 am]

BILLING CODE 6320-01-M

[14 CFR Part 398]

Guidelines for Individual Determinations of Essential Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB proposes guidelines for determining the essential air service of small communities under a newly added section of the Federal Aviation Act. Under this section, the Board is directed to determine what is essential air transportation for certain eligible points and to guarantee that this level of service is being provided, with Federal subsidy where necessary.

DATES: Comments by: June 25, 1979. Comments and other relevant relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 34650, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Divison, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5408.

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I. Statutory Mandate for Essential Air Service Program

By the Airline Deregulation Act of 1978, Public Law 95–504 (effective on October 24, 1978), Congress amended the Federal Aviation Act of 1958 to, among other things, add a new section 419, dealing with small community air service. Under this section, the Board is directed to determine what is essential air transportation for certain eligible points and to guarantee that this level of service is being provided, with Federal subsidy where necessary.

Section 419(a) defines "eligible point" as any point in the 50 States, the District of Columbia, and in U.S. Territories and possessions to which on October 24, 1978 any air carrier (1) was providing service pursuant to a certificate issued under section 401 of the Act or (2) was authorized under such certificate to provide service that was suspended on that date. Section 419(b) requires the Board to establish criteria for designating additional eligible points to be included in the guaranteed essential air transportation program from the list of points in the United States that were deleted from a section 401 certificate between July 1, 1968, and October 24, 1978, and from the list of all other points in Alaska and Hawaii.

The statute also sets a timetable for the Board to determine what is essential air transportation for these points: by October 24, 1979, for those points defined as eligible under section 419(a), that on October 24, 1978, were served by one or no certificated carriers; or within 6 months for those points for which the Board receives notice under 401(j) or 419(a)(3) that service will be provided by not more than one certificated air carrier or for those points which the Board designates as eligible under 419(b). Under section 419, we are thus required to determine essential air transportation for 555 points by October 24, 1979, including 228 points in Alaska. In addition, we are required to review periodically these essential air transportation determinations.

As guidance to the Board in making its determinations, the statute broadly defines essential air transportation and establishes minimum essential service levels. Specifically, essential transportation is defined as scheduled air transportation of persons that satisfies the needs of the community for air transportation to one or more communities of interest and insures access to the nation's air transportation system at rates, fares and charges that are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial. The minimum service level for points other than those in Alaska is specified as two daily round trips, 5 days per week, or the level of service provided during calendar year 1977, whichever is less. For points in Alaska, the minimum level is two round trips per week, or the level that existed during calendar year 1976, whichever is greater. In making its determinations, the Board is directed to consider the views of the intersted community and State agency.

II. Regional Meetings

As an initial step in implementing the Small Community Air Service Program, we held a series of regional meetings around the country during January and February with regional, State and local officials, as well as interested private citizens and parties, to obtain their views on air service and thereby to help us develop a program responsive to the needs of the users, the traveling public and the communities involved. We sought advice on four major topics: determining essential air transportation, criteria for designation additional points as eligible, procedures for processing subsidy applications, and subsidy determination. Specifically, with respect to the topic of determining essential air transportation, we sought views on the following questions: (1) What is the level of service quality the Federal government should be expected to guarantee? (2) What size of aircraft, level of frequency, and number of destinations should be guaranteed? (3) How detailed should our specification of essential air service be? (For example, should minimum aircraft size and characteristics be prescribed and should time of day schedules be established?) and (4) Should the maximum number of stops be specified as well as the hubs to which the communities are linked?

The State, regional, and community officials presented a wide variety of opinions and views on essential air transportation requirements and the procedures by which we should implement the small community program. Some cities are satisfied with their existing service, and they contended that their current levels of service should be designated as the essential level. Many other communities that have not been receiving service responsive to their needs argued that essential service should be at a level above their current service. Most communities noted that good air service is vital to their economic and social development and that they should have a definite role in these determinations. Many representatives acknowledged that the present subsidy system under section 406 has not been effective in developing and assuring the maintenance of quality service to the small communities. Therefore, they argued that the new service program should be designed to insure quality of service rather than minimal service levels. They also indicated that such service should ultimately be self-sufficient, not requiring subsidy support.

The Board shares the view that small communities' air service should ultimately be economically self-sufficient, both for the sake of the community involved and to eliminate the need to subsidize air carriers with taxpayers' money. In making essential air service determinations, the Board will consider the quality of service and not merely the number of flights to be provided. This may require the Board to consider, in certain instances, aircraft size, guaranteed schedules, access to the major airline centers and access to convenient facilities at that hub. By ensuring quality, it is hoped that the service will gain community acceptance, thereby encouraging people who might otherwise drive to use air service.

Most communities stated that the Board should not impose national standards, but should make its determinations on a case-by-case basis. In fact, many officials urged the Board to hold subsequent meetings with civic officials to discuss the individual determinations either at the eligible community or at regional meetings. Some officials even felt that formal hearings should be held. In response to these requests we indicated the time constraints caused by the October 24 statutory deadline make individual meetings impossible in all cases. We want, however, to afford the communities every opportunity possible to present their views throughout the process of making essential air transportation determinations.

After considering the many views presented, both orally and in written submissions at and since the regional meetings, we have drafted tentative policy guidelines for determining essential air transportation. We propose to use these guidelines as a framework for analyzing the essential air transportation needs of each point on an individual basis. Once we have considered the comments received on this proposal, we will adopt a policy statement in light of them and proceed to make individual essential air transportation determinations based on that policy and on additional information and views about the individual points that will be requested

from community and State representatives.

It is our statutory obligation to design a program that will be responsive to the transportation needs of each community and will insure convenient and usable air service to meet the essential requirements of the traveling public. In fact, the long-term success and viability of air service to these points, which is our primary objective, depends to a large degree upon designing the essential air service in accordance with an individual community's requirements. To achieve these goals, we have tried to establish an overall policy that will be fair and equitable to all points under the program and yet will be flexible enough to accommodate varying circumstances among the points.

III. General Issues

A. *Eligibility*

Several general issues were raised at the regional meetings about the Small Communities Program. The first deals with the eligibility of communities. Some participants voiced concern about the exclusion of cities that were never certificated or were deleted prior to the July 1, 1968 cut-off date set by the Act. As stated at the meetings, we are precluded by law from including these points in the program and any change regarding the eligibility of such points would require Congressional action. It was suggested, however that perhaps such noneligible points could be included as intermediate stops or beyond points on routings serving eligible points. This linear route integration would benefit both the eligible and non-eligible communities by enabling the carrier to combine traffic and operations at several points. Although we will encourage carriers to consider providing such service, we cannot guarantee or consider such additional operations to noneligible points in determining essential air transportation levels at eligible points because essential air transportation is service to a hub.

B. *Hyphenated Points*

Another issue that has been raised is the status of hyphenated points (*i.e.*, two or more cities designated as a single point on a section 401 certificate). Several communities that are hyphenated have contended that essential air transportation determinations should be made for each of the hyphenated cities separately. We are not convinced that separate essential air transportation determinations for each city of a hyphenated point would be consistent with the Act and historic Board policy. The Act defines "eligible point" as any point at which an air carrier is authorized to provide service pursuant to a certificate issued under section 401. In this context the term "point" refers to the certificate designation, and hyphenated designations in certificates have historically been viewed as single points by the Board. Under this interpretation, the cities would not be eligible for separate essential air transportation determinations.

The Board has decided, however, that in some cases a community of a hyphenated point could be entitled to an individual essential air service determination under section 419(b) of the Act. The rationale for this is that a point that lost service at its airport as a result of being hyphenated with another point after 1968 has for practical purposes been deleted from that certificate. Under section 419(b) of the Act, any point deleted from a section 401 certificate between July 1, 1968 and October 24, 1978 may be designated as an additional eligible point if it meets the criteria that the Board will establish under section 419(b)(2) of the Act. Points that were deleted from a certificate before July 1, 1968 cannot have their air service needs considered under section 419(b), and the Board cannot make a separate determination under section 419 for communities that were hyphenated before that date.

Although receiving an essential air service determination as part of one hyphenated point, a community might still be entitled to service at its own airport. In making the essential air service determination for a hyphenated point, the Board will consider whether traffic at each community justifies requiring service to both airports. For a hyphenated point entitled to four round trips each day, for example, the Board might also require, under this proposal, that three flights serve the airport in one community while the other flight serves the other community's airport. In this way, each community would, in effect, receive service as if it were a separate point, except that the statutory minimum service level of section 419(f) could be fulfilled by the aggregate amount of service to both airports.

In assessing the need for service at one of the communities of the hyphenated point, the Board will examine the distances between the communities that comprise that point, the locations of their airports, the available ground transportation between them, the size of each, and the cities to which each has the closest economic, political and geographical ties. Similar criteria may be applied in determining whether a community considered deleted from a 401 certificate should be designated as an eligible point under section 419(b). Therefore, there may be little practical difference between a community treated as part of a hyphenated point deserving service to its own airport and a community that is considered deleted and entitled to essential service under section 419(b).

The distinction could become crucial, however, if the community was hyphenated with a city that is presently receiving service from two or more certificated air carriers. In such a case, the Act does not require the Board to make an essential air service determination as long as service to the hyphenated point is not reduced to service by one or no certificated air carriers. The smaller of the hyphenated communities would therefore probably not receive service at its own airport unless it is treated as a deleted point by the Board. These communities would be likely candidates for essential air service determinations under section 419(b) if they meet the other criteria for eligibility that the Board establishes.

C. *Cargo*

Several communities have indicated that cargo requirements should be incorporated into the essential air transportation determinations. Section 419(f) defines essential air transportation as air transportation "of persons." The Senate, House, and Conference reports do not contain any discussion on the question whether cargo needs may be taken into account. Since passenger transportation is the focus of the statutory provision, the Board has tentatively decided not to include cargo capability generally in its determinations. Given the statutory limitations and availability of surface transportation in most of the United States, it does not appear permissible or necessary for the Board to consider air cargo in deciding what air transportation services should be subsidized.

Alaska, however, is a special case. It does not have a major highway system connecting all of the certificated points, and air service is frequently the only means of transporting cargo between them. Congress recognized Alaska's special circumstances when, in section 419(f), it gave the Board authority to make exceptions for Alaskan essential air service determinations when there is agreement with the Alaskan Transportation Commission to do so. We will seek agreement from the

Commission, which is most familiar with that State's needs, to take cargo needs into account in our essential air service determinations for Alaskan points. The Board specifically requests comments on whether and the extent to which cargo needs should be considered in determining essential air service in Alaska, and on our statutory authority for doing so.

D. *Development of Community Information and Responses*

Some communities have expressed concern about our using historic traffic data for assessing the amount of demand for air service and, in turn, determining the level of service required. These communities contend that in many instances historic traffic as reported in the Origin-Destination (O&D) Tables has been depressed because of the poor quality of service, the frequent schedule changes which have disrupted the development of traffic and the public's use of nearby airports at other cities where there is more service than at the local airport. Consequently, these communities contend that in assessing potential traffic we should not rely solely on our O&D data compiled from the certificated carriers' reports. Instead, it has been suggested that studies be conducted at the local level, perhaps by sampling tickets issued by travel agents, to determine the real level of traffic available in the market. We realize the problems involved in any approach for establishing the potential traffic at these points, particularly for the reasons cited by the communities. We are unable, however, to undertake individual traffic studies for all of the points involved. This is an area in which State agencies and regional commissions could be of great assistance to the Board. The staff will coordinate its data gathering with State and regional authorities to try to accurately determine potential traffic at individual points. We will also work with the affected communities and suggest that they submit any available factual information and studies about the demand for air service at their communities in their responses to our questionnaire. We will fully consider all evidence presented, along with available certificated carrier traffic data and commuter carrier traffic data for the point.

Turning to the specific policy statement, we are proposing two sets of guidelines, one for Alaska and one for the remainder of the States, the territories and possessions. Separate guidelines for Alaska are needed because of the substantially different set of circumstances in that State, and because of the different statutory provisions, particularly the section 419 definition of essential air transportation for points in Alaska.

IV. Guidelines for Individual Determinations

In determining essential air transportation for points other than in Alaska, we have tentatively decided to consider four major service factors: hubs, equipment, frequencies, including scheduling, and stops. We have attempted to design guidelines that can be used as a framework for making individual determinations, taking into account specific circumstances applicable to the individual point, while maintaining standards equitable to all eligible points.

In formulating our guidelines, we have been especially conscious of the important relationship between the quality of air service and public support for such service. As evidence of the importance of this relationship, several communities at the regional meetings indicated that the poor quality of existing service has caused many travelers not to support the air transportation at their local airports. Our determinations must therefore look to a quality of service reponsive to the needs of the community so that the traffic at that point will be fully developed and the transportation needs of the community will be met.

The proposed policy statement that follows establishes only guidelines. It is not possible or desirable to establish fixed standards that can be applicable nationwide. Communities vary and each has different air service needs. Also, the required size of equipment, the frequency of flights, and the number of stops on those flights are interrelated factors in determining essential air service. These guidelines must be flexible to account for this so that, for example, if the size of aircraft serving a point increases, fewer flights would be required or more stops permitted under our rules. The main concern is that the total available capacity for a point be sufficient to satisfy its essential air service needs. Carriers will be allowed flexibility, consistent with the guidelines, the objective of developing self-sufficient operations, and the expressed desires of the community, to determine how they will provide the point with the available capacity that is considered essential by the Board. This capacity could be provided by any combination of increased aircraft size, greater frequency of flights, or fewer stops.

A. *Hubs*

Hubs are those points enplaning 0.05 percent or more of the passengers enplaned by all certificated carriers in the United States. We propose that essential air service generally should be to one hub. It is our experience that service to one hub will meet the needs of most communities.

The size of the point and traffic levels would be used in determining whether two hubs would be designated. The Board would consider requiring service to two hubs only when there is sufficient traffic from the eligible point, the return leg otherwise would be a considerable distance, and the point has important political, commercial and geographic ties to cities in different directions. In making this determination, the Board will rely on traffic studies and O&D data to assess traffic flows, and on other information supplied by the local communities, the State agencies, and regional commissions.

A major factor in the specific designation of hubs would be the destinations that are of interest to the eligible point. It is of critical importance to ensure that air service will be available to cities meeting the community's commercial and economic needs and to hubs meeting the community's needs for access to the transportation network. In designating hubs, we will carefully examine the major markets for each eligible point and any comments and views of the civic parties to determine the important destinations for the point. Based on this information, if a significant portion of the eligible point's traffic is to a hub in the region, and the traffic levels justify direct service, we would designate that hub. If, on the other hand, a significant portion of the point's traffic requires connecting service to other areas of the country, we would designate hubs on the basis of access to the national air system and availability of connecting services. In either case, we would consider designating hubs other than the nearest one if the potential service benefits warrant overflying the nearest one. Our general policy, however, is to designate the closest hub. If a community requested designation of a more distant hub that would necessitate the use of larger aircraft, we would consider whether the traffic levels justified the use of such aircraft and whether substantial benefits clearly warranted its designation.

The issue of designating essential service through a particular airport, both at the eligible point and the hub, has been raised at the regional meetings.

Generally, the Board has not required the carriers to provide service through a specified airport since this would deny them operating flexibility to adjust service to market conditions and operational constraints. From a practical standpoint, designation of airports, particularly at hubs, would also affect airport planning, terminal and gate allocations, slot allocations, and traffic congestion problems. Nonetheless, at the eligible point that is the subject of our essential air service determination, we would be willing to designate the airport or airports that should be used, if the community could demonstrate that service designated by airport was required to meet its essential needs. This is particularly important for hyphenated points or for points where the airport is a considerable distance from the community. With respect to the hub cities, however, we do not intend usually to designate airports. Although a community may see advantages in having its air service fly into the primary airport at the hub, we believe that airline and airport management can best make these allocative decisions where hubs are concerned. Also, by requiring service in one market through a specific airport we could potentially deprive another market of access to that airport, which would not be in the public interest. Even if it were desirable to require hub airports to accommodate flights from all eligible points, our power to do so is limited. Nevertheless, in some cases where a community's essential air service needs require service to a particular hub airport, the Board may consider designating that airport for service from that eligible point.

B. *Equipment*

We have received numerous comments from civic parties about the minimum size and type of aircraft that should be required for essential air service. They expressed considerable concern about operational and safety requirements as well as passenger amenities and comfort. Major topics raised at the regional meetings were pressurization, the size of aircraft, the shortage of available equipment, crew requirements, and passenger facilities. Several community representatives indicated the importance of the size of the equipment to the public's acceptance and support of the service, claiming that very small aircraft would not be acceptable to many passengers. The need for pressurized equipment was noted by some officials because of mountainous terrain or recurrent adverse weather conditions. There was also considerable discussion about the lack of available smaller equipment, the time lag before new equipment can be designed and manufactured, and the potential problems for assuring essential air transportation under the small communities program because of a lack of available aircraft capacity. Comments about the crew requirements included the safety aspect of having a copilot and the passenger convenience of having flight attendants.

In considering the issue of equipment, we have given considerable attention to the views presented on these subjects, since public acceptance of air service is critical to the success of the small community program. We are also aware of the Congressional concern, expressed in section 419(c) of the Act, for maintaining high safety standards in air transportation. Therefore, the Board is proposing that safety considerations should govern the size and type of aircraft that may be used to provide essential air transportation. We will rely on the standards of the Federal Aviation Administration (FAA) in making our equipment determinations for each point.

In most cases, no particular aircraft size would be specified although equipment must be large enough to accommodate passengers and accompanying baggage. At many smaller communities over the past decade, more frequent service with smaller aircraft has proven to be more successful in developing traffic than fewer flights with larger aircraft. This indicates that small aircraft can achieve community acceptance when they provide reliable and frequent service. Small aircraft, when accepted by the community, are also more likely to become economically self-sufficient because they are better suited to the traffic levels at small communities. Many community representatives at the regional meetings expressed an interest in having self-sufficient air service at their point. Finally, if the Board were to set a minimum size for aircraft, 10 seats for example, it would effectively ground a large portion of the commuter fleet and take that much longer to provide small communities with their essential air service.

For the same reasons, the Board is reluctant to prohibit essential service by single-engine or single-pilot aircraft where such equipment is considered safe by the FAA. To do so could ground part of the fleet and make it more difficult for the air service to become self-sufficient. The number of engines and pilots, however, concerns the Board becuase they affect the quality of the service, and not merely the safety. Therefore, the Board has tentatively concluded that except in unusual circumstances such as Alaskan service, or in cases where the community consents to some other arrangement, essential air service is service by at least twin-engine aircraft with a pilot and a copilot. The Board specifically requests more information on this requirement.

We have tentatively decided not to require pressurized equipment. Less than 10 percent of available commuter equipment is pressurized, so few points could receive such service now even if the Board did require it. We have fully considered the views presented by some communities that pressurized aircraft is required because of the need to fly at high altitudes, over mountainous terrain, or to avoid adverse weather conditions. Some communities have suggested that unless pressurized aircraft are operated, particularly during the winter season, a significant percentage of flights may have to be cancelled, thereby diminishing the reliability of the essential air service. We have examined the FAA regulations governing altitudes and flight durations requiring pressurization and the existing operations of commuter carriers. The relatively short-haul operations to hubs required by our essential service determinations will not usually require operations at altitudes warranting pressurization. In fact, high altitude operations on shorter flights are inefficient and costly and generally cannot be justified. Commuter airlines have been operating nonpressurized equipment over mountainous terrain, even during the winter season, and have been able to maintain high completion factors and reliable service. To the extent that routings required by essential air service determinations may result in aircraft operations at high altitudes, the FAA regulations for pressurization will be applicable, and we believe these requirements should be sufficient. We will examine the needs of each community and may require pressurized aircraft in a few cases. The Board invites comments on this issue.

C. *Frequencies*

We propose that a minimum of two daily round trips Sunday through Friday be required to each designated hub, with a lower level of service required on Saturdays depending on the amount of traffic at the point on that day. Althought the Act only requires service five days per week as a minimum, there is a considerable need for weekend service, particularly on Sundays. We

also believe that two round trips to the designated hub are generally required to meet the basic transportation needs of the community and to develop service at the point effectively. Service below this amount will not insure the capability of traveling to the hub and back on the same day, an important requirement of business traffic.

We would also require that flights be operated at reasonably convenient times, geared to the nature of the traffic. Flights operated primarily for persons originating or terminating their travel at the hub should be operated in the morning and late afternoon or evening, to enable passengers to arrive at their destination in time for business and return the same day after business hours. On the other hand, if the majority of the point's traffic is connecting onto other flights at the hub, flights should be operated at times based on the "connecting banks" at the hub: i.e., periods during the day when significant numbers of inbound and outbound flights are scheduled at hubs to provide convenient connecting opportunities to various destinations around the country. We have decided not to specify when essential air service must be provided because such an approach would be excessively rigid and unjustifiably reduce operating flexibility.

Above the two-round-trip level, we would base required frequencies on traffic levels, the equipment, and the number of stops or points served beyond the eligible point on the flight itinerary. We propose to require enough flights to accommodate the passengers and accompanying baggage at no greater than 65 percent average load factors, given the size of equipment and other markets at beyond and intermediate points that are being served on the flights. This means that a point whose average daily traffic is 32 passengers, for example, might be guaranteed as many as 50 available seats (32 divided by 0.65, raised to the nearest whole number) by the Board to and from its hub. More might be guaranteed if some seats are unavailable because they are being occupied by passengers traveling to intermediate points or to communities beyond the eligible point.

In guaranteeing air service to small communities, Congress established a minimum level of service to be considered essential. No maximum service level was set. Congress stated explicitly that the domestic air transportation system is to be regulated by market forces except in those instances when market forces alone are insufficient to guarantee continous, essential service. When the marketplace will supply service *at or above* the essential level, government intervention, in Congress' view, is neither necessary nor desirable.

The commuter industry has in recent years demonstrated its willingness to serve points and markets thought to be too small for service by the certificated carriers. Most small communities exhibiting a significant demand for air service has received it from commuters without subsidy. Estimates of the threshold for unsubsidized commuter service range from about six enplanements up to 25 or 30 enplanements a day. Other factors, such as proximity to a large airport, affect a communter's decision to operate, but it is now clear that there is some level of enplanements above which service without subsidy is nearly always assured.

We believe that self-sufficient service will be provided when a point enplanes more than 40 passengers a day, and that it will seldom if ever be necessary for the government to intervene with direct subsidy at points of that size. As explained below, we propose that a ceiling of 120 available seats be adopted in administering the section 419 program, based on a maximum of 40 enplanements per day. Our reasons for proposing the ceiling—which is a guideline or a presumption, not an absolute cutoff—are (1) that Congress told us to guarantee *essential* service, not all the service a community wants regardless of cost; (2) that the program will be complicated to administer even without extending it to a multitude of points whose service may fluctuate, but which at all times will receive "essential" service; and (3) that it is more consistent with the underlying philosophy of the Deregulation Act to reply on market forces to the maximum extent, when those forces will work, in small communities.

We propose, therefore, that ordinarily not more than 60 available seats be guaranteed by the Board each day in each direction (120 seats each day altogether) for passengers and accompanying baggage at the eligible point. For example, this could be met with two round trips with 30-seat aircraft or four round trips with 15-seat aircraft or some other combination of frequencies and equipment. Sixty available seats would accommodate 40 passengers to and from the point at approximately 65 percent load factors. It is our experience that above this level, the service should be economically self-sufficient and not require Federal subsidies.

The 60-seat maximum, like all the guidelines proposed here, is flexible. In certain instances, if a community showed a real need or a temporary market failure, the Board would guarantee more than 60 available seats. If intermediate points (between the eligible point and the hub) or beyond points are served, resulting in the total available capacity of the aircraft being shared with other markets, we would either increase the number of flights required or specify turnaround operations to insure that sufficient capacity, up to 60 seats in each direction, is available for the eligible point. It should be emphasized that 60 seats is a limit and not a goal. The Board will not guarantee that much capacity if traffic at the point would not justify it. We specifically request comments on this 60-seat maximum.

The Board recognizes that some points may already be receiving self-sufficient service at a higher level than would be guaranteed them under the load factor standard described above. In other words, they receive an amount of service greater than what we would consider "essential" under section 419 and our proposed guidelines. We will not guarantee service at higher than an essential level just because a community now receives it; on the other hand, we do not want to create an incentive for airlines to reduce their service below the "essential" level when the marketplace alone will supply more. We do not want to create a system that automatically triggers federal intervention and possible subsidies whenever an operator slightly reduces its service. Such a system might create perverse incentives on the part of the operators. If we were to guarantee the current level, that would trigger subsidies whenever there was a slight drop in service, even though the decrease did not result as a practical matter in loss of "essential" service. We have therefore tentatively decided to guarantee, as essential, up to 75 percent of the service a community receives when the service is above the statutory minimum and appears to be economically self-sufficicent. Again, the upper limit of 60 available seats in each direction per day would apply here. Of course, a community itself is not prohibited from attracting more service than the Board would guarantee it.

We also recognize that some eligible points experience higher levels of traffic during certain periods of the year. Under these circumstances, we would propose a two-tier essential service determination that would establish service levels in accordance with the seasonal levels of traffic. We will be

requesting specific information and data from communities regarding this issue.

D. *Stops*

We are aware that the range of service patterns that we allow to meet essential air transportation requirements of communities must ensure a high quality of service if the operations are to be viable and supported by the public. Usually the number of stops has a major impact on the level of traffic generated because of time and convenience factors: service with no or relatively few stops may generate significantly increased traffic. Consequently, the number of stops that we allow to be made between the eligible point and the hub will significantly influence how usable the service is to the traveling public, and how much traffic is generated. For example, if several intermediate stops are made between an eligible point and a hub located only 100 miles away, the elapsed travel time for the passenger might substantially exceed the time required to travel the distance by surface transportation. The number of stops will also affect whether a reasonable number of seats are actually available to the public at the point on each flight. Very few if any seats might be available at a intermediate stop on multi-stop flights operated with small equipment.

We propose that the maximum number of stops permited for essential air transportation operations be tied to the size of equipment and the individual circumstances of the eligible point, such as distance to its designated hub(s). Generally, we propose a two-stop maximum. We believe that this requirement will ensure convenient and usable service, and a reasonable availability of seats. It will also give carriers adequate operating flexibility to develop different service patterns, a linear system using larger equipment, or alternatively a hub-and-spoke system with smaller equipment. Several communities indicated at the regional meetings a preference for multi-stop service combining traffic from several communities on flights operated with larger equipment rather than turnaround or one-stop hub-and-spoke service which would require smaller equipment to be economically viable. We intend to consider this option in appropriate situations. The type of service that will be provided, however, most likely would depend on the geographical region and the specific carriers operating in the markets.

Although we would generally allow one-stop or two-stop service, we would specify nonstop service in cases where one-stop operations clearly would not provide reasonable service, such as those where distances are so short that a stop would make the air service unattractive.

V. Guidelines for Points in Alaska

Section 419(f)(2) of the Act states that "with respect to air transportation to any point in Alaska, essential air transportation shall not be specified at a level of service less than that which existed for such point during calendar year 1976, or two round trips per week, whichever is greater, unless otherwise specified under an agreement between the Board and the State Agency of the State of Alaska, after consultation with the community affected." This directive and the substantially different circumstances and level of development of air transportation in Alaska necessitate that there be separate guidelines for Alaskan essential air transportation determinations. Therefore, before addressing specific proposals dealing with service factors such as hub designations, frequencies, and equipment, the statutory constraints and the special circumstances require consideration.

There are approximately 20 certificated points in Alaska where there is no air service today. Some of these points are no longer populated. Others are currently receiving less than the two round trips per week or are receiving a lower level of service than during 1976. The use of 1976 as a base level for essential air transportation determinations may not represent a realistic need for essential air service today, in part because Alaska was experiencing extensive economic activity and development associated with the Alaska pipeline in 1976.

Congress recognized this problem and provided for it in section 419(f)(2) of the Act. That section states that the Board need not require two weekly round trips or the 1976 service level if the Alaska Transportation Commission, after consultation with the community affected, agrees that a lower level of service is justified. We will analyze the traffic generating potential of all points in Alaska to determine the level of demand and in turn the level of service that is actually required to meet the communities' needs. We will be forwarding questionnaires to city representatives and State officials to obtain their views on their air service needs and any available data indicating potential air traffic. Based on our analysis of this information, we will propose essential service levels to the Alaska Transportation Commission and the affected communities for their concurrence. At points where there is clearly no need for service, such as points that may no longer be populated, we would ask the Alaska Transportation Commission to agree that the essential air transportation determination should be "no service." At points where the need for service is less than the two round trip level or the 1976 service level, we would recommend lower, more realistic levels that are in line with the current and potential needs of the community. Our objective would be to insure that the service being guaranteed legitimately warrants support by the Federal government.

Consultations with and concurrence of the Alaska Transportation Commission will be important part of our effort to develop the small community program for points in Alaska. We will be working closely with representatives from the State in developing procedures for this interaction. We anticpate discussing these procedures at our meetings with State and local officials in Alaska during May and welcome any comments from the communities and State on this subject.

Another statutory issue arises if a community contends that "the level of service * * * during calendar year 1976" literally requires us to maintain the same service patterns as were provided in 1976. That would mean service between very small points and the same number of flights and stops with the same equipment. This is not required by the statute. The "level of service" in section 419(f) refers mainly to the number of flights and not to service patterns.

Furthermore, this narrow approach would be detrimental to any effort to develop new service patterns to further the small community service. As long as the essential air transportation determinations establish a level of service that is qualitatively equal to or better than the 1976 level, although perhaps with different size of equipment, stops or intermediate points, the statutory mandate has been fulfilled.

We anticipate that seasonal variations in demand and available service are more important in Alaska than in the other States. We hope that communities in Alaska will comment on this aspect of their transportation needs. If there is a seasonal variation in the essential service needs of a point, we would propose a two-tier determination of essential service, with higher service requirements during the peak season.

A. *Hubs*

There are three FAA designated hubs in Alaska: Anchorage, Fairbanks, and Juneau. In addition, there are at least twelve regional points in the state that serve as focal points for air transportation operatons: Aniak, Bethel, Cold Bay, Dillingham, Fort Yukon, Galena, Ketchikan, King Salmon, Kodiak, Kotzebue, McGrath, and Nome. The Board may designate additional regional points. All of these regional points have direct service to one or more of the three FAA hubs. We propose that essential air transportation be service to one of these regional points or an FAA hub. This will insure access to the national air transportation system as well as service to an important community in the same region of the State. In addition, we will consider requiring service to an additional point or hub if it is a community of interest and such service can be justified on the basis of potential traffic. In assessing the traffic demand we would rely on origin-destination data, available commuter carrier data, and any traffic studies or reports submitted by the State or the local communities.

B. *Equipment*

We do not propose to have an overall minimum size guideline for aircraft in Alaska. Air transportation in Alaska is at a stage of development very different from the rest of the country, and landing facilities and logistical constraints may require greater latitude in prescribing equipment to be used. Also, many of the eligible points are very small and generate low traffic levels that necessitate the use of small aircraft. Where traffic levels and logistical circumstances justify our specifying aircraft, however, we will consider doing so.

C. *Frequencies*

We would require sufficient frequencies to accommodate passengers and accompanying baggage at 65% load factors. As with our guidelines for the other States, we would have to adjust the guaranteed service limit to present traffic levels. We would also allow variations in the number of flights according to the size of aircraft operated and the number of intermediate stops or points beyond the eligible point that share available capacity on the flight with the eligible point. We will also impose an upper limit of 60 seats in each direction per day on the level of guaranteed service. As noted earlier, we believe that above this level the traffic demand should be able to attract adequate service.

D. *Stops*

In general, we propose a maximum of two stops between the eligible point and the regional point or the FAA hub. In unusual circumstances where, for example, there are linear routing constraints, extremely low traffic levels, or long distances, we would permit additional stops.

E. *Cargo*

As previously indicated, the Board will consider cargo transportation requirements in determining the essential air service level for points in Alaska when there is an agreement with the Alaska Transportation Commission to do so.

VI. Experimental Program

At the regional meetings an experimental approach for service to small communities was discussed under which the Board would pay a higher level of subsidy at first in order to subsidize a higher level of initial service. Frequent service, it was suggested, would stimulate traffic at the point and result in its service eventually becoming economically self-sufficient. Many communities indicated a willingness to try such a program despite being warned that their subsidy would taper off, and that they would be guaranteed only the statutory minimum level of service if the program did not lead to self-sufficiency as expected.

The Board has considerable interest in this and possibly other experimental programs. We share the view that the section 419 subsidy program should be designed to foster self-sufficient service and not become a permanent support for air transportation. Nevertheless, we are not sure whether the Board has authority to adopt an experimental program such as the one described above. It is also not clear how points to receive the high initial subsidy would be chosen or how the experimental program would be administered. Therefore, after giving this matter further consideration, the Board will issue another proposal requesting comments on issues involved in experimental programs.

The Board requests comments on the procedures and guidelines proposed here. Such comments should avoid discussions of the air service needs of specific communities. There will be an adequate opportunity to inform the Board of these concerns when it is determining the essential air service for each eligible point.

VII. Proposed Rule

The Civil Aeronautics Board proposes to amend Chapter II of 14 CFR by adding a new Part 398, *Guidelines for Individual Determinations of Essential Air Transportation*, to read as follows:

PART 398—GUIDELINES FOR INDIVIDUAL DETERMINATIONS OF ESSENTIAL AIR TRANSPORTATION

Sec.

398.1 Purpose.
398.2 Number and designation of hubs.
398.3 Specific airports.
398.4 Equipment.
398.5 Frequency of flights.
398.6 Maximum available capacity to be guaranteed by the Board.
398.7 Time of flights.
398.8 Number of stops permitted.

Authority.—Secs. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, (49 U.S.C. 1324, 1389).

§ 398.1 Purpose.

The purpose of this Part is to establish general guidelines for determination of essential air transportation for each eligible point under section 419 of the Act. Procedures for the determination of the essential air service level for a point are in Part 325 of this Chapter.

§ 398.2 Number and designation of hubs.

(a) *What is a hub?* The Board considers a hub to be any point enplaning more than 0.05 percent of the total enplanements in the United States.

(b) *How many hubs?*

(1) It is the policy of the Board to require service to only one hub.

(2) The Board will consider requiring service to two hubs if an eligible point has close commercial, geographical, and political ties to both hubs and if there is sufficient traffic from the eligible point to support two round trips per day to both hubs. If traffic is not sufficient, the Board may require one round trip per day to both hubs if the community requests such service.

(3) In no event will essential air service be service to more than two hubs.

(c) *Which hub?*

(1) The Board will require service to the hub that has the closets commercial, geographic, and political ties to the eligible point if traffic studies and origin and destination data indicate that there will be sufficient traffic there. This will require designating the nearest hub, unless there is sufficient traffic to a more distant hub and direct service there would better serve the needs of the community because of the community's stronger ties to that hub or

because that hub offers superior connecting service.

(2) For Alaska, rather than requiring service to a hub, the Board may only require that service from an eligible point be to a focal point for traffic in the area of the eligible point that has service to a larger hub.

§ 398.3 Specific airports.

(a) Essential air service may be specified as service to a particular airport at the eligible point. In the case of hyphenated points, essential air service will be specified as service to all airports only if clearly necessary and if the multiairport service is economically feasible and justified on the basis of traffic levels at all airports.

(b) Essential air service does not usually require service to a particular airport at a hub.

§ 398.4 Equipment.

It is not generally the policy of the Board to require any specific size or type of aircraft for providing essential air transportation except that—

(a) All aircraft must be sufficient to accommodate passengers and accompanying baggage at the point;

(b) All aircraft must meet the applicable safety standards of the Federal Aviation Administration; and

(c) All aircraft, other than those serving points in Alaska or points that have agreed to some other arrangement, must have two engines and two pilots.

§ 398.5 Frequency of flights.

(a) Except in Alaska, it is the policy of the Board to require at least two round trips flights each day on six days each week (Saturday is excluded from the eligible point to the designated hub, unless the point was receiving less than that in 1977 and cannot support such service at 60 to 65 percent average load factors.

(b) In Alaska, it is the policy of the Board to require either two round trip each week to each designated hub or focal point, or the level of service that existed for the point in 1976, whichever, is greater, unless such service is clearly unnecessary and the Alaska Transportation Commission agrees that a different level of service would meet the needs of the community.

(c) An essential service level may be set at more than that stated in paragraphs (a) or (b) of this section if—

(1) Historic traffic data and studies of traffic generating potential of the point indicate that more frequent service is needed to accommodate passengers and accompanying baggage with the aircraft used at that point;

(2) More flights are needed because the capacity available to the eligible point is being shared with traffic destined for an intermediate stop or for a point beyond the eligible point; or

(3) For Alaska, the Alaska Transportation Commission agrees that more frequent service is needed to accommodate cargo traffic with the aircraft used at the eligible point.

(d) For eligible points where traffic levels vary with the season, a two-tier level of essential air service will be established with required flight frequencies changing accordingly.

§ 398.6 Maximum available capacity to be guaranteed by the Board.

(a) Only under unusual circumstances will an eligible point's essential air service be set at a number of flights that will require more than 120 seats each day to be available in that market (60 seats from the eligible point to the hub and 60 seats from the hub back to that point).

(b) Eligible points receiving self-sufficient air service will, in the event of service reductions, generally not be guaranteed more than 75 percent of their present level of service to a maximum of 60 available seats each day in each direction (120 seats total).

§ 398.7 Time of flights.

To qualify as essential air service, flights must depart at reasonable times. It is the policy of the Board to consider the reasonableness of the time in view of the purpose for which the local passengers are traveling. If travel is primarily to connect with other flights, local flight-times should be designed to link with those flights. If travel is primarily local, there should be at least one flight in the morning and one in the late afternoon or evening.

§ 398.8 Number of stops permitted.

(a) A maximum of two stops is permitted in providing essential air service between the eligible point and a hub, unless otherwise agreed with the community.

(b) The Board may require one-stop or non-stop service when that is necessary to make the service usable.

(c) Where an eligible point normally is an intermediate stop that shares available capacity with another point, it is the policy of the Board to either require additional capacity (more flights or larger aircraft) between the hub and the eligible point of to specify some turnaround operations in that route segment.

(Secs. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[PSDR-59, Docket 34650]

[FR Doc. 79-14646 Filed 5-9-79; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 20, and 25]

Exemption for Certain Amateur Athletic Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the exemption of certain amateur athletic organizations from tax and the deductibility of contributions to organizations that qualify for the exemption. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations affect organizations that foster national or international sports competition and provide them with guidance needed to determine whether they qualify for the exemption.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 9, 1979. The amendments are proposed to be effective on the date final regulations are published in the Federal Register.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:EE:T (CC:LR-172-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John H. Parcell of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 202-566-3828, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 170 and 501 of the Internal Revenue Code of 1954, the Estate Tax Regulations (26 CFR Part 20) under section 2055 of the Internal Revenue Code of 1954, and the Gift Tax Regulations (26 CFR Part 25) under section 2522 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1313 of the Tax Reform Act of

1976 (90 Stat. 1730) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Exemption For Amateur Athletic Organizations

Section 501(c)(3) of the Code lists as exempt an organization organized and operated exclusively to foster national or international amateur sports competition. The Code does not describe the activities that foster national or international amateur sports competition. Therefore, to provide guidance to taxpayers, these activities are listed in the proposed regulations.

An organization that provides athletic facilities or equipment does not qualify for the new exemption. Nevertheless, such an organization may qualify for exemption if it has an exempt purpose other than fostering national or international amateur sports competition. Thus, for example, an educational organization could qualify for exemption even if it provided athletic facilities or equipment.

The proposed regulations describe the activities that constitute provision of athletic facilities or equipment. They provide that this limitation applies whether the equipment or facilities are supplied directly or indirectly by the organization. Facilities or equipment are supplied indirectly when the organization pays another person for their use.

Deductibility of Contributions

Sections 170(c)(2), 2055(a), and 2522(a) of the Code permit a deduction for contributions to amateur athletic organizations described above. The proposed amendments conform the regulations to these provisions in the Code.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations was John H. Parcell of the Legislation and Regulations 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.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Parts 1, 20 and 25 are as follows:

Income Tax Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1951

§ 1.170A [Deleted]

Paragraph 1. Section 1.170A is deleted.

§ 1.501(c)(3) [Deleted]

Par. 2. Section 1.501(c)(3) is deleted.

Par. 3. Section 1.501(c)(3)–1 is changed as follows:

1. The heading is revised.

2. Paragraph (d)(1)(i) is revised by deleting the word "or" at the end of (*f*), by deleting the period at the end of (*g*) and substituting in its place a comma and the word "or", and by adding a new (*h*).

3. Paragraph (d) is revised by adding new paragraph (d) (6), (7), and (8). These revised and added provisions read as follows:

§ 1.501(c)(3)–1 Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.

* * * * *

(d) *Exempt purposes*—(1) *In general.*

(i) * * *

(*f*) Educational,

(*g*) Prevention of cruelty to children or animals, or

(*h*) To foster national or international amateur sports competition (but only after October 4, 1976, and only if no part of its activities involves the provision of athletic facilities or equipment).

* * * * *

(6) *Foster national or international amateur sports competition defined.* The term "foster national or international amateur sports competition" refers to organizations that—

(i) Prescribe rules and standards for competition in an amateur sport or represent the United States in an international body that prescribes such rules and standards;

(ii) Sponsor national championships or international competition in an amateur sport;

(iii) Sponsor local, regional, and national competition to select participants in national championships or international competition in an amateur sport;

(iv) Provide security, ticket sales, and similar administrative services at amateur sports competitions described in paragraph (d)(6) (ii) or (iii) of this section;

(v) Provide administrative, coaching, and training services to amateur athletes;

(vi) Provide medical care and insurance to amateur athletes;

(vii) Conduct equipment research for the benefit of amateur athletes;

(viii) Disseminate information to amateur athletes; or

(ix) Provide financial assistance to amateur athletes, but only if such assistance does not affect the amateur status of athletes to whom it is provided.

(7) *Amateur athletes.* For purposes of paragraph (d)(6) (v), (vi), and (ix) of this section, the term "amateur athletes" refers only to athletes who participate, or reasonably can be expected to participate, in national championships or international competition in an amateur sport.

(8) *Provision of athletic facilities or equipment.* An organization that provides athletic facilities or equipment will not qualify for exemption as an organization organized and operated exclusively to foster national or international amateur sports competition. Such an organization may qualify for exemption if it has an exempt purpose other than fostering national or international amateur sports competition. An organization provides athletic facilities or equipment if—

(i) The organization permits the use of athletic facilities or equipment that it owns;

(ii) The organization pays for or otherwise assumes the cost of the use of athletic facilities or equipment owned by any other person; or

(iii) The organization reimburses amateur athletes for the cost of athletic facilities or equipment.

* * * * *

Estate Tax Regulations

PART 20—ESTATE TAX; ESTATES OF DESCENDENTS DYING AFTER AUGUST 16, 1954

§ 20.2055 [Deleted]

Par. 4. Section 20.2055 is deleted.

Par. 5. Subparagraph (a)(2) of § 20.2055–1 is revised to read as set forth below:

§ 20.2055-1 Deduction for transfers for public, charitable, and religious uses; in general.

(a) *General rule.* * * *

(2) To or for the use of any corporation or association organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art), or to foster national or international amateur sports competition (but only after October 4, 1976 and only if no part of its activities involves the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, if no part of the net earnings of the corporation or association inures to the benefit of any private stockholder or individual (other than as a legitimate object of such purposes), if no substantial part of its activities is carrying on propaganda, or otherwise attempting, to influence legislation, and if, in the case of transfers made after December 31, 1969, it does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

* * * * *

Gift Tax Regulations

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

§ 25.2522(a) [Deleted]

Par. 6. Section 25.2522(a) is deleted.

Par. 7. Subparagraphs (a)(2) and (a)(3) of § 25.2522(a)-1 are revised to read as set forth below:

§ 25.2522(a)-1 Charitable and similar gifts; citizens or residents.

(a) * * *

(2) Any corporation, trust, community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art), or to foster national or international amateur sports competition (but only after October 4, 1976 and only if no part of its activities involves the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, if no part of the net earnings of the organization inures to the benefit of any private shareholder or individual, if no substantial part of its activities is carrying on propaganda, or otherwise attempting, to influence legislation, and if, in the case of gifts made after December 31, 1969, it does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(3) A fraternal society, order, or association, operating under the lodge system, provided the gifts are to be used by the society, order, or association exclusively for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art), or the prevention of cruelty to children or animals.

* * * * *

Jerome Kurtz,
Commissioner of Internal Revenue.

[CC:LR-172-76]
[FR Doc. 79-14618 Filed 5-9-79; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 250]

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Public Hearings

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of Public Hearings.

SUMMARY: Proposed revisions to 30 CFR Part 250—Oil and Gas and Sulphur Operations in the Outer Continental Shelf—to implement Section 5(a)(8) of the Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. 95-372 (herein referred to as "the Act"), are published in this **Federal Register** on May 10, 1979. Section 5(a)(8) of the Act requires the Secretary of the Interior to prescribe regulations with provisions for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) to the extent that activities on the Outer Continental Shelf significantly affect the air quality of any State. This document announces public hearings to receive oral comments and recommendations on the proposed revisions to 30 CFR Part 250.

DATES: June 7—Los Angeles, California; June 12—New Orleans, Louisiana; and June 14—Washington, D.C.

ADDRESSEES: June 7, 1979—Los Angeles, California 9:00 a.m. to 5:00 p.m.; Airport Marina Hotel, 8601 Lincoln Boulevard, Los Angeles, California 90045.

June 12, 1979—New Orleans, Louisiana 9:00 a.m. to 5:00 p.m.; Le Pavillon Hotel, 833 Poydras St., New Orleans, Louisiana 70112.

June 14, 1979—Washington, D.C. 9:00 a.m. to 5:00 p.m.; Departmental Auditorium, Department of the Interior, 1800 "C" Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Thomas G. McCloskey, Office of the Assistant Secretary-Energy and Minerals, U.S. Department of the Interior, Room 6637, 1800 "C" Street, NW., Washington, D.C. 20240, (202) 343-4457.

SUPPLEMENTARY INFORMATION: Interested persons are invited to make oral and written presentations regarding the proposed rules during the hearings.

Individual testimony during the hearing may be limited if the number of people asking to testify warrants. However, in no case will a testifier be allowed less than 10 minutes. Requests for time to present testimony should be made before June 1, 1979, as follows:

Persons wishing to testify in Los Angeles, California, should address their requests for time to the Area Oil and Gas Supervisor, 17744 Federal Building, 300 N. Los Angeles Street, Los Angeles, California 90012, (213) 688-2846.

Persons wishing to testify in New Orleans, Louisiana, should address their requests for time to the Conservation Manager—Gulf of Mexico Region, 336 Imperial Office Building, 3301 Causeway Boulevard, P.O. Box 7944, Metairie, Louisiana, 7001, (504) 837-4720.

Persons wishing to testify in Washington, D.C., should address their requests for time to the Conservation Manager—Eastern Region, 1725 K Street, Suite 204, Washington, D.C., (202) 254-3137.

The comments and recommendations made at the three public hearings listed above will be recorded, transcripts of the hearings will be made part of the record relating to the promulgation of final rules. Copies of the proposed rules are available from the officials listed above.

The filing of a written statement at the time of giving oral testimony would be helpful to facilitate the job of the court reporter. Submission of written statements to the Chief, Conservation Division, U.S. Geological Survey, care of the officials listed above, in advance of the hearing dates would greatly assist Department officials who will attend the hearings. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked to clarify or solicit more specific information from the person testifying. The hearing record will remain open for receipt of additional written comments until June 24, 1979.

Each of the public hearings will continue on the day identified above until all persons scheduled to speak

have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of scheduled speakers. The hearings will end on each day after all people scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned on any given day unless they are present in the audience at the time all scheduled speakers have been heard.

Dated: May 4, 1979.

Joan M. Davenport,

Assistant Secretary—Energy and Minerals.

[FR Doc. 79-14577 Filed 5-9-79; 8:45 am]

BILLING CODE 4310-31-M

[30 CFR Part 250]

Oil and Gas and Sulfur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Proposed Rule.

SUMMARY: Enactment of the Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. 95–372, (herein referred to as "the Act") necessitates revision of the regulations contained in 30 CFR Part 250. By proposed rule of January 17, 1979, (44 FR 3513), the Department of the Interior proposed revisions to 30 CFR 250.34 to implement those provisions of the Act which relate to (1) exploration activities on Outer Continental Shelf (OCS) oil and gas leases, (2) coordination and consultation with the Governors of affected States and the executives of affected local governments, and (3) development and production activities on OCS oil and gas leases. Revisions to the proposed 30 CFR 250.34 which are contained in this Notice of Proposed Rulemaking, are necessary to implement Section 5(a)(8) of the Act. Section 5(a)(8) requires compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) to the extent that activities on the OCS significantly affect the air quality of any State. A new section, 30 CFR 250.57, is also proposed; it describes the requirements lessees must meet when their activitiew are subject to the provisions of Section 5(a)(8) of the Act.

DATES: Interested persons are invited to submit written comments and recommendations with respect to the proposed regulations. Written comments and recommendations should be submitted on or before July 9, 1979.

The rulemaking proceeding initiated by this notice is being conducted independently of the proceedings under which other Part 250 regulations are being amended. By soliciting comments on these proposed regulations the Department does not intend to reopen the comment period for the 30 CFR 250.34 regulations which closed on March 16, 1979 (*see* 44 FR 3513) or for other portions of the 30 CFR Part 250 regulations which will close on May 18, 1979 (*see* 44 FR 13527).

ADDRESS: Responses should identify the subject matter and be directed to the Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 620, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Theresa Hooks, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, (202/343–4325).

AUTHORS: Thomas McCloskey, Office of the Assistant Secretary—Energy and Minerals, Department of the Interior (202/343–4457); Theresa Hooks, Office of the Solicitor, Department of the Interior, R. A. Karam, Office of OCS Program Coordination, Office of Assistant Secretary-Policy, Budget and Administration, Department of the Interior (202/343/9314); and E. P. Danenberger, U.S. Geological Survey, Department of the Interior (703/860–7549).

SUPPLEMENTARY INFORMATION: The Act provides that the Secretary of the Interior shall prescribe regulations with provisions for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 *et. seq.*), to the extent that activities authorized under this Act significantly affect the air quality of any State (Section 5(a)(8), 43 U.S.C. 1334). By Notice of December 28, 1978, (43 FR 7980) public comments were requested to assist the Department of the Interior in the identification and selection of a regulatory program to control air emissions from activities authorized under the Act which significantly affect onshore air quality. The Department received 44 responses to the Notice, including 25 from industry and trade associations, 13 from State and local governments, 4 from environmental and public interest groups and 2 from federal agencies.

In addition to soliciting written comments and recommendations through the Advance Notice of Proposed Rulemaking, representatives from the Department of Interior met informally with interested parties in Washington, D.C. and in California to discuss the air quality regulatory program for the control of air emissions from activities authorized under the Act.

All oral and written comments have been carefully considered in this proposed rulemaking; another opportunity for written comment will be provided for 60 days following the publication of these proposed regulations. In addition, public hearings on these regulations will be held in Washington, D.C., New Orleans, Louisiana, and Los Angeles, California. (A Notice will be published in the Federal Register.)

The Department's Mandate

Significant Onshore Effects

In enacting Section 5(a)(8) of the Act, Congress directed the Secretary to regulate emissions from activities authorized under the Act *only* when these emissions would significantly affect the air quality of any State. Some respondents to the Advance Notice suggested that the language of Section 5(a)(8) means that no regulatory action can be taken until the Department demonstrates that emissions from a given facility could significantly affect an onshore area. Under this view, a demonstrable air quality problem would have to exist before the Department could act to avoid or mitigate the problem.

The Department has rejected this interpretation of the statute. Regulations are necessary to inform lessees and the public of how the Secretary intends to fulfill the statutory responsibilities related to the protection of onshore air quality. Thus the proposed regulations describe procedures that will be followed in determining whether emissions from activities authorized under the Act must be abated and explain the criteria that will be used to identify sources of emissions which would have significant onshore impacts.

The Department agrees with those commenters who asserted that the lessee cannot be required to control emissions from activities authorized under the Act unless these emissions will significantly affect the air quality of any State. When the legislation amending the Outer Continental Shelf Lands Act of 1953 was approved by the Ad Hoc Select Committee on the Outer Continental Shelf, it contained a Section 5(a)(9) which required the Secretary to establish air quality standards for the control of air emissions to protect the quality of the air above the OCS (*see* H.R. 95–590, August 29, 1977). The Conference Committee, after discussing the feasibility and economic impacts of regulating all emissions from activities

on the OCS whether or not the emissions affected the quality of onshore areas, decided to delete Section 5(a)(9). After this explicit omission, only Section 5(a)(8) remained. Therefore, it is clear that Congress intended that the Secretary regulate emissions from activities authorized under the Act only when these emissions significantly affect the air quality of an onshore area.

Cooperation with the Environmental Protection Agency

Some of the respondents to the Advance Notice recommended that the Department delegate responsibility for the regulation of OCS facilities to the U.S. Environmental Protection Agency (EPA). The Department rejected this suggestion because the Secretary may not delegate statutory responsibilities to other Federal Agencies (*see* Reorganization Act of 1950, 64 Stat. 1262, Note to 43 U.S.C. section 1451. Others suggested that the Department adopt's EPA's regulatory scheme and enforce it on the OCS. The Conference Report indicates that the Secretary of Interior should be "guided by the Clean Air Act, in consultation with the Environmental Protection Agency." Throughout the process of drafting these regulations the Department has been in continuous contact with EPA in developing the regulations contained in this Notice. The following proposed regulations rely heavily on standards, criteria and requirements established by the EPA under the Clean Air Act. It was necessary, however, to deviate from EPA's standards, criteria and requirements in some instances. Unlike the sources of air pollutants located onshore, OCS sources are external to the onshore areas whose air quality they may affect and therefore the EPA procedures and criteria are not entirely applicable to the Department's mandate under the Act.

Prevention of Significant Deterioration of Clean Air

In determining the proper scope of these regulations, it was necessary to decide what, if any, consideration should be given to the control of emissions from activities authorized under the Act which significantly affect the air quality of onshore areas where the air quality is better than the primary or secondary ambient air quality standards established by EPA in 40 C.F.R. Part 50 (called "attainment areas").

Some commenters asserted that the Secretary is not authorized under the Act to promulgate regulations to prevent the significant deterioration of onshore air and cite the specific language of the Act, which refers to "compliance with national ambient air quality standards," to justify their position. Others argued that the Department's regulations must insure that OCS sources will not have an adverse effect upon the air quality of attainment areas. They cite the language of the legislative history, and emphasize the economic inequities which would result if OCS sources significantly affecting attainment areas are exempt from controls. After careful consideration of the language of Section 5(a)(8) of the Act, the extent and scope of the Secretary's authority under Section 5(a) of the Act, and the legislative history, the Department decided that the proposed regulations should require compliance with standards established by EPA to prevent the significant deterioration of onshore air which is cleaner than that mandated under the primary or secondary ambient air quality standards.

The Department's decision is consistent with the language of the Act which refers to *national* standards. Part C of the Clean Air Act establishes increments and ceilings for the concentration of certain air pollutants in the ambient air of attainment areas. These increments and ceilings are related to but are distinct from the primary and secondary standards established under Section 109 of the Act. They are, nonetheless, *national* standards.

Furthermore, the Department believes its decision is consistent with the intent of Congress as expressed in the legislative history. Statements made on the House floor during the debate over the air quality provisions of the Act clearly demonstrate that Congress intended that all *applicable* aspects of the air quality regulatory program established under the Clean Air Act be extended to the program established under the Act (*see* 1978 Cong. Rec. H. 415–416, January 31, 1978). That the provisions of Part C of the Clean Air Act are "applicable" is underscored by the debates which occurred among the conferees during Conference Committee meetings. The point was emphatically made that if emissions from offshore operations are not regulated to the same extent as emissions from onshore operations, then onshore growth will be slowed in favor of offshore development (*see* Transcript of Conference Committee on OCS Lands Act Amendments, June 19, 1978). No distinction was made between attainment and non-attainment areas, strongly suggesting that Congress had no intention of creating a special exemption for offshore operations significantly affecting the air quality of an attainment area. Indeed, the legislative history indicates that once it is determined that offshore emissions significantly affect onshore areas, these emissions are to be regulated regardless of attainment status.

Finally, the decision is consistent with the Secretary's broad mandate to protect the marine, coastal and human environments (*see* Sections 102 (2), (3) and (4); 201 (g), (h) and (i); 204(a)(1); 206(c)(1); 21(b) and 25(h) of the Act). Given the breadth of this mandate, it can be argued that the Secretary has the authority to impose any reasonable regulatory scheme which would protect the quality of life of those affected, directly or indirectly, by OCS activities authorized under the Act. The decision to regulate emissions from activities authorized under the Act which significantly affect the air quality of an attainment area is consistent with this mandate.

More Stringent State Standards

In the Advance Notice, the Department raised the question of whether State ambient air quality standards that are more stringent than the national ambient air quality standards should be enforced on the OCS. The respondents were divided on the issued. Those opposing consideration of the State standards point to be express language of Section 5(a)(8) which refers to *national* standards. Those in favor of consideration of State standards point to the House Conference Report which indicates that the "* * * conferees agreed that if an approved State Implementation plan has ambient air quality standards which are more stringent than the national ambient air quality standards, the Secretary of Interior shall, with appropriate regulations, assure that offshore operations conducted pursuant to this act *do not prevent the attainment of those State standards,* if the air quality of that State is significantly affected by such offshore operations". (*see* House Conference Report No. 95–1474, p. 85) (emphasis added). Although there is no explicit reference in the proposed rules to State standards, the Department believes that the approach it has adopted will not prevent the attainment of more stringent State standards for several reasons. First, the Department is proposing a comprehensive regulatory program which applies to both existing and new activities authorized under the Act (*see* "Section-by-Section Analysis")

and covers emissions which significantly affect either non-attainment or attainment areas (*see* "Prevention of Significant Deterioration of Clean Air"). Second, the Department has granted only limited exemptions under its regulatory scheme (*see* "Exemptions"). Third, the Department has decided to use the significance measures established by EPA in its "Emission Offset Interpretive Ruling" (44 FR 3274) and "Prevention of Significant Deterioration" (43 FR 26380) regulations—i.e. "significance levels" and "travel time" to shore—to trigger the controls which will be required for OCS activities. These measures are quite stringent. The "significance levels" are approximately two percent of the ambient air quality standards, established by EPA, and the "travel time" to shore will cover OCS activities many miles from the affected onshore area. (*see* "Requirements for Activities Causing Significance Onshore Effects"). Finally, the Departments has adopted control requirements which insure that emissions from OCS activities authorized under the Act will have no net effect in non-attainment areas and will be controlled to the same extent that emissions from onshore activities are currently controlled in attainment areas (*see* "Section-by-Section Analysis").

The Department believes the approach it has adopted will not prevent the attainment of more stringent State standards and requests that persons commenting on the regulations proposed in this Notice provide specific information which supports or disproves this position. Also, the Department would like to be informed of any instances where an onshore area has dual status—i.e. "attainment" status for the ambient air quality standards established by EPA and "non-attainment" status for the State's ambient air quality standards—and to receive recommendations on how these areas should be treated.

Role of State and Local Governments

All local government respondents in California urged the Department to require the OCS lessee to obtain a local air quality permit as a prerequisite to plan approval. The local governments asserted that this would insure that all State and local standards are applied to the OCS operations. Other respondents adopted a different viewpoint. Some saw no role for State and local governments, while other urged that State and local government participation be consistent with that accorded State and local governments under Sections 11, 19 and 25 of the Act.

The Department has decided to fully integrate the regulations proposed in this Notice into the U.S. Geological Survey's ongoing regulatory program, and to rely on the mechanisms outlined in § 250.34 of Title 30 of the Code of Federal Regulations (which implements the provisions of Sections 11, 19 and 25 of the Act) for State and local government participation. In reviewing the Act and its legislative history there is no indication that Congress intended that the Secretary delegate to State and local governments responsibility for the establishment and enforcement of procedures necessary to insure that onshore air quality is not significantly affected by activities authorized under the Act. Moreover, the Federal District Court, in *California v. Exxon Corp.*, No. 78-2849-RMT (C.D.Cal. 1978), has ruled that the United States has exclusive authority to regulate air emissions from activities occurring on the OCS.

In making this decision, the Department believes that State and local governments will play an adequate an important role in the decision-making process relating to activities authorized under the Act. Besides the authority to review and comment upon exploration plans and development and production plans, a State with an approved coastal zone management program has the opportunity to consider onshore air impacts as part of its consistency review of OCS plans. Also, the Department expects a willingness on the part of lessees to consult with State and local government officials during the plan development stage.

Requiring Offsets

Another issue which the Department considered in defining the proper scope of the regulations proposed in this Notice was whether the Secretary should require lessees to obtain offsetting emission reductions (emission offsets) from existing sources. This is the technique used by EPA to insure that there is reasonable progress toward the attainment of primary and secondary ambient air quality standards in non-attainment areas.

Most of the respondents to the Advance Notice supported the use of emission offsets, but there was sharp disagreement over the use of EPA's offset requirements. Some respondents view emission offsets as nothing more than a method of abating actual emissions, and maintain that the requirement should be independent of all other considerations. Other respondents pointed out that offsets are the mechanism EPA uses to allow new sources to locate in non-attainment areas while insuring reasonable progress toward the attainment of primary and secondary standards, and argued for the full application of EPA's offset procedures.

The Department has decided to allow the use of emission offsets as a method of abating actual emissions. The lessee may use whatever mechanisms are necessary to reduce actual emissions or to offset emissions in order to reach goals required by the regulations. In effect, this is a performance standard approach, and is consistent with the approach envisioned by the U.S. Geological Survey to fulfill its obligation under Section 21(b) of the Act to require the application of the best available and safest technologies (*see* Advance Notice of Proposed Rulemaking (44 FR 7980)).

Exemptions

Several respondents to the Advance Notice recommended that the Department exempt all activities authorized under the Act with emissions under 250 tons per year. The same information the Department used to justify the exemption of activities which emit under 100 tons per year (*see* "Section-by-Section Analysis—Exemptions") indicates that sources over 100 tons may result in concentrations of air pollutants in onshore ambient air in excess of the significant levels. For this reason, the Department rejected this recommendation. Also, some respondents suggested that the Department establish an exemption for facilities located eight (8) or more miles from shore. The Department has decided that it does not have sufficient data, at this time, to create such an exemption. The Department believes, however, that there is a distance beyond which OCS activity emissions will not significantly affect the air quality of an onshore area. Information from studies and plans submitted by lessees will be evaluated and a distance exemption maybe established when sufficient data are available on the subject.

Finally, some respondents recommended that all activities related to the exploration for and development of OCS oil and gas resources be exempt because of their temporary nature. The Department considered such an exemption but decided against it for three reasons. First, it is clear that Congress intended to subject exploratory drilling to review (*see* Section 11(c)(1) of the Act). Second, the information available to the Department indicates that substantial emissions (i.e.

in excess of 100 tons per year) for certain pollutants may be associated with uncontrolled drilling activities. Third, the precedent for exempting "temporary" activities is found in EPA regulations, which contain a requirement to install best available control technology. If the Department adopted this approach all lessees would have to apply best available control technology whether or not a significant onshore effect occured. The Department has decided to treat temporary activities differently than those associated with steady state activities. In terms of the degree of control, it will require only the application of best available control technology to temporary activities which significantly affect the air quality of a State (*see* "Section by Section Analysis—5. Control of Temporary Activities* * *").

Existing Sources

Some of the respondents questioned the Department's statutory authority to subject existing sources to regulatory review under Section 5(a)(8) of the Act. It is clearly within the Secretary of Interior's authority to develop regulations which apply to activities authorized under the Act which have already been approved by the Department and are operating on the OCS. The basis for this conclusion can be found in Section 5(a) of the Act which provides:

"The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of natural resources of the OCS, and the protection of correlative rights therein, and, *notwithstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this Act* * * *. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

* * * * *

(8) for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*), to the extent that activities authorized under this Act significantly affect the air quality of any State." (emphasis added)

The conference report explains that regulations promulgated pursuant to the authority of Section 5 "are to be applicable to any lease in effect at the date of promulgation, as well as to any lease to be let in the future" (*see* Conf. Rep. No. 95–1091, pg. 82). Also, Section 5(a)(8) of the Act draws no distinction between existing and proposed activities. Rather, it requires the promulgation of regulations to control emissions from OCS facilities if these emissions significantly affect the air quality of any State.

Overview of the Proposed Regulatory Program

The proposed regulations provide that the emission of pollutants from activities authorized under the Act will be controlled only when these emissions significantly affect onshore air quality. In order to identify those OCS activities which significantly affect onshore air quality, the regulations require that basic air emissions data be submitted by all lessees conducting OCS activities authorized under the Act, and, except where these activities are exempt require that the impacts on onshore air quality of the emissions be determined through the use of air quality models. Criteria set forth in the regulations are to be used by the lessee to determine whether the impact from the emissions will "significantly affect" onshore air quality. If significant effects occur, the provisions of the regulations requiring control of emissions will apply.

Decisions concerning the potential impacts on onshore air quality of emissions from activities authorized under the Act and the necessity for control or offset of those emissions will be made as part of the approval process for exploration plans and development and production plans (*see* Sections 11 and 25 of the Act). As part of the plan submission, the lessee shall identify all emissions associated with activities describe in the plan, present any air quality modelling results which may be required, and, if the onshore impacts on air quality are significant, described the methods which will be used to control the emissions so that effects on onshore air quality are avoided or satisfactorily mitigated.

As part of its review of the plan the U.S. Geological Survey will evaluate the emissions data and, if applicable, the proposed means of control. State and local governments will have opportunity to review and comment on the emissions data and proposed controls in accordance with the procedures described in 30 CFR 250.34. In addition, States with approved coastal zone management programs will have this information available to make consistency determinations. The exploration plan or development and production plan will not be approved until the Survey is satisfied that the air emissions data are accurate, that the air models have been run in accordance with EPA guidelines, and that, where applicable, the controls and other mitigating measures proposed are adequate and available.

Because the Survey has integrated the air quality regulations into its established regulatory scheme, no separate permit issuing procedure is necessary. A lessee can undertake no exploratory, development or production activities on a lease until the applicable plan is approved and required drilling permits are granted. Additionally, at any time after approval of a plan the Department has authority to suspend operations under § 250.12 of Title 30 of the Code of Federal Regulations if the lessee deviates from the approved plan. If, for instance, a lessee fails to honor a commitment to obtain an offset, or to take some other action to prevent or mitigate the effects of emissions from operations under a plan, operations can be suspended until the problem is remedied. The lessee may also be assessed substantial monetary penalties for failure to conduct activities on the OCS in accordance with the approved plan.

Section-by-Section Analysis

Definitions—§ 250.2:

The Department has decided to regulate air pollutants for which EPA has adopted standards under Section 109 of the Clean Air Act. Some respondents to the Advance Notice recommended that the Department regulate any air pollutant regulated by the affected States. In reviewing information on air emissions for activities already underway on the OCS (*see* "Atmospheric Emissions from Offshore Oil and Gas Development and Production," EA–450/3–77–026, June, 1977) the Department is convinced that, with one exception, the air pollutants covered by EPA's standards are the ones associated with activities on the OCS. The one exception is hydrogen sulfide, and this pollutant is already regulated by the Survey for health and safety reasons (*see* "OCS Operating Order No. 2").

Information Requirements—§ 250.34–3:

This portion of the proposed regulations is a further amendment of the Department's 250.34 regulations which are currently being revised to conform to the Act (44 FR 3513, Jan. 17, 1979). The proposed regulations identify information requirements which must be included in the environmental reports that accompany exploration plans and development and production plans submitted to the Geological Survey.

The purpose of this section is to insure that lessees include in the environmental reports all information

necessary for the Director to determine whether the air emissions from activities authorized under the Act will significantly affect the air quality of onshore areas The lessee, acting in accordance with agency guidelines, is the most appropriate party to prepare information concerning emissions and the onshore effects of such emissions. Such a requirement is in accordance with the lessee's obligation to provide whatever information is necessary to enable the Department to determine the specific constraints that may be needed before approval of the activities outlined in a plan can be granted.

All the information requirements called for in the proposed regulations may not apply in every situation. The amount of information required in this section is tied to the regulatory program contained in § 250.57 of Title 30, and the lessee will be required to submit only that information needed to make the requisite findings under the regulatory program.

The basic information which will generally be required of all lessees proposing exploration, development or production activities includes: an estimate of projected emissions and their frequency and duration; the distance of the proposed activity from the onshore area of impact; meteorological data; and the air quality status of the onshore area which could be adversely affected by the emissions.

If this information indicates that the proposed activity is subject to further regulatory review, the environmental report must also include information obtained from models used to determine onshore effects on air quality. The models used must be recognized by EPA in its publication entitled "Guidelines to Air Quality Modelling."

If the result of the model study indicates that measures must be taken to control the impacts of emissions from activities proposed in a plan, the environmental report must contain a description of the emission reduction control technology to be used and the reductions which will be achieved. In the cases where best available control technology (BACT) is required, the lessee must indicate which control technology constitutes BACT, justify the selection of this technology, and explain why existing technologies which would achieve a greater reduction were not chosen.

If the lessee proposes to obtain emission offsets to mitigate the onshore impacts on air quality of the activities proposed in a plan the lessee must demonstrate that the appropriate air quality control jurisdiction has been notified of the need to revise the state implementation plan (SIP) to include the information regarding the offsets; that the commitments to obtain offsets are binding; and that the offsets will be obtained from existing sources which adversely impact the air quality ot the area which will be significantly affected by the proposed activity. This latter provision has been included to allow a lessee to obtain an offset from a source which is physically located outside the affected area when that source contributes to degradation of the air quality within the area to be affected. Some of the respondents recommended that the Department include an additional requirement that the lessee must demonstrate that all existing sources owned or operated by the lessee in the State significantly affected by the lessee's proposed facilities are in compliance with all applicable emission limitations or standards required under the Clean Air Act or are on a Federally enforceable compliance schedule. The Department requests comment on the impact of this provision if it is incorporated into final regulations.

The Regulatory Program—§ 250.57–1:

Under Section 5(a)(8) of the Act the Department must regulate *all* activities authorized under the Act which significantly affect the air quality of a State. This includes proposed activities for which exploration or development and production plans have not yet been approved by the Geological Survey, activities which have been approved but have not yet commenced operations, and modifications of existing activities which must be approved under a revised exploration or development and production plan. Section 250.57–1 applies to all of these situations by imposing the information requirements on each of the following types of activities: Those covered under plans approved after the effective date of these regulations, those covered under plans approved prior to the effective date of these regulations which have not been commenced, and those covered under revised plans.

Exemptions:

Under this section, an uncontrolled source which emits air pollutants at a rate equal to or under 100 tons per year is exempt from further regulatory review. If a lessee *voluntarily* controls a source and reduces emissions of air pollutants to a rate equal to or under 50 tons per year, then the source is exempt from further regulatory review. This latter exemption is provided for those lessees, whose sources emit more that 100 tons of air pollutants per year, that want to avoid further regulatory review.

These threshold numbers are adopted from EPA's new source review regulations. (*see* 40 CFR Part 51, Appendix S—"Emission Offset Interpretive Ruling," 44 FR 3274, January 16, 1979). Before deciding to use these figures, however, the Department, in close consultation with EPA, calculated the onshore impact of a 50 ton per year source located just outside the three mile limit of a State. The assumptions used in the calculations were quite conservative and assumed a worst-case impact. The Department compared the figures for both a 50 tons per year source and a 100 tons per year source and neither source exceeded the 24-hour, 3-hour or 1-hour significance levels the Department proposes to use to determine whether emissions significantly affect the air quality of a State (*note* an annual figure was not calculated).

The decision to exempt certain sources is consistent with the Department's legislative mandate not to impose a regulatory burden on an activity which does not significantly affect the air quality of a State. The Department is reasonably certain that emissions from exempt activities will not result in concentrations of pollutants in onshore ambient air which exceed the significance levels the Department proposes to use to determine signficant effects. However, in certain instances lessees proposing otherwise exempt activities will be required to perform the modelling necessary to determine whether the expected emissions meet the "significantly affect" test. This will occur when a State, which is exercising its right to review a new or revised exploration plan or development and production plan pursuant to § 250.34–1(b) or § 250.34–2(b) of this part, submits information to the Director which demonstrates that the emissions from the otherwise exempt activities will significantly affect the air quality of an area in the State.

The "Significantly Affects" Test

As discussed above, emissions from activities located on the OCS must be converted into concentrations of pollutants in the onshore ambient air to determine whether an OCS activity significantly affects the air quality of a State. The Department has decided to use EPA's "significance levels" and "36-hour travel time" criteria to make this determination. The decision to use two separate criteria is based on information from EPA that acceptable models for calculating ozone concentrations resulting from the emission of volatile organic compounds do not exist. The "significance levels" are adopted from

EPA's "Emission Offset Interpretive Ruling" (44 FR 3274) and "Prevention of Significant Deterioration" (43 FR 26380) regulations. These regulations establish maximum ambient concentrations for four types of pollutants (i.e. sulfur dioxide, total suspended particulates, nitrogen dioxide, and carbon monoxide). The levels are quite stringent. In fact, EPA has informed the Department that even though it is possible to inexpensively model emissions and calculate ambient concentrations down to these levels, it is difficult, if not impossible, to detect these concentrations on air quality monitors.

It should be noted that while this level of control is stringent, it will not have drastic consequences for the lessee. We know, for instance, that emissions of 100 tons per year from a hypothetical activity located exactly three miles from shore did not cause significance levels onshore to be exceeded (*see* "Section-by-Section Analysis—Exemptions"). Furthermore, preliminary data shows that as the distance of activities on the OCS from shore increases, the amount of emissions can increase without exceeding the significance levels onshore. (*see* "Environmental Impact Report-Environmental Assessment" prepared by the United States Geological Survey, the California State Lands Commission, and the Port of Long Beach, December 1, 1978, which indicates that the Shell proposed Beta Unit, located eight miles off the coast of California, will emit 400 tons of nitrogen oxides per year but will not exceed the significance levels onshore).

As was mentioned above, EPA has informed the Department that atmospheric simulation models are not adequate, at the present time, to predict the impact of a single source of volatile organic compounds upon ozone levels. As a result, EPA has developed a different approach for "modelling" emissions of volatile organic compounds. Under EPA's new source review regulations a source of volatile organic compounds will be considered to have a significant impact if it is within a 36-hour travel time of a non-attainment area for ozone under meteorological conditions associated with the non-attainment conditions of the area. (*see* 40 CFR Part 51, Appendix S—"Emission Offset Interpretive Ruling", 44 FR 3274, January 16, 1979). The EPA approach is applicable to OCS sources since they are located outside the area of non-attainment for ozone and their emissions must "travel to" the area of impact. (*note* EPA has informed the Department that it is evaluating the 36-hour figure and may change the figure in the future. If and when EPA publishes changes, the Department may adopt EPA's new figure.)

Requirements for Activities Causing Significant Onshore Effects

The preceding section describes the criteria that will be used to determine whether air emissions from OCS activities significantly affect the air quality of an onshore area. This section explains the level of control which will be required for activities which significantly affect the air quality of an onshore area.

1. Control of Air Pollutants Other than Volatile Organic Compounds Affecting Non-attainment Areas.

Any lessee proposing an activity whose air pollutants other than volatile organic compound emissions would, according to the modelling results, exceed the significance levels in a non-attainment area will be required to take whatever measures are necessary to reduce or offset the emissions from the activity so that the concentrations of the pollutants will have no effect on the non-attainment area. The level of control imposed is, by necessity, a stringent one. Non-attainment areas in a State are mandated by the Clean Air Act Amendments of 1977 to reduce pollutant concentrations to levels below the ambient air quality standards established by EPA in 40 CFR Part 50 by 1982 or suffer severe economic consequences. Thus, in these areas even the slight contribution of air pollutants aggrevates the situation and makes it more difficult for the State to achieve its air quality goals.

The regulatory scheme proposed is flexible in that it provides the lessee with the option of installing control technology, obtaining offsets, or using a combination of these methods to achieve the necessary degree of control. The Department believes that this flexibility is a reasonable and necessary feature of the program. Activities on the OCS are of varying magnitude and are located in different locations. The type and quantity of emissions differ, as does the air quality status of the onshore areas. Therefore, different degrees of control will be necessary to mitigate the effects on onshore air quality. Furthermore, OCS activities are unique in that the limited amount of space on drilling rigs and platforms may make the addition of control technology economically infeasible. In recognition of this fact, the Department has decided to allow lessees to use offsets to obtain an equivalent measure of emission reduction. The net effects on onshore air quality would, nonetheless, be the same.

2. Control of Air Pollutants Other than Volatile Organic Compounds Affecting Attainment Areas or Areas which are Unclassifiable on the Basis of Available Data.

In determining the appropriate level of control for air pollutants other than volatile organic compounds from activities authorized under the Act which affect an attainment or unclassified area, the lessee must follow a two-step approach. If the emissions would exceed the significance levels in an attainment or unclassifiable area, the lessee must identify, in the exploration or development and production plan, and subsequently must apply the best available control technology (BACT) which could be applied to reduce emissions from the source. Next, the lessee must model emissions after the application of BACT to determine whether the controlled emissions would cause the maximum allowable increases in ambient air concentrations in the attainment or unclassifiable area for sulfur dioxide or particulate matter (as established in Part C of the Clean Air Act) to be exceeded. If the modeling demonstrates that the maximum allowable increases would be exceeded, the lessee must take whatever additional measures are necessary to reduce or offset the emission of these two pollutants down to a level at which the maximum allowable increases would not be exceeded. This approach for attainment areas has been adopted for two reasons: (1) It insures that OCS lessees must, to the extent that their emissions significantly affect the air quality of onshore areas, control their emissions to the same extent as onshore emitters. By requiring the installation of BACT for all air pollutants other than volatile organic compounds which exceed the significance levels in attainment or unclassifiable areas, the Department has adopted a standard of control which parallels that imposed by EPA for onshore sources.

The Department has decided to use EPA's BACT standard for the following reasons. Unlike emissions affecting a nonattainment area where any increase in ambient concentrations is potentially significant, emissions affecting attainment or unclassifiable areas must be measured against an "allowable growth factor" (i.e. the "maximum allowable increases") to determine whether they are significant. If the Department required activities affecting attainment or unclassifiable areas to reduce emissions so that there is no net effect in these areas (i.e. the approach used when these emissions affect a non-attainment area), the benefit derived

from the "allowable growth factor" would be negated. Furthermore, requiring activities authorized under the Act to meet the BACT standard insures that offshore and onshore sources will be treated in an equitable fashion. This is important because as the level of activity increases an even greater proportion of the allowable increase is exhausted. If all sources must meet the same control standard (i.e. BACT) it assures that no class of sources will use up a disproportionate share of the maximum allowable increase.

Under EPA's regulatory scheme a permit would be denied for any onshore facility which exceeds the SO_2 and particulate increases after installation of BACT unless the permittee agrees to increase the level of control or make some other modification of the facility so that the increases are not violated. Similarly, under the proposed OCS regulatory program, if the maximum allowable increments are exceeded after the application of BACT, the lessee must take further measures before the development and production plan will be approved. Such measures may include the use of more sophisticated control technology, the modification of the proposed activity, or the use of offsets from other sources.

3. Control of Volatile Organic Compounds Affecting Non-attainment Areas.

Any lessee proposing an activity which is within 36 hours travel time of an on-shore area that is non-attainment for ozone concentrations and which emits any volatile organic compound must take whatever measures are necessary to reduce or offset the emissions from the activity so that there will be no net effect on the non-attainment area. The basis for this decision is the same as that used for air pollutants other than volatile organic compounds significantly affecting a non-attainment area. However, because of the inability to accurately model the effect of volatile organic compounds which are within 36 hours travel time of a non-attainment area, no allowance is made for volatile organic compounds dissipated in transit to affected onshore areas. Thus all emissions must be reduced or offset. (*See* "Section-by-Section Analysis—1. Control of Air Pollutants Other than Volatile Organic Compounds Affecting Non-Attainment Areas"). The lessee is provided with flexibility in controlling the emissions. Either control technology or offsets equivalent to that amount of emissions which must be reduced may be used by the lessee.

4. Control of Volatile Organic Compounds Affecting Attainment Areas, or Areas which are Unclassifiable on the Basis of Existing Information.

Any lessee proposing an activity which is within 36 hours travel time of an attainment or unclassifiable area as measured by the same meteorological conditions creating a non-attainment situation in the vicinity, and which emits any volatile organic compound, must identify, and subsequently apply, BACT to the emission source.

5. Control of Temporary Activities Significantly Affecting Non-Attainment or Attainment Areas, or Areas which are Unclassified on the Basis of Existing Information.

A temporary activity is any activity authorized under the Act associated with the construction of platforms or any activity associated with the exploration for or development of OCS oil and gas resources which will occur in any one location for less than three years. This encompasses all activities except steady-state production activities. Many commenters believed that temporary activities should be exempt from all regulatory requirements, including the requirement to measure and model emissions to determine whether they cause significant onshore impacts. The Department has rejected this argument. The Act does not distinguish between temporary and permanent activities; it directs the Secretary to control *all* activities authorized under the Act that would have significant effects on onshore air quality. Thus, lessees proposing to conduct temporary activities will be required to include in their exploration or development and production plans information concerning the effects of the emissions from these activities on the air quality of onshore areas. The decision to classify construction activities as "temporary" was adopted from EPA's regulations (*see* 40 CFR Part 51, Appendix S—"Emission Offset Interpretive Ruling," 44 FR 3274, January 16, 1979). Exploration and development activities which will occur in any one location for less than three years were classified as "temporary" based on the Survey's experience with the time normally associated with developmental drilling activities.

Where modeling indicates that emissions from such a facility would significantly affect any non-attainment, attainment or unclassifiable area of a State, the lessee will be required to install BACT on the source. Further emission controls or offsets will be unnecessary. This less stringent level of control is created for temporary activities because of the limited time that the activity will emit air pollutants and the difficulties and inequities that would be involved in requiring temporary activities to obtain offsets.

Sources Which Have Commenced Operations Before the Effective Date of These Regulations: § 250.57–2: Most respondents to the Advance Notice suggested that the Department exempt existing facilities from further regulatory review. Unfortunately, very little information exists on emissions from existing facilities and their impact onshore, but the information that does exist suggests that emissions and their impact are negligible (*see* "Atmospheric Emissions from Offshore Oil and Gas Development and Production," EPA–450/3–77–026, June, 1977). For this reason, the Department has decided to treat existing sources (i.e. those that have commenced operations prior to the effective date of those regulations) differently than those covered under 30 CFR 250.57–1. The Department will not initiate a review of an existing source unless a State can demonstrate that the source is affecting the air quality of any area within the State. The vehicle for this demonstration must be the area's official emissions inventory.

The Director shall review the information supplied by a State to insure that existing sources on the OCS are treated in an equitable fashion vis-a-vis sources located onshore. If they are, the Director shall immediately commence a process to identify which sources require controls. To insure that only those sources actually contributing to the onshore air quality problem are subjected to regulatory review, the Director shall review existing sources and identify the ones that have the potential to affect the air quality of an onshore area. The factors the Director shall consider are the available information on the facilities, meteorological data and the distance of sources from the affected onshore area. The Department has not been more specific because these factors will vary from area to area.

Once the facilities with a potential to affect the onshore area are identified they will be subjected to a regulatory review procedure similar to the one contained in 30 CFR Part 250.57–1. The level of control which would be required, when necessary, is limited to BACT. This procedure corresponds to current EPA practices.

The Department of the Interior had determined that the revision of the regulations in 30 CFR Part 250, as

proposed in this Notice, will not have a significant impact on the quality of the human environment and, therefore, will not require preparation of an Environmental Impact Statement. The Department of the Interior has determined that this document is a significant rule but does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: May 3, 1979.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

It is proposed to further revise 30 CFR Part 250 to read as follows (proposed revisions published in 44 FR 3513 and 44 FR 13527 are not affected).

1. Section 250.2 Definitions is amended by adding the following to read as follows:

§ 250.2 Definitions.

* * * * *

(dd) "Air Pollutant" means any air pollution agent or combination of agents for which the Environmental Protection Agency (EPA) has, pursuant to Section 109 of the Clean Air Act, established national primary and secondary ambient air quality standards.

(ee) "Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(ff) "Attainment area" means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modelling (or other methods determined by the Administrator of Environmental Protection Agency to be reliable) not to exceed any primary or secondary ambient air quality standard established by EPA in 40 CFR Part 50 for such pollutant.

(gg) "Best available control technology" ("BACT") means that degree of technology which results in the maximum reduction of each pollutant subject to control, taking into account energy, environmental, and economic impacts and other costs. BACT shall be verified on a case-by-case basis by the Director, and shall be that degree of technology which is achievable for the activity through the application of production processes and available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant.

(hh) "Emission offsets" means emission reductions obtained from sources, either onshore or offshore, other than the controlled activity. Emission reductions obtained through offsets must be equivalent in nature and quantity to that amount of emissions which must be controlled. The provisions of Part IV. C. of "Appendix S" of EPA's Emission Offset Interpretive Ruling (44 FR 3274, January 16, 1979) are applicable when determining offsets.

(ii) "Non-attainment area" means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modelling (or other methods determined by the Administrator of the Environmental Protection Agency to be reliable) to exceed any primary or secondary ambient air quality standards established by EPA in 40 CFR Part 50 for such pollutant.

(jj) "Onshore area of a State" means areas of a State landward of the mean high water mark (mean higher water mark on the Pacific coast).

(kk) "State Implementation Plan" (SIP) means a plan submitted to and approved by the Environmental Protection Agency, pursuant to Section 7410 of the Clean Air Act, which provides for the implementation, maintenance, and enforcement of the national primary ambient air quality standards within such state.

(ll) "Temporary activity" means operations associated with the construction of platforms on the OCS, or activities related to exploration for or development of OCS oil and gas resources which are conducted in one location for less than three years.

(mm) "Volatile organic compound" means any organic compound which is emitted to the atmosphere as a vapor. Certain unreactive compounds specified by EPA in Table I of "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977), as it may be amended, may be exempt from the above definition.

§ 250.34–3 [Amended]

2. Section 250.34–3(a) is amended by adding paragraph (a)(5) (i) and (ii) to read as follows:

(a) Environomental Report (Exploration). * * *

(5)(i) For onshore facilities directly associated with the proposed offshore activities, the lessee shall provide information on each source of air pollutants, listing: The source; the location of each source; the chemical composition and quantity of air pollutants; and the frequency and duration of emissions.

(ii) For activities on the OCS, the lessee shall review the requirements of § 250.57, and shall submit only that information, described below, needed to make the findings under § 250.57:

(A) Projected emissions from proposed activities, listing each source; the emission, by air pollutant, from each source expressed in tons per year and the maximum anticipated pounds per hour; and the total emissions, by air pollutant, from all sources expressed in tons per year. The lessee shall provide a detailed description of all processes, process equipment, and storage units. The description should include a schematic drawing which identifies each emission point. Also, the lessee shall provide information on fuels to be burned. All projections shall be based on the maximum rated capacity of the source unless the lessee proposes a load factor and makes a commitment not to exceed this load factor. If projections are predicated on the use of emission reduction control technology, the controls must be fully described. The basis for calculations used for all projections shall be described.

(B) The frequency and duration of emissions from each source.

(C) The distance of the proposed activities from the mean high water mark (mean higher high water mark on the Pacific Coast) of any State.

(D) Meterological data and information pursuant to the requirements specified in "Guidelines on Air Quality Models" (OAQPS 1.2–2080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April, 1978).

(E) The model or models used to determine the onshore effect from activities authorized under the Act and the results obtained through the use of such model or models. The model or models used must be recognized for use by EPA.

(F) The air quality status of the onshore area potentially affected by projected emissions from the activities proposed in the plan. The area should be classified as non-attainment, attainment, or unclassifiable on the basis of available data, listing: The status of each area by pollutant; the class of attainment areas; and the air pollution control agency whose jurisdiction covers the area identified.

(G) The emission reduction control technology available to reduce emissions, listing: The source; the emission reduction control technology; the reductions achieved; and the monitoring system the lessee will use to measure emissions. If applicable, the lessee shall indicate which emission reduction control technology the lessee believes constitutes the best available control technology and the basis for that opinion. The lessee shall identify any emission reduction control technology which exists which would achieve a

greater reduction in emissions, and present the reasons why the lessee should not be required to use this technology.

(H) The duration of the activity.

* * * * *

3. Section 250.34–3(b) is amended by adding paragraphs (b)(5) (i) and (ii) to read as follows:

* * * * *

(b) Environmental Report (Development/Production) * * *

(5)(i) For onshore facilities directly associated with the proposed offshore activites, the lessee shall provide information on each source of air pollutants, listing: The location of each source; the chemical composition and quantity of air pollutants; and the frequency and duration of emissions.

(ii) For activities on the OCS, the lessee shall review the requirements of § 250.57, and shall submit only that information, described below, needed to make the findings under § 250.57:

(A) Projected emissions from proposed activities, listing: each source; the emission, by air pollutant, from each source expressed in tons per year and the maximum expected pounds per hour; and the total emissions, by air pollutant, from all sources expressed in tons per year. The lessee shall provide a detailed description of all processes, process equipment, and storage units. The description should include a schematic drawing which identifies each emission point. Also, the lessee shall provide information on fuels to be burned. All projections shall be based on the maximum rated capacity of the source unless the lessee proposes a load factor and makes a commitment not to exceed this load factor. If projections are predicated on the use of emission reduction control technology, the controls must be fully described. The basis for calculations used for all projections shall be described.

(B) The frequency and duration of emissions from each source.

(C) The distance of the proposed activities from the mean high water mark (mean higher high water mark on the Pacific Coast) of any State.

(D) Meterological data and information pursuant to the requirements specified in "Guidelines on Air Quality Models" (OAQPS 1.2–080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April, 1978).

(E) The model or models used to determine the onshore effect from activities authorized under the Act and the results obtained through the use of such model or models. The model or models used must be recognized for use by EPA.

(F) The air quality status of the onshore area potentially affected by projected emissions from the activities proposed in the plan. The area should be classified as nonattainment, attainment, or unclassifiable on the basis of existing data, listing: the status of each area by pollutant; the class of attainment areas; and, the air pollution control agency whose jurisdiction covers the area identified.

(G) The emission reduction control technology available to reduce emissions, listing: The source; the emission reduction control technology; the reductions achieved; and the monitoring system the lessee will use to measure emissions. If applicable, the lessee shall indicate the emission reduction control technology the lessee believes constitutes the best available control technology and the basis for that opinion. The lessee shall identify any emission reduction control technology which exists which would achieve a greater reduction in emissions, and present the reasons why the lessee should not be required to use this technology.

(H) The potential emission offsets available from offshore and onshore sources, listing the ownership of the offsetting source or sources, and the reduction obtainable from each potential offsetting source.

(I) The duration of the activity.

2. Section 250.57 Air Quality is amended by adding Sections 250.57–1 and 250.57–2 as follows:

§ 250.57–1 Activities described in a new or modified exploration plan or development and production plan.

(a) All exploration plans and development and production plans filed after the effective date of these regulations shall include the information required to make the findings under paragraph (c) of this section.

(b)(1) All exploration plans and development and production plans filed or approved prior to the effective date of these regulations that describe any activity, having the potential to cause air emissions, which has not commenced prior to the effective date of these regulations shall be revised within 120 days of the effective date of these regulations to include the information required under § 250.34–3(a)(5) or § 250.34–3(b)(5). The lessee shall submit only that information required to make the findings under paragraph (c) of this section.

(2) All revisions to exploration plans or development and production plans which are proposed after the effective date of these regulations shall include, if the revisions describe activities which have the potential to cause air emissions, the information required under §§ 250.34–3(a)(b) or 250.34–3(b)(5). The lessee shall submit only that information required to make the findings under paragraph (c) of this section.

(c)(1) The Director shall review the information contained in a new or revised exploration plan or development and production plan and shall exempt from further regulatory review:

(i) Activities with uncontrolled emissions of each air pollutant of under 100 tons per year; or

(ii) Activities with controlled emissions of each air pollutant of under 50 tons per year.

However, if a State reviewing a new or revised exploration plan or development and production plan pursuant to 30 CFR 250.34–1(b) or 250.34–2(b) submits information to the Director which demonstrates that the emissions resulting from an otherwise exempt activity will significantly affect the air quality of an area within the State, the Director shall require the lessee to submit a revised exploration or development and production plan which includes the information required to make the findings under paragraph (c)(2) of this section and, if applicable, paragraph (c)(3) of this section.

(2) For an activity not exempt from further regulatory review under paragraph (c)(1) of this section the lessee shall determine whether the air pollutants emitted during the activity significantly affect the air quality of a State by applying the following:

(i) For each air pollutant other than volatile organic compounds the lessee shall use an air quality model to determine if the following significance levels are exceeded in any onshore area:

Pollutant	Averaging time				
	Annual	24-hour	8-hour	3-hour	1-hour
SO_2	1.0 μg/m³	5 μg/m³		25 μg/m³	
TSP	1.0 μg/m³	5 μg/m³			
NO_x	1.0 μg/m³				
CO			0.5 μg/m³		2 μg/m³

(ii) For volatile organic compounds the lessee shall determine whether the travel time between the source and any onshore area which is non-attainment for ozone concentrations, is equal to or less than 36 hours. The lessee shall also determine whether these emissions are equal to or less than 36 hours travel time from any attainment or unclassifiable area using the same meteorological conditions that are associated with ozone non-attainment conditions in the vicinity.

(3) Any activity whose emissions exceed the significance levels for pollutants established under paragraph (c)(2)(i) of this section shall be deemed to significantly affect the air quality of the State for that pollutant, and shall be subject to the following: (i) In non-attainment areas, the lessee shall take whatever measures are necessary to fully reduce or offset the emissions so that there is no impact from these emissions in the onshore ambient air. The lessee may fully reduce emissions through the installation of emission reduction control technology or may obtain offsets equivalent in nature and quantity to the emisssions which must be reduced. If offsets are proposed the lessee must fulfill the requirements of paragraph (d) of this section.

(ii) In attainment areas or in areas which are unclassifiable on the basis of existing information, the lessee shall apply the best available control technology to activities authorized under the Act to reduce emissions which significantly affect the onshore ambient air. The lessee shall model emissions from the source after the application of the best available control technology to determine whether the ambient concentration of emissions exceeds the following maximum allowable increases in the attainment or unclassifiable area:

Pollutant	Averaging time		
	Annual Geometric Mean	24-hour	3-hour
Class I			
Particulate Matter	5 μg/m³	10 μg/m³	
Sulfur Dioxide	2 μg/m³	5 μg/m³	25 μg/m³
Class II			
Particulate Matter	19 μg/m³	27 μg/m³	
Sulfur Dioxide	20 μg/m³	91 μg/m³	512 μg/m³
Class III			
Particulate Matter	37 μg/m³	75 μg/m³	
Sulfur Dioxide	40 μg/m³	182 μg/m³	700 μg/m³

If the maximum allowable increases are exceeded the lessee shall apply whatever additional controls are necessary to reduce or offset emissions so that concentrations of particulate matter or sulfur dioxide in the onshore ambient air of an attainment or unclassifiable area do not exceed the maximum allowable increases. The provisions of 40 CFR 52.21(d), regarding ambient air ceilings, and the exclusions from increment consumption described in 40 CFR 52.21(f) apply to OCS lessees when calculating the maximum allowable increases. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location. The lessee may reduce emissions through the installation of additional emission reduction control technology or may obtain offsets equivalent in nature and quantity to the emissions which must be reduced. If offsets are proposed the lessee must fulfill the requirements of paragraph (d) of this section.

(4) Any activity emitting volatile organic compounds which is within a 36-hour travel time of an onshore area which is non-attainment for ozone concentrations or within a 36 hour travel time for attainment or unclassifiable areas subject to the same meteorological conditions that are associated with non-attainment conditions in the vicinity, and is not exempt under paragraph (c)(1)(i) or (ii) of this section shall be deemed to significantly affect the air quality of the State.

(i) When the emissions are within 36 hours travel time of a non-attainment area, the lessee shall take whatever measures are necessary to reduce or offset all emissions through the installation of emission reduction control technology or by obtaining offsets equivalent in nature and quantity to the emissions which must be reduced. If offsets are proposed, the lessee must fulfill the requirements of paragraph (d) of this section.

(ii) When the emissions are within 36 hours travel time of an attainment or unclassifiable area subject to meteorologioical conditions that are associated with non-attainment conditions in the vicinity, the lessee shall apply the best available control technology.

(5) The lessee shall apply the best available control technology to reduce emissions of each air pollutant from temporary activities which significantly affect the air quality of a State as defined in paragraphs (c)(2)(i) and (c)(2)(ii) of this section.

(d) Where emission offsets are to be obtained, the lessee must demonstrate that:

(1) A binding commitment exists between the lessee and the owner or owners of the offsetting source or sources;

(2) The appropriate air quality control jurisdiction has been notified of the need to revise the State Implementation Plan (SIP) to include the information regarding the offsets; and

(3) The offsets come from sources which affect the air quality of the area significantly affected by the lessee's activity or activities.

§ 250.57-2 Activities which have commenced operations before the effective date of these regulations.

(a)(1) The State shall notify the Director if information contained in its emissions inventory demonstrates that emissions from activities which have commenced operations before the

effective date of these regulations are significantly affecting air quality in any area in the State.

(2) If the Director agrees with the State submitting information under paragraph (a)(1) of this section, the Director shall make a preliminary determination of which activities have a potential to significantly affect the air quality of a State submitting the information. The Director's determination shall be based on available information on the activities, meteorological data, and the distance of the activities from the onshore area of a State.

(3) The Director shall require lessees of activities identified under paragraph (a)(2) of this section to submit revised exploration plans or development and production plans. In revising exploration plans or development and production plans lessees shall refer to the information requirements under § 250.34–3(a)(5) or § 250.34–3(b)(5) and shall submit only that information required to make the findings under paragraph (b) of this section.

(b)(1) The Director shall review the information contained in a revised exploration plan or development and production plan and shall exempt from further regulatory review:

(i) Activities with uncontrolled emissions of each air pollutant of under 100 tons per year; or

(ii) Activities with controlled emissions of each air pollutant of under 50 tons per year.

However, if the Director determines that otherwise exempt activities may significantly affect the air quality of a State, the Director shall require the lessee to submit the information required to make the findings under paragraph (b)(2) and, if applicable, paragraph (b)(3) of this section.

(2) For an activity not exempt from further regulatory review under paragraph (b)(1) of this section the lessee shall determine whether the activity significantly affects the air quality of a State by applying the following:

(i) For each air pollutant other than volatile organic compounds the lessee shall use an air quality model to determine if the following significance levels are exceeded in any onshore area:

Pollutant	Averaging time				
	Annual	24-hour	8-hour	3-hour	1-hour
SO2	1.0 μg/m³	5 μg/m³		25 μg/m³	
TSP	1.0 μg/m³	5 μg/m³			
Nox	1.0 μg/m³				
CO			0.5 mg/m³		2 mg/m³

(ii) For volatile organic compounds the lessee shall determine whether the travel time between the source and any onshore area that is non-attainment for ozone concentrations, is equal to or less than 36 hours. The lessee shall also determine whether the emissions are equal to or less than 36 hours travel time from attainment or unclassifiable areas subject to the same meteorological conditions associated with non-attainment conditions in the vicinity.

(3) Any activity that results in emissions which exceed the significance levels established under paragraph (b)(2)(i) of this section in any area of a State shall be deemed to significantly affect the air quality of the State for that pollutant and shall be subject to the following:

(i) The lessee shall apply the best available control technology to reduce emissions of each air pollutant other than volatile organic compounds and shall submit a compliance schedule for the application of the best available control technology.

(ii) If the lessee must suspend operations to allow for the installation of controls the lessee shall be entitled to a suspension under the provisions of § 250.12(d).

(4) Any activity which results in the emission of volatile organic compounds at a location which is within a 36-hour travel time of an on-shore area as described in paragraph (b)(2)(ii) of this section and is not exempt under paragraph (b)(1) (i) or (ii) of this section shall be deemed to significantly affect the air quality of the State, and shall be subject to the following:

(i) The lessee shall apply the best available control technology to reduce emissions of volatile organic compounds and shall submit a compliance schedule for the application of the best available control technology.

(ii) If the lessee must suspend operations to allow for the installation of controls the lessee shall be entitled to a suspension under the provisions of § 250.12(d).

(5) The lessee shall apply the best available control technology to reduce emissions of any air pollutant from temporary sources which significantly affect the air quality of a State as defined in paragraphs (b)(3) and (b)(4) of this section. If the lessee must suspend operations to allow for the installation of controls the lessee shall be entitled to a suspension under the provisions of § 250.12(d).

[FR Doc. 79-14578 Filed 5-9-79; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

Mill River and Quinnipiac River, Conn.; Drawbridge Operation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of New Haven, the Coast Guard is considering revising the regulations governing the operations of the Chapel Street bridge across the Mill River and the Ferry Street and Grand Avenue bridges across the Qunnipiac River at New Haven to require at least eight hours notice during late evening and early morning hours because of limited openings during these periods. This proposal is being made in an effort to relieve each bridge owner of the burden of having a person constantly available to open the draws.

DATE: Comments must be received by June 11, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Third Coast Guard District, Governors Island, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and

give reasons for concurrence with or any recommended change in the proposal.

The Commander, Third Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

The statistics submitted by the City of New Haven would appear to justify the city's request for restricted periods during the late evening and early morning hours. These statistics showed for the period concerned that:

For the Ferry Street bridge, mile 0.7, Quinnipiac River from October 1 through April 30.

	Total openings	From 5 a.m. to 9 p.m.	From 9 p.m. to 5 a.m.
1976	1,129	1,088—96.4%	41—3.6%
(1)			
1974	1,054	1,012—97.0%	42—3.0%
1973	986	960—97.4%	26—2.6%

[1] No statistical data were given for 1975.

The number of openings during the 9 p.m. to 5 a.m. period appears to justify requiring advance notice during these hours from October 1 through April 30.

For the Grand Avenue bridge, mile 1.3, Quinnipiac River.

	Total openings	From 7 a.m. to 11 p.m.	From 11 p.m. to 7 a.m.
1974 [1]	418	401—96%	17—4.0%
1973	427	420—98.4%	7—1.6%

[1] Figures available only for 1973 and 1974.

The optimum periods at this time for requiring advance notice appears to be from 11 p.m. to 7 a.m.

For the Chapel Street Bridge, mile 0.4, Mill River.

	Total openings	From 5 a.m. to 9 p.m.	From 9 p.m. to 5 a.m.
1974 [1]	456	449—98.5%	7—1.5%
1973	395	391—99.0%	4—1.0%

[1] Figures available only for 1973 and 1974.

The optimum periods for requiring an 8-hour advance notice appears to be from 9 p.m. to 5 a.m.

The draws of these bridges are presently required to open on signal except during peak vehicular periods. This proposal would not change the regulations governing the Tomlinson bridge. The only other proposed change in the regulations for these bridges is the acknowledging sound signal when the draw cannot open immediately or is open and must close. In the present regulations, this signal is two long blasts of a horn or whistle. It is proposed to change this signal to four short blasts of a horn or whistle.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.120 to read as follows:

§ 117.120 New Haven Harbor, Quinnipiac and Mill Rivers, Conn.

(a) The draws of the Tomlinson bridge, mile 0.0, the Ferry Street bridge, mile 0.7, and the Grand Avenue bridge, mile 1.3, across the Quinnipiac River and the Chapel Street bridge, mile 0.4, across the Mill River shall open on signal except that:

(1) From 7:30 to 8:30 a.m., noon to 12:15 p.m., 12:45 to 1 p.m. and 4:45 to 5:45 p.m., the draws need not open.

(2) From 9 p.m. to 5 a.m. from October 1 through April 30, the draws of the Ferry Street bridge, Quinnipiac River, shall open on signal if at least 8 hours notice is given.

(3) From 11 p.m. to 7 a.m. the draw of the Grand Avenue bridge, Quinnipiac River, shall open on signal if at least 8 hours notice is given.

(4) From 9 p.m. to 5 a.m. the draw of the Chapel Street bridge, Mill River, shall open on signal if at least 8 hours notice is given.

(b) the sound signals for requesting the opening of each bridge are for:

(1) The fomlinson bridge, two short blasts of a whistle or horn.

(2) The Ferry Street bridge, one short blast of a whistle or horn.

(3) The Grand Avenue bridge, one long blast of a whistle or horn.

(4) The Chapel Street bridge, three short blasts of a whistle or horn.

(c) The draw tender shall acknowledge:

(1) When the draw will open immediately, with the same as the requesting signal.

(2) When the draw cannot open immediately, or is open and must close, with four short blasts of a whistle or horn, to be repeated until aeknowledged by the vessel by the same signal.

(3) When the condition in (c)(2) above no longer exists, the drawtender shall sound the opening signal and open the draw if any vessels are waiting to pass.

(d) The following visual signals are used in addition to sound signals when sound signals may not be heard.

(1) The visual signal for requesting the opening of a draw from the vessel is a white flag by day or a white light by night swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) The acknowledging signal from the drawtender is:

(i) When the draw will open immediately, a white flag by day or a green light by night swung up and down vertically a number of times in full sight of the vessel.

(ii) When the draw cannot open immediately, or is open and must close, a red flag by day or a red light by night, swung back and forth horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel by the same signal.

(e) A notice containing the substance of these regulations shall be conspicuously posted on both the upstream and downstream side of each drawbridge in such a manner that it may easily be read from an approaching vessel at any time. This notice shall state whom to contact to have the draw opened if advance notice is required.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: May 3, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.

[CGD 78-168]

[FR Doc. 79-14628 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-14-M

Materials Transportation Bureau

[49 CFR Parts 171, 172, 173, 174, 175, 176, 177]

Transportation of Hazardous Substances; Extension of Comment Period

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Extension of time to file comments.

SUMMARY: On February 22, 1979, the Materials Transportation Bureau (MTB) published a notice of proposed rulemaking under Docket HM–145B (44 FR 10676) pertaining to the transportation of hazardous substances. This notice extends the comment period from April 23, 1979, to June 5, 1979, in order to provide additional time for persons affected by these proposals to submit their comments.

DATE: The time for filing comments is extended from April 23, 1979, to June 5, 1979.

FOR FURTHER INFORMATION CONTACT: Lee Metcalfe, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, 202–426–0656.

SUPPLEMENTARY INFORMATION: A number of commenters to Docket HM–145B have requested an extension of the comment period in order to permit additional time to evaluate the proposals contained in this docket. Considering the comprehensive nature and possible severe impact of these proposals, the MTB has determined that an extension should be granted. Most of the commenters requested a 60-day extension. If the MTB adopts regulations pertaining to hazardous substances, they should be published at approximately the same time as those of the Environmental Protection Agency which has its publication for hazardous substances (40 CFR Part 117) scheduled for the early part of July. For this reason, the MTB is granting an extension of the comment period to June 5, 1979, since a 60-day extension would not provide sufficient time for review of the comments and preparation of an amendment.

AUTHORITY: 49 U.S.C. 1804; 49 CFR 1.53, App. A to Part 1, and paragraph 1, and paragraph (a)(4) of App. A, Part 106.

Issued in Washington, D.C. on May 2, 1979.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[Docket No. HM–145B; Notice No. 79–2]

[FR Doc. 79–14315 Filed 5–9–79; 8:45 am]

BILLING CODE 4910–60–M

Notices

Federal Register
Vol. 44, No. 92
Thursday, May 10, 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

Forest Service

Bull River-Clark Fork Planning Unit; Kootenai National Forest; Sanders and Lincoln Counties, Mont.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the Bull River-Clark Fork Planning Unit. This Planning Unit is a combination of the Ibex-Engle, Bull Lake-Napoleon, and Pilgrim Planning Units. A Notice of Intent for the Pilgrim Planning Unit was filed with the Office of the Federal Register in January 1978.

This unit is presently being managed under the 1972 Kootenai Timber Stratification Report and 1967–68–69 Multiple Use Plans.

Primary issues to be considered for this unit are: wilderness, wildlife habitat, maintenance of soil productivity and water quality, timber, land adjustments, potential power transmission lines, protection of historical or prehistorical sites.

In formulating new guidelines for this unit, comments from other government agencies, public organizations, and individuals have been solicited by the Forest Service. Mailers for the three separate units have been published and distributed to interested parties. Public meetings to solicit public comments have been held at the Cabinet Ranger District Office and Troy and Heron, Montana.

Regional Forester Robert H. Torheim is the responsible official; and, Forest Supervisor Floyd J. Marita and staff will prepare the Environmental Impact Statement.

The Draft Environment Impact Statement for this plan is scheduled for completion by June 29, 1979, with a 60-day minimum review period. The Final Environmental Impact Statement is scheduled for filing with the Environmental Protection Agency in December 1979.

Comments on the Notice of Intent or on management proposals for the unit should be sent to Floyd J. Marita, Forest Supervisor, Kootenai National Forest, Libby, MT 59923.

James E. Reid,
Director, Planning, Programming, and Budgeting.
May 4, 1979.

[FR Doc. 79-14581 Filed 5-9-79; 8:45 am]
BILLING CODE 3410-11-M

Forest Plan for the Pike and San Isabel National Forests and Associated Units in Colorado and Kansas; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement on the Forest Plan for the Pike and San Isabel National Forests.

The Pike and San Isabel National Forests and Associated Units are located in Huerfano, Las Animas, Baca, Otero, Pueblo, Custer, El Paso, Douglas, Jefferson, Teller, Fremont, Chaffee, Lake, Clear Creek, Park, Saguache Counties in Colorado, and Morton and Stevens Counties in Kansas.

The Pike and San Isabel National Forest are composed of both Natinal Forests and National Grassland Units. The Forest Supervisor, located in Pueblo, Colorado, has administrative authority over all National Forest System lands included as part of the Pike National Forest, the San Isabel National Forest, the Comanche National Grassland located in Colorado, and the Cimarron National Grassland located in Kansas. These lands total approximately 2,634,600 acres in Colorado and 107,700 acres in Kansas.

Initial issues and concerns have been identified from public meetings, correspondence and individual contacts resulting primarily from recent and previous planning efforts initiated by the Forest.

These issues and concerns identified focus on the potential effects of land management on water quantity and quality, off-road vehicle use, dispersed recreation, wildlife populations, domestic grazing, mining activities, insect and disease control, and the impacts of all activities on the local economy.

An issue and concern statement will be prepared and made available to the public for a 30-day period beginning in May to further define issues and concerns. The issue and concern statement will be mailed to interested individuals, private organizations, special interest groups, local, State and Federal agencies. News releases will be prepared indicating the availability of the statement and requesting comments regarding the issues and concerns.

Craig Rupp, Regional Forester for Region Two, is the responsible official. R. N. Ridings is the Forest Supervisor and is responsible for preparation of the Environmental Impact Statement and Forest Plan. Robert Butler is the Staff Officer directing the team in the development of the Environmental Impact Statement and Forest Plan.

Based on the proposed regulations implementing the National Forest Management Act, it appears that the planning process will require about 2 years. The Draft Environmental Impact Statement is tentatively scheduled for completion by September 1980. A 90-day period for public review and comments will follow. The Final Environmental Impact Statement is tentatively scheduled for filing with the Environmental Protection Agency in June 1981 with implementation of the Forest Plan to begin in July 1981. These dates are subject to change based on requirements to be contained in the National Forest Management Act regulations, when finalized.

Comments on this Notice of Intent or on the Forest Plan should be sent to R. N. Ridings, Forest Supervisor, Pike and San Isabel National Forests, 910 Highway 50 West, Pueblo, Colorado 81008, phone (303) 544–5277, Ext. 321.

Dated: April 27, 1979.

Craig W. Rupp,
Regional Forester, Rocky Mountain Region.
[FR Doc. 79-14580 Filed 5-9-79; 8:45 am]
BILLING CODE 3410-11-M

Little Annie Winter Sports Site; White River National Forest, Pitkin County, Colo.; Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental statement concerning development of the proposed Little Annie Winter Sports Site with a capacity of 3900 to 4500 skiers per day.

The White River National Forest Multiple Use Management Plan was adopted in 1973. One of the features of the Plan was the allocation of the Little Annie Ski Area as a winter sports study site. The proposed Little Annie Ski Area has not been recommended for Wilderness in the RARE II Final Environmental Statement.

On September 20, 1978, pursuant to Step 7 of the Colorado Review Process, a public hearing was held in Aspen, Colorado with respect to the application. No findings were made at that time with respect to the application.

On November 7, 1978 the voters of Pitkin County ratified an initiative containing each of the following determinations:

1. There is a need to plan now for additional skiing since existing facilities are nearing saturation.

2. Responding to skier demand is essential to maintain the economic viability of Aspen as a quality ski resort area.

3. The proposed location of the Little Annie Ski Area is an appropriate site to help meet tourist demands, and should be further studied for development as a ski area.

4. Subject to the consent of the other agencies involved and compliance with the preceding steps in the Joint Review Process, Pitkin County shall, within thirty (30) days from the date of adoption hereof, enter into a Site-Specific Agreement to provide for additional studies of Little Annie, including the draft Environmental Impact Statement, to determine whether or not final approval should be given.

5. Subject to the cooperation of the other agencies involved, Pitkin County shall take all appropriate action to expedite the processing of the Little Annie application through the Joint Review Process.

Each of the parties participating in the Joint Review Process concerning this proposal have agreed to accept it, conceptually, and to move to the next stage of study, that being site specific. Participating parties include the USDA, Forest Service, State of Colorado, Pitkin County, City of Aspen, and the proponent.

Subsequent to the ratification of the initiative on November 7, 1978 and conceptual approval by other parties mentioned above, several scoping sessions have been held amongst all the parties and special interest groups in an effort to develop a Memorandum of Understanding to prepare a site-specific study. At these meetings several major issues and concerns have been revealed. The State of Colorado, Department of Local Affairs, Division of Planning, has stated that the study of the Little Annie Ski Area should also include an analysis of the impacts of an expansion at Snowmass (Burnt Mountain). With respect to the analysis of both proposals, the State has listed additional concerns as follows:

1. *State Highway 82.* Any development that increases trips and traffic on State Highway 82 will result in further traffic breakdown and congestion and will result in more hours of poor level of service on the highway, particularly between Brush Creek Road and Aspen. We would expect each of the alternatives in the environmental statement to be assessed in terms of their impact on State Highway 82 and mitigating measures should be explicitly listed.

2. *Wildlife.* We are concerned over the impacts that Burnt Mountain Expansion will have on the big game herds in the area and the area and the fisheries. The proposed expansion is in an elk calving area, and both deer and elk migrate through the area going to and from their winter ranges. Human distrubance is likely to displace elk from portions of their summer and winter ranges. Changes in runoff, increases in sedimentation, and a deterioration of water quality from an increase in pollutants could adversely impact stream fisheries.

3. *Geological Hazard.* Published geologic mapping indicates that the geotechnical conditions are quite complex and could significantly influence any proposed development of the area. Among the constraints which exist on the site are: potentially unstable slopes, potential erosion and sedimentation problems, swelling soils, variable ground water conditions, and variable engineering properties and materials. Before detailed plans or final decisions are made, we recommend that the compatibility of the proposal with these physical constraints be evaluated.

4. *Historical/Archaeological Resources.* Because almost all of the area proposed for ski area expansion will be disturbed, the entire area must be surveyed for potential historical/archaeological resources. If found, any resources should be evaluated for their importance and should be protected from loss as may be directed by the State Historical Preservation Officer.

5. *Water.* The Division of Water Resources is interested in assuring that any water source for the restaurants or othe water needs of the project are obtained from a legal source and do not injure vested water rights.

6. *Water Quality.* The water quality impacts of additional sewage facilities as well as non-point sources, such as runoff and sedimentation should be consistent with the constraints of the Northwest Colorado 208 Plan.

7. *Air Quality.* The air quality impacts of the proposal must be consistent with state and federal law. The environmental statement should consider existing ambient air conditions and impacts on the air shed caused by trip generation related to expanded skiing capacity.

Pitkin County and the City of Aspen have expressed concerns relative to employee housing, transportation, wildlife, and the need for additional skiing in and around the City of Aspen/Pitkin County. Participants in the various meetings have agreed that because of the sensitive nature of the proposal, there are significant issues related to the the total physical, biological, economic, and social environment needing further study. Because of the possible significance of the changes in the environment, it has been determined to prepare an Environmental Statement.

The cost of gathering the information necessary for the preparation of the Environmental Statement will be borne primarily by the proponent with the City of Aspen and Pitkin County contributing a combined total amount of $15,000.00 for the study of selected topics.

Thomas C. Evans, the Forest Supervisor, is the responsible official, and Pat Halligan, Community Planner, will be the team leader for the Environmental Assessment and Statement.

It is anticipated that the Environmental Assessment will require about eighteeen months because of the studies required. The draft Environmental Statement is scheduled for completion by March 1980, with a two month review period, and the final Environmental Statement is scheduled for filing in July 1980. If the decision is to proceed with development, a special permit for use of public land will be issued during the winter of 1980–81 with the start of development anticipated no earlier than spring of 1981.

Comments on the Notice of Intent or on the project should be sent to Thomas C. Evans, Forest Supervisor, White River

National Forest, Glenwood Springs, Colorado 81601.

Thomas C. Evans,
Forest Supervisor.

April 3, 1979.

[FR Doc. 79-14579 Filed 5-9-79; 8:45 am]
BILLING CODE 3410-11-M

Pacific Crest National Scenic Trail; Relocation

Three segments of the Pacific Crest National Scenic Trail will be relocated to take advantage of public ownership and terrain so that this portion of the Trail meets the criteria and purpose for which it was established. These changes in location are in compliance with the provisions of Section 7(b) of the National Trails System Act (82 Stat. 919; U.S.C. 1241–1249). The official location of the Pacific Crest National Scenic Trail was pubished in the **Federal Register**, Vol. 38, No. 19, Part II, Tuesday, January 30, 1973.

An environmental analysis report relating to the relocation of each segment is on file in the Supervisor's Office, Shasta-Trinity National Forest, 2400 Washington Avenue, Redding, California 96001.

Segment A

This segment as described in the **Federal Register** is from the Klamath National Forest and Shasta-Trinity National Forest boundary to Saloon Creek. The change in location more fully meets the established criteria than the published route. The change in location is denoted by a dashed line marked as Segment A on the map entitled Pacific Crest Trail, California #2882.

The official location is amended as follows:

Page 2834, Column 3, Paragrah 6, Lines 8, 9, 10 and 11.

Delete:

"* * * and the Salmon-Trinity Alps Primitive Area. From the boundary of the Primitive Area, it heads southerly into the North Fork of Coffee Creek where it turns to a generally northeast direction traversing * * *"

The sentence will now read:

"The trail proceeds southwesterly along the main divide between the Scott and Salmon Rivers, goes through the Salmon-Trinity Alps Primitive Area for a short way, passing east of Hidden Lake, and proceeds easterly to the divide where it leave the Klamath National Forest and enters the Shasta National Forest where it traverses the upper portions of Saloon Creek and Granite Creek drainages."

Segment B

This segment as described in the **Federal Register** is from Little Castle Lake to Interstate 5. The published route does not meet grade, alinement, and location criteria. There is also a possibility of doing irreparable damage to the Castle Crags formation. The change in location is denoted by a dashed line marked as Segment B on the maps entitled Pacific Crest Trail California #2884 and Pacific Crest Trail California #2885.

The official location is amended as follows:

Page 2835, Column 1, Paragraph 1, Lines 16 through 21.

Delete:

"* * * passing just above Little Castle Lake and heads southeast into Castle Crags, goes through a part of Castle Crags State Park, and crosses Interstate 5 by way of a pedestrian undercrossing near the town of Castle Crags."

The sentence will now read:

"Here the trail swings northeast to North Fork Castle Creek and then heads southeast, passes through Castle Crags State Park and crosses Interstate 5 by way of Soda Creek undercrossing."

Page 2837, Column 2.

Delete the following described private lands:

Mount Diablo Meridian

Township, Range, and Section

38 North, 4 West, 3, 5 and 11.
39 North, 4 West, 19.

Add the following described private lands:

38 North, 4 West, 7.
38 North, 5 West, 1.

Private land ownership is involved in the change in location of Segment B. Right-of-way deeds are on file in the Supervisor's Office, Shasta-Trinity National Forest, for all of the affected private lands.

Segment C

This segment is from Squaw Valley Creek to Grizzly Peak. The published route crosses approximately 10 miles of privately-owned lands. The trail will be relocated entirely to National Forest lands. It is denoted by a dashed line marked as Segment C on maps entitled Pacific Crest Trail #2885 and Pacific Crest Trail #2886.

The official location is amended as follows:

Page 2835, Column 1, Paragraph 2, Lines 5, 6, and 7.

Delete:

"* * * descends near Skunk Hill and crosses Lake McCloud Dam. It next ascends easterly to Grizzly Peak * * *"

The sentence will now read:

"The Pacific Crest Trail then ascends southeasterly to cross the summit of Girard Ridge, descends and crosses Squaw Valley Creek, by a footbridge and continues east to Traugh Creek, descends to McCloud River at Ah-di-Na and follows near the river to Ash Camp. It next ascends easterly, crossing Butcherknife Creek and Deer Creek to Grizzly Peak, then descends down the ridge to Pigeon Hill and south of Star City Meadow and continues on the ridge top to Mushroom Rock and Bartle Gap."

Page 2837, Column 2.

Delete the following described private lands:

Mount Diablo Meridian

Township, Range, and Section

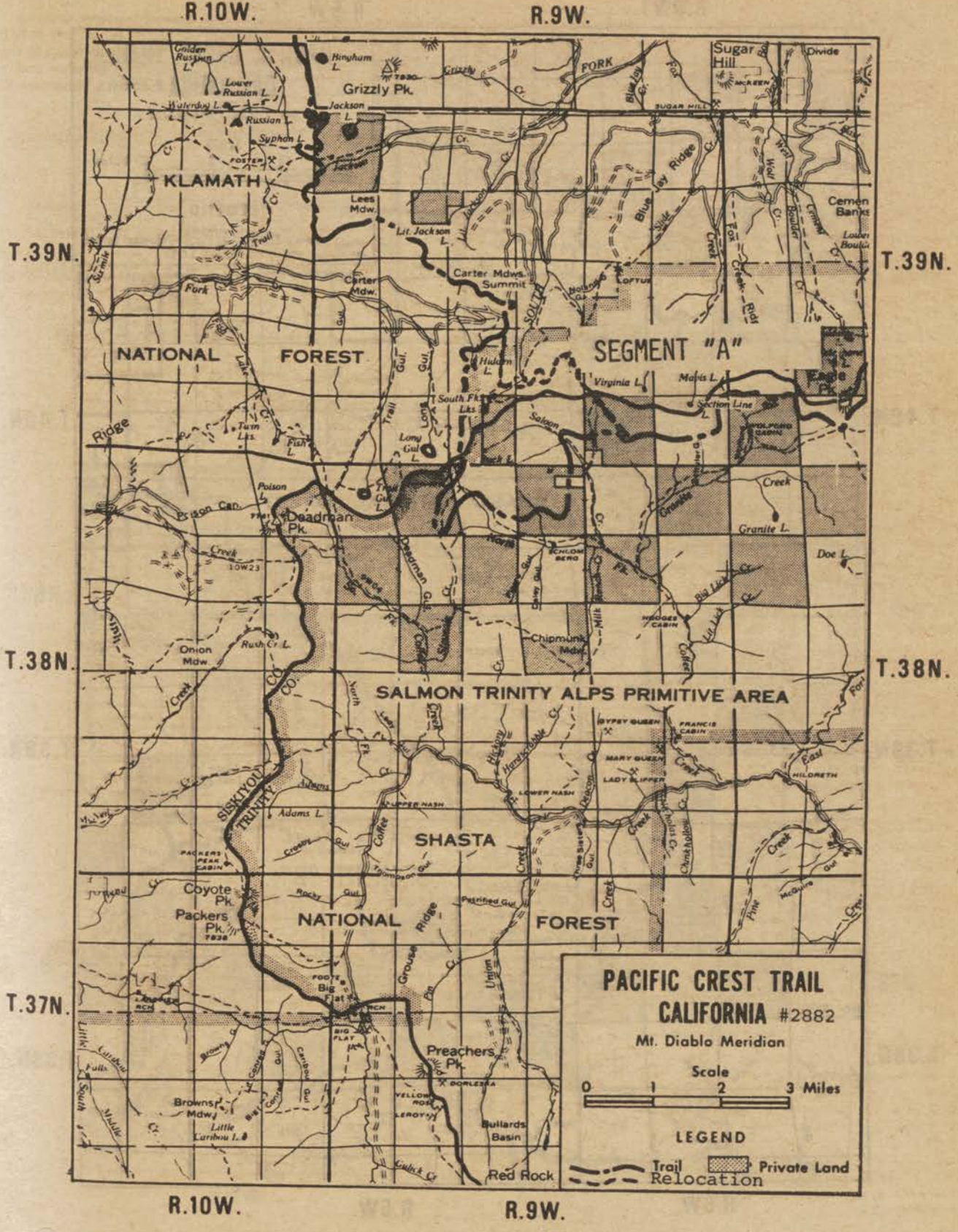
38 North, 1 West, 14, 15, 16, 17 and 18.
38 North, 2 West, 20, 22, 23, 24, 27, 28 and 29.

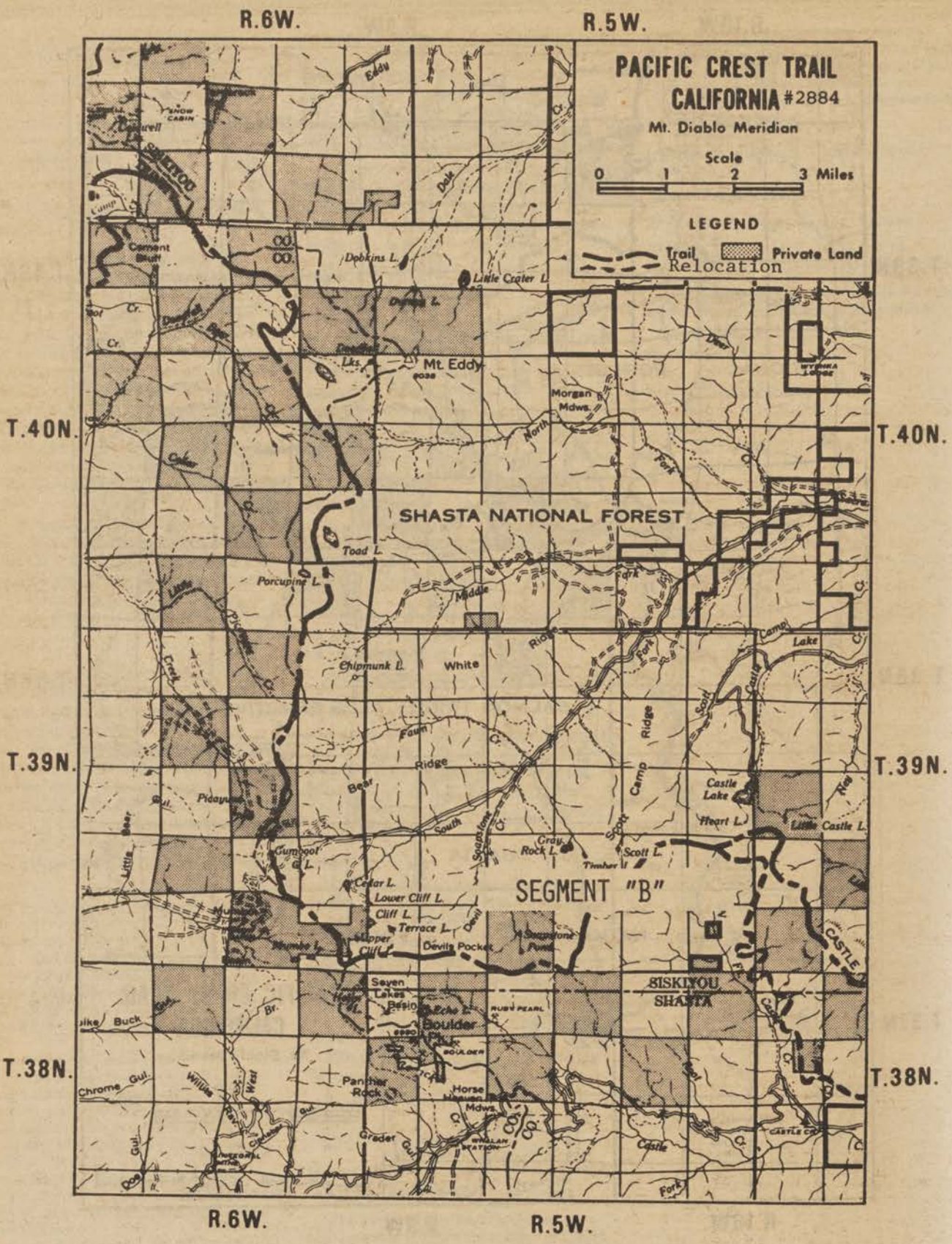
Private land ownership is not involved in the changed location of Segment C.

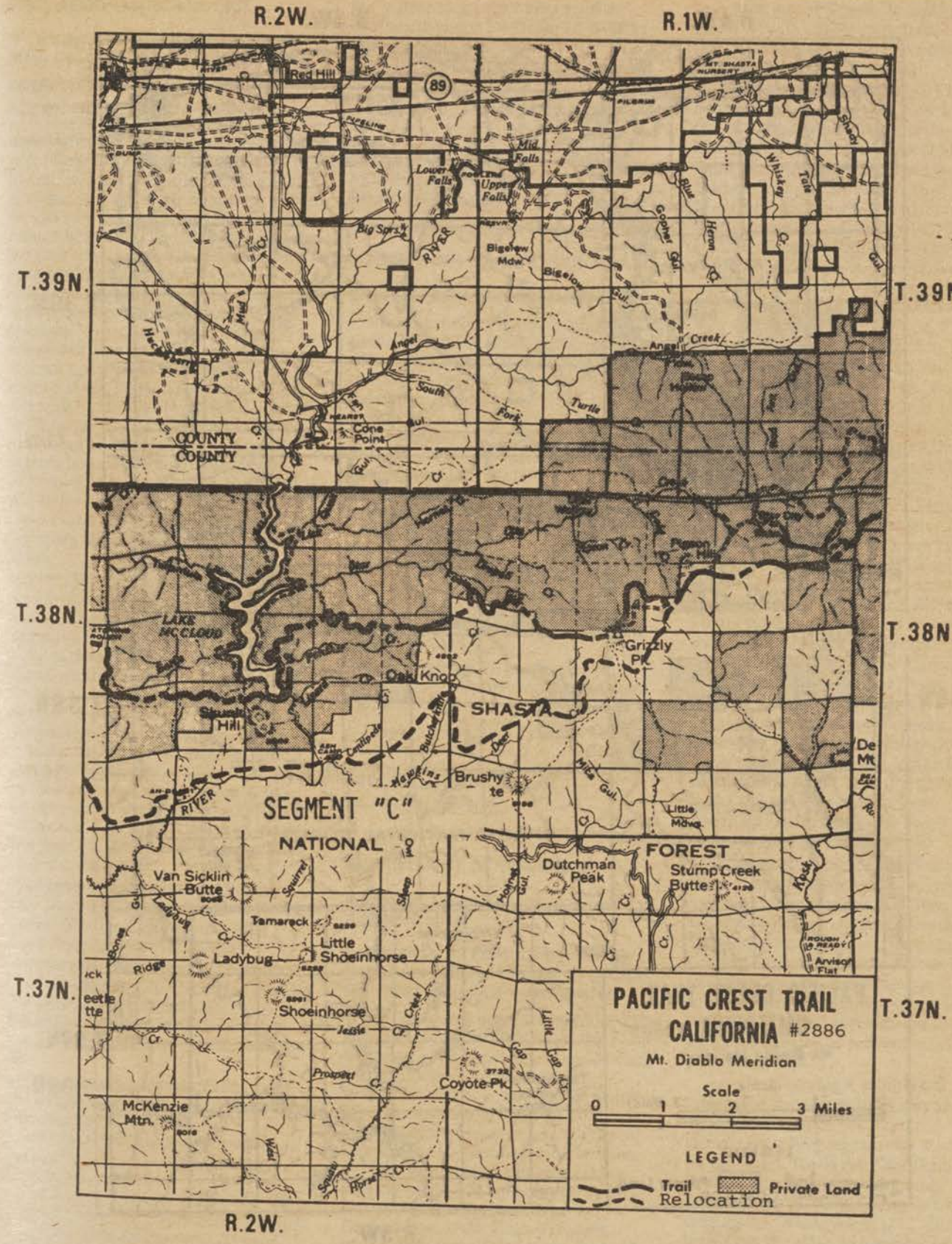
Dated: April 27, 1979.

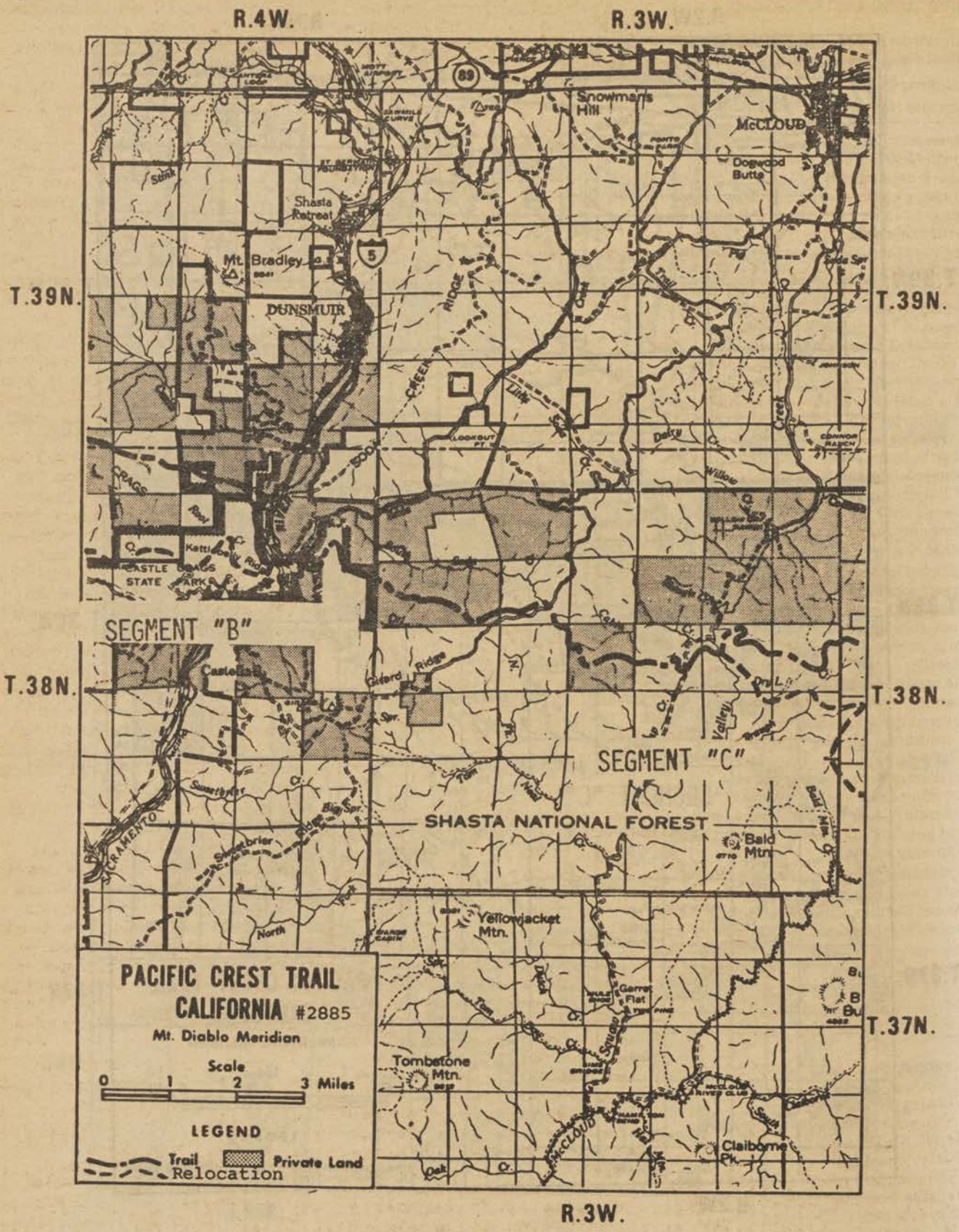
John R. McGuire,
Chief.

BILLING CODE 3410-11-M


R.10W.
R.9W.
T.39N.
T.38N.
T.37N.
KLAMATH
NATIONAL FOREST
SEGMENT "A"
SALMON TRINITY ALPS PRIMITIVE AREA
SHASTA
NATIONAL FOREST
Grizzly Pk.
Deadman Pk.
Coyote Pk.
Packers Pk.
Preachers Pk.
Red Rock
Sugar Hill
Divide
Carter Mdws. Summit
Chipmunk Mdw.
Onion Mdw.
Lees Mdw.
Browns Mdw.
Bullards Basin
PACIFIC CREST TRAIL
CALIFORNIA #2882
Mt. Diablo Meridian
Scale
0 1 2 3 Miles
LEGEND
Trail Relocation
Private Land


R.6W.
R.5W.
PACIFIC CREST TRAIL
CALIFORNIA #2884
Mt. Diablo Meridian
Scale
0 1 2 3 Miles
LEGEND
Trail
Private Land
Relocation
T.40N.
T.39N.
T.38N.
SHASTA NATIONAL FOREST
SEGMENT "B"
SISKIYOU
SHASTA
Mt. Eddy
Dobkins L.
Little Crater L.
Morgan Mdws.
Toad L.
Porcupine L.
Chipmunk L.
White
Ridge
Castle Lake
Heart L.
Little Castle L.
Scott L.
Gray Rock L.
Timber L.
Cedar L.
Lower Cliff L.
Cliff L.
Terrace L.
Devils Pocket
Seven Lakes Basin
Boulder
Panther Rock
Horse Mdws.
Grider Gul.
Castle Cr.
R.6W.
R.5W.


R.2W.
R.1W.
T.39N.
T.38N.
T.37N.
R.2W.
Red Hill
89
Mid Falls
Lower Falls
Upper Falls
Big Spring
Bigelow Mdw
Bigelow Gul.
Angel Creek
South Fork
Turtle
Cone Point
COUNTY
COUNTY
LAKE McCLOUD
Oak Knob
Grizzly Pk
SHASTA
Stuarts Hill
Hopkins
Brushy te
SEGMENT "C"
NATIONAL
FOREST
Van Sicklin Butte
Tamarack
Little Shoeinhorse
Ladybug
Shoeinhorse
McKenzie Mtn.
Coyote Pk
Dutchman Peak
Stump Creek Butte
Arvison Flat
PACIFIC CREST TRAIL
CALIFORNIA #2886
Mt. Diablo Meridian
Scale
0 1 2 3 Miles
LEGEND
Trail
Private Land
Relocation


R.4W.
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SEGMENT "B"
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SHASTA NATIONAL FOREST
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CALIFORNIA #2885
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Private Land
Snowmans Hill
McCLOUD
Dogwood Butte
Shasta Retreat
Mt. Bradley
DUNSMUIR
CASTLE CRAGS STATE PARK
Castella
Bald Mtn.
Yellowjacket Mtn.
Tombstone Mtn.
Claiborne Pk.
Sacramento
North

CIVIL AERONAUTICS BOARD

American Airlines; New York-Miami/ West Palm Beach Nonstop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–5–28.

SUMMARY: The Board is proposing to grant New York-Miami/West Palm Beach nonstop authority to American Airlines and any other applicant whose fitness can be established by officially noticeable data. This grant includes, for the first time, service to Westchester county airport (primarily a general aviation airport). The proposed service would contravene Westchester's self-imposed restriction which limits scheduled air service to two-engine aircraft operating over length not in excess of 600 miles. The complete text of this order is available as noted below. With respect to Air Florida, the Board is proposing to find that the proposed service is consistent with the public convenience and necessity. However, it will defer on the issue of Air Florida's fitness until the conclusion of the *U.S.-Bahamas Service Investigation*, Docket 32294.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than June 7, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than May 23, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35467, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Intravia, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., Washington, D.C. 20428, (202) 673–6067.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Air Florida, American Airlines, Allegheny Airlines, Eastern Air Lines, and Westchester County, New York.

The complete text of Order 79–5–28 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–5–28 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, May 3, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-14609 Filed 5-9-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Ohio Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 5:00 pm, on June 2, 1979, at the Terrace Hilton, 15 West 6th, Cincinnati, Ohio 45201.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is a discussion of interviews and planning for Cincinnati hearing.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 7, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-14564 Filed 5-9-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by 12 Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from twelve firms: (1) Weyenberg Shoe Manufacturing Company, Inc., 234 East Reservoir Avenue, Milwaukee, Wisconsin 53201, a producer of men's footwear (accepted April 20, 1979); (2) Stutz Products Corporation, 606 South Walnut Street, Hartford City, Indiana 47348, a producer of slicing machine knieves (accepted April 20, 1979); (3) Drake Engineering and Sales Corporation, 17502 Daimler Street, Irvine, California 92714, a producer of racing car engines (accepted April 20, 1979); (4) London Knitting Company, Inc., 3799 Jasper Street, Philadelphia, Pennsylvania 19124, a producer of men's, women's and boys' sweaters (accepted April 24, 1979); (5) Intercontinental Apparel, Inc., 116 Seaview Drive, Secaucus, New Jersey 07094, a producer of men's suits, sportcoats and overcoats (accepted April 24, 1979); (6) Richmond Glove Corporation, 601 North D Street, Richmond, Indiana 47374, a producer of work gloves (accepted April 27, 1979); (7) D. B. Rosenblatt, Inc., 912 Currie Avenue, Minneapolis, Minnesota 55403, a producer of women's jackets, skirts and slacks (accepted May 1, 1979); (8) Atlantic Products Corporation, 1 Johnston Avenue, Trenton, New Jersey 08609, a producer of luggage and sports bags (accepted May 3, 1979); (9) Gopher Wonderall Company, 600 First Avenue North, Minneapolis, Minnesota 55403, a producer of children's play clothes, snow suits and jackets (accepted May 3, 1979); (10) Agenda Limited, Inc., 401 North Commerce, Lockhart, Texas 78644, a producer of automotive fuses, thermostats and tire repair materials (accepted May 3, 1979); (11) Brier Manufacturing Company, Inc., 12 Sheldon Street, Providence, Rhode Island 02906, a producer of hair goods and costume jewelry (accepted May 3, 1979); and (12) Metter Manufacturing Company, 800 East Broad Street, Metter, Georgia 30439, a producer of women's blouses, skirts, jackets and vests (accepted May 4, 1979). The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the

tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79-14576 Filed 5-9-79; 8:45 am]

BILLING CODE 3510-24-M

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 16, 1979, commencing at 2:00 p.m. The hearing will be a part of the Commission's regular May business meeting which is open to the public. Both the hearing and the meeting will be held at the Commission's offices, 25 State Police Drive, West Trenton, N.J. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *Brandywine Green Water Company (D 77-112 CP (Rev.)).* Modification of a water supply project in the company's service area in West Bradford Township, Chester County, Pennsylvania. The company will delay the interconnection with the Broad Run Water Company distribution system and will utilize a second well as a standby source of supply. The standby well has a capacity of 57,000 gallons per day.

2. *Perkasie Borough Authority (D-78-75 CP).* A well water supply project to augment public water supplies in the Authority's service area in Perkasie and a portion of East Rockhill Township, Bucks County, Pa. Designated as Well No. 9, the new facility is capable of yielding 180,000 gallons per day.

3. *Texaco, Inc. (D-76-9).* A wastwater outfall line at the company's Eagle Point Refinery in the Borough of Westville, Gloucester County, New Jersey. The new outfall will be designed to insure more effective dispersion of the existing heated discharge to the Delaware River.

4. *Keystone Coke Co. (D-79-60).* Keystone Coke Co. has acquired the coke facilities of the former Alan Wood Steel Co. in Upper Merion Township, Montgomery County, Pa. Keystone will continue to use Schuylkill River water in the plant and proposed modifications to the wastewater treatment facilities. Water is withdrawn at the rate of 11.5 million gallons per day. Cooling water is returned to the Schuylkill River, and concentrated wastewaters are treated and discharged into an abandoned quarry.

5. *Publicker Industries, Inc. (D-79-86).* A bank and landfill project at the company's facility in Philadelphia, Pennsylvania. The project will fill between Piers 106, 107 and 108. The land area will initially be used for open storage of raw materials and equipment.

6. *HA RA Inc. (D 79-17).* A sewage treatment project at the company's Fernwood Resort located in Middle Smithfield Township, Monroe County, Pennsylvania. Treatment facilities will be constructed to remove approximately 95-97% of BOD from a wastewater flow of 150,000 gallons per day. Treated effluent will discharge to Bush Kill Creek.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

W. Brinton Whitall,

Secretary.

[FR Doc. 79-14541 Filed 5-9-79; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers

Notice of Intention To prepare a Draft Environmental Impact Statement (Bodega Bay Harbor Maintenance Dredging, Bodega Bay, Sonoma County, Calif.).

AGENCY: U.S. Army, Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action involves hydraulically dredging approximately 80,500 c.y. of shoal material from the Federal Channel in Bodega Bay Harbor, and disposing of said material on two adjacent land sites, both historically used for past Corps dredging activities.

2. The alternatives to the proposed activity include one, that of no project (no harbor dredging). Alternative dredging methods are clamshell with barge and hopper dredging with water disposal of dredged material. An alternative method of dredged material disposal is water disposal in the Pacific Ocean; however, this alternative is not considered feasible at this time due to environmental (securing a designated disposal site) and economic (cost of dredged material rehandling and barge transport) constraints.

3. The Corps' scoping process for this activity will include as needed (since this activity is a repeat of earlier ones, some of the following will not be necessary as they were done during those earlier activities):

a. *Public Involvement*—This will be accomplished as needed by inviting, through public release of the DEIS, participation of affected government agencies, local archaeological/historical and conservation groups, and any other interested private organizations and individuals.

b. *Identification of Significant Issues and Feasible Alternatives*—To do this, public hearings, meetings with concerned agencies and/or individuals from among the above mentioned public, and site inspections to the affected area will be set up as needed. Use of impact "trees", matrices, and consultations with knowledgeable persons will also be implemented as needed to fully identify the significant issues and feasible alternatives. To insure completeness and adequacy of the discussion of necessary concerns, the DEIS will be circulated for internal review within the Corps prior to public release.

4. Scoping for the proposed activity will be accomplished through informal consultation with involved agencies, in particular fish and wildlife agencies.

5. It is estimated, given current available information, that the DEIS will be available for public release and review in September 1979.

6. Address: Questions about the proposed activity and DEIS may be answered by: Mr. Paul Portch, San Francisco District, Corps of Engineers, Environmental Branch, 211 Main Street, San Francisco, California 94105, (Telephone: 415-556-0325).

Dated: May 3, 1979.

John M. Adsit,

Colonel, CE District Engineer.

[FR Doc. 79-14542 Filed 5-9-79; 8:45 am]

BILLING CODE 3710-FS-M

Department of the Army

Shoreline Erosion Advisory Panel; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (PL 92-463), notice is hereby given of a meeting of the Shoreline Erosion Advisory Panel on 5-6 June 1979.

The meeting will be held in the Holiday Inn, I-90 and Ohio Route 45, Geneva, Ohio, from 0830 hours to 1730 hours on 5 June and from 0830 hours to 1510 hours on 6 June 1979.

The 5 June session will be devoted to briefings from the responsible Districts on the status of Stuart-Jensen Causeways, Florida; Roanoke Island, North Carolina; Fontainebleau, Louisiana; Alameda, California; and Port Wing, Wisconsin demonstration sites, and a presentation of the status of the analysis of monitoring data contract for the program by the contractor and Panel discussion.

The 6 June session will be devoted to a briefing and field inspection of the Geneva State Park, Ohio, demonstration site and reports from the various working groups of the Panel.

Participation by the public is scheduled for 1420 hours on 6 June 1979.

The meeting will be open to the public subject to the following:

1. Since seating capacity of the meeting room at the Holiday Inn is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Ted E. Bishop, Executive Secretary, Shoreline Erosion Advisory Panel, Kingman Building, Fort Belvoir, Virginia 22060; Telephone (202) 325–7000.

By Authority of the Secretary of the Army.

Dated: May 2, 1979.

Rome D. Smyth,

Colonel, U.S. Army, Director, Administrative Management TAGCEN.

[FR Doc. 79-14582 Filed 5-9-79; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF ENERGY

Energy Information Administration

Reduction of Reporting Burden

AGENCY: Energy Information Administration.

ACTION: Statement by the Energy Information Administration (EIA) concerning the Department of Energy's (DOE) continuing program to reduce energy information reporting burden on industry, small businesses and the public.

SUMMARY: The Department of Energy is committed to reducing the burden it places on private industry and individuals to submit information about their businesses or holdings. The Department uses the information it collects to review the domestic energy situation, analyze policy and program alternatives, and enforce compliance with the Department's regulations. The Energy Information Administration collects most of this energy information, and publishes much of it in periodic statistical data reports. Because the EIA collects or maintains this information on behalf of other DOE offices, including the Federal Energy Regulatory Commission and the Economic Regulatory Administration, the EIA is responsible for coordinating DOE's program to eliminate unnecessary reporting burden. This program is consistent with the goals of the President's Paperwork Reduction Program, initiated in February 1978, and the Department's Regulatory Reform Task Force, begun January 1978, and chaired by the DOE Deputy Secretary. This statement is intended to familiarize the public with the specific programs underway to reduce reporting burden and the policies that underlie those programs. It is issued in accordance with a previously published Notice (44 FR 1032, January 3, 1979) in which DOE proposed 16 new Regulatory Reform Initiatives. Specifically, this statement is a response to initiative #9. See 44 FR 1036–7.

TO COMMENT ON THIS NOTICE OR FOR FURTHER INFORMATION CONTACT: Mr. John Gross, Director (202–252–5214), Office of Energy Data Standards and Statistical Design, Energy Information Administration, Room BG–024, Forrestal Building, Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

I. Background

II. The Statistical Design and Forms Clearance Process

III. The Systems Consolidation Process

IV. Public Participation.

I. Background

When the Department of Energy came into existence on October 1, 1977, there were approximately 160 forms being used by its predecessor organizations, principally the Federal Energy Administration, Federal Power Commission, and the Bureau of Mines (Department of Interior). Since that time, the Department has canceled or allowed to expire approximately 50 energy data forms, renewed, extended or revised approximately 55 forms, and approved approximately 70 new forms for use. In 1978, EIA completed internal DOE clearance for 130 forms and submitted them to the Office of Management and Budget for official clearance. Currently, these energy data forms are sent to about 285,000 respondents; their submissions are processed by either the EIA or the DOE component that has primary responsibility for the program in question.

In the first year of the Department's existence, October 1977 through September 1978, the total reporting burden on persons who must fill out DOE forms was reduced by nearly one-fourth, from 4.9 million person hours to 3.7 million person hours. This annual reporting burden is determined by multiplying the number of respondents for each form by the estimated annual number of hours it takes an average respondent to complete that form. The resulting numbers are then added to determine the overall burden of DOE reporting requirements. The estimates concerning the time necessary to complete the forms are determined primarily through pre-testing the form with a subset of potential respondents or during consultations with industry and governmental representatives.

The Department's goal for its first year was a 5 percent reduction in burden from the level on activation day; the result was approximately a 25 reduction. The Department made such significant progress through a related set of efforts designed to consolidate similar forms, cancel unnecessary ones, allow clearance of only those forms that are fully justified, clarify the wording on the instructions and the terms on forms that are used, and minimize total reporting requirements by using statistical sampling techniques wherever possible.

Another way the Department seeks to reduce its burden on respondents is by soliciting comments on major forms before submitting them to OMB for formal clearance. This helps to make the intent and scope of the form clear and to identify unnecessary, duplicative, or confusing data requests before the form is actually used. OMB also solicits the views of a wide range of interested parties, including other Federal agencies, before approving the form for official use.

These efforts will continue in the year ahead, even though new regulations required by the National Energy Act along with implementation of several major new energy reporting systems will increase total DOE reporting burden in 1979. The Energy Information Administration is committed to lowering the burden on its respondents in every reasonable way.

II. The Statistical Design and Forms Clearance Process

In accordance with the Federal Reports Act, every DOE data collection instrument that is used to gather identical information from ten or more nongovernment entities is approved for official use by the Office of Management and Budget (OMB). The clearance of any such DOE instrument that proposes to collect energy information is first reviewed within the Department to ensure that the form is properly designed from a statistical and a programmatic point of view, fully

justified, and sufficiently clear to prevent respondent confusion. The EIA manages this review process in the Department and offers statistical and survey design, and other types of technical assistance to other DOE offices.

In this statistical and survey design process, EIA reviews and documents the objectives of the collection effort, the essential elements of information sought, the appropriate industry or population segment to be surveyed, and the frequency and method of data collection to be used. The form used to collect the data is then designed around the needs of the collection program. Each data element must be justified for inclusion in the form.

During the Departmental review process, the element-by-element justifications, the accompanying instructions to the form, and the term definitions are again reviewed to ensure that they are appropriate, clear, and comparable.

Sampling is one of the primary statistical techniques used by the EIA in reducing respondent burden, particularly if the data are to be used for statistical or analytical purposes. When selected on the basis of appropriate statistical methodology, sample units may be considered representative of all units eligible to be included in a survey. Thus, sampling techniques help reduce burden since a representative group may be chosen to respond to a particular survey, rather than the entire respondent universe. Equally important, sampling helps to reduce burden on small businesses, where the size or volume of a business is a major determinant in the survey selection process.

Three examples may be cited to show how sampling techniques reduce burden. First, the Oil and Gas Reserves Survey (Form EIA–23) seeks data from all domestic oil or gas well operators who produce more than 400,000 barrels of oil or 2 billion cubic feet of natural gas annually, and a statistically selected sample of smaller operators. Out of approximately 16,000 potential respondents, EIA has determined that only about 3,100 need be surveyed in order to get a statistically valid view of the domestic oil and gas production and reserve situation. While all of the large well operators are surveyed, only 15 percent (or approximately 2,300 operators) who produce less than 400,000 barrels of oil or 2 billion cubic feet of gas are required to respond.

Second, the Retail Motor Gasoline Station Survey (Form EIA–79) collects monthly information about prices and volumes of different grades of gasoline being sold by retail gasoline stations. There are approximately 180,000 retail gasoline stations dealers in the United States. Based on its statistical requirements, the EIA has chosen 8,000 stations on a geographical basis as being representative of the entire universe. In this case, while only about 4 percent of all U.S. service station dealers are being asked to respond, the resulting statistics may be considered representative of all 180,000 dealers.

Third, the No. 2 Heating Oil Supply/Price Monitoring Report (Form EIA–9) obtains information concerning sales volumes and prices of No. 2 heating oil from retail dealers. A stratified sampling mechanism is used to estimate totals for the United States as a whole, each of the 10 federal regions, the 22 largest consuming States, and the District of Columbia. All 200 companies whose volumes exceeds ten million gallons annually are included. Of the approximately 7, 800 companies with volumes of less than 10 million gallons annually, EIA is sampling only about 1,100.

EIA is responsible for collecting and processing most of the Federal Energy Regulatory Commission's (FERC) data. In addition to the DOE forms review and clearance process and the systems design services provided by EIA, the Commission employs similar review procedures for energy forms developed for its use. The Commission seeks to collect only those data necessary for making determinations within its jurisdiction. As a result, during FY 1978, FERC reduced its reporting burden by 13 percent.

III. Systems Consolidation Process

The Energy Information Administration began a major program in 1977 to eliminate unnecessary energy data collection activities. Each year, EIA is reviewing selected, related information systems and reporting forms to see if they should be integrated, modified, or eliminated.

Candidates for this review are proposed by the EIA, other DOE Offices, and members of the public. Each form or system under review is analyzed by the EIA staff to determine: (a) The underlying legislative authority or policy justification for its existence, (b) The information elements collected, (c) The level of the use and usefulness of reports based on the information, and (d) The impact its integration, modification, or elimination would have on the related historical data. Based upon this analysis, a formal Energy Information Administration staff proposal is made on the future of the form or the system. The staff proposal is assessed by other EIA officials and DOE program staffs, and the resulting recommended course of action is then presented to the EIA Administrator for decision. If the EIA Administrator approves a consolidation proposal, design of the replacement system/forms begins. This requires a cost-benefit analysis, an implementation schedule, and an estimate of all tasks to be accomplished. If these analyses reveal a significant increase in consolidation cost or adverse impact on the integrity of the data, the proposal may be reconsidered. If not, the new design is approved, and the changes are implemented.

In 1978, 29 forms were reviewed in the systems consolidation process. Of these, 16 forms were eliminated or consolidated, and 13 were reduced in scope. Fourteen others have been proposed for review in calendar year 1979.

In addition, EIA plans to accelerate this effort by: (a) continuing its element-by-element justification for each energy data collection form; (b) Developing energy flow diagrams to show each step from extraction through consumption of each fuel source; (c) Reviewing the relationships among all current energy data systems, forms, and component data elements; (d) Developing clear definitions for all existing energy data elements; and (e) coordinating all consolidation efforts through a single EIA office.

IV. Public Participation

Full participation by respondents and users of energy data in the preparation of a form is important to ensure that the data are accurate. The DOE normally solicits public comment on major new energy systems or forms, forms that support the regulatory process, and forms or systems being reviewed as part of the systems consolidation process. This is done through **Federal Register** notices, public hearings, survey pre-tests, pilot surveys, and consultations with industry and government experts. Since October of 1977, approximately 80 forms have been announced (and/or printed in full) in the **Federal Register** as candidates for clearance or systems consolidation; many of the major forms were the subjects of public hearings. The EIA, in coordination with the Federal Energy Regulatory Commission and other DOE offices, intends to continue and expand its efforts to seek comment from all interested persons on major new forms and on those scheduled for modification or elimination.

Next Status Report

By November 15, 1979, EIA will report on progress in reducing respondent burden for Fiscal Year 1979, which ends on September 30, 1979. In the interim, EIA welcomes queries, comments or suggestions from the public regarding this program.

Issued in Washington, D.C., May 3, 1979.

Lincoln E. Moses,
Administrator, Energy Information Administration.
[FR Doc. 79-14606 Filed 5-9-79; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

Clark & Clark; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Clark & Clark, P.O. Box 98, Ardmore, Oklahoma 73401. This Proposed Remedial Order charges Clark & Clark with pricing violations in the amount of $79,084.84, connected with the sale of crude oil during the time period September 1, 1973 through March 31, 1978 in the State of Oklahoma.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, Acting District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, TX 75235, phone (214) 749-7626. On or before May 25, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 30th day of April 1979.

Wayne I. Tucker,
Acting District Manager of Enforcement, Southwest District.
[FR Doc. 79-14608 Filed 5-9-79; 8:45 am]
BILLING CODE 6450-01-M

Kirkpatrick Oil and Gas Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Kirkpatrick Oil and Gas Company, 1300 N. Broadway, Oklahoma City, OK 73103. This Proposed Remedial Order charges Kirkpatrick with pricing violations in the amount of $187,450.42, connected with the sale of 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, Acting District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, TX 75235, phone (214) 749-7626. On or before May 25, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 30th day of April 1979.

Wayne I. Tucker,
Acting District Manager of Enforcement, Southwest District.
[FR Doc. 79-14607 Filed 5-9-79; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Iowa Public Service Company; Filing

Correction

In FR Doc. 79-12799, appearing in the issue of Wednesday, April 25, 1979, on page 24339, the docket number was inadvertently deleted from the end of the document and should be correctly added as set forth:

[Docket No. ER79-31]
BILLING CODE 1505-01-M

Kansas Power & Light Co.; Order Approving Stipulation and Agreement of Settlement

Correction

In FR Doc. 79-12800, at page 24339, in the issue of Wednesday, April 25, 1979, on page 24340, the docket numbers were inadvertently deleted from the end of the document and should be correctly added as set forth:

[Docket Nos. ER76-39, ER76-340, and ER78-363.]
BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Preparation of Environmental Assessments and Environments Impact Statements

AGENCY: General Services Administration, Public Buildings Service.

ACTION: Proposed service implementing procedures.

SUMMARY: This notice announces that the Public Buildings Service (PBS) is publishing internal procedures to be followed in implementing the requirements of section 102(2) of the National Environmental Policy Act of 1969, as amended, (NEPA) (42 U.S.C. 4321, *et seq.*); Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality"; and the Regulations issued by the Council on Environmental Quality (43 FR 55978).

DATE: Comments must be received on or before: June 11, 1979.

ADDRESS: Comments should be addressed to General Services Administration (PRE), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, Office of Space Management, Public Buildings Service, General Services Administration, Washington, DC 20405.

Dated: May 2, 1979.

Dennis J. Keilman
Acting Commissioner, Public Buildings Service.

GSA Order

Subject: HB, PBS Preparation of environmental assessments and environmental impact statements.

1. *Purpose.* This order transmits a revised HB, Preparation of environmental assessments and environmental impact statements. This handbook is a guide for preparing environmental assessments (EA's) and environmental impact statements (EIS's) for proposed Federal projects and actions undertaken by the Public Buildings Service (PBS) in facility planning programs.

2. *Cancellation.* PBS 1095.1D and PBS P 1095.4 are canceled.

3. *Background.* This handbook facilitates the implementation of the requirements of section 102(2) of the National Environmental Policy Act of 1969, as amended, (NEPA) (42 U.S.C. 4321, *et seq.*), Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality," as amended by Executive Order 11991, relating to Protection and Enhancement of Environmental Quality; section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f); Executive Order 11593 of May 13, 1971, entitled "Protection and Enhancement of the Cultural Environment;" GSA Order ADM 1095.1B, entitled "Environmental considerations in decisionmaking;" GSA

Order PBS 1022.1, entitled "Protection of Historic Properties;" and the Regulations issued by the Council on Environmental Quality (CEQ) for implementing NEPA, (hereinafter referred to as the CEQ Regulations), published in the **Federal Register** November 29, 1978 (43 FR 55978).

4. *Applicability.* The provisions of this handbook apply to all organizational elements of PBS; the PBS Regional Commissioner's office; and the PBS elements of leasing, design, construction, management, operation, and maintenance of Federal facilities. It shall also be used by consultants assisting PBS by contract in preparing EIS's for the above-referenced work areas. It is applicable to preauthorization and postauthorization project activities.

5. *Reports.* The reports control symbol PBS–123 has been assigned to report required by this directive.

Commissioner
Public Buildings Service

Office	Copies
All Regional PG's	15
Central Office, PRE	50

Figure 1. Supplemental distribution

PBS Preparation of Environmental Assessments and Environmental Impact Statements

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Chapter 1. General

Part 1. Background

1. *The National Environmental Policy Act (NEPA).* Section 102 of NEPA directs all Federal agencies to the fullest extent possible: (1) to use a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on man's environment; (2) to identify and develop methods and procedures which will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations; (3) to include in every recommendation or report on proposal for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official which includes to the fullest extent possible the following:

a. The environmental impact of the proposed action;

b. Any adverse environmental effects which cannot be avoided should the proposal be implemented;

c. Alternatives to the proposed action;

d. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

e. Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

2. *The Council on Environmental Quality (CEQ) Regulations.* CEQ has issued Regulations under the authority of NEPA and Executive Order 11514 as amended by Executive Order 11991. The CEQ Regulations, which apply to all Federal agencies, mandate how Federal agencies shall comply with NEPA.

3. *Definitions.* Refer to Part 1508 of the CEQ Regulations for the definitions of terms used in this handbook.

4. *GSA policy.* The GSA policy regarding environmental affairs is established in ch. 2–11 of the HB, GSA Policy Manual (ADM P 1000.2B).

5. *The NEPA implementation process.* The implementation of NEPA is an ongoing process for coordinating active consideration of environmental concerns throughout planning, decisionmaking, action development, and review. Through serious consideration of all reasonable alternatives, adverse environmental effects shall be avoided or minimized to the fullest extent possible. Consideration of environmental impacts is a responsibility of decisionmakers at all levels of GSA management.

6. *Use of NEPA documents by decisionmakers.*

a. Environmental documents (environmental assessments and environmental impact statements) and the comments and responses that have been made on the documents shall accompany the proposed action through agency review.

b. Responsible officials shall use the environmental documents when implementing the decision and when choosing between the proposed action and alternative to the proposed action. Any alternative considered by the responsible officials shall be discussed in the environmental documents.

c. The responsible officials who make major decisions for all types of actions covered by this handbook (see par. 7, below), are identified in the Central Office and Regional Delegation's of Authority Manuals.

7. *Rulemaking.* When PBS formal rulemaking and the action requires environmental documentation, the environmental documents and the comments and responses that have been made on the documents shall become a part of the administrative record.

8. *Applicability.* This HB is applicable to PBS facility planning programs in acquisition, leasing, design, construction, management, and repair and alteration to GSA property.

9. and 10. *Reserved.*

Part 2. Responsibilities

11. *Internal PBS responsibilities.*

a. *Commissioner, Public Buildings Service.* The Commissioner acts for the Administrator on environmental and historic preservation matters except for actions involving the Federal Property Resources Service (FPRS).

b. *Assistant Commissioner, Office of Space Management (PR).* The Assistant Commissioner shall have the following responsibility to:

(1) Initiate and direct GSA'a agencywide environmental program policy, except for FPRS;

(2) Review the NEPA implementation process of other GSA services, except FPRS;

(3) Coordinate with entities outside GSA on agency environmental policy matters, except for FPRS;

(4) Provide professional and technical guidance to the Commissioner, PBS (P), Assistant Commissioners, PBS, and Regional Commissioners, PBS;

(5) Review, coordinate and consolidate the PBS EA/EIS review comments by the Office of General Counsel (L), and other appropriate service and staff offices and transmit comments to the appropriate office;

(6) Consult with the Office of General Counsel (L) on matters pertaining to compliance with environmental laws within GSA and on matters relating to environmental protection in PBS;

(7) Develop and coordinate service orders, regulations and guidance on the PBS environmental programs;

(8) Assist the regional offices in scheduling environmental considerations to preclude delays in completing those actions defined in this handbook;

(9) Review new environmental technology, research and development; and

(10) Initiate new environmental programs.

c. *Director, Environmental Affairs Division, Office of Space Management (PRE).* The Director coordinates and implements the GSA environmental program and serves as the official GSA liaison officer with the Council on Environmental Quality and the Environmental Protection Agency except for FPRS activities.

d. *Regional Administrator.* Regional Administrators shall have the following responsibilities to:

(1) Approve by signature findings of no significant impact (FONSI) prepared by the Regional Commissioners, PBS; and

(2) Transmit draft and final EIS's to the Environmental Protection Agency (EPA), heads of other Federal agencies, Governors, Senators, and Congressmen by signing appropriate transmittal letters.

e. *Regional Commissioner, PBS.* Regional Commissioners, PBS, shall have the following responsibilities to:

(1) Make the threshold decision of need for an EA/EIS, prepare EA's and prepare and sign FONSI's that require the subsequent approval of the Regional Administrator;

(2) Maintain a continuing review of activities which have potential significant environmental impact as outlined in this handbook;

(3) Establish the appropriate points in time for the reassessment of developing projects for cases not covered in this handbook;

(4) Prepare and process, through PR, draft and final EIS's and subsequently distribute the EIS's to Federal, State, and local officials, and interested individuals other than those to whom the Regional Administrator transmits the impact statement;

(5) Conduct public meetings, issue press announcements and maintain files for public review; and

(6) Prepare and monitor a schedule for environmental planning considerations to preclude delays in completing those actions defined in this HB;

(7) Review new environmental technology, research and development;

(8) Initiate new environmental programs;

(9) Develop and publish a regional service order that further implements this HB;

(10) Prepare and submit to PR quarterly reports on regional NEPA actions.

f. *Assistant Commissioners for Buildings Management (PR) and Construction Management (PC).* The Assistant Commissioners shall be responsible for maintaining program review of EIS's to ensure program activities are compatible with environmental protection and are in compliance with this HB. They are also responsible for the following:

(1) Review of new environmental technology, research and development;

(2) Initiation of new environmental programs;

(3) Development and revisions to orders, handbook specifications and directives to the field;

(4) Initiation of EA's and EIS's;

(5) Maintenance of continuing review of developing projects for environmental impact and establish the appropriate points in time for the reassessments not covered in this attachment to the order; and

(6) Establishment of continual liaison with the Office of Space Management on environmental protection programs.

12. *Responsibility for EIS preparation in multi-agency actions.*

a. Except as provided in subpar. b, below, when GSA and one or more agencies directly sponsor an action, or are directly involved in a group of actions directly related to each other because of functional interdependence and/or geographical proximity, a lead agency shall be designated to assume supervisory responsibility for preparation of the EIS. Relevant factors in the determination of the appropriate "lead agency" include the time sequence in which the agencies become involved, the magnitude of agency involvement, and agency expertise with respect to the environmental effects of the action.

b. When there is a question regarding the primary responsibility for statement preparation, the matter shall be referred to the Assistant Commissioner for Space Management (PR), for referral to CEQ for resolution. However, it is possible for a statement to be submitted jointly by all agencies concerned with the comments being returned to a single designated agency official.

c. If GSA is the "lead agency" and one or more agencies have partial responsibility for the action, the other agencies shall be requested to be cooperating agencies and to provide the responsible PBS official information that is necessary to prepare an environmental impact statement.

d. If another agency is designated to be the lead agency, the criteria for EIS preparation for that agency shall apply.

e. The General Services Administration (GSA) will serve as the lead agency in all projects involving construction of buildings by the Public Buildings Service.

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Chapter 2. Classes of PBS Actions

1. *Introduction.* Classes of PBS actions (pars. 2 thru 4) and indicators of significance (par. 5) are listed below. The indicators shall be used as a part of

the assessment process to determine the significance of a proposed action and if an environmental impact statement is needed for an action.

2. *Class I., Actions which normally do not require either an EIS or an environmental assessment (EA).* The actions in subpars. a thru f, below are categorically excluded from the requirement to prepare an EIS or an EA under normal circumstances. However, the responsible official shall be alert to unusual conditions that would require an EIS or an EA. They are categorically excluded because they normally do not meet any of the indicators of significance and they (1) are routine, (2) will not create greater demands or loads on environmental impact areas, (3) allow the current agency action to continue, or (4) do not alter physical conditions.

a. Repair to or replacement of equipment (e.g., electrical distribution and HVAC systems) of GSA-controlled facilities.

b. Repair to or replacement in kind of components (e.g., windows, doors, roof) of GSA-controlled facilities.

c. Acquisition of less than 20,000 square feet of occupiable space in a structure that was completed prior to the solicitation for offiers.

d. Acquisition of between 20,000 square feet and 40,000 square feet if it constitutes less than 40 percent of the occupiable space in a structure that was completed prior to the solicitation for offers.

e. Lease extensions, renewals, or succeeding leases.

f. Federal construction or lease construcion of 10,000 square feet or less of occupiable space.

g. Relocation of employees into existing owned or currently leased office space.

h. Individual personnel actions, administrative actions, collective bargaining with employee unions, ministerial actions, and routine activities normally conducted to protect and maintain GSA controlled properties.

3. *Class II., Actions which normally require and EIS.* The actions in subpars. a thru d, below, normally require the preparation of an EIS because they meet the indicators of significance, they may create greater demands or loads on environmental impact areas, and they may alter physical conditions.

a. Master plans for federally-owned property.

b. Space acquisition programs projected for a given geographical area for a 3- to 5-year period.

c. Federal construction or lease construction projects in excess of 275,000 square feet of occupiable general-purpose space.

d. Actions in a coastal zone that do not comply with an approved Coastal Zone Management Plan.

4. *Class III., Actions which normally require EA's but not EIS's.* An EA must normally be prepared for these actions to determine if an EIS is necessary. This order does not arbitrarily establish the number of indicators of significance that must be exceeded before an EIS is required on an action, as the actions must be evaluated on a case-by-case basis. However, normally if two or more of the thresholds are exceeded an EIS is required.

a. Federal construction or lease construction of general-purpose office space between 10,000 and 275,000 square feet of occupiable space including those undertaken for another Federal agency.

b. Major leases for new space in existing buildings where an environmental controvesy has been identified.

c. Repair and alteration projects which:

(1) Have not been categorically excluded.

(2) Affect those characteristics which qualify a property or object as historically or culturally significant.

(3) Are for acquisition and/or alteration of space for a laboratory which will use dangerous or hazardous chemicals, drugs, or radioactive materials.

d. Construction of a prison facility where GSA is the lead agency.

e. Construction of special-purpose space.

5. *Indicators of significance.* Classes I and II were established based on the following indicators of significance. The determination of whether Class III actions require the preparation of a finding of no significant impact (FONSI) or an EIS shall be made based on these indicators.

a. Traffic generated by the action would represent a 10-percent increase in average daily traffic volume on the access roads to the site or the major arteries in the delineated area, and peak-hour congestion occurs daily on the access road to the site or on the major arteries in the delineated area.

b. May lead to a violation of Federal, State or local law or requirements imposed for the protection of the environment. For example if the action is expected to increase emissions resulting in the violation of air quality standards or construction traffic or project noise will definitely be in violation of GSA, OSHA, State, or local noise standards, and one or more types of sensitive receptors would definitely be at risk.

c. The GSA project, it contractors, and its final solid waste disposal site(s) will not be in compliance with the EPA's "Solid Waste Management Guidelines" for thermal processing and land disposal, storage and collection, source separation, and resource recovery facilities; or with any other Federal, State or local regulations, standards or health codes. The final disposal site(s) will not have adequate capacity for the solid waste from the GSA project.

d. Public utilities have insufficient capacity to provide reliable service to the project and to ensure delivery of required flow for average and peak periods.

e. The action is located on or near an active geological fault or unique geological features.

f. Wastewater generated by the new facility will represent more than 5 percent of the average daily flow to a public treatment plant.

g. The proposed project will not be compatible with the present zoning of the specific site and/or delineated area.

h. The proposed project will not conform with official local and regional plans.

i. The proposal may adversely affect an endangered or threatened species or its habitat.

j. The proposal may adversely affect parklands, prime farmlands, floodplains, wetlands, wild and scenic rivers or ecologically critical areas.

k. The proposal will result in the use of a significant amount (defined as an amount that if spillage occurs it will result in a health hazard or damage to the ecosystem; or if accidentally dumped into the sewage system will damage treatment facilities or contaminate rivers or streams) of dangerous, hazardous, or radioactive materials.

l. Will result in a 5-percent change in the permanent labor force of the SMSA or if not in an SMSA, of the political jurisdiction.

m. Cultural resources on the National Register, eligible for the National Register, and those eligible for the Register, but as yet unstudied or unidentified, will be effected by the proposed action.

n. Local community service administrators indicate that one or more community services will be inadequate to serve the project.

o. The proposed project will permanently alter an area that has been formally recommended for protection by Federal, State, regional, or local

government agencies as part of a land use or development plan.

6. and 7. *Reserved.*

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Chapter 3. Environmental Assessments and Findings of No Significant Impact

Part 1. The Environmental Assessment

1. *Data gathering and impact analysis.* The type and amount of data gathered and the level of environmental impact analysis conducted by the responsible official will vary depending upon the type and scope of the proposed action, its alternatives, and the environmental setting. The methodologies used for this process vary from the general, nonquantitative to specific and quantitative. The responsible official must be sensitive to the advantages and shortcomings of each methodology as well as the level of analysis required for each proposed action. For these reasons, no one methodology is required for PBS.

2. *Documentation of environmental analysis.* The type and amount of documentation necessary for environmental analysis will vary with the individual action studied. Ch. 2 identifies PBS actions which require environmental analysis and classifies them according to the level of analysis required. PBS environmental analysis is normally documented in one of the following formats.

a. *Environmental checklist.* (1) The environmental checklist (EC) is a useful tool in the initial stages of the planning process. It is useful in directing and organizing areas of study. The EC may be used to document the first step of environmental analysis and provide the basis for the initial decision regarding the need for an environmental assessment (EA). For actions requiring an EA, the EC will help to identify the scope of the EA by organizing the available data and highlighting the areas of impact which are of primary concern.

(2) The EC shall be completed in consultation with appropriate agency specialists. Background information, when available, shall be attached to the EC or referenced in an attachment to the EC to support the findings. If the EC is inconclusive regarding the significance of impacts or indicates that significant impacts are likely, the responsible official shall prepare an EA.

b. *The environmental assessment.* (1) The EA is an important document in the decisionmaking process because it is used with other technical and economic studies as a basis for decisions by responsible officials and it may be entered as evidence to support decisions in hearings and court actions. Therefore, the EA shall disclose all pertinent information. (See ch. 5, regarding content of the EA.)

(2) The EA is intended to briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement (EIS) or a finding of no significant impact (FONSI). It may also be used as evidence of compliance with NEPA when no EIS is necessary, and to facilitate preparation of an EIS when one is necessary.

c. *Environmental impact statement.* The EIS contains the most indepth environmental analysis of all environmental documents. The preparation, content, and processing of EIS's are described in chs. 4 and 5.

3. *Timing.* Preparation of the documentation of environmental impacts shall begin immediately after the initial identification of project need during the project planning stage. Preparation shall be undertaken concurrently with the initial technical and economic studies for each project. In lease actions not categorically excluded (ch. 2–2) the documentation shall be completed and a determination for the necessity of an EIS shall be made prior to the issuance of a solicitation for offers.

4. *Reassessment.* a. As the project develops, all environmental considerations shall be continually reevaluated by the appropriate officials. The EA shall be updated with a reassessment if there has been no significant change in project scope or environmental impact. If the initial assessment was made on a delineated area and resulted in a FONSI, a reassessment shall be made when a site is selected. For major repair and alteration projects and new Federal construction, a reassessment shall be made when working drawings and specifications are completed. Other reassessments shall be made as deemed necessary by the responsible official.

b. If an EA and FONSI have been prepared on a delineated area, an updated EA shall be prepared upon site selection. Should the responsible regional official conclude there are no known potential significant environmental impacts following the site selection stage, the official shall prepare and sign a FONSI. The confirmation shall have concurrence by the Regional Counsel. The confirmation of the FONSI need not be forwarded to the Central Office in these cases. However, should the updated assessment identify significant environmental impact on the quality of the human environment, the responsible regional official shall proceed with the preparation of an EIS and notify the Assistant Commissioner for Space Management (PR). In such cases, it may be necessary to reissue the solicitation for offers or invitations for bid, or defer further actions until the full EIS process is complete.

5. and 6. *Reserved.*

Part 2. The Finding of No Significant Impact

7. *Definition.* A finding of no significant impact (FONSI) is a document stating that an administrative decision has been made based upon the environmental assessment (EA) and that the proposed action is not considered a major Federal action having a significant impact on the human environment and, therefore, will not require the preparation of an environmental impact statement (EIS).

8. *Regional processing.* When an EA is completed by the regional staff, it shall be reviewed by the responsible official. If the review of the EA indicates that the proposed project is not a major Federal action significantly affecting the quality of the human environment a FONSI shall be completed. Four copies of the EA and the FONSI signed by the Regional Commissioner, PBS, shall be submitted to the Assistant Commissioner for Space Management (PR). The original EA and FONSI shall remain in the regional office.

9. *Central Office processing.* a. Upon receipt of the EA and FONSI, PR shall forward copies of them to the Office of General Counsel (L) and other appropriate offices for review. All comments shall be reviewed, coordinated and consolidated by PR and transmitted to the submitting regional office within a time period not to exceed 10 full workdays from the date of receipt of the EA and FONSI by PR. If not otherwise directed by PR within a 10-workday period, the responsible regional official may assume that the EA and FONSI are adequate. The official

may then obtain approval of the FONSI by the Regional Administrator, The Regional Administrator shall determine that the EA adequately responds to the following questions prior to signing the FONSI: 1) Did the EA take a "hard look" at the environmental problems?; 2) Did the EA identify the relevant areas of environmental concern?; 3) As to problems studied and identified, does the EA make a convincing case that the impact is insignificant?; and 4) If there is impact of true "significance" has the EA convincingly established that changes in the project have sufficiently minimized it? No action as defined in ch. 4–19, shall be taken prior to the completion of the above process. Under no circumstance will Central Office (CO) comments of interoffice memoranda be included in an EA or FONSI without specific prior written approval of PR.

b. If the Assistant Commissioner, Office of Space Management (PR), determines that an EIS is required, PR shall advise the responsible regional official of that decison during the 10-workday review period.

10. *Propectus projects.* For proposed projects which require prospectus or 11(b) Report approval by the Public Works Committees of the Congress, the responsible official shall forward the four copies referenced in par. 8, above, of the approved FONSI and EA to PR at the same time as the draft prospectus or 11(b) Report.

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Chapter 4. Planning and Processing Environmental Impact Statements

Part 1. Types and Stages of EIS's

1. *Types of EIS's.* There are several types of EIS's which PBS may find appropriate to prepare.

a. *EIS's on administrative actions.* The scope of the subject for an administrative action EIS ranges from individual actions to a combination of broad, related actions. The advantages to preparing EIS's on a combination of related actions are that fewer EIS's are needed, staff time and money is saved, and the chance of delaying proposed action is reduced.

(1) *Individual actions.* Most EIS's are prepared to assess the impacts from a single action proposed by PBS. For example: A space acquisition action for a small, clearly defined area.

(2) *Broad actions.* There are several types of broad actions.

(a) *Geographic.* Geographic EIS's evaluate all actions in a general location such as a region, metropolitan area, or central business district (CBD). For example: A master plan, the entire facility planning program for a city, and the leasing program for a city.

(b) *Programmatic.* Programmatic EIS's evaluate new or existing programs. For example: The new construction program, the leasing program, the repair and alteration program, and the Social Security extension program.

(c) *Generic.* Generic EIS's cover ". . . actions which have relevant similarities, such as common timing, impacts, alterations, methods of implementation, media, or subject matter" (Section 1502.4(c)(2) of the Regulations). The difference of generic EIS's from programmatic EIS's is that they cover actions which are totally new, with few known specifics and scopes which are difficult to determine.

b. *EIS's on legislative proposals.* EIS's on legislative proposals are required for proposed legislation which would result in major physical action that would have significant impacts on the human environment. Refer to Section 1506.8(b)(2)(iii) of the Regulations.

2. *Stages in PBS EIS preparation.* PBS EIS's shall be prepared in four stages. In addition, they may be supplemented.

a. *Preliminary draft EIS.* The preliminary draft EIS is the final working verson of the draft EIS prepared by the responsible official and forwarded to Central Office for review. The preliminary draft EIS shall meet the substantive requirements of a draft EIS.

b. *Draft EIS.* The draft EIS must satisfy, to the fullest extent possible, the requirements for a final EIS. It shall present all reasonable alternatives and major points of view on the environmental impacts of the alternatives including the proposed action.

c. *Preliminary final EIS.* The preliminary final EIS is the working version of the final EIS prepared by the responsible official and forwarded to Central Office for review. The preliminary final EIS shall meet the substantive requirements of a final EIS.

d. *Final EIS.* The final EIS shall respond to all substantive comments made on the draft EIS and shall indicate the agency's response to issues or opposing views raised during the EIS process.

e. *Supplemental EIS.* Supplements to draft or final EIS's shall be prepared as required by Section 1502.9(c)(1) of the Regulation's if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

3 and 4. *Reserved.*

Part 2. Timing and Planning of the EIS

5. *Timing.* Section 1502.5 of the CEQ Regulations requires:

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize of justify decisions already made . . . .

For instance:

(a) For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a later stage if necessary.

6. *Early planning.* Immediately after an environmental assessment or an environmental checklist has been prepared on an action and a determination has been made that the action is a major Federal action significantly affecting the human environment, one of the following actions shall be taken:

a. The Regional Commissioner shall begin the preparation of the environmental impact statement (EIS); or

b. The Commissioner of PBS shall assign responsibility for preparing the EIS if the proposed action is of national significance or crosses regional lines.

7. *Notice of intent.*

a. A notice of intent to prepare an EIS shall be prepared for publication in the **Federal Register** by the Regional Commissioner as the first step in planning for preparation of the EIS.

b. The notice shall be prepared according to instructions for preparing **Federal Register** notices which appear in ch. 12 of the draft HB, Writing GSA External Directives (OAD P 1812.1A).

c. As required by Section 1508.22 of the Regulations:

The notice shall briefly:
(a) Describe the proposed action and possible alternatives.
(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.
(c) State the name and address of a person within the agency who can answer questions about the proposed actions and the environmental impact statement.
(See fig. 4–6 for a sample notice of intent.)

d. If a scoping meeting (see pars. 7 thru 9, below), is not planned, the notice shall request written suggestions regarding the scope of the EIS.

e. The notice shall be signed by the Regional Administrator and transmitted to the Directives Management Branch (BRAI) for submission to the **Federal Register.**

8. *Initiating the scoping process.* Section 1051.7 of the Regulations states, in part: "There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping * * * ." Sections 1501.7(a)(2) thru 1501.7(a)(7) lists objectives of the scoping process. (See fig. 4–5 for a diagram of the scoping process.)

a. As soon as possible after, or concurrent with, the publication of the notice of intent in the **Federal Register,** the Regional Administrator shall ask "* * * affected Federal, State, and local agencies, * * * the proponent of the action, and other interested persons * * *" (Section 1501.7(a)(1) of the Regulations) to participate in the scoping process. The scoping process shall be accomplished in accordance with the Regulations, OMB Circular A–95, and FPMR 101–15.100.

b. The procedures for informing the public about NEPA actions which are listed in Section 1506.6(b) of the Regulations shall be considered by the Regional Administrator as the means to inform the public about the scoping process. The procedures which are used for each action shall be selected on a case-by-case basis.

c. The Environmental Protection Agency, the A–95 Clearinghouses, the mayor, the local planning authority, and the state or local historical authority shall always be informed about the scoping meeting.

d. The mayor shall be requested to appoint an individual with environmental impact assessment expertise to attend the scoping meeting, if a meeting is planned.

e. In addition, a copy of the letter to the state clearinghouse, issued in accordance with the provisions of A–95 shall be forwarded to the Advisory Council on Historic Preservation and the Council on Environmental Quality.

9. *How to hold a scoping meeting.* Scoping meeting shall conform to the following conditions:

a. The meeting shall be opened by a GSA representative with a brief presentation on the proposed action.

b. The meeting shall not be used as a debate on the merits of the proposed action.

c. Interested participants shall be asked to register by mail or in person for an opportunity to make a presentation at the meeting. They shall be allowed to speak in the order of registration.

d. A time limit, not to exceed 10 minutes, shall be established for each oral presentation. (This condition may be abolished by the moderator of the meeting.)

e. Written comments shall be accepted for incorporation into the record at the meeting and for 10 workdays following the meeting.

f. A verbatum transcript of the meeting shall be made.

10. *Completing the scoping process.* The scoping process shall be considered complete when the provisions of Sections 1501.7(a)(2) thru 1501.7(a)(7) of the Regulations have been accomplished.

11 and 12. *Reserved.*

Part 3. Processing EIS's

13. *The draft EIS.*

a. "Environmental impact statements shall be prepared using an interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts . . ." (Section 1502.6 of the Regulations).

b. The author(s) shall strive to convey all pertinent information in nontechnical language to the extent practicable in order that it may be easily understood by the reader without unnecessary cross reference. Any technical terms or symbols should be explained briefly the first time they are used.

c. Refer to ch. 5 for detailed guidance on content and format of EIS's.

14. *Central Office review of the draft EIS.* Four copies of the preliminary draft EIS shall be transmitted to the Assistant Commissioner for Space Management (PR) for a review period of 15 workdays to begin the date of receipt by PR. Space Management shall forward copies to the Office of General Counsel (L) and other appropriate offices for review. All comments shall be reviewed, coordinated, and consolidated by PR and transmitted to the submitting office within the 15-workday period. A copy of the consolidated response shall be forwarded to the Office of General Counsel. Central Office reviews may require additional information or revisions to the statement prior to its publication. If not otherwise directed by PR with the 15-workday review period, the responsible official may assume that the EIS is adequate and may proceed with publication of the EIS. A statement number shall be assigned to the draft EIS by PR prior to publication. Under no circumstances will Central Office comments on an EIS or interoffice (Regional/Central Office) memoranda, be included in a file statement without prior written approval.

15. *Special instructions.* A draft EIS shall be submitted to Central Office with all Federal Space Situation Reports (FSSR's), Feasibility Studies, Prospectuses, and Reports of Public Building Project Survey (11(b) Reports), if the subject of the report or study is an action which requires preparation of an EIS.

16. *The final EIS.* The final EIS shall be submitted to the Congress with a prospectus or 11(b) Report. It shall reflect the data and substantive comments submitted on the draft EIS by other Federal agencies, State and local officials, individuals and groups.

a. "If changes in response to comments are minor and confined to . . . factual corrections [and explanations] why the comments do not require further agency response . . ." (Section 1503.4 of the CEQ Regulations). The final EIS filed with EPA shall be composed of:

(1) The draft EIS with a new cover sheet;

(2) Errata sheets;

(3) The comments; and

(4) The responses to the comments.

The final EIS which is circulated for public review shall be composed of a new cover sheet and the items listed in subpars. 16a (2) thru (4), above.

b. If changes in the draft EIS exceed the conditions in subpar. 16a, above, the

following requirements apply to the final EIS:

(1) Changes and additions to the text of the draft EIS shall be marked by a vertical line in the margin, unless the final EIS differs substantially from the draft EIS.

(2) Where opposing professional views and responsible opinions have been overlooked in the draft EIS and are then brought to the agency's attention the action should be reviewed and a meaningful reference made in the final EIS to opposing views as well as GSA's position on the issues raised.

(3) All substantive comments received on the draft EIS (or summaries thereof when comments have been exceptionally voluminous) shall be attached to the final EIS whether or not the comment is considered to merit individual discussion in the text of the statement.

(4) Where appropriate, substantive comments on the draft EIS should be correlated to the text of the final EIS by placing a page or section number in the margin of the comment designating the location of the proper response.

17. *Central Office review of the final EIS.* The preliminary final EIS shall be submitted to PR for review and comment in the same manner as the preliminary draft EIS. (See par. 14.)

18. *Preparation of supplemental draft or final EIS's.*

a. Responsible regional PBS officials shall be familiar with any substantial changes in the proposed action or significant new information that becomes available concerning its environmental impacts. These circumstances shall be evaluated by the Regional Commissioner to determine if a supplemental draft or final EIS is required.

b. If a supplemental EIS is required it shall be prepared, processed, and circulated for public review in the same manner as the draft or final EIS it supplements. Exceptions to the requirements of this subparagraph are allowed only if CEQ agrees to alternative procedures which are proposed by the Assistant Commissioner for Space Management.

19. *Limits on administrative actions.*

a. Administrative action shall not be taken prior to:

(1) Ninety calendar days following publication of the notice of availability of the draft EIS in the Federal Register;

(2) Thirty calendar days after publication of the notice of availability of the final EIS in the Federal Register; and

(3) Recording the decision of that action and its availability to the public.

b. The term "action," as used in this paragraph, shall mean issuance of a notice to proceed pursuant to a construction or demolition contract, acceptance of offers to sell, vesting of title, issuance of notice to relocate within 90 days in accordance with section 301(5) and the terms of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (84 Stat. 1894), and other such activities. Certain procedures are to be excluded from this prohibition (i.e., continuance of design, contracts for appraisal reports, title evidence and surveys, and negotiations for site acquisition). The determination of whether any other action is an "action" as used in this paragraph shall be made by the Commissioner of PBS with the advice of the Office of General Counsel.

20. *Emergency conditions.* When emergency conditions make it necessary to take a major Federal action which may have a significant impact on the human environment without strictly observing the provisions of the CEQ Regulations and this handbook concerning minimum periods for public review, the Assistant Commissioner for Space Management (PR) shall obtain the concurrence of the Commissioner, PBS (P), and consult with EPA concerning alternative arrangements. Similarly, where there are overriding considerations of expense to the Government or impaired program effectiveness, PR will consult with CEQ concerning appropriate modifications of the minimum periods when such action is considered appropriate.

21. *Distribution and public review of EIS's.* For information regarding distribution and public review of EIS's refer to ch. 6.

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Chapter 5. Content and Format of Environmental Assessments and Environmental Impact Statements

Part 1. General

1. *Focus of attention.* The focus of environmental assessments (EA's) and environmental impact statements (EIS's) shall be the analysis of impacts of the proposed action and its alternatives. The brief description of the affected environment and the purpose and need for the action shall be included for the purpose of understanding the proposal, the alternatives, and the environmental consequences. The preparer shall analyze the most significant environmental impacts and concentrate on them in the text of the document.

2. *Input of the public.* EA's and EIS's shall discuss the public awareness of the proposal. They shall list the agencies, groups, and individuals consulted during the planning process in compliance with OMB Circular A–95. The text of the final EIS shall reflect responses by GSA to substantive comments made on the draft EIS by both public and private organizations and individuals.

3. *Flexibility of format.* EA's and EIS's shall be prepared according to the instructions in Part 3. The format is relatively inflexible. However, parts of the documents may vary according to the size or character of the action or the environment in which the action is proposed. There may be a need for additional information in some cases and less in others. In all cases, the amount of detail shall reflect as complete an analysis as possible.

4. *Supportive material.* Materials which add to the understanding of the document shall be used throughout and included in the appendix. For example:

a. Maps, photographs, drawings, charts, tables, and other illustrative exhibits. If there are many, a list shall be included after the table of contents and, if possible, all exhibits shall be arranged so that they are oriented in the same direction. (Preferably with the north at

the top of the page). This will facilitate their location and use.

b. Lengthy technical analyses, data, and reports shall not be attached. They shall be incorporated by reference. "The incorporated material shall be cited in the statement and its content briefly described." (Section 1502.21 of the Regulations.) Material which is incorporated by reference shall be made available for public review in specific convenient locations which are listed in the document.

c. Short reports and technical analyses may be included in the appendix.

d. Copies of correspondence, including OMB Circular A–95 correspondence, shall be included in the appendix to both the draft and final EIS.

e. EIS's prepared on other Federal actions may be adopted for use by PBS to reduce paperwork and delay under the conditions outlined in Section 1506.3 of the Regulations. Portions of EIS's may be incorporated by reference in the manner shown in subpar. b., above.

5. *Publication and reproduction.* For all illustrative materials the feasibility of including certain materials, publication costs, and reproduction quality shall be considered. The paper should be 8 x 10½ inches, including maps, charts, and other material. Any legends or other identifying symbols shall be conspicuously located so as to avoid being obscured when the document is bound. The text shall always be printed black on white and on both sides of the paper. Pages shall be numbered consecutively throughout the EA or EIS. If appendices are used, they shall be labeled appendix A, B, C, etc., and also numbered.

6. and 7. *Reserved.*

Part 2. Description of Special Pages

8. *Applicability.* An EA shall have a cover sheet and, if detailed, a table of contents and an index. An EIS shall have a cover sheet, a table of contents, and an index.

9. *Cover sheet.* The cover sheet shall contain the essential bibliographic information to facilitate subsequent identification. Only the items marked with an asterisk (*) on fig. 5–9 are required for an EA. All are required for an EIS. The date of an EA shall be the date that the document is completed and submitted to the Regional Administrator. The two dates on the EIS are the date the Regional Administrator signs the letter transmitting the EIS to the Environmental Protection Agency and the date by which comments must be received.

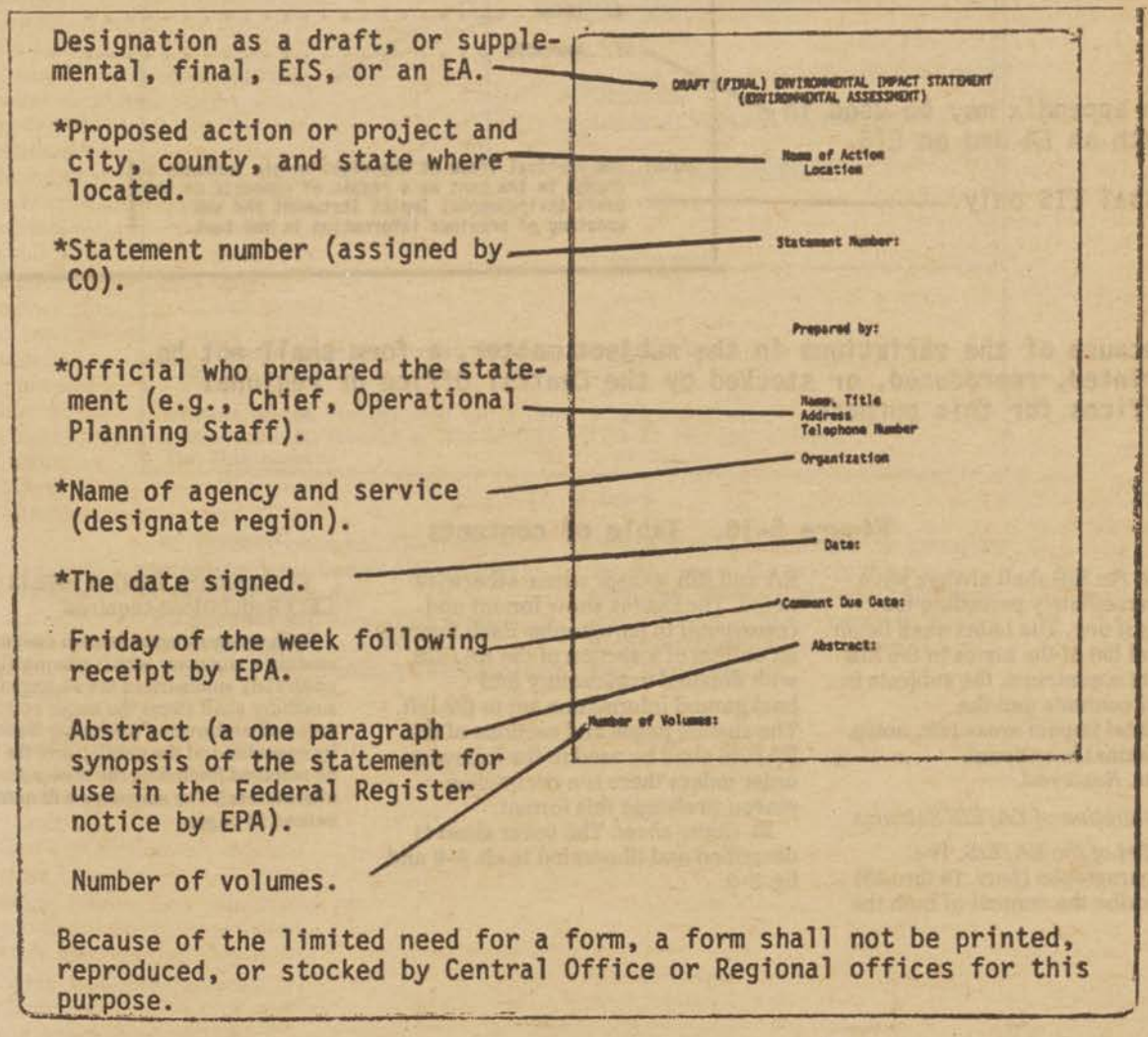
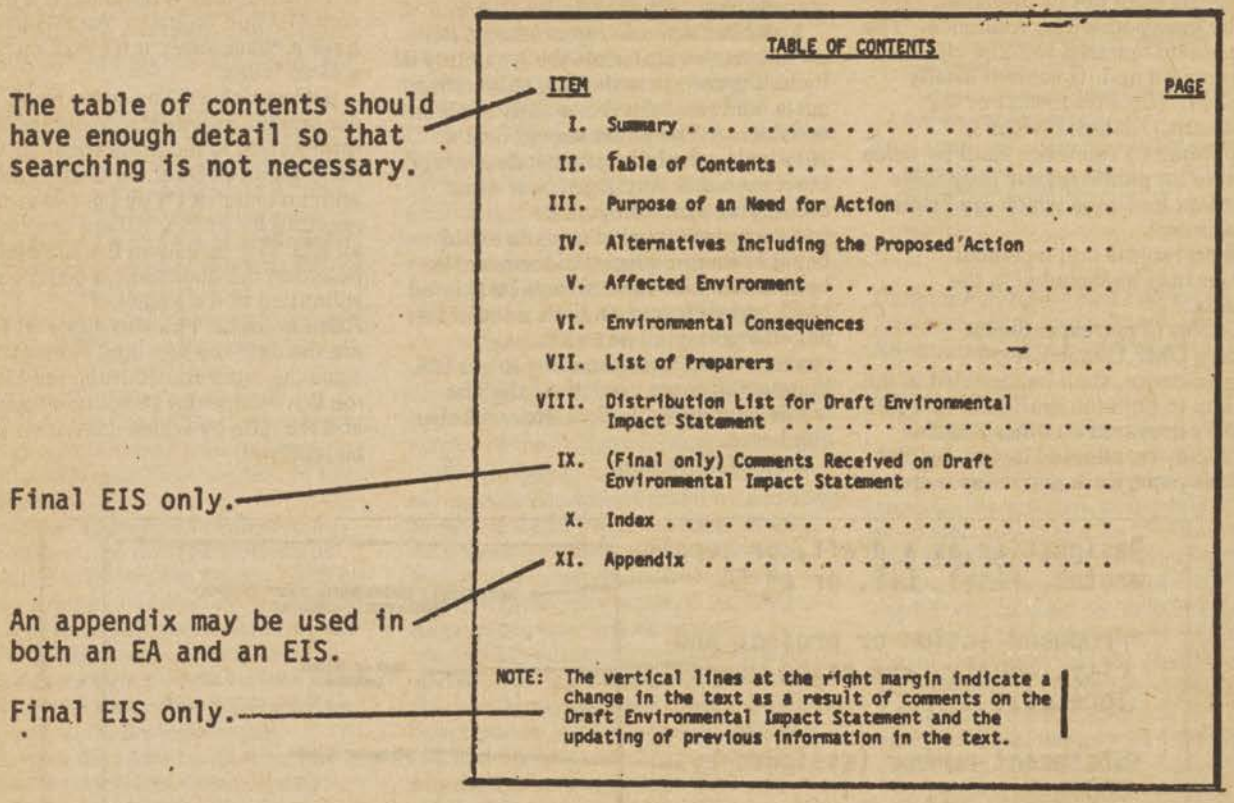


Figure 5-9. Cover page (EA and EIS)

10. *Table of contents.* An EIS shall always include a table of contents. An EA should have one if it is longer than 15 pages. The table of contents should include at least the section titles and major subsection titles. The subject headings, as shown in fig. 5–10, may be supplemented or rearranged only if there is a compelling reason.



Because of the variations in the subject matter, a form shall not be printed, reproduced, or stocked by the Central Office or regional offices for this purpose.

Figure 5-10. Table of contents

11. *Index.* An EIS shall always have an index immediately preceding the appendices *if any.* The index shall be an alphabetical list of the topics in the EIS including, at a minimum, the subjects in the table of contents and the environmental impact areas (air, noise, etc.). The format is optional.

12 thru 14. *Reserved.*

Part 3. Description of EA/EIS Sections

15. *Content of the EA/EIS.* The following paragraphs (pars. 16 thru 25) briefly describe the content of both the EA and EIS, except where otherwise noted. The figures show format and correspond to paragraphs. Each figure is an outline of a section of the EA/EIS with detailed explanatory and background information set to the left. The special pages and sections of the EA/EIS shall be used in the following order unless there is a compelling reason to change this format.

16. *Cover sheet.* The cover sheet is described and illustrated in ch. 5–9 and fig. 5–9.

17. *Summary.* Section 1502.12 of the CEQ Regulations requires:

Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages.

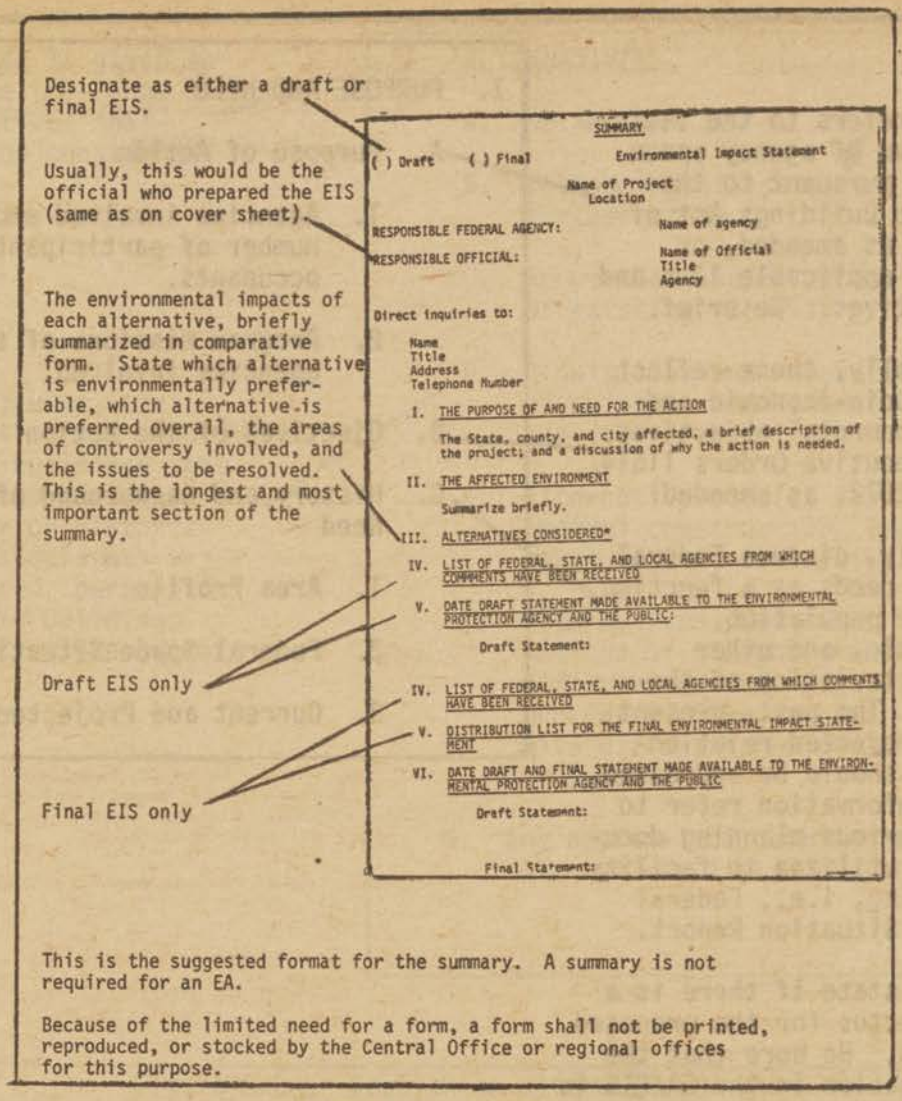


Figure 5-17. Summary

18. *Table of contents.* The table of contents is described and illustrated in ch. 5–10 and fig. 5–10.

19. *Purpose and need.* This section shall briefly give the relevant background information on the proposed action. It shall summarize the following: the purpose of the action; the social, economic, or environmental objectives; and the Federal space needs as related to the history and background of the area (fig. 5–19).

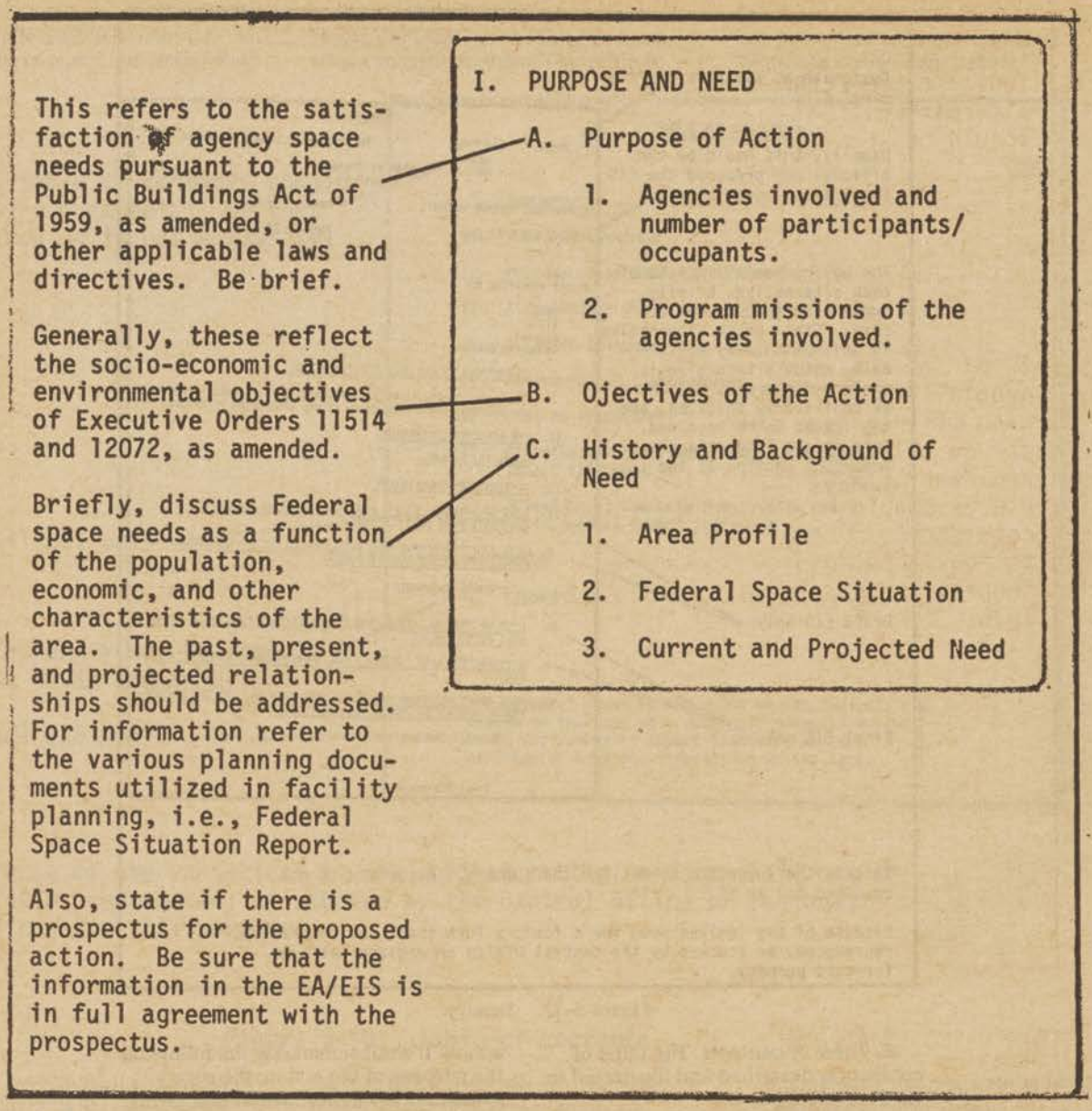


Figure 5-19. Purpose and need section of EA/EIS

20. *Alternatives.* (See fig. 5–20.)

a. Section 1502.14 of the Regulations requires that in the alternatives section of the document agencies shall:

(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

b. If alternative sites are not known, the document shall discuss the delineated area as an alternative. When alternative sites are determined, they shall be added to the alternatives discussed in an updated environmental assessment or the final EIS.

c. The extent of the discussion on each alternative shall be determined by the nature of the alternative. However, particular attention shall be given to the manner in which each alternative would avoid any adverse impacts expected from the proposed action. The document shall focus on the environmental impacts of each alternative rather than on the program objectives and criteria.

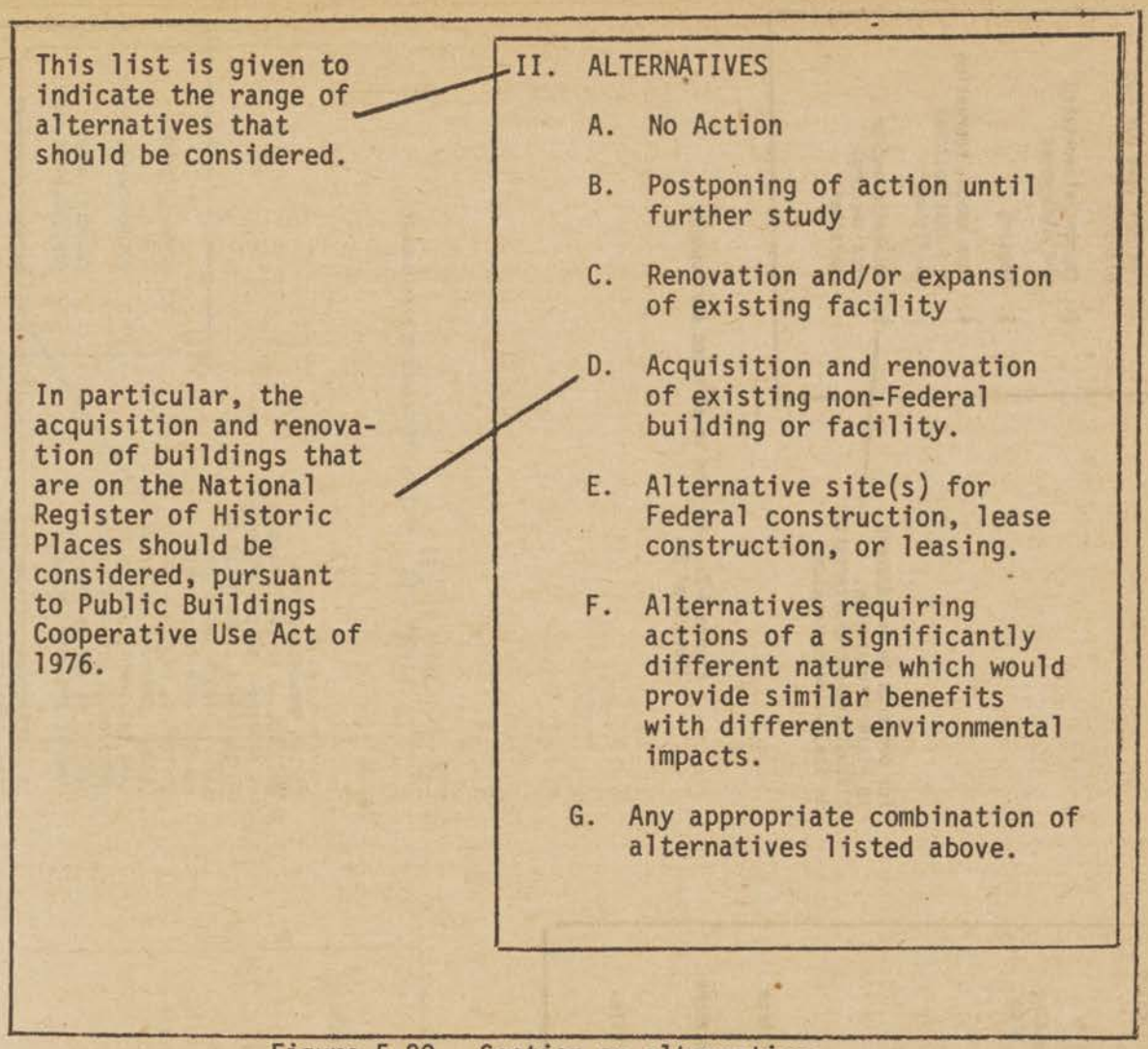


Figure 5-20. Section on alternatives

21. *The affected environment.* This section shall describe the various peripheral areas affected by the action as well as the specific delineated area. Relate the existing conditions of the area to those factors which will change or otherwise be affected by the proposal. Affected elements of the environment could include physical characteristics, socioeconomics, land use and land use plans, architectural and cultural amenities, utilities and services, and transportation.

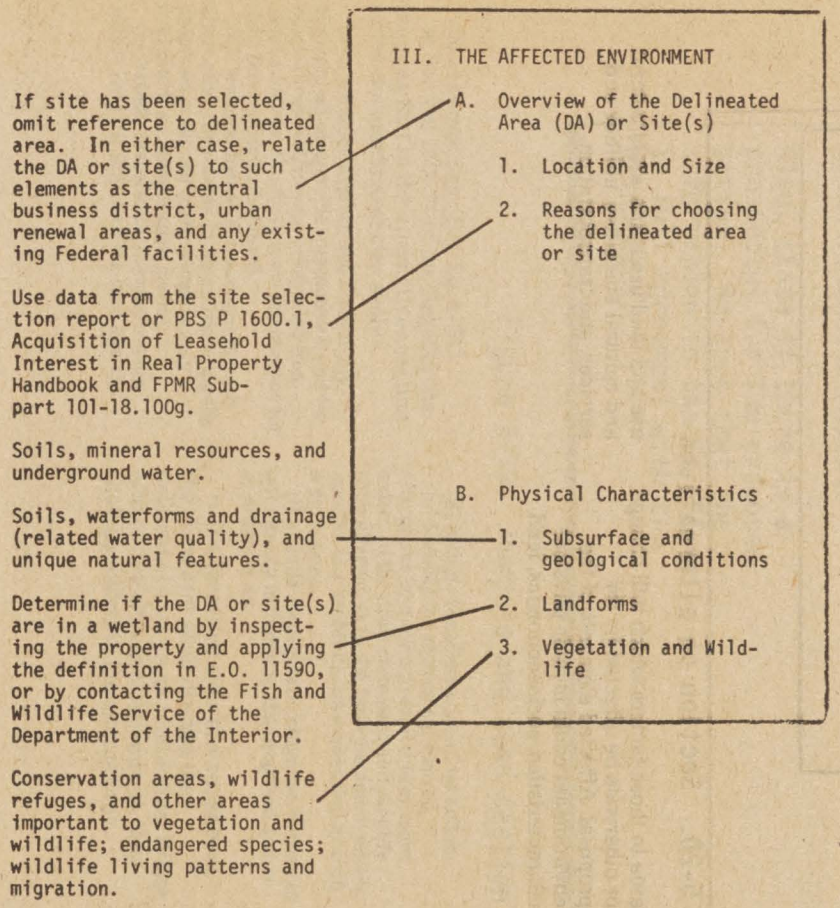


Figure 5-21. Section on affected environment
(Part 1 of 5)

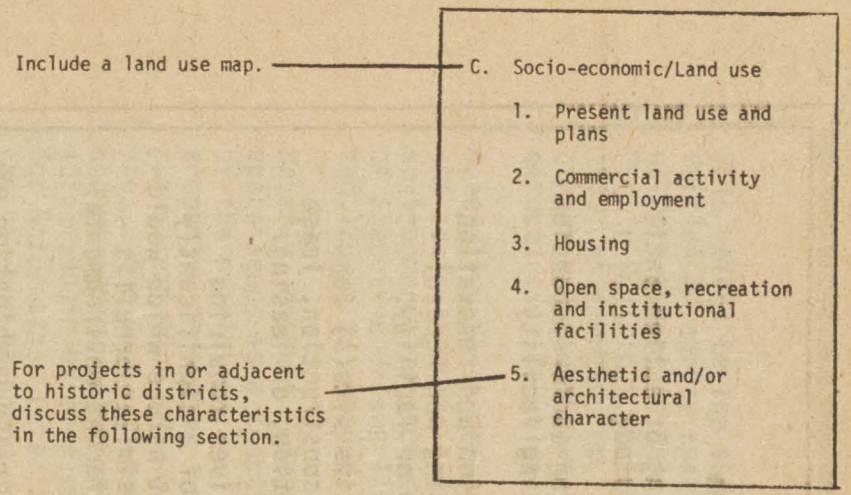


Figure 5-21. Section on affected environment
(Part 3 of 5)

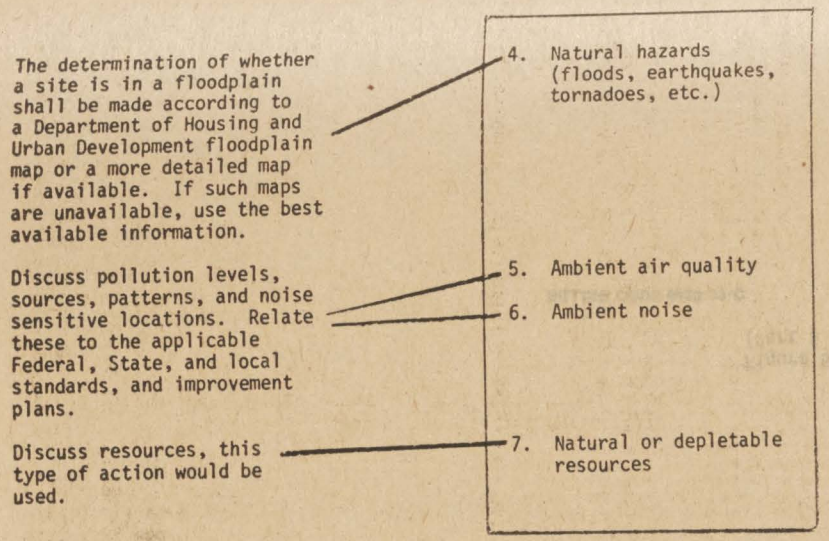


Figure 5-21. Section on affected environment
(Part 2 of 5)

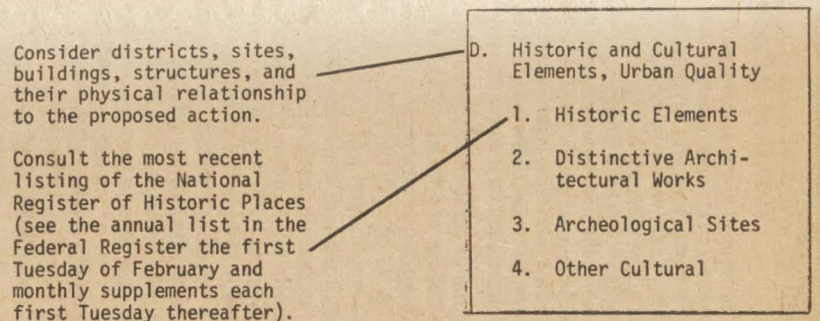


Figure 5-21. Section on affected environment
(Part 4 of 5)

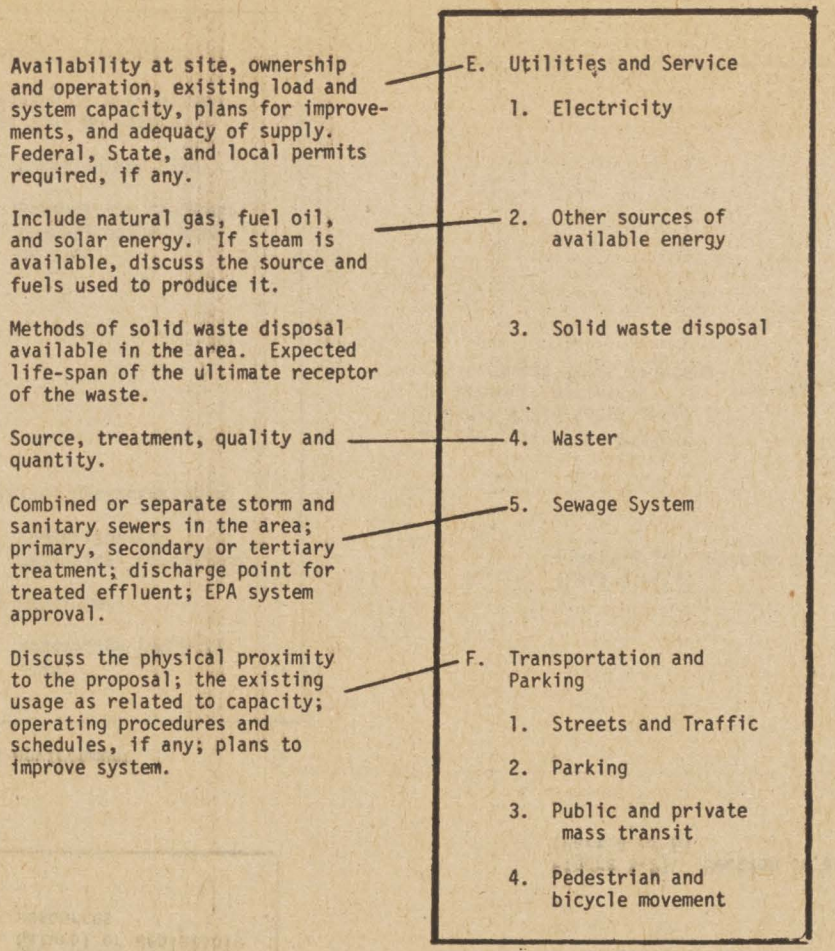


Figure 5-21. Section on affected environment
(Part 5 of 5)

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22. *Environmental consequences.*

a. Section 1502.16 of the CEQ Regulations requires:

> The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented.

Therefore, the impacts of each alternative and the proposed action shall be discussed separately, covering the items listed in pars. IV A. thru IV 6. of fig. 5–22. The impact conclusions shall be presented in a manner that may be extracted for presentation in comparative form in the alternatives section (see par. 20). However, this section shall not duplicate discussions in the alternative's section.

b. The impact discussion shall include favorable and adverse impacts, primary and secondary impacts, and direct and indirect impacts.

c. The relationships of the action with other GSA actions and other Federal actions and their cumulative effects shall be discussed.

d. The description of all impacts shall be based on factual data. Personal opinion shall not be expressed.

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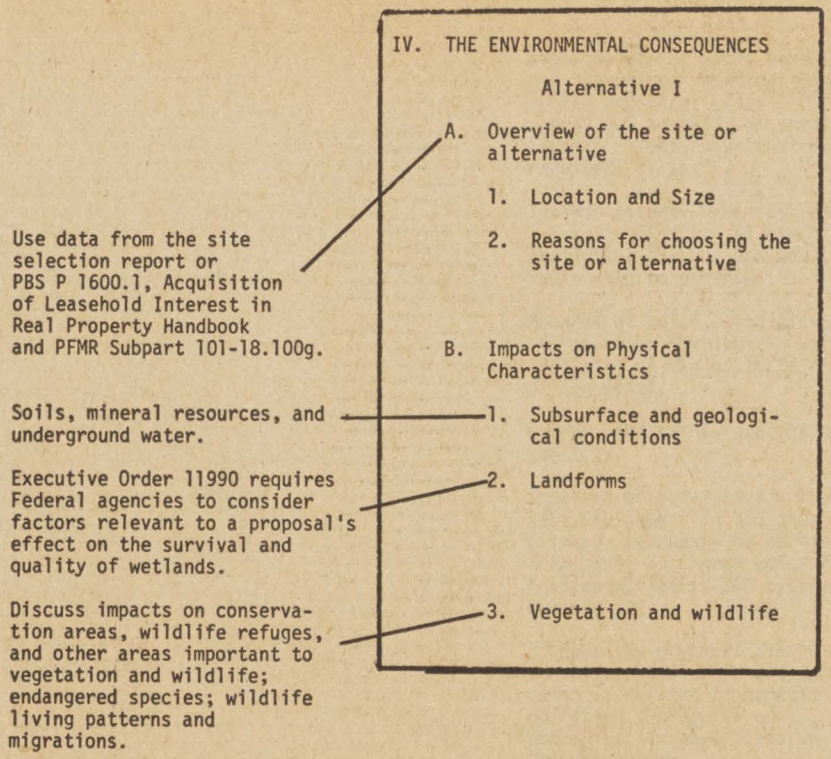

Figure 5-22. Section on the environmental consequences (Part 1 of 5)

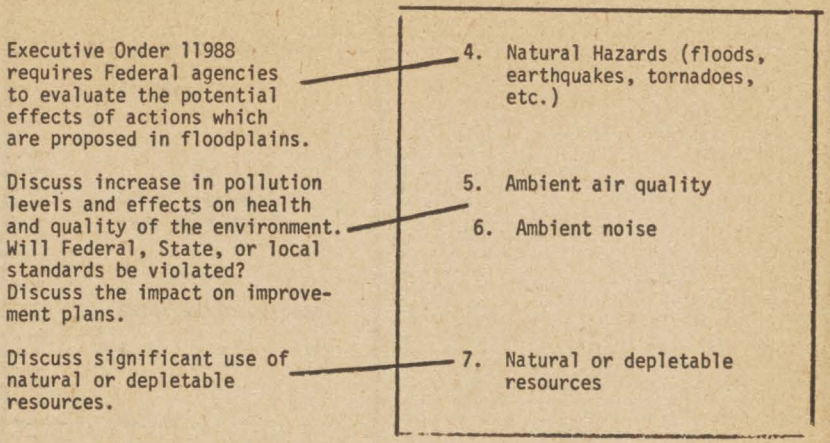

Figure 5-22. Section on the environmental consequences (Part 2 of 5)

Executive Order 12072 requires in part, that Federal agencies consider the impact that a Federal facility location will have on improving the social and economic conditions in the area. For a meaningful environmental assessment, the socio-economic factors shall be discussed in relation to their land use implications.

Address such potential impacts as neighborhood stabilization or dislocation and business stimulation or devitalization. Multi-use activities in a facility shall be addressed. The use of prime or unique farmland shall be assessed in accordance with the CEQ memo of August 30, 1976.

The availability of low and moderate income housing shall be discussed when appropriate. Discuss conflicts with land use plans, policies, and controls.

For projects in or adjacent to historic districts, discuss the impacts in the following section.

C. Impacts on Socio-economics/ Land Use

1. Present land use and plans
2. Commercial activity and employment
3. Housing
4. Open space, recreation and institutional
5. Aesthetic and/or architectural character

Figure 5-22. Section on the environmental consequences (Part 3 of 5)

Consider districts, sites, buildings, structures, and objects and their physical relationship to the proposed action.

Refer to Section 106 of the National Historic Preservation Act of 1966 (80 Stat. 915), Exeuctive Order 11593, GSA Order PBS 1022.1, Protection of Historic Properties, and the Department of the Interior booklet Preparation of Environmental Statements: Guidelines for Discussion of Cultural Historical, Archeological, and Architectural Resources. Appendix III of this booklet, includes the procedures of the Advisory Council on Historic Preservation (ACHP), 36 C.F.R. 800.

The Advisory Council on Historic Preservation must have evidence that the most recent listing of the National Register of Historic Places has been consulted (see the annual list in the Federal Register the first Tuesday of February and monthly supplements each first Tuesday thereafter). If no property on or eligible for the National Register is affected by the action, such a determination must be stated. If a National Register property or an eligible property is affected, describe the property and the expected project impacts. Describe the steps being taken to ensure compliance with the National Historic Preservation Act.

Consider impacts on the reuse and conservation potential of historic elements.

D. Impacts on Historic and Cultural Elements, and Urban Quality

1. Historic Elements
2. Distinctive Architectural Works
3. Archeological Sites
4. Other Cultural Elements

Figure 5-22. Section on the environmental consequences (Part 4 of 5)

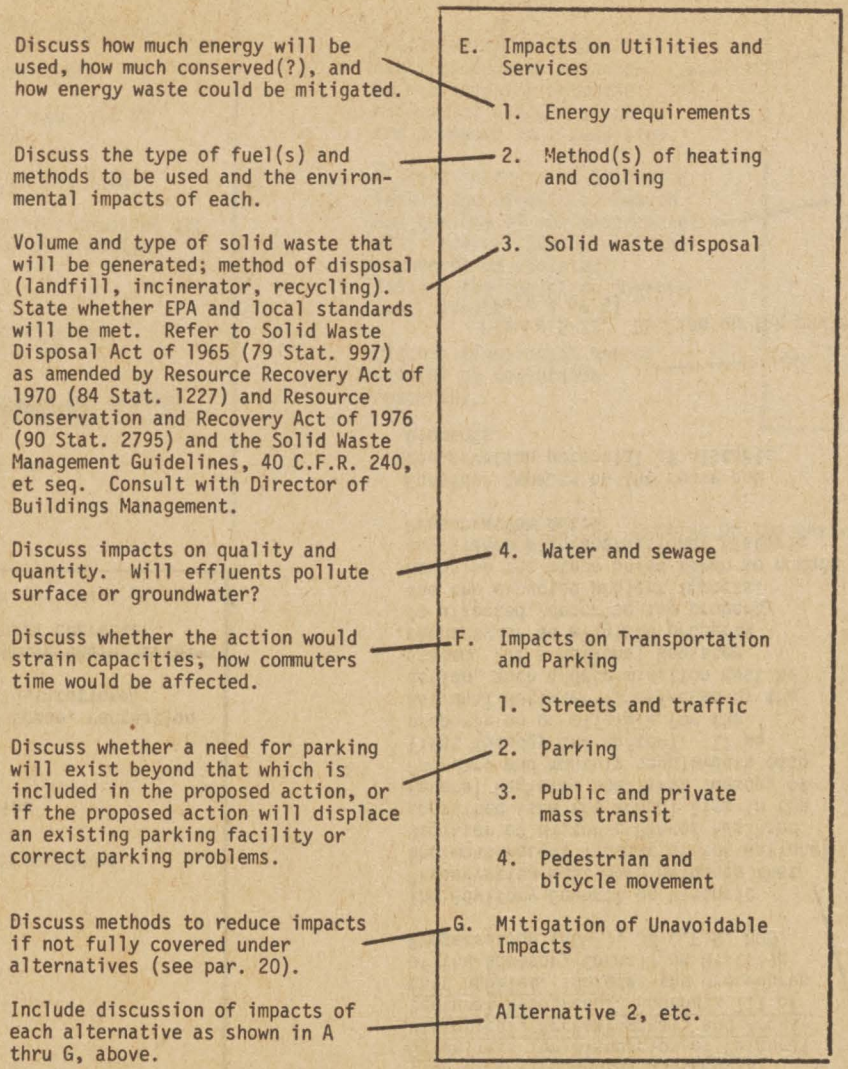

Figure 5-22. Section on the environmental consequences (Part 5 of 5)

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23. *List of preparers.* The list of preparers shall show, by section, who prepared the EIS. The format is optional. This is not required for EA's

24. *Distribution list of draft EIS.* This section is included in draft and final EIS's, but not in AE's. It is a list of agencies and other parties which were invited to comment on the draft EIS. Refer to ch. 6 of this HB for distribution information. The format is optional.

25. *Index.* The index is described in par. 11.

26. *Appendix.* This section shall include the following in an optional format:

a. Short reports;

b. Technical data;

c. Related correspondence; and,

d. For the final EIS, all comments from Federal, State, and local agencies, organizations, and individuals on the draft EIS.

Chapter 6. Public Information and Involvement

PART 1. EA, FONSI, and EIS	*Paragraph numbers*
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Review of the finding of no significant impact (FONSI)	3
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Chapter 6. Public Information and Involvement

Part 1. EA, FONSI, and EIS

1. *Requirement.* The National Environmental Policy Act and the CEQ Regulations require that the public be informed about and involved in Federal actions that may significantly affect the quality of the human environment before decisions are made to implement the actions.

2. *Input to the environmental assessment (EA).* The public shall be asked to provide, to the extent possible, input to the EA.

3. *Review of the finding of no significant impact (FONSI).* If the EA results in the preparation of a FONSI, the FONSI shall be made available for public review according to the procedures in Section 1506.6 of the CEQ Regulations.

4. *Notice of intent.* If the EA shows that an EIS is needed or the action is an action which normally requires an EIS, a notice of intent to prepare an EIS shall be prepared and published as described in CH 4–7.

5. *List of interested groups.* The Regional Commissioners shall maintain a list of groups who are known to be interested in PBS activities and a list of individuals and groups who have requested an opportunity to comment on a project or action for subsequent distribution of the EIS.

6. *Distribution and review of the draft environmental impact statement.* (See fig. 6–6.)

a. The office that prepares the EIS shall have the EIS printed, prepare the appropriate transmittal letters for its distribution, and send six printed copies to PR for Central Office distribution.

b. The Regional Administrator shall sign the transmittal letters soliciting comments on the draft EIS to EPA the heads of Federal agencies, the appropriate U.S. Congressman and Senators, the Governor of the State which is affected by the proposed action and the Public Works Committees of Congress. The statement shall be sent to the Washington, D.C., offices of members of Congress.

c. The appropriate Regional or Assistant Commissioner shall, concurrently with b, above, sign transmittal letters to appropriate local officials, Federal, State, and local agencies, special interest groups and the public for review and comment. The Regional or Assistant Commissioner shall solicit the comments of appropriate State, regional or metropolitan clearinghouses in accordance with the procedures prescribed by the Office of Management and Budget Circular A–95, Revised, unless the Governor of the State involved has designated some other point for obtaining the review.

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A. The following lists include individuals and agency headquarters offices in Washington, D.C., which receive GSA EIS's. These are individuals to whom the Regional Administrator transmits the EIS. For names and current addresses, contact the Environmental Affairs Division of the Office of Space Management.

1. Always send the draft EIS (one copy, except as noted in parenthesis) to the following:

a. U.S. Senators of appropriate State
b. U.S. Congressman of appropriate district
c. Client Agency (as appropriate, when GSA acts as the lead agency)

e.g., Director, Bureau of Prisons
Department of Justice
Washington, DC 20534

Office of the Assistant Secretary for Administration
Department of Treasury
Washington, DC 20220

d. Agencies with special environmental concerns:

Environmental Protection Agency (A-104) (5)
401 M Street, SW
Washington, DC 20460

Director, Environmental Project Review (5)
Department of the Interior
Washington, DC 20240

Coordinator, Environmental Quality Activities
Office of the Secretary
Department of Agriculture
Washington, DC 20250

Director (5)*
Office of Environmental Programs
Federal Energy Administration
Washington, DC 20461

Advisory on Environmental Quality
Federal Power Commission
824 N. Capitol Street, NE
Washington, DC 20426

*Send only for major energy related actions such as heating and cooling plants).

Figure 6-6. Individuals and agencies which receive GSA EIS's (Part 1 of 2)

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Deputy Assistant Secretary for Environmental Affairs
Department of Commerce
Washington, DC 20230

Director (3)
Office of Environmental Affairs
Department of Health, Education and Welfare
Washington, DC 20201

Assistant Director of Civil Works
Environmental Programs
U.S. Army Corps of Engineers
DAEN-CWZ-P
1000 Independence Ave., SW
Washington, DC 20314

Director, Office of Review and Compliance
Historic Preservation
1522 K Street, NW
Washington, DC 20005

Acting Director of Architecture and Environmental Arts Programs
National Endowment for the Arts
2401 E Street, NW
Washington, DC 20506

2. Always send the final EIS to all parties who have made substantive comments on the draft EIS or who have requested the final EIS, and to the following:

a. Public Works Committees of Congress (prospectus projects only) (2)
b. Office of Management and Budget (prospectus projects only) (2)
c. U.S. Senators
d. U.S. Congressman
e. Client Agency
f. Environmental Protection Agency (5)

B. In addition, each regional office will have certain agencies, organizations, and individuals in its region to whom copies of the EIS should be sent by the Regional Commissioner. This list should include agencies such as the Environmental Protection Agency (5), Department of Housing and Urban Development, Department of Transportation, and the State and areawide A-95 Clearinghouses.

Figure 6-6. Individuals and agencies which receive GSA EIS's (Part 2 of 2)

d. Federal agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved or which are authorized to develop and enforce environmental standards shall be asked to comment on draft EIS's.

e. In implementing the provisions of section 309 of the Clean Air Act, as amended, the responsible official shall submit five copies each of all draft EIS's to the Central Office of EPA and five copies to the appropriate regional office of EPA for review and comment.

7. *Commenting period.* A minimum of 45 calendar days shall be provided for comment on the draft EIS. The magnitude and complexity of the EIS and the extent of citizen interest in the proposed action shall be considered when the commenting period is established. Commenting periods may be extended an additional 15 days at the discretion of the responsible official. Comments not received within the allotted commenting period will not normally be responded to in the text of the final EIS.

8. *EIS availability.*

a. The Environmental Protection Agency (EPA), will publish in the **Federal Register** lists of environmental impact statements received during the preceding week which are available for public comment. The date establishing the 45-day minimum review period and advance availability of a draft EIS will be calculated from the **Federal Register** publication date of the notice of availability.

b. In addition to the **Federal Register**, a notice for a draft EIS shall be published in one or more local newspapers of general circulation by the office which prepared the EIS. The newspaper(s) may be issued weekly and may be very local in nature, if appropriate. A sample notice is included in fig. 6–8.1. If a public hearing will be held for the proposed action, the notice of the public hearing and notice of EIS availability should be combined into one notice. A sample of such a notice is included in fig. 6–8.2. EIS's shall be made available to the public without charge to the extent practicable or at a fee which is not more than the cost of reproduction. The draft EIS will also be made available for public review in PBS Central Office (PR) and Regional Commissioner's office during normal working hours.

9. *Distribution and review of the final EIS.* (See fig. 6–6).

a. The responsible official (see subpars. 6b and c), shall send copies of the final EIS, with comments attached, to all Federal, State, and local agencies and private organizations, clearinghouses, and individuals that made substantive comments on the draft statement and to individuals who requested a copy of the final EIS shall in all cases be sent to the Environmental Protection Agency to assist it in carrying out its responsibilities under section 309 of the Clean Air Act. Where the number of comments on a draft EIS is such that distribution of the final EIS to all commenting entities appears impracticable, the Assistant Commissioner for Space Management (PR) will consult with EPA concerning alternative arrangements for distribution of the statement. Six copies of the printed final EIS shall be sent to PR for Central Office distribution.

b. A minimum of 30 calendar days shall be provided for comment on the final EIS. The date the review period begins is determined in the same manner as for the draft EIS in subpar. 8a.

11 and 12. *Reserved.*

BILLING CODE 6820-23-M

Availability of Draft Environmental Impact Statement

The General Services Administration has filed with the Environmental Protection Agency and made available to other governmental and private entities a draft environmental impact statement on a proposed Federal Building and Parking Facility in Norfolk, Virginia. The project will provide a total occupiable area of about 203,500 square feet. Of this total, 133,300 square feet will be used to house about 855 employees of the Federal agencies proposed to occupy the building. The remaining 70,200 square feet will be for a parking facility for 200 official, visitor, and employee parking.

Copies of the draft environmental impact statement are available from:

Edgar I. Smith
Chief, Operational Planning Staff
General Services Administration
National Capital Area Region
Washington, DC 20407
(202) 123-4567

Council on Environmental Quality Regulations provide for a forty-five (45) day review period, which begins with the date of the Federal Register notice of the availability of the statement.

Figure 6-8.1. Sample newspaper public notice of EIS availability

Public Hearing and Availability of Draft
Environmental Impact Statement

A Draft Environmental Impact Statement (DEIS) concerning the proposed construction of the John F. Kennedy Library adjacent to the University of Massachusetts Harbor Campus at Columbia Point, Dorchester, Massachusetts, has been prepared by the General Services Administration in accordance with Section 102(2)(C) of the National Environmental Policy Act. The DEIS was released on November 22, 1976, to Federal, State, and local agencies, interested individuals and community groups. Participation by all interested public agencies, community groups and individuals in review and comment on the DEIS is invited.

A public hearing is scheduled to provide the community the opportunity to submit comments. The details of the hearing are described below. In addition, written comments on the DEIS may be submitted until January 13, 1977, and should be addressed:

General Services Administration (PRE)
Washington, DC 20405

PUBLIC HEARING:

Date : December 21, 1976

Time : 7:00 p.m.

Place : College 02 Lecture Hall
University of Massachusetts Harbor Campus at
Columbia Point, Dorchester, Massachusetts

Purpose : To receive comments concerning the environmental impacts that may result from the proposed project.

Instructions: Interested parties desiring to present oral comments at the public hearing may register at the desk outside of the auditorium on the night of the public hearing. Speakers will be heard in order of registration. Each party will be afforded five minutes of speaking time at the public hearing. Oral comments may be extended by written submissions or by continued oral presentation after the list of registered speakers is completed.

Figure 6-8.2. Sample public notice of public hearing and EIS
(Part 1 of 2) Availability

Additional copies of the DEIS and the backup informational base data are available for review and public inspection at the following locactions:

1. General Services Administration
Business Service Center
John W. McCormack Post Office and
Courthouse
Boston, Massachusetts 02109

2. Main Library
University of Massachusetts Harbor Campus
at Columbia Point, Dorchester, Massachusetts 02125

3. Boston Public Library (Field's Corner)
1520 Dorchester Avenue
Dorchester, Massachusetts 02122

4. Boston Public Library (Upham's Corner)
500 Columbia Road
Dorchester, Massachusetts 02125

5. Main Library
General Services Administration
18th & F Streets, NW
Washington, DC 20405

Figure 6-8.2. Sample public notice of public hearing and
(Part 2 of 2) EIS availability

BILLING CODE 6820-23-C

Part 2. Other Public Involvement

13. *Record of decision.* At the time of a decision to take an action, or, if appropriate, make a recommendation to the Congress, a publicly available record of decision shall be prepared in compliance with Section 1505.2 of the CEQ Regulations.

14. *Public hearings.*

a. Prior to the distribution of a draft EIS for an action, a determination shall be made by the responsible official regarding whether a public hearing should be held. This determination shall be documented and attached to the draft EIS. The following factors shall be considered in determining whether a public hearing is appropriate.

(1) The magnitude of the proposal in terms of economic costs, geographic area involved, and the uniqueness or size of commitment of resources;

(2) The degree of interest in the proposal as indicated by requests from the public and Federal, State and local authorities that a hearing be held;

(3) The complexity of the issue and the likelihood that information will be presented at the hearing which will be of assistance to the agency in fulfilling its responsibilities under NEPA; and

(4) The extent to which public involvement already has been achieved with respect to environmental concerns through other means, such as earlier public hearings, meetings with citizen representatives, and/or written comments on proposed action.

b. The draft EIS shall be made available to the public at least 15 calendar days prior to the hearing.

c. The notice of public hearing shall be issued no later than 5 workdays after distribution of the draft EIS and shall be published in a local newspaper of general circulation at least 15 calendar days prior to the date of the hearing. The notice shall contain but is not necessarily limited to the following:

(1) The date, time, place and purpose of the hearing;

(2) A description of program, the proposed project and project area;

(3) A declaration that any person or organization desiring to comment on the draft EIS will be given an opportunity to be heard;

(4) The location and times where the draft EIS will be available for review by the public; and

(5) The Federal agency or agencies sponsoring the project.

d. Verbatim transcript of the hearing shall be kept.

e. Where necessary a reasonable time limit may be established for each speaker.

f. A public hearing shall be held after publication of the draft EIS for all Bureau of Prisons projects.

g. An open meeting to acquaint and inform the public about the actions or receive information from the public may be held any time it is considered necessary.

15. *Public contact.* For information or status reports on EIS's and other elements of the NEPA process for PBS action, members of the public should contact: Director, Environmental Affairs Division (PRE), Public Buildings Service, GSA, Washington, D.C. 20405, (202) 566-1416.

16. *Other public notice.* If it is decided that an EIS is not necessary for a proposed action which (1) normally would require an EIS as set out in ch. 2-3, (2) is similar to actions for which a significant number of statements have been prepared, or (3) has previously been announced as the subject of a statement, the Regional Commissioner shall prepare a publicly available record briefly setting forth the decision and the reasons for the decision. The decision and any evaluation to support the decision shall be made available to the public upon request. The public shall be notified in the same manner that a notification of intent is publicized (see par. 8).

[GSA Order PBS P 1095.4A]

[FR Doc. 79-14540 Filed 5-9-79; 8:45 am]

BILLING CODE 6820-23-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Study Section Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the following study sections for May and June 1979 and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meetings. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Sections 552b(c)(4) and 552b{c)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Marian Oakleaf, Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each Executive Secretary whose name, room number, and telephone number are listed below each study section. Anyone planning to attend a meeting should contact the Executive Secretary to confirm the exact meeting time. All times are A.M. unless otherwise specified.

Study section	May-June 1979 meetings	Time	Location
Allergy & Immunology, Dr. Morton Reitman, Rm. 320, Tel. 301-496-7380.	June 7-9	8:30	Holiday Inn, Bethesda, Md.
Applied Physiology & Orthopedics, Ms. Ileen E. Stewart, Rm. 350, Tel. 301-496-7581.	June 7-9	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Bacteriology & Mycology, Dr. Milton Gordon, Rm. 218, Tel. 301-496-7340.	May 31-June 2	8:30	Holiday Inn, Bethesda, MD.
Bioanalytical & Metallobiochemistry, Mr. Richard P. Bratzel, Rm. 310, Tel. 301-496-7733.	June 7-9	9:00	Embassy Row Hotel, Washington, DC.
Biochemical Endocrinology, Dr. Norman Gold, Rm. 349, Tel. 301-496-7300.	June 25-27	8:30	Holiday Inn, Chevy Chase, MD.
Biochemistry, Dr. Adolphus P. Toliver, Rm. 318, Tel. 301-496-7516.	June 27-30	9:00	Holiday Inn, Georgetown, DC.
Biophysics & Biophysical Chemistry A, Dr. Asher Hyatt, Rm. 236, Tel. 301-496-7060.	June 8-10	9:00	Holiday Inn, Rosslyn, VA.
Biophysics & Biophysical Chemistry B, Dr. John B. Wolff, Rm. 236, Tel. 301-496-7070.	June 14-16	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Bio-Psychology, Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7058	June 20-23	9:00	Holiday Inn (Wellington), Washington, DC.
Cardiovascular & Pulmonary, Dr. Constance E. Weinstein, Rm. 339, Tel. 301-496-7901.	June 19-23	8:00	Linden Hill, Bethesda, MD.
Cardiovascular & Renal, Dr. Rosemary S. Morris, Rm. 339, Tel. 301-496-7901.	June 6-9	8:00	Holiday Inn, Bethesda, MD.
Cell Biology, Dr. Gerald Greenhouse, Rm. 2A-04, Tel. 301-496-7020.	June 13-16	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Chemical Pathology, Dr. Edmund Copeland, Rm. 353, Tel. 301-496-7078.	June 7-10	8:30	Edgewater Inn, Seattle, WA.
Communicative Sciences, Dr. Michael Halasz, Rm. 321, Tel. 301-496-7550.	June 27-29	8:30	Room 7, Bldg. 31C, Bethesda, MD.

Study section	May–June 1979 meetings	Time	Location
Diagnostic Radiology, Dr. Catherine Wingate, Rm. 219, Tel. 301–496–7650.	June 19–21	8:30	Kenwood Club, Bethesda, MD
Endocrinology, Mr. Morris M. Graff, Rm. 333, Tel. 301–496–7346	June 4–7	7 p.m	Sheraton, Silver Spring, MD.
Epidemiology & Disease Control, Dr. Ann Schluederberg, Rm. 234, Tel. 301–496–7246.	June 15–18	8:30	Sheraton-Park Plaza Hotel, New Haven, CT.
Experimental Therapeutics, Dr. Anne R. Bourke, Rm. 319, Tel. 301–496–7839.	June 20–23	9:30	Holiday Inn, Chevy Chase, MD.
Experimental Virology, Dr. Eugene Zebovitz, Rm. 206, Tel. 301–496–7474.	June 10–13	2 p.m	Room 7, Bldg. 31C, Bethesda, MD.
General Medicine A, Dr. Harold M. Davidson, Rm. 354, Tel. 301–496–7797.	June 25–27	8:30	Room 10, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. William F. Davis, Jr., Rm. 322, Tel. 301–496–7730.	June 27–30	8:30	Linden Hill, Bethesda, MD.
Genetics, Dr. David J. Remondini, Rm. 349, Tel. 301–496–7271	June 14–16	9:00	Room 9, Bldg. 31C, Bethesda, MD.
Hematology, Dr. Clark K. Lum, Rm. 355, Tel. 301–496–7508	June 14–16	8:30	Jack Tarr Hotel, San Francisco, CA.
Human Development, Dr. Miriam F. Kelty, Rm. 232, Tel. 301–496–7025.	June 13–15	9:00	Holiday Inn, Chevy Chase, MD.
Human Embryology & Development, Dr. Arthur Hoversland, Rm. 221, Tel. 301–496–7597.	June 27–30	8:30	Linden Hill, Bethesda, MD.
Immunobiology, Dr. James H. Turner, Rm. 233, Tel. 301–496–7780.	June 6–8	8:30	Kenwood Club, Bethesda, MD.
Immunological Sciences, Dr. Lottie Kornfeld, Rm. 233, Tel. 301–496–7179.	June 6–8	8:30	Linden Hill, Bethesda, MD.
Mammalian Genetics, Dr. Halvor Aaslestad, Rm. 349, Tel. 301–496–7271.	June 7–9	9:00	Room 6, Bldg. 31C, Bethesda, MD.
Medicinal Chemistry A, Dr. Ronald J. Dubois, Rm. 425, Tel. 301–496–7286.	June 6–9	9:00	Bethesda Marriott, Bethesda, MD.
Metabolism, Dr. Robert M. Leonard, Rm. 334, Tel. 301–496–7091	June 4–6	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Microbial Chemistry, Dr. Eileen Raizen, Rm. 357, Tel. 301–496–7130.	June 6–8	8:30	Linden Hill, Bethesda, MD.
Molecular Biology, Dr. Donald T. Disque, Rm. 328, Tel. 301–496–7830.	June 7–9	8:30	Holiday Inn, Bethesda, MD.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 222, 301–496–7149	June 7–9	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Neurological Sciences, Dr. Edwin M. Bartos, Rm. 207, Tel. 301–496–7000.	June 7–9	8:30	Hospitality House, Arlington, VA.
Neurology A, Dr. William E. Morris, Rm. 326, Tel. 301–496–7095	June 20–23	9:00	Room 4, Bldg. 31A, Bethesda, MD.
Neurology B, Dr. Willard L. McFarland, Rm. A–23, Tel. 301–496–7422.	June 20–23	8:30	Holiday Inn (Wellington), Washington, DC.
Nutrition, Dr. John R. Schubert, Rm. 204, Tel. 301–496–7178	June 20–22	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Oral Biology & Medicine, Dr. Thomas M. Tarpley, Jr., Rm. 325, Tel. 301–496–7818.	May 22–25	8:00	Linden Hill, Bethesda, MD.
Pathobiological Chemistry, Dr. Ellen G. Archer, Rm. 433, Tel. 301–496–7432.	June 20–23	8:30	Holiday Inn, Chevy Chase, MD.
Pathology A, Dr. Harold Waters, Rm. 337, Tel. 301–496–7305	June 5–8	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Pathology B, Dr. Mischa Friedman, Rm. 352, Tel. 301–496–7244	June 11–13	8:30	Holiday Inn, Chevy Chase, MD.
Pharmacology, Dr. Joseph A. Kaiser, Rm. 206, Tel. 301–496–7408.	June 6–8	8:30	Holiday Inn, Bethesda, MD.
Physiological Chemistry, Dr. Harry Brodie, Rm. 338, Tel. 301–496–7837.	June 7–9	8:30	Ramada Inn, Rosslyn, VA.
Physiology, Dr. Martin Frank, Rm. 209, Tel. 301–496–7878	June 7–9	9:00	Sheraton Center, Reston, VA.
Radiation, Dr. Robert L. Straube, Rm. 219, Tel. 301–496–7073	June 13–15	9:00	Holiday Inn, Chevy Chase, MD.
Reproductive Biology, Dr. Dharam S. Dhindsa, Rm. 307, Tel. 301–496–7318.	June 4–7	8:30	Holiday Inn, Chevy Chase, MD.
Social Sciences & Population, Ms. Carol A. Campbell, Rm. 210, Tel. 301–496–7906.	June 11–14	8:30	Washington Hotel, Washington, DC.
Surgery, Anesthesiology & Trauma, Dr. Keith Kraner, Rm. 336, Tel. 301–496–7771.	June 14–15	8:30	Airport Holiday Inn, Arlington, VA.
Surgery & Bioengineering, Dr. Joe W. Atkinson, Rm. 348, Tel. 301–496–7506.	June 7–8	8:30	Linden Hill, Bethesda, MD.
Toxicology, Dr. Raymond Bahor, Rm. 226, Tel. 301–496–7570	June 13–15	8:30	Holiday Inn, Georgetown, DC.
Tropical Medicine & Parasitology, Dr. Betty June Myers, Rm. 319, Tel. 301–496–7494.	June 13–16	8:30	Connecticut Inn, Washington, DC.
Virology, Dr. Claire H. Winestock, Rm. 138, Tel. 301–496–7128	June 14–16	8:30	Room 6, Bldg. 31C, Bethesda, MD.
Visual Sciences A, Dr. Orvil E. A. Bolduan, Rm. 437, Tel. 301–496–7180.	June 13–15	9:00	Linden Hill, Bethesda, MD.
Visual Sciences B, Dr. Luigi Giacometti, Rm. 325, Tel. 301–496–7251.	June 14–17	9:00	Sheraton Inn, Silver Spring, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.333, 13.337, 13.349, 13.393–13.396, 13.386–13.844, 13.846–13.871, 13.876, National Institutes of Health, HEW)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–14385 Filed 5–9–79; 8:45 am]

BILLING CODE 4110–08–M

Office of Education

National Advisory Committee on Black Higher Education and Black Colleges and Universities; Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the tenth meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. Notice of this meeting is required under Section 10(a) (2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1). This document is intended to notify the general public of their opportunity to attend.

DATE: June 4, 1979, 8:30 a.m. to 4:30 p.m. and 6:30 p.m. to 8:30 p.m. June 5, 1979, 8:30 a.m. to 2:00 p.m.

ADDRESS: Tuskegee Institute, Martin Luther King Room of Tuskegee Chapel, Tuskegee Institute, Alabama 36088

FOR FURTHER INFORMATION CONTACT: Ms. Carol J. Smith, Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities, Suite 706, 1100 17th

Street, N.W., Washington, D.C. 20036, AC 202–653–7558.

The National Advisory Committee on Black Higher Education and Black Colleges and Universities is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90–247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory committees.

The Committee is directed to advise the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, and the Commmissioner of Education. The Committee shall examine all approaches to higher education of Black Americans as well as the needs of historically Black colleges and universities.

The meeting on June 4 and 5, 1979, will be open to the public beginning at 8:30 a.m. each day. The meeting will be held at Tuskegee Institute, Martin Luther King Room of Tuskegee Chapel, Tuskegee Insititute, Alabama 36088

The proposed agenda will include review of the final draft of the Report on Institutional Diversity; discussion of the proposed 25-year Plan to enhance opportunities for Blacks in higher education; plans for the Committee's 1978 Annual Report; report on commissioned research; and status of activities related to the President's Directive on Black Colleges.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Committee on Black Higher Education and Black Colleges and Universities located at 1100 17th Street, N.W., Suite 706, Washington, D.C. 20036

Signed at Washington, D.C. on May 2, 1979.

Carol J. Smith,

Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities.

[FR Doc 79–14583 Filed 5–9–79; 8:45 am]

BILLING CODE 4110–12–M

Social Security Administration

Additional Redelegations of Authority for Various Certifications and Use of the Department Seal

The Commissioner of Social Security (the Commissioner), has authority to make various certifications regarding true copies of any books, records, papers or other documents on file within the Social Security Administration (SSA) and authority to cause the Seal of the Department of Health, Education, and Welfare (HEW) to be affixed or impressed to these certifications, as described at 43 FR 58871, dated December 18, 1978. These authorities supersede authorities previously placed with the Commissioner (34 FR 18049–50, dated November 7, 1969 and 35 FR 16384, dated October 20, 1970). As before, the Commissioner may redelegate these authorities. Previous redelegations by the Commissioner remain in effect until superseded. The Commissioner's previous redelegations were published at 41 FR 28818–20, dated July 13, 1976.

Notice is given that the Commissioner has approved additional redelegations of the subject authorities, as set forth below, to the position of Deputy Chief, Civil Actions Branch, Office of Appeals Operations, Office of Hearings and Appeals (OHA), SSA:

A. *Authorities*

1. Authority to certify true copies of any books, records, papers or documents on file within OHA.

2. Authority to certify extracts from material on file within OHA.

3. Authority to certify that true copies are true copies of the entire record on file within OHA.

4. Authority to certify the complete original record on file within OHA.

5. Authority to certify that particular records are not on file within OHA.

6. Authority to cause the HEW Seal to be affixed or impressed to these certifications.

B. *Further Redelegations*

Further redelegations are not authorized.

C. *Effective date*

These redelegations are effective on the date this notice is published in the **Federal Register.**

D. *Ratification of Actions Taken Prior to Effective Date of Redelegations*

If this delegate exercises any of the authorities listed above before this notice is published in the **Federal Register**, that action is affirmed and ratified.

Dated: April 23, 1979.

Stanford G. Ross,

Commissioner of Social Security.

[FR Doc. 79–14586 Filed 5–9–79; 8:45 am]

BILLING CODE 4110–07–M

Redelegations of Authority To Make Specified Certifications Concerning Material on File and To Cause the Department Seal To Be Affixed or Impressed to These Certifications

The Commissioner of Social Security (the Commissioner), has authority to make various certifications regarding true copies of any books, records, papers or other documents on file within the Social Security Administration (SSA) and authority to cause the Seal of the Department of Health, Education, and Welfare (HEW) to be affixed or impressed to these certifications, as described at 43 FR 58871, dated December 18, 1978. These authorities have been redelegated by the Commissioner to subordinate SSA officials, as previously documented in the following editions of the **Federal Register:** 33 FR 2613–14, dated February 6, 1968; 34 FR 13046–47, dated August 12, 1969; 37 FR 10602–3, dated May 25, 1972; 38 FR 21681, dated August 10, 1973; 40 FR 25616, dated June 17, 1975; 41 FR 28818–20, dated July 13, 1976; and 41 FR 44727–28, dated October 12, 1976.

Section 233 of the Social Security Act (the Act), which was added to the Act by section 317(a) of Pub. L. 95–216, enacted on December 20, 1977, authorizes the President of the United States to enter into agreements with foreign countries establishing totalization arrangements between the United States social security system and the social security systems of the foreign countries. Among other things, these agreements provide for the combination of social security credits earned under the United States system with credits earned under the foreign systems. At present, agreements have been negotiated with Italy and West Germany, and agreements with additional foreign countries are being contemplated.

Under the provisions of the Italian totalization agreement now in effect, applications from individuals, earnings records, evidence, benefit certifications and statistical data are to be exchanged between the United States Government and the Italian Government. Such documents must be properly authenticated by the government agency transmitting them. In the United States, overall responsibility for administration of totalization agreements rests with HEW. Within HEW, functions to facilitate the application of totalization agreements are being performed by the Division of International Operations (DIO) of the Office of Program Service Centers in SSA's Office of Central Operations. To carry out their responsibilities for exchange of documents with Italian and other foreign governmental agencies under totalization agreements, it is necessary for various DIO officials and employees to be redelegated formal authority to authenticate such documents.

Accordingly, the Commissioner has redelegated the authorities specified below to the following DIO positions, for exercise in connection with cases processed under the provisions of totalization agreements.

A. *Authorities*

1. Authority to certify true copies of any books, records, papers or other documents on file within SSA.

2. Authority to certify extracts from material on file within SSA.

3. Authority to certify that true copies are true copies of the entire record on file within SSA.

4. Authority to certify the complete original record on file within SSA.

5. Authority to certify that particular records are not on file within SSA.

6. Authority to cause the HEW Seal to be affixed or impressed to those certifications identified above.

B. *Delegates*

1. Division Director,

2. Liaison Clerks; Foreign Claims Specialists; Technical Assistants; Process Module Managers; and Assistant Module Managers, Process Branch,

3. All intervening positions in the direct line of supervision between the positions specified in item 2. above and the Division Director.

C. *Further Redelegations*

Further redelegations are not authorized.

D. *Effective Date*

These redelegations are effective on the date this notice is published in the **Federal Register.**

E. *Ratification of Actions Taken Prior to Effective Date of Redelegations*

If any delegate exercises any of the subject authorities before this notice is published in the **Federal Register,** his/her actions are affirmed and ratified. This includes any actions taken prior to the 1979 Reorganization of SSA when the Division of International Operations was organizationally located within the former Office of Program Operations.

Dated: April 23, 1979

Stanford G. Ross,

Commissioner of Social Security.

[FR Doc. 79-14587 Filed 5-9-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Missouri (FDAA–579–DR), dated April 21, 1979, and related determinations.

DATED: April 21, 1979

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

Notice: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of April 21, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from tornadoes, torrential rains and flooding beginning on or about March 31, 1979, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Missouri.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Francis X. Tobin of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster.

The following counties for Individual Assistance only:

Cape Girardeau, Dunklin, Jefferson, Lincoln, Mississippi, New Madrid, Pemiscot, Pulaski, St. Charles, St. Louis, Ste. Genevieve, Scott, Stoddard, Texas.

(Catalog of Federal Domestic Asst. No. 14,701, Disaster Assistance.)

William H. Wilcox,

Federal Disaster Assistance Administration.

[FDAA–579–DR, Docket No. NFD–600]

[FR Doc. 79-14589 Filed 5-9-79; 8:45 am]

BILLING CODE 4210-22-M

Missouri; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Missouri (FDAA–579–DR), dated April 21, 1979.

DATED: April 25, 1979

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

Notice: This Notice of major disaster for the State of Missouri, dated April 21, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 21, 1979.

For Individual Assistance only: St. Louis City.

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance.)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[FDAA–579–DR; Docket No. NFD–689]

[FR Doc. 79-14590 Filed 5-9-79; 8:45 am]

BILLING CODE 4210-22-M

Texas; Amendment to Notice of Major Disaster Declaration

Note.—This document was originally scheduled to appear in the issue for Thursday, May 3, 1979. However, it was not printed in that issue and instead, FR Doc. 79–13729, also dealing with Texas, was printed twice (see 44 FR 25934, May 3, 1979). Please disregard the duplicate publication of FR Doc. 79–13729 and in its place, insert the following:

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Texas (FDAA–575–DR), dated April 11, 1979.

DATED: April 13, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: The Notice of major disaster for the State of Texas dated April 11, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 11, 1979.

For Individual Assistance Only:

Baylor County
Clay County
Foard County

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance.)

Thomas R. Casey,

Acting Administrator, Federal Disaster Assistance Administration.

[FDAA-575-DR; Docket No. NFD-677]

[FR Doc. 79-13730 Filed 5-2-79; 8:45 am]

BILLING CODE 1505-01-M

Acting Area Manager, Los Angeles Area Office (Region IX, San Francisco); Designation

The officers appointed to the following listed positions in the Los Angeles Area Office are hereby designated to serve as Acting Area Manager during the absence of the Area Manager with all the powers, functions, and duties redelegated or assigned to the Area Manager: Provided, That no officer is authorized to serve as Acting Area Manager unless all other officers whose titles precede his in this designation are unable to act by reason of absence:

1. Deputy Area Manager.
2. Director, Housing Division.
3. Director, Community Planning & Development Division.
4. Director, Fair Housing & Equal Opportunity Division.
5. Area Counsel.

(Delegation effective October 1, 1970, published at 36 FR 3389, February 23, 1971.)

Effective date: This designation shall be effective on March 27, 1979.

Roland E. Camfield, Jr.,

Area Manager, Los Angeles Area Office.

Emma D. McFarlin,

Regional Administrator, San Francisco Regional Office.

[Docket No. D-79-563]

[FR Doc. 79-14562 Filed 5-9-79; 8:45 am]

BILLING CODE 4210-01-M

Acting Area Manager, Region IV (Atlanta); Designation for Birmingham Area Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Area Manager for the Birmingham Area Office.

EFFECTIVE DATE: April 1, 1979.

FOR FURTHER INFORMATION CONTACT: George A. Milburn, Jr., Director, Management and Budget Division, Office of Regional Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 213, 1371 Peachtree Street, N.E., Atlanta, Georgia 30309, 404-881-2584.

Designation of Acting Area Manager for Birmingham Area Office

Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence of, or vacancy in the position of, the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Area Manager.
2. Area Counsel.
3. Director, Housing Division.
4. Director, Community Planning and Development.
5. Deputy Director for Management, Housing Division.
6. Deputy Director for Development, Housing Division.
7. Director, Fair Housing and Equal Opportunity Division.

This designation supersedes the designation effective September 7, 1978 (43 FR 4210, September 7, 1978).

This designation shall be effective as of April 1, 1979.

John E. Wilson,

Area Manager, Birmingham Area Office.

A. Russell Marane,

Regional Administrator, Region IV (Atlanta).

[Docket No. D-79-564]

[FR Doc. 79-14560 Filed 5-9-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Chief, Branch of Records and Data Management Division of Management Services, Idaho State Office; Redelegation of Authority

Pursuant to the authority contained in section 1.1 of BLM Order No. 701 dated July 23, 1964, as amended, authority is hereby redelegated to the Chief, Branch of Records and Data Management to take action under section 2.6(k) as to mining claim instruments filed for record with BLM under 43 CFR 3833, as follows: (1) Accept and record instruments meeting recording requirements; (2) Notify owners to take curative actions to complete defective filings; (3) Reject instruments and void claims not filed within the prescribed time periods; and (4) Reject filings and void claims located on lands not available for mineral location on dates of location.

Dated: April 20, 1979.

William L. Mathews,

State Director, Idaho.

Approved: May 3, 1979.

Arnold E. Petty,

Acting Associate Director.

[FR Doc. 79-14544 Filed 5-9-79; 8:45 am]

BILLING CODE 4310-84-M

Phoenix District; Kingman Resource Area Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Kingman Resource Area (Phoenix District) Grazing Advisory Board will be held on June 12, 1979.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

The agenda for the meeting will include:

(1) The Planning and Grazing Environmental Statement schedule.
(2) Allotment Management Plans.
(3) Impacts of the Wilderness Program on Allotment Management Plans and Range Improvements.
(4) Status of Range Improvements for FY 79.
(5) Range Improvement priorities for FY 80.
(6) Proposed Livestock Grazing Program for the Cerbat/Black Mountains Planning Units.
(7) Arrangements for future meetings, time and agenda items.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: May 2, 1979.

W. K. Barker,

District Manager.

[FR Doc. 79-14551 Filed 5-8-79; 8:45 am]

BILLING CODE 4310-84-M

Phoenix District; Phoenix/Lower Gila Resource Areas Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Phoenix/Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board will be held on June 14, 1979.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office, 2929 West

Clarendon Avenue, Phoenix, Arizona 85017.

The agenda for the meeting will include:
(1) The Planning and Grazing Environmental Statement schedule.
(2) Allotment Management Plans.
(3) Impacts of the Wilderness Program on Allotment Management Plans and Range Improvements.
(4) Status of Range Improvements for FY 79.
(5) Range Improvement priorities for FY 80.
(6) Arrangements for future meetings, timing and agenda items.

The meeting is open to the public. Anyone wishing to make oral or written statements to the board is requested to do so through the office of the District Manager at the above named address at least 7 days prior to the meeting date.

Summary minutes of the board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: May 2, 1979.

W. K. Barker,
District Manager.
[FR Doc. 79-14550 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

Susanville District Grazing Advisory Board, California; Meeting

May 2, 1979.

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Susanville District Grazing Advisory Board will be held on June 6, 1979.

The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 Hall St., Susanville, California.

The Agenda for the meeting will include:
(1) Review of Tuledad/Home Camp Allotment Management Plans
(2) Review of Cowhead/Massacre ES as related to Allotment Management Plans
(3) Review of Cal/Neva ES as related to Allotment Management Plans
(4) Wilderness as it affects Allotment Management Plans
(5) Wild Horse Program in relation to Allotment Management Plans
(6) Expenditure of range betterment funds—1979 & 1980 F.Y.
(7) Expenditure of Advisory Board Funds

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. or file a written statement for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall St., P.O. 1090, Susanville, California 96130, by May 30, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

C. Rex Cleary,
District Manager, Susanville.
[FR Doc. 79-14543 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

New Mexico; Application

April 27, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 18 S., R. 25 E.,
Sec. 7, NE¼SW¼.

This pipeline will convey natural gas across 0.08 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Raul E. Martinez,
Acting Chief, Branch of Lands and Minerals Operations.
[NM 36883]
[FR Doc. 79-14545 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

Wyoming; Application

April 30, 1979

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 6⅝ inch O.D. pipeline as an addition to their Moxa Arch Gathering System for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 20 N., R. 111 W.,
Secs. 8 and 18.
T. 20 N., R. 112 W.,
Sec. 14.

The proposed pipeline will extend from a point of connection with Northwest Pipeline Corporation's Trunk "A" pipeline located in the SW¼NW¼ of section 14, T. 20 N., R. 112 W., to a point located in the SW¼SW¼ of section 9, T. 20 N., R. 111 W., all within Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.
[Wyoming 67299]
[FR Doc. 79-14546 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

New Mexico Wilderness Inventory; Star Lake-Bisti Initial Wilderness Inventory Decision

May 3, 1979.

AGENCY: Bureau of Land Management.

ACTION: Notice of Initial Inventory Decision.

SUMMARY: The New Mexico State Office of the Bureau of Land Management announces the initial wilderness inventory decision for the public lands included in the draft Star Lake-Bisti Regional Coal Environmental Statement. All affected wilderness inventory units are located within New Mexico's Albuquerque District.

Inventory units dropped from further wilderness consideration are NM-010-05, NM-010-06, NM-010-58, the southwestern corner of NM-010-09, and all of NM-010-57 except approximately 3500 acres of public land commonly referred to as the Bisti Badlands. Additional public lands outside of identified inventory units affected by both the Star Lake Railroad and the Fruitland Coal Load Transmission Line are also dropped from further wilderness consideration. Acreage dropped from further wilderness consideration total approximately 44,330 acres.

Inventory units which will undergo an intensive wilderness inventory are: that portion of NM-010-57 commonly referred to as the Bisti Badlands, NM-

010–04 and the remaining portion of NM–010–09. Acreage to undergo intensive wilderness inventory total approximately 26,980 acres.

This final decision is based upon recommendations released for a 90-day public comment period from January 10 to April 9, 1979.

The public was asked to comment on the announced recommendation of January 10, 1979 that certain inventory units clearly and obviously did not possess wilderness characteristics.

During the comment period, 316 letters and oral comments were submitted. There was overwhelming agreement that the areas that were recommended to be deleted from further consideration indeed lacked wilderness characteristics.

Conversely, by a 9 to 1 majority, the public supported the recommendations for those wilderness inventory units which were identified as requiring an intensive wilderness inventory. Copies of the public comment analysis report detailing these findings are available upon request from the New Mexico State Office, Bureau of Land Management.

ADDRESS: Send requests to: State Director (932), Bureau of Land Management, United States Post Office and Federal Building, South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Dan Wood at the above Santa Fe, New Mexico address or call 505–988–6227.

Larry L. Woodard,
Acting State Director.

[FR Doc. 79–14583 Filed 5–9–79; 8:45 am]

BILLING CODE 4310–84–M

New Mexico; Applications

May 2, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 22 S., R. 23 E.,
Sec. 34, SW¼SE¼;
T. 18 S., R. 25 E.,
Sec. 7, NW¼SW¼;
Sec. 8, NW¼SE¼.

These pipelines will convey natural gas across 0.485 of a mile of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,
Chief, Branch of Lands and Minerals Operations.

[NM 36716 and 36717]

[FR Doc. 79–14603 Filed 5–9–79; 8:45 am]

BILLING CODE 4310–84–M

Utah; Wilderness Review Associated With the Intermountain Power Project in Preparation for an Environmental Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice updates the status of the special wilderness inventory associated with the Intermountain Power Project proposal which reaches into portions of Utah, Arizona, Nevada, and California. The inventory instructions were sent from the Washington Office on August 15, 1978. These instructions preceded the Wilderness Inventory Handbook. The instructions are basically the same, however, except for the use of manageability and the option to review portions of roadless areas possibly impacted by the proposed transmission and other utility corridors associated with the IPP proposal.

The wilderness inventory was conducted in advance of work on the environmental statement which will evaluate the impacts of the proposal as it relates to wilderness and other environmental values. The inventory was completed in September and October with public meetings being held in November and December. As a direct result of public input, the original 30-day public comment period was extended to February 16, 1979, or a total of 90 days. Also, as a direct result of public input, the option used to review only that portion of a roadless area impacted by the proposal was found not to be acceptable. The Moab District in Utah used this option. Therefore, even though the original instructions contained this option, the Moab District has been directed to review the entire roadless area associated with the alternative routes. The field work has begun on this effort with the first public meeting to review the findings being held in the latter part of May 1979. A separate **Federal Register** notice will be published announcing this review period.

For all other portions of Utah associated with the IPP project the inventory and associated public review have been completed. Comments are being analyzed. An announcement designating Wilderness Study Areas will be forthcoming towards the end of May 1979, along with the other states involved.

In the State of Nevada, public comments indicated that nine areas should be designated for Wilderness Study Areas. However, adjustments in the boundaries were needed. As a result of this public comment, boundaries were adjusted accordingly and an additional 30-day public comment period opened. That public comment period was concluded on May 1, 1979. The comments from this public comment period will again be reviewed and an announcement made designating those Wilderness Study Areas.

The IPP proposed routes do go into California, however, at the time the IPP proposal came into existence, California was already involved in a special inventory for wilderness connected with the California Desert Conservation Area. The instructions for this area precede the IPP proposal. The California Desert inventory has concluded with an appropriate public review period. The IPP proposal in California is subject to the findings in the California Desert Conservation Area Wilderness Inventory. Reference should be made to those documents and announcements as it concerns the wilderness inventory in California related to the IPP proposal.

The IPP proposal involved a small portion of Arizona. The inventory and public review period has been conducted and comments are being analyzed. The inventory identified a potential Wilderness Study Area which lies in both Arizona and Utah.

During the various public comment periods, maps and narratives were available at public meetings and through mail-outs to interested people on mailing lists and who requested this information.

Dated: May 3, 1979.

Paul L. Howard,
State Director.

[FR Doc. 79–14602 Filed 5–9–79; 8:45 am]

BILLING CODE 4310–84–M

Wyoming; Application

May 3, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the

Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to install communication equipment in an existing communication site located on the following described public lands:

Sixth Principal Meridian, Wyoming

T. 17 N., R. 104 W.,
Sec. 22, SE¼SE¼

The proposed communication site is to be used for operation and maintenance of their oil and gas pipeline facilities in the surrounding area.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Wyoming 67827]
[FR Doc. 79-14604 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

Wyoming; Application

April 26, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Company of Salt Lake City, Utah filed an amendment to their pending application for a right-of-way to construct three additional 4½ inch pipelines as a part of their Whiskey Buttes Gathering System for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 21 N., R. 112 W.,
Secs. 14, 16, 22 and 24.

The proposed additional pipelines will transport natural gas from the Whiskey Buttes Well Nos. 12, 20 and 23 to points of connection with an existing pipeline all located within T. 21 N., R. 112 W., Lincoln County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Wyoming 66848]
FR Doc. 79-14605 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

Redwood National Park, Associate Superintendent, Administrative Officer, Contract Specialist, Puchasing Agent; Delegation of Authority Regarding Execution of Contracts for Supplies, Equipment, or Services

Section 1. *Associate Superintendent.* The Associate Superintendent may execute and approve contracts not in excess of $50,000.00 for supplies, equipment, or services, in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds.

Section 2. *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $50,000.00 for supplies, equipment, or services, in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds.

Section 3. *Contract Specialist.* The Contract Specialist may execute and approve contracts not in excess of $25,000.00 for supplies, equipment, or services, in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds.

Section 4. *Purchasing Agent.* The Purchasing Agent may execute and approve contracts not in excess of $10,000.00 for supplies, equipment, or services, in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds.

Section 5. *Revocations.* This order supersedes Order No. 4, as published in Vol. 43 FR 24, dated February 3, 1978.

(National Park Service Order No. 77 (33 FR 7478) dated March 22, 1973, as amended; Order No. 7 (37 FR 6326) dated March 28, 1972, as amended)

Dated: March 19, 1979.

Robert D. Barbee,
Superintendent, Redwood National Park.

Dated: May 1, 1979.

John Davis,
Acting Regional Director, Western Region.

[Order No. 5]
[FR Doc. 79-14617 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

Certain Plastic-Molding Apparatus and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 5, 1979, and amended on April 20, 979, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of the I. P. Container Corporation, 864 East 25th Street, Paterson, New Jersey 07513, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of apparatus which produce plastic receptacles by injection and stretch-blow molding in a single machine, or in their sale, by reason of the alleged coverage of (1) such apparatus by claims 20–23, 26, 29, and 33–35 of U.S. Letters Patent No. 4,065,246, and (2) the method of using such imported apparatus by claims 1–3 and 5–8 of U.S. Letters Patent No. 3,776,991. With regard to claims 1–3 and 5–8 of the latter patent, it is alleged that the importation of such apparatus induces and contributes to the direct infringement of those claims by domestic purchasers of the apparatus.

The complaint, as amended, alleges that the effect or tendency of the unfair methods of competition and unfair acts is to substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry. Complainant requests (1) exclusion from entry into the United States, except under bond, of the imports in question during the period of the investigation, (2) permanent exclusion from entry into the United States of the imports in question after a full investigation, and (3) such other relief as is authorized by the statute.

Having considered the complaint, as amended, the Commission, on May 3, 1979, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine whether there is, or there is reason to believe that there is, a violation of

subsection (a) of this section in the unlawful importation of certain plastic-molding apparatus and components thereof into the United States, or in their sale, because such apparatus (1) are allegedly covered by claims 20–23, 26, 29, and 33–35 of U.S. Letters Patent No. 4,065,246, and (2) allegedly contribute to and induce infringement of claims 1–3 and 5–8 of U.S. Letters Patent No. 3,776,991 as a result of such importation and sale, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

I. P. Container Corporation, 864 East 25th Street, Paterson, New Jersey 07513.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such apparatus into the United States, or in their sale, and are parties upon which the complaint and the amendment to the complaint are to be served:

Nissei Plastic Industrial Co., Ltd., Sakaki, Nagano-Ken, 389–06, Japan.

Nissei America, Inc., 9836 Alburtis Avenue, Santa Fe Springs, California 90670.

(c) Steven K. Morrison, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding Officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the amended complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and may authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, as amended, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York City Office, 6 World Trade Center, New York, N.Y. 10048.

By order of the Commission.

Issued: May 4, 1979.

Kenneth R. Mason,

Secretary.

[Investigation No. 337-TA-66]

[FR Doc. 79-14633 Filed 5-9-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Consent Judgment in Clean Water Act Enforcement Action

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *City of Gillette, Wyoming* has been lodged with the United States District Court for the District of Wyoming. The decree requires that Gillette pay a civil penalty of twenty-five hundred dollars, and install modifications to its wastewater treatment facility. Gillette is also required to operate its existing facility in an efficient manner, and faces up to seventeen thousand five hundred dollars in suspended civil penalties if it fails to carry out the requirements of the decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Gillette*, D. J. Ref. 90–5–1–1–1190.

The consent decree may be examined at the office of the United States Attorney, United States Courthouse, Cheyenne, Wyoming, at the United States Environmental Protection Agency, Region VIII, Denver, Colorado 80295, and at Room 2625, Pollution Control Section, Land and Natural Resources Division, Department of Justice, 9th & Pennsylvania Avenue, N.W. Washington, D.C. 20530. A copy of the proposed judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

Sanford Sagalkin,

Acting Assistant Attorney General, Land and Natural Resources Divison.

[FR Doc. 79-14548 Filed 5-9-79; 8:45 am]

BILLING CODE 4410-01-M

Law Enforcement Assistance Administration

Competitive Research Grant Program; Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant program to evaluate a program test of Structured Plea Negotiation.

This proposed experimental study will be a coordinated effort within the National Institute, with the basic program's design, training and management conducted by the Institute's Office of Development, Testing and Dissemination, and the evaluation design and management conducted under the Institute's Office of Program Evaluation.

A copy of the Program Test Design, which will be provided upon request, sets forth the field test to be evaluated as well as activities considered necessary to realize a successful evaluation.

I. Background

The National Institute of Law Enforcement and Criminal Justice, the research arm of the Law Enforcement Assistance Administration, will conduct a field test of the concept of structured plea negotiation. There are three goals to be assessed in the Structured Plea Negotiation Test Design:

- Implementation of a process of plea negotiation that is equitable to all parties concerned.
- Implementation of a procedure that is efficient and benefits the court system as a whole.
- Development of an effective plea negotiation system.

The basis for the field test is a Program Test Design, a document with detailed specification of selected program elements. The goals of each field test effort are to determine the effectiveness of these elements, or program strategies, in multiple settings and to examine their transferability to other jurisdictions.

A number of single, local court systems of general jurisdictions have experimented with the development and implementation of Structured Plea

Negotiation. In order to assess the feasibility of this concept beyond a single jurisdiction, the National Institute has designed a program test of Structured Plea Negotiation which will involve three courts of general jurisdictions. Both the processes of development and implementation, as well as their outcomes will be evaluated by this grant.

II. Evaluation Objectives of Test

The major objective of this evaluation effort is to assess qualitatively and quantitatively the nature and extent to which the selected sites have adopted the program design and have met the following program objectives:

- To produce plea agreements that are more consistent by making the process more explicit, open, fair, and subject to judicial review.
- To produce agreements that are fair to all parties by providing victims and defendants the opportunity to present their views, needs and knowledge of the case within the plea negotiation process.
- To reduce the average time between initial indictment and final case disposition.
- To reduce delays and minimize disruption of court scheduling caused by plea bargaining.
- To structure the plea negotiation process so that it becomes a standardized component of the judicial process.
- To increase victim perception of legitimacy and fairness of plea negotiations by involving victims in the process.
- To increase defendant perception of legitmacy and fairness of plea negotiations by involving defendants in the process.

These seven objectives address both the outcomes and processes of the project. The evaluator will be expected to work closely with project staff in order to collect the qualitative and quantitative data needed to address these objectives. The evaluation period will be 30 months beginning with the start of the project in each site, with a funding level of approximately $325,000.

The solicitation asks for the submission of draft proposals. A formal application will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered all papers must be postmarked no later than June 22, 1979. This grant is planned for award in September, 1979 with funding support not to exceed $325,000 for 26 months in duration.

Further information and copies of the solicitation can be obtained by contacting Rosemary Murphy or Frank Vaccarella, Office of Program Evaluation, NILECJ, 633 Indiana Ave., N.W., Washington, D.C. 20531 (301) 492–9085.

Harry M. Bratt,
Acting Director, NILECJ.
[FR Doc. 79-14584 Filed 5-9-79; 8:45 am]
BILLING CODE 4410-18-M

Grant Applications; Solicitation

The National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP), Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice is sponsoring an evaluation of the OJJDP/NIJJDP Law-Related Education Program.

Applications will be considered from private or public agencies and organizations or individuals. The maximum funding level for this twelve (12) month effort is $400,000. The deadline for receipt of applications is June 15, 1979. Potential applicants may obtain a copy of the solicitation by writing to: National Institute for Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, 633 Indiana Avenue, N.W., Room 304, Washington, D.C. 20531, attention James C. Howell, or by calling area code (202) 724–5893.

David D. West,
Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention.
[FR Doc. 79-14585 Filed 5-9-79; 8:45 am]
BILLING CODE 4410-18-M

LEGAL SERVICES CORPORATION

Advisory Presidential Search Committee Meeting

TIME AND DATE: 8:00 a.m., Wednesday, May 16, 1979; 9:00 a.m., Thursday, May 17, 1979.

PLACE: Arlington Hyatt House, 1325 Wilson Boulevard, Rosslyn, Va.

STATUS: Closed Meeting (As authorized by 5 U.S.C. 552b(c)(2), the meeting will relate solely to interviews with and discussion of candidates for appointment of President.)

MATTERS TO BE CONSIDERED: Interviews with and discussion of candidates for appointment as President.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, telephone (202) 376–5100.

Issued: May 7, 1979.

Alice Daniel,
Acting President.
[FR Doc. 79-14645 Filed 5-9-79; 8:45 am]
BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

C. F. Braun & Co.; Standard Safety Analysis Report for Braun Sar Turbine Island Standard Design and Its Relationship to the Gessar-238 Nuclear Island Standard Design; Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC staff) has issued Amendment No. 2 to Preliminary Design Approval No. PDA–5, dated May 3, 1979, for the reference system design for the tubine island portion of a boiling water reactor nuclear power plant utilizing the General Electric Company GESSAR–238 nuclear island design, and as described in the application by C. F. Braun & Co. (BRAUN SAR). Preliminary Design Approval No. PDA–5 was issued by the staff of the Nuclear Regulatory Commission on May 7, 1976.

Amendment No. 2 to PDA–5 extends its expiration date from May 7, 1979 to May 7, 1981. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization of nuclear power plants which provided for an extension to five years of the effective terms for preliminary designs approvals for reference system designs which previously were set to terminate three years after issuance.

The Nuclear Regulatory Commission's August 1978 policy statement identified certain matters that PDA holders would be required to address prior to the granting of PDA extensions. These matters were identified in an NRC staff letter to the C. F. Braun & Co., R. Boyd to H. Baird, dated January 24, 1979. By letter dated March 9, 1979, C. Boice to the Director of Nuclear Reactor Regulation, C. F. Braun & Co. submitted Amendment 9 to the BRAUN SAR Turbine Island application, which addressed each of these matters. The NRC staff has reviewed Amendment 9 for competeness and has concluded that C. F. Braun & Co. has addressed each of these matters. The NRC staff considers this to be an acceptable basis for extending PDA–5 for two additional years. If the NRC staff is informed by a utility-applicant that it intends to reference the BRAUN SAR Turbine Island design after May 7, 1979, it will then perform a detailed review of Amendment 9 to assure that each of the identified matters has been acceptably resolved for the BRAUN SAR Turbine Island design. At that time, the staff will also confirm the results of an

assessment by C. F. Braun & Co., of the resolution of items 14a, 14b, 14e, 14f and 15 of the post-PDA items of the GESSAR–238 Nuclear Island design, as identified in Table 1–3 in the GESSAR–238 Safety Evaluation Report (NUREG–75/110), including a description and evaluation of any changes C. F. Braun & Co. concludes are needed for the BRAUN SAR Turbine Island design.

The NRC staff has implemented this procedure for extending PDA's, in consideration of the high degree of confidence it places in reference system designs for which PDA's have been issued. This procedure permits the datailed review of the identified matters to be deferred on these designs until a utility-applicant requirement for that review is identified.

Amendment No. 2 to PDA–5 is effective as of its date of issuance and shall expire on May 7, 1981, unless earlier superseded by issuance of a final design approval for the BRAUN SAR Turbine Island design, or unless extended by the NRC staff. The expiration of PDA–5, as amended, should not affect use of the BRAUN SAR Turbine Island design for reference in any construction permit application docketed prior to such date.

A copy of Amendment No. 2 to PDA–5 dated May 3, 1979 is available for public inspection at the Nuclear Regulatory Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 3rd day of May 1979.

For the Nuclear Regulatory Commission.

C. J. Heltemes, Jr.,

Chief, Standardization Branch, Division of Project Management, Office of Nuclear Reactor Regulation.

[Docket No. Stn 50–532]

[FR Doc. 79–14569 Filed 5–9–79; 8:45 am]

BILLING CODE 7590–01–M

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 36 and 30 to Facility Operating License Nos. DPR–42 and DPR–60, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of their date of issuance.

The amendments revise the Technical Specifications to require actuation of safety injection based on 2 out of 3 channels of low pressurizer pressure.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 26, 1979, (2) Amendment Nos. 36 and 30 to License Nos. DPR–42 and DPR–60, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 1st day of May.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[Docket Nos. 50–282 and 50–306]

[FR Doc. 79–14570 Filed 5–9–79; 8:45 am]

BILLING CODE 7590–01–M

Nuclear Regulatory Commission Issuances; Availability of Semiannual Hardbound Volume

The Nuclear Regulatory Commission has issued Volume 6, Pages 525–1333, of the Nuclear Regulatory Commission Issuances, covering the period October 1, 1977, to December 31, 1977. This publication is a semiannual compilation of adjudicatory decisions and other issuances of the Commission, the Atomic Safety and Licensing Appeal Boards, the Atomic Safety and Licensing Boards, and the Administrative Law Judge.

A copy of Volume 6, Pages 525–1333, is available for inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. The publication, designated Nuclear Regulatory Commission Issuances, Volume 6, Pages 525–1333, Opinions and Decisions, October 1, 1977 to December 31, 1977, may also be purchased at a cost of $11.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The GPO stock number is 052010–00502–2.

Dated at Bethesda, Maryland this 3d day of May 1979.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 79–14575 Filed 5–9–79; 8:45 am]

BILLING CODE 7590–01–M

Philadelphia Electric Co., et al.; Issuance of Amendment to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has, pursuant to the Decision of the Atomic Safety and Licensing Appeal Board (ALAB–532) dated March 23, 1979, issued Amendments Nos. 52 and 52 to Facility Operating Licenses Nos. DPR–44 and DPR–56 issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company, for the Peach Bottom Atomic Power Station Units Nos. 2 and 3, located in York County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendments substitute, for current operating license conditions pertaining to thermal discharge, two new conditions that (1) state that the revised NPDES permit governs thermal discharge matters to the extent it deals with them, and (2) establish a reporting, analysis and filing procedure for the licensees to follow in the event of modification of effluent limitations or of the NPDES permit.

For further details with respect to this action, see (1) the Stipulation Among Certain Parties and Participants filed with the Atomic Safety and Licensing Appeal Board dated September 5, 1978, (2) the Decision of the Atomic Safety and Licensing Appeal Board (ALAB–532) dated March 23, 1979, and (3) Amendments Nos. 52 and 52 to License Nos. DPR–44 and DPR–56. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of

Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of May 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[Docket Nos. 50-277 and 50-278]

[FR Doc. 79-14571 Filed 5-9-79; 8:45 am]

BILLING CODE 7590-01

Texas A&M University; Renewal of Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. R-23, issued to the Texas A&M University (the licensee), which renews the license for operation of the AGN-201M nuclear research reactor (the facility) located in College Station, Texas. The facility is a research reactor that has been operating since August 26, 1957, and is currently licensed to operate at 5.0 watts (thermal). The amendment is effective as of its date of issuance.

The amendment extends the duration of Facility License No. R-23 until August 26, 1997.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of the proposed issuance of this action was published in the **Federal Register** on September 8, 1977 (42 FR 45046). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the renewal of the Facility Operating License and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendment dated May 31, 1977, as supplemented September 29, December 11, December 18, 1978, and March 23, 1979, (2) Amendment No. 12 to License No. R-23 and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 25th day of April 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[Docket No. 50-59]

[FR Doc. 79-14572 Filed 5-9-79; 8:45 am]

BILLING CODE 7590-01-M

The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised the license for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility), located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment modifies the license to include the current Commission-approved physical security plan.

The licensees' filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensees' filing dated June 5, 1978, revised September 20, 1978, November 10, 1978, December 26, 1978, January 12, 1979, February 22, 1979 and March 10, 1979, and the Commission's Security Plan Evaluation Report are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR § 9.12.

For further details with respect to this action, see (1) Amendment No. 14 to License No. NPF-3 and (2) the Commission's related letter to the licensee dated April 13, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, N.W., Washington, D.C. and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, April 13, 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[Docket No. 50-346]

[FR Doc. 79-14573 Filed 5-9-79; 8:45 am]

BILLING CODE 7590-01-M]

Virginia Electric & Power Co. (VEPCO) (North Anna Power Station Units 1 and 2), Proposed Amendment to Operating License NPF-4; Hearing

In the Matter of Virginia Electric and Power Company (VEPCO), (North Anna Power Station Units 1 and 2).

This Notice of Hearing follows up the Order Granting Intervention, Providing for a Hearing and Designating Contentions of Intervenors, issued April 23, 1979.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board) to consider the application of Virginia Electric and Power Company (VEPCO), licensee, for an amendment to Facility Operating License No. NPF-4, which currently authorizes licensee to possess, use and operate the North Anna Nuclear Power Station, Unit No. 1 and Unit No. 2, located in Louisa County, Virginia. The proposed amendment would revise the provisions in the technical

specifications to permit increase in fuel storage capacity from 400 to 966 fuel assemblies in the spent fuel pool of the North Anna Nuclear Power Station, Unit No. 1 and Unit No. 2.

The hearing shall be held immediately following the conclusion of a prehearing conference among the parties, the conference itself to being 9:30 in the morning, Tuesday, June 26, 1979. The hearing will continue through the rest of the work week and into the following work week, if necessary. The place of the hearing and of the prehearing conference is the Council Chambers, City Hall (2nd floor), 7th and Main Streets, Charlottesville, Virginia. The hearing and prehearing conference will be conducted by an Atomic Safety and Licensing Board which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Dr. Quentin J. Stober, Mr. Ernest E. Hill, and Valentine B. Deale, Esquire, Chairman.

In the context of the merits of the proposed amendment to VEPCO's Facility Operating License No. NPF–4, the contentions at the hearing are as provided for in the referenced Order of April 23, 1979. These contentions are expected to be supported at the hearing by the intervening parties as provided in said Order, and the burden of disproving the contentions is upon VEPCO.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene as heretofore provided for in the notice published by the Commission on May 22, 1978 in the Federal Register, 43 F.R. 21957, entitled "Proposed Issuance of Amendment to Facility Operating License," may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted in this proceeding at the discretion of the Board, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are directed to inform the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, on or before June 11, 1979.

A person permitted to make a limited appearance does not become a party to this proceeding, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are within the scope of the hearing as specified above. Limited appearances in this proceeding will be allowed during the above scheduled prehearing conference. Each person making a limited appearance will be limited to ten (10) minutes unless the Board has occasion to rule otherwise at the prehearing conference.

An answer to this notice, pursuant to the provisions of 10 CFR § 2.705 of the Commission's Rules of Practice, must be filed by the parties to this proceeding (other than the Regulatory Staff) on or before May 21, 1979. The requirements for filing documents in this proceeding are set out at 10 CFR § 2.708.

Should the parties find that the schedule of the evidentiary hearing herein be too tight for purposes of allowing adequate time for discovery and preparation for this hearing or for purposes of preparing and filing a motion for summary disposition, the Board is amenable to a motion to reschedule the hearing at a later date for good cause shown. Such a motion should be timely, taking into account what is being requested, and such a motion should be well-supported with a detailed description of the pertinent factual circumstances.

For further details concerning the proposed amendment to VEPCO's Facility Operating License No. NPF–4, see the application for amendment, dated May 1, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Board of Supervisors' Office, Louisa County Courthouse, P.O. Box 27, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Done May 4, 1979 at Washington, D.C.

Atomic Safety and Licensing Board.

Valentine B. Deale,

Chairman.

[Docket Nos. 50–338SP; 50–339SP]

[FR Doc. 79–14574 Filed 5–9–79; 8:45 am]

BILLING CODE 7590–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Safety Recommendations and Responses; Availability

Safety Recommendation Letters

Aviation

A–79–11.—While investigating the crash of an Antilles Air Boats, Inc., Grumman G–21A last September 2 near St. Thomas, V.I., the National Transportation Safety Board found that several aircraft logbook pages, which included entries for the day of the accident and for previous days, were missing from the maintenance logbook. Later, the Board determined that the aircraft had been flown more than 20 flight hours beyond a scheduled inspection and that some logbook pages had been falsified and had been presented as actual pages to the Federal Aviation Administration inspectors.

The Safety Board could not determine precisely how many of these logbook sheets were missing. Although there is now no requirement in the FAA regulations that aircraft maintenance logbook pages be consecutively numbered, many air carrier operators, air taxi operators, and commercial operators voluntarily number their aircraft logbook pages consecutively—a practice which the Board believes could assist operators in complying with certain recordkeeping requirements and could enhance FAA's surveillance efforts as well as the Safety Board's accident investigation and prevention efforts. Accordingly, on May 5 the Board recommended that FAA:

Require that all aircraft maintenance logbook sheets be numbered consecutively. (A–79–11)

A–79–12 through 15.—The Safety Board's investigation of the February 19, 1978, Columbia Pacific Airlines Beechcraft model B–99 accident at Richland (Wash.) Airport disclosed problems that could adversely affect the timely egress of passengers and could reduce the effectiveness of crash/fire/rescue personnel.

Although the Safety Board classfied this accident as nonsurvivable because the crash forces exceeded the tolerable limits of the human body, the outcome could well have been equally fatal had impact forces been survivable. The Board found predictable evacuation and rescue problems in the aircraft: a safety chain on the airstair door, no external markings or operating instructions for emergency exist, and the lack of training of crash/fire/rescue personnel.

In view of these findings, the Safety Board on May 1 recommended that FAA:

Issue an Airworthiness Directive to require compliance with Beechcraft Service Instruction Notice No. 0956. (A–79–12)

Evaluate the safety of removing door safety chains from other aircraft so equipped and used in passenger revenue operations with a view toward simplified exist of passengers and entry by crash/fire/rescue personnel. (A–79–13)

Amend 14 CFR 135.169 by incorporating the general provisions of 14 CFR 121.310(g) (1), (2), and (3) with regard to exit conspicuity and operability on air taxi aircraft with a capacity of 10 or more passengers. (A–79–14)

Amend 14 CFR 135 Appendix A (paragraph 32) by incorporating the general provisions of

14 CFR 25.811(f) (1), (2), (3) with regard to exit conspicuity and operability. (A–79–15)

A–79–16 through 20.—On March 1, 1978, a Continental Airlines DC–10 overran the departure end of a runway at Los Angeles International Airport and caught fire following a rejected takeoff. Flames, radiant heat, and a girt fabric overload failure eventually resulted in total failure of all passenger evacuation systems. Thus, to escape from the burning aircraft, about 40 of the 200 occupants were forced to jump to the ground while another 15 persons used the escape rope at the first officer's sliding window. Two passengers died and 31 persons were seriously injured during the evacuation.

Because of the seriousness of these failures, the Safety Board asked FAA's National Aviation Facilities Experimental Center to examine the effects of fire and thermal radiation on evacuation slide fabrics and to determine the effectiveness of reflective and ablative coatings on slide materials. Later, FAA's Flight Standards Service requested the Systems Research and Development Service to conduct a more detailed research project on the thermal vulnerability of currently used evacuation slides and identify new and compatible slide fabrics. The Safety Board is encouraged by FAA's initiative in this area, and urges immediate funding of this project so that early regulatory changes can be made.

Further, investigation of the failure of girt fabric on one of the slide/raft units in this accident revealed that a reduced slide/raft angle, caused by the failure of the left main landing gear, resulted in an unusual and asymmetric distribution of passengers on the slide/raft which overloaded the girt fabric. The Safety Board believes that the absence of adequate critical angle test guidance in a Technical Standard Order and the adoption of arbitrary strength requirements contributed to the girt failure of the slide/raft unit.

As a result of its investigation, the Safety Board on May 1 recommended that FAA—

Fund and give highest priority to an evacuation slide fabric test project with a view toward developing and certificating fire-resistant materials for these devices. (A–79–16)

Issue an Airworthiness Directive requiring the strengthening of the girt fabric of the PICO 26-foot slide/raft to insure its reliabilty when the unit is deployed at its most critical angle. (A–79–17)

Amend Technical Standard Order C69 to address requirements for dual-lane evacuation slides and to require critical angle performance testing for these devices. (A–79–18)

Issue a Technical Standard Order for slide/raft devices. (A–79–19)

Amend 14 CFR 25.809 to require a secondary means of escape at all floor-level cabin exits currently requiring emergency escape slides. These secondary escape means could be ropes or other means demonstrated to be suitable for evacuation purposes.

A–79–27 through 30.—The Safety Board has investigated the crash on May 8, 1978 of National Airlines Flight 193, a Boeing 727–235, in Escambia Bay during its approach to the Pensacola (Fla.) Reginal Airport. There were 52 passengers and a crew of 6 aboard, 3 passengers were drowned, and 9 passengers and 2 crewmembers were seriously injured. As the aircraft descended through 500 feet altitude, its rate of descent had increased to about 2,000 feet per minute; the aircraft was also not configured for landing—the flaps were set at 25°. At this point, the ground proximity warning system (GPWS) activated and continued for five cycles, or about 9 seconds.

The captain and first officer tried to determine the cause of the GPWS warning. The cockpit voice recorder tape indicated that the first officer said, "Descent rate's keepin' it up." The captain reportedly acknowledged this and shallowed the aircraft's descent. The flight engineer, who claimed to have had difficulty hearing the cockpit conversation because of the volume of the GPWS aural alert, believed that the captain had commanded him to turn off the GPWS. As a result, he inhibited the system without the captain's knowledge. The silencing of the GPWS erroneously convinced the captain that he had solved the problem; however, the aircraft continued to descend into the water.

The GPWS in this aircraft incorporated warning lights mounted on both instrument panels and a loudspeaker mounted in the ceiling of the cockpit. A guarded and safety-wired inhibit switch was located on the flight engineer's panel. The GPWS will activate automatically if the aircraft's flightpath penetrates one or more complex, multiparameter flight envelopes. The aural and visual warning will cease only when the aircraft's flightpath is corrected satisfactorily or when the aircraft is configured properly depending on the warning conditions. However, the inhibit switch, when activated, will disable the entire system. The Safety Board believes that, regardless of the safeguards established by the applicable regulations to prevent inadvertent or voluntary deactivation of the system, the function of the inhibit switch should not cause an apparent but false problem-solving situation as it did in this accident.

In view of its findings, the Safety Board on May 1 recommended that FAA:

Amend 14 CFR 37.201 to: (1) require that ground proximity warning systems identify with aural messages the cause of the warning being given; and (2) restrict the function of the deactivation switch (if utilized on such systems) to suppress only the aural alert, but not the warning lights. (A–79–27)

Amend 14 CFR 121.360 to require after an appropriate date that all newly manufactured aircraft be equipped with ground proximity warning systems that conform to the amended Technical Standard Order. (A–79–29)

Define sound pressure levels and acoustical characteristics for ground proximity warning systems for each type of aircraft requiring these systems, consistent with ambient cockpit noise levels and with the requirements for emergency verbal communications between crewmembers. (A–79–29)

Issue an Advisory Circular specifying ground proximity warning system sound pressure levels and acoustical characteristics for each type of aircraft requiring these systems. (A–79–30)

All of the above aviation safety recommendations have been designated "Class II—Priority action."

Marine

M–79–52 through 55.—Studies of possible vessel speed limits in restricted or crowded U.S. waters were urged by the Safety Board following investigation of the near-catastrophic collision of U.S. Navy submarine tender L. Y. SPEAR and Liberian tanker ZEPHYROS in the lower Mississippi below New Orleans, La., February 22, 1978.

The L. Y. SPEAR sideswiped the tanker ZEPHYROS while overtaking it on the left just short of a bend in the river. The SPEAR's pilot had changed course to the right toward the tanker while passing it, and the SPEAR had continued to turn until it was too late to avoid a collision with a following left turn. Collision damage was moderate and there were only nine minor injuries, but there were more than 1,100 persons aboard the 22,600-ton SPEAR and the 76,700-ton ZEPHYROS was loaded with 18.3 million gallons of crude oil, which is highly volatile.

The Safety Board, after a joint investigation with the Coast Guard, determined that the civilian pilot of the SPEAR had ordered right rudder during the overtaking maneuver, and that it had been correctly applied. However, he failed to issue additional orders to steady the heading to a proper course until the commanding officer realized the SPEAR was turning too far and

questioned the pilot. The SPEAR was found to have been at flank speed, making good about 19 mph over the river bottom. The speed of the ZEPHYROS had been 11 mph, and this speed had been reduced for the SPEAR's passage.

In view of its findings, the Safety Board believes that this accident demonstrates a need for additional navigation safety efforts on restricted waterways. It may be appropriate to establish maximum speed limits and to restrict overtaking maneuvers under some conditions in certain locations for the safety of navigation. The Board does not suggest that a precisely safe speed can be calculated for all circumstances or that any particular speed is safe or unsafe. However, speed often is a critical component in navigation decisions because speed directly affects the time available for decisionmaking and maneuvering. The Board proposes that analytical techniques should be used in studies of appropriate restricted harbors and waterways in an effort to determine the maximum speeds that can be used to allow navigators enough time to make proper maneuvering decisions and for the maneuvers to be effected with the desired result. Such studies should consider the limitations of human abilities, the information provided to navigators by the aids to navigation system and other sources, and the particular characteristics of the vessels, waterways, and traffic in the locale being studied.

As a result of its analysis of this accident, the Safety Board on May 3 recommended that the U.S. Coast Guard:

Include in its ongoing study of aids to navigation systems an analytical determination of maximum safe speeds which can be accommodated by such systems when equated with the reasonable time required for navigators to perform their functions safely. (M–79–52)

Undertake further research studies in coordination with the Maritime Administration of the U.S. Department of Commerce to determine analytically if speed limits and other controls are necessary in additional restricted or congested waterways and circumstances, and prescribe appropriate measures indicated by such studies. (M–79–53)

The above recommendations are designated "Class III—Longer Term Action." Also on May 3 the Safety Board by separate letters recommended that—

U.S. Navy: Review and revise as necessary appropriate U.S. Navy directives and doctrine applicable to navigation on restricted waterways to ensure that Commanding Officers of vessels are provided adequate information and guidance regarding safe speeds and command relationships with commercial pilots. (M–79–54)

Crescent River Port Pilots Association: Reassess the practices of the Association and of member pilots to establish or reaffirm a policy that emphasizes the necessity for pilots to exercise extreme care and extraordinary caution, including the use of conservative moderate speeds, to preclude accidents involving vessels laden with crude oil or other hazardous bulk cargoes. (M–79–55)

The above two recommendations are designated "Class II—Priority Action." The formal report on the investigation is now being prepared for distribution and copies will be available in the near future.

Responses to Safety Recommendations

Aviation

A–79–1 and 2.—Letter of April 27 from the Federal Aviation Administration is in response to recommendations issued by the Safety Board on February 2 following investigation of the crash of a Hughes Model 269A helicopter near Vancouver, Wash., May 25, 1978. The recommendations asked that FAA issue a General Aviation Airworthiness Alert to all aircraft owners, operators, manufacturers, and maintenance personnel apprising them of the circumstances of this accident and the approved flight manual operating procedures for checking fuel boost pump pressures (A–79–1), and advise overhaul facilities and manufacturers that permanent identification of parts is required by 14 CFR 45.15 A—79–2). (See 44 FR 8044, February 8, 1979.)

FAA reports in response to A–79–1 that information concerning the Weldon pump will be included as an alert item in the next issue of Advisory Circular (AC) 43–16, "General Aviation Airworthiness Alerts."

With respect to A–79–2, FAA does not believe that the recommended action is appropriate in this instance. FAA notes that 14 CFR 45.15 applies to parts producer under a Parts Manufacturer Approval (PMA). Weldon Tool Company, manufacturer of the pump, is not a PMA holder but is a supplier to Hughes Helicopters, which holds an FAA Production Certificate (PC) under 14 CFR Part 21. FAA states that parts produced by, or supplied to, a PC holder are marked in accord with FAA-approved quality control procedures and/or as specified in the PC holder's design data. The marking in this instance (Part No. A–8110) by use of a vinyl type name plate and anodized coding is considered satisfactory.

Further, FAA states, the installer must ensure that replacement parts are of an FAA-approved origin and approved for the particular application. If such determination cannot be made, as where identification is defaced or removed, the part should not be installed. This is addressed in AC 20–62C, "Eligibility, Quality, and Identification of Approved Aeronautical Replacement Parts" (copy attached to FAA's letter). FAA has recommended to Hughes Helicopters and they have agreed to publish a procedure for positive identification of replacement fuel pumps in the Hughes Model 269A Maintenance Manual. FAA now has a regulatory project in process which will require uniform marking of aircraft parts. This project is scheduled for completion in 1981.

A–79–25 and 26.—FAA's letter of May 3 responds to the urgent recommendation issued by the Safety Board on April 19, 1979, the day after a Sikorsky S61L helicopter crashed on takeoff from Neward International Airport. The recommendation called on FAA to withdraw the airworthiness certificates of Sikorsky S61 helicopters until a means of detecting potential tail rotor blade failures can be devised and implementd (A–79–25) and to notify foreign operators of Sikorsky S61 aircraft of this action. (See 44 FR 24657, April 26, 1979.)

In response to A–79–25, FAA reports issuing a telegraphic Airworthiness Directive on April 20, requiring a dye penetrant inspection of the inboard 32-inch section of the tail rotor blades prior to further flight and daily not to exceed 6 hours time in service. It also requires visual and ultrasonic inspections for those blades with more than 1,200 hours in service and a one-time dye penetrant inspection of the tail rotor gear box mounting feet.

FAA notes in response to A–79–26 that all Airworthiness Directives are distributed to the Civil Aviation Authorty in each country which has notified FAA of its registration of a particular type of aircraft. This is in accordance with the ICAO Annex 8, paragraph 4, "Continuing Airworthiness of Aircraft." Also, distribution is made to countries with which the United States has specific bilateral agreements. Copies of the Airworthiness Directive, Manufacturer's Service Bulletins, and ICAO procedures are attached to FAA's response.

Highway

H–78–63.—On April 19 the Federal Highway Administration responded to the Safety Board's comments of March 7 concerning FHWA's January 22 initial response to this recommendation, issued following investigation of the June 20,

1977, tractor-semitrailer/multiple vehicle collision near Atlanta, Ga. (See 44 FR 8045, February 2, 1979.) The recommendation called for increased surveillance of motor carrier operations.

Aware of the manpower and resource constraints under which the Bureau of Motor Carrier Safety (BMCS) is now operating, the Safety Board offered support in FHWA's request to be exempted from the partial hiring freeze so as to be able to fill the 26 positions authorized by the U.S. Congress.

The Board noted that during 1978 it investigated eight major accidents involving heavy commercial trucks operating in interstate commerce. As a result of these investigaitons, the Board developed and issued 50 safety recommendations, 18 of which dealt with specifically with the education, licensing, and control of the heavy-highway-vehicle driver. The recommendations were directed to FHWA, the National Highway Traffic Safety Administration, the 50 States, individual State motor vehicle and driver licensing agencies, and the American Trucking Associations.

The Board said it will keep H–68–63 open through 1979 to observe the proposed increase in carrier equipment and records inspections and to assure continuance of the upward trend in roadside inspections. The Board is also interested in the disposition of the Federal Motor Carrier Safety Regulation (FMCSR) violations discovered during August-October 1978. The Board asked how many of the 827 violations were cited and prosecuted, how many of the drivers were aware of the FMCSR, and what is the recidivism rate.

FHWA reports that it is presently filling 22 of the 26 positions authorized by the Congress. Of the 827 violations noted in FHWA's January 22 letter, 653 were violations of hours of service and 174 were attributed to violations of driver qualification requirements. FHWA says that when drivers are cited for a violation of FMCSR, such as hours of service, they are placed out of service and are kept out of service until their hours are in compliance. No further action is taken: A large percentage of the 653 hours of service violations concerned improper logs. To keep drivers from claiming that they do not have their logs readily available, BMCS has issued a proposed rulemaking which would allow an out of service action for failure to produce the log.

FHWA states that the qualification of driver violations are tabulated against the carrier as it is his responsibility to see that his drivers are qualified and are used to plan carrier investigation and enforcement activities. FHWA reports that BMCS will undertake several multiregional roadside inspections in the next 60 days. It is the experience of BMCS that the majority of drivers stopped at a roadside inspection are aware of the FMCSR. BMCS is not in a position to determine recidivism.

H–79–5 and 6.—Letter of April 20 from the National Highway Traffic Administration is in response to recommendations issued March 6 following investigation of the August 26, 1977, truck/van collision near Scipio, Utah. The recommenations asked NHTSA to accelerate efforts to identify the frictional properties of commercial vehicle tires at all degrees of tire yaw, under loading conditions ranging from 15 to 100 percent of rated load capacity (H–79–5), and to examine the full potential effect of fluctuating and progressively lower pavement frictional quality on vehicle performance (H–79–6). (See 44 FR 15815, March 15, 1979.)

In response, NHTSA transmitted a preprint copy of its study, "Truck Tire Braking and Cornering Traction." This study attempts to answer several specific questions regarding truck tire traction. All loads for testing were at 85 percent of the Tire and Rim Association rated loads. Another report, "Noise and Traction Characteristics of Bias-Ply and Radial Tires for Heavy Duty Trucks," discusses traction characteristics on wet surfaces for 50, 100,, and 150 percent of rated load. NHTSA plans rulemaking to establish minimum traction standards for trucks. In support of this activity they will be performing traction tests on a number of different devices for a limited sample of tires. This type of testing, one tire at one load, for braking and steering costs a minimum of $2,000 per test. NHTSA suggests that they test a particular tire for the properties the Safety Board is interested in.

Marine

M–70–3, M–70–13, and M–71–7.—The U.S. Coast Guard on April 5 provided a response to the Safety Board's letter of December 12 which commented on Coast Guard's letter of last August 4 (43 FR 42828, September 21, 1978).

Recommendation M–70–3 was issued November 10, 1970, following investigation of the collision of the SS AFRICAN STAR and the M/V MIDWEST CITIES on the Mississippi River, March 16, 1968. The recommendation dealt with the possible confusion between the "points and bends" custom, the end on approach passing rule (33 U.S.C. 203 Rule I), and the narrow channel rule (33 US.C. 210 Article 25). The Safety Board asked that Coast Guard, working with the Army Corps of Engineers and the National Oceanic and Atmospheric Administration (formerly the Coast and Geodetic Survey), consider publishing information in the "Coast Pilot" or other appropriate navigation guide, related to the "points and bends" custom on inland waterways. The Board believed it important to discuss the effect of this custom on two regulations, 33 CFR 80.4 and 80.10, which are the regulatory forms of the U.S. Code sections cited in the recommendation. Also the Board asked that other useful navigation information be published and that Coast Guard consider the need to clarify these rules in future legislation for unification of nautical rules in the United States.

The Board on December 12 referred to correspondence from the Coast Guard dated December 1, 1970, stating that the proposed legislation on rules of the road unification should resolve any rule conflicts with the "points and bends" custom. Further correspondence from Coast Guard, dated March 3, 1971, stated that the 1972 IMCO session would require a delay in the submission of the legislation for rules unification. A letter dated September 12, 1974, told the Board that the unified rules might come into effect in 1977. The August 4, 1978, letter informed that draft unified rules for submission to Congress have incorporated the "points and bends" custom and that the unified rules can be put into effect in 3 to 4 years. The Board requested a copy of the draft Unified Rules with the section pertinent to the points and bends issue highlighted.

Ten years have passed since this accident occurred and 8 years since the Safety Board identified the problem of rule confusion in a passing situation and recommended that Coast Guard alleviate that confusion. The Safety Board on December 12 expressed concern that vessels navigating on inland waters need some immediate guidance concerning the interrelationship of the three optional methods of determining manner of passing for vessels meeting on inland waters. Further, the Board will observe with interest the outcome of the light and whistle legislation regarding recommendations M–70–13 and M–71–7, which resulted from investigation of the April 6, 1969, collision of the SS UNION FAITH and the M/V WARREN J. DOUCET on the Mississippi River.

In its April 5 response, Coast Guard states that the vessel Bridge-to-Bridge Radio Telephone Act (33 U.S.C. 1201), including a common navigational frequency, has considerably reduced the possibility of similar misunderstandings

of passing arrangements. With further reference to M–70–3, Coast Guard provides a copy of the draft Inland Rules for Preventing Collisions. Coast Guard is now reviewing the draft and intends to seek Department of Transportation and Administration clearance for submission to Congress in 1979. Draft rule 9(a)(ii) is applicable to this recommendation. Coast Guard recognizes that a number of delays have occurred in the development of unified navigation rules but is confident that the draft legislation will be enacted without undue delay. With an impending change in the rules, any published discussion of the existing rules could result in additional confusion, Coast Guard states.

With respect to M–70–13, Coast Guard notes that Annex III to the draft Unified Inland Rules is responsive. Annex III provides specifications for whistles, bells, and gongs, and addresses these elements: (1) Frequencies, (2) range of audibility, (3) properties, (4) position, (5) fitting of more than one whistle, (6) combined whistle systems, and (7) whistle characteristics for towing vessels. With respect to M–71–7, Annex I of the draft Unified Rules discusses the positioning and technical details of lights and shapes for vessels operating in inland waters.

M–74–3 and M–74–9.—Coast Guard on April 10 provided a further response to these recommendations, developed in early 1974. Both recommendations concerned publication and availability to towboat operators of guidelines for safe operating procedures for towing operations, including methods of preplanning a voyage, proper use of towing hawsers, and actions to be taken in various emergency situations. Recommendation M–74–3 was issued in connection with the investigation of the Tug CAROLYN and WEEKS BARGE 254 collision with the Chesapeake Bay Bridge/Tunnel on or about September 21, 1972; M–74–9 resulted from investigation of the foundering of the M/V MARYLAND in Albemarle South, N.C., December 18, 1971.

With reference to both recommendations, Coast Guard reports that on January 12, 1979, the American Waterways Operators returned the proposed towing guide to the Coast Guard, stating that they could not assume responsibility for review of the guide. Coast Guard believes that the guide should be developed by the industry, which apparently has reservations about the guide. Without industry backing, Coast Guard says this project will not be carried forward.

Railroad

R–79–3 and 4.—Letter of March 27 from the Louisville & Nashville Railroad Company (L&N) is in response to recommendations resulting from a freight train derailment in Waverly, Tenn., February 24, 1978. Recommendation R–79–3 asked L&N to correct its airbrake special instructions to comply with regulations of the Power Brake Law, 49 CFR Part 232, and recommendation R–79–4 asked L&N to determine that all freight cars are provided with proper brakeshoes before they are dispatched in trains. (See 44 FR 12784, March 8, 1979.)

L&N reports that last June 27 its Division Superintendents were instructed to issue a Bulletin Board Order correcting the special instructions pertaining to the Power Brake Law. These orders were promptly issued on all divisions. Also, the booklet containing this information is now being revised and will be issued by July 1, 1979. Further, all Division Master Mechanics have been instructed to see that proper brakeshoes are provided on all freight cars; appropriate action has been taken to see that this is accomplished.

R–79–6 through 9.—A second letter from L&N dated March 27 is in response to recommendations issued in connection with the head-on collision between L&N trains at Florence, Ala., September 18, 1978. These recommendations asked L&N to take immediate steps to insure that its train operations are conducted in accordance with its operating rules (R–79–6); to provide supervisors and employees periodic, supervised training based on a uniform understanding of rules and regulations (R–79–7); and to correct its timetable instructions on handling and placement of hazardous materials cars so that they comply with current Federal regulations (R–79–8). (See 44 FR 15816, March 15, 1979.)

In its response to these recommendations, L&N outlined the various corrective measures that have been taken or are in process of being implemented. L&N reports establishing on February 1, 1979, a Rules and Safety Compliance Department which includes seven staff officers and 15 field safety supervisors; before there were only three staff officers and no field safety supervisors. L&N expects the new department to produce an immediate and continued improvement in employee compliance with its operating rules.

Also, L&N reports that its Rules Superintendents will go annually to the vaious divisions and hold lecture and rules examinations for all transportation officers to assure that they have a thorough and uniform understanding of L&N transportation operating rules. Last October L&N issued stickers updating the instructions in current L&N timetables; these stickers comply with current Federal regulations. Also, laminated charts were distributed to employees, showing approved placards and requirements of 49 CFR 174.9, and 174.10.

Note.—Copies of the Safety Board's recommendation letters, responses, and related correspondence, are available free of charge. All requests for copies must be in writing, identified by recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.
(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906))

Margaret L. Fisher,
Federal Register Liaison Officer.

May 7, 1979.

[N–AR–79–19]
[FR Doc. 79–14614 Filed 5/9/79; 8:45 am]
BILLING CODE 4910–58–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley F. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Donald W. Barrowman—447-6202

New Forms

Economics, Statistics, and Cooperatives Service
Young Farm Couples Cooperative Program Survey—Case
Survey
Single time
Young farm couples—GA and PA, 280 responses; 140 hours
Charles A. Ellett, 395-5080

Extensions

Food and Nutrition Service
Special Supplemental Food Program for Women, Infants and Children
FNS-283
Other (see SF-83)
State Health Depts or comparable agencies, local health, 1,600,724 responses; 273,821 hours
Charles A. Ellett, 395-5080.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Donald W. Barrowman—447-6202

Extensions

Food and Nutrition Service
State Outreach and Educational Activities, FSP FNS (FS) 732-6
Other (see SF-83) 41,916 responses; 287,316 hours
David P. Caywood, 395-6140

Food and Nutrition Service * Monthly Report of the School Lunch, Breakfast, and Special Milk Programs; and Worksheet
FNS-806
Monthly
Schools—Child Care Institutions, 30,000 responses; 15,000 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF ENERGY

Agency Clearance Officer—Albert H. Linden—566-9021

New Forms

* Electric Vehicle Survey
CS-94
Annually
Any Telephone Household in Con. U.S. and D.C., 1,000 Responses; 333 hours
Jefferson B. Hill, 395-5867

Use of Recovered Materials
CS-153
Single Time
Selected Major Energy Consuming Manufacturers 400 Responses; 30,000 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245-7488

New Forms

Public Health Service
Pilot Study for the Revised Health Interview Survey
Questionnaire
Single Time
Sample Households Representing the Civ. Noninst. Pop. of U.S., 5,225 Responses; 1,724 hours
Off. of Federal Statistical Policy and Standard, 673-7974

Public Health Service
Minimum Data set for the Health Facilities Component of the CHSS
Other (see SF-83)
Hospitals and other Health Facilities
Off. of Federal Statistical Policy and Standard, 673-7974

Public Health Service
Minimum Data set for Health Manpower Component of the CHSS
Other (see SF-83)
Medical Doctors and Members of Health Professions
Off. of Federal Statistical Policy and Standard, 673-7974

Extensions

Health Care Financing Administration (Medicare)
*Request for Hearing—Part B Medicare Claim
HCFA-1965
On Occasion
Persons Aged 65 or Older Elig. for PT. B Medicare Bene., 25,000 Responses; 6,250 hours
Ricahrd Eisinger, 395-3214

Public Health Service
Plans for the Second Health and Nutrition Examination Survey
HRA 1204
On Occasion 16,333 Responses; 27,767 hours
Off. of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

New Forms

Federal Highway Administration
Test Program for Driver's Log Alternatives
Single Time
Drivers of Interstate Motor Carriers of Prop. and Passengers 3,500 Responses; 583 hours
Susan B. Geiger, 395-5867

Extensions

Federal Highway Administration
Drivers Daily Log
MCS-59, 139, and 139A
On Occasion
Dri. of Interstate Motor Carriers of Prop. and Passengers
Susan B. Geiger 395-5867

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Sally E. Crocker— 634-6470

Extensions

Elementary-Secondary Staff Information (EEO-5)

EEOC 168 and 168B
Annually
Public School District and Schools
82,500 Responses; 412,500 hours
C. Louis Kincannon, 395–3772

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Agency Clearance Officer—Wallace Velander—755–3122

Extensions

*Evaluation of Uses Made of NASA Tech Brief Reports on Occasion
Industrial, Research and Educational Organizations 5,000 Responses; 1,250 hours
David P. Caywood, 395–6140

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—634–4070

Revisions

*Survey of Earned Doctorates in U.S.
Annually
All new PH.D.'s 33,000 Responses; 11,000 hours
Richard Sheppard 395–3211

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.
[FR Doc. 79–14629 Filed 5–9–79; 8:45 am]
BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Changes

May 3, 1979.

In the matter of Philadelphia Stock Exchange, Inc.

On October 30, 1978, the Philadelphia Stock Exchange, Inc. ("Phix") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of proposed rule changes which make modifications to the Phlx's rules relating to the implementation and operation of an Intermarket Trading System ("ITS"). The proposed rule changes would provide an alternative method of entering commitments to trade and responses in the ITS using a terminal operated by a Phlx employee, and limit the liability of the Phlx to its own members in the event of errors or omissions by the Phlx employee.

Notice of the proposed rule changes together with the terms of substance of the proposed rule changes was given by publication of a Commission Release (Securities Exchange Act Release No. 34–15506, January 18, 1979) and by publication in the **Federal Register** (44 FR 5232, January 25, 1979). All written statements with respect to the proposed rule changes between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Sections 6 and 11A, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 15773; SR–PHLX–78–22]
[FR Doc. 79–14593 Filed 5–9–79; 8:45 am]
BILLING CODE 8010–01–M

Profit-Sharing Plan of Hughes Hubbard & Reed; Filing of Application for an Order Pursuant to Section 3(a)(2) of the Securities Act of 1933 Exempting From the Provisions of Section 5 of the Act Interests or Participations

April 27, 1979.

In the Matter of PROFIT-SHARING PLAN OF HUGHES HUBBARD & REED, One Wall Street, New York, NY 10005.

Notice is hereby given that the law firm of Hughes Hubbard & Reed (hereafter referred to as "Applicant"), a New York partnership, on April 4, 1979 filed an application for an exemption from the registration requirements of the Securities Act of 1933 (the "Act"), for participations or interests issued in connection with its Profit-Sharing Plan (the "Plan"). All interested persons are referred to that document, which is on file with the Commission for the facts and representations contained therein, which are summarized below.

I. Introduction

The Plan was adopted as of October 11, 1968 for the benefit of the Applicant's employees and partners. In 1977, the Plan was amended (the "1977 amendment") to provide coverage only for the Applicant's partners and for those employees of the Applicant who were participants in the Plan at the time of the 1977 amendment. Additional amendments were made in 1978 and 1979. As a result of the 1977 amendment, no further contributions by the Applicant are being made to the accounts of non-partner employees in the Plan. These accounts will be distributed to them in accordance with the Plan.

Applicant states that since the Plan is of a type, commonly referred to as a "Keogh" plan, which covers persons (in this case Applicant's partners) who are "employees" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended (the "Code"), the exemption provided by Section 3(a)(2) of the Act is inapplicable to interests in the Plan, absent an order of exemption issued under Section 3(a)(2). In relevant part, Section 3(a)(2) provides that the Commission shall exempt from the provisions of Section 5 any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plan

Applicant states that the Plan has been maintained since its inception as a profit-sharing plan qualified under Section 401 of the Code. The Internal Revenue Service ("IRS") has issued a ruling to the effect that the Plan as amended, continues to be a qualified plan under Section 401(a) of the Code.

Each partner becomes a participant in the Plan as of the date he first becomes a partner of the Applicant. Any non-partner employee who was a participant in the Plan at the time of the 1977 amendment will remain a participant and have his account distributed to him in accordance with the Plan. As a result of the 1977 amendment, no further contributions by the Applicant are being made to the accounts of such employees in the Plan.

The Plan provides for the Applicant to make annual contributions to a trust fund in an amount equal to the lesser of (a) $7,500, or (b) 7½% of each partner's compensation. In addition, a participant may contribute up to 10% of his compensation, subject to certain limitations.

Applicant states that it exercises substantial administrative control in

connection with the Plan, which is administered by an Administration Committee consisting of four partners of the Applicant and an employee. The Applicant has retained full power to amend the Plan subject to the Code and to the Employee Retirement Income Security Act of 1974 ("ERISA"). Four partners of the Applicant serve as trustees under the Plan. All contributions are held by the trustees and invested, in accordance with general policy guidelines established by the Administration Committee, by an investment manager appointed by the Administration Committee. At present, the investment manager is J. & W. Seligman & Co. Although the trust instrument allows plan assets to be invested in any common, collective, or commingled trust fund, Applicant represents that the trustees have instructed the investment manager not to make any such investments and it further represents that it has no intention of requesting the investment manager to do otherwise in the future. Upon termination of service, a participant's interest may be distributed in a lump sum, used to purchase a single life or joint and survivor annuity or paid in such other manner as the Administration Committee may approve.

Applicant states that it is subject to the reporting and disclosure requirements of ERISA with respect to the Plan. Applicant states that it distributes to participants a "summary plan description" describing the Plan and distributes to participants and beneficiaries receiving benefits under the Plan a summary annual report relating to the Plan and makes available to such participants and beneficiaries, on request and at no charge, copies of reports submitted to the Department of Labor and the IRS, other basic documents relating to the Plan and a statement of such participant's or beneficiary' accrued and vested benefits under the Plan.

III. Discussion

Applicant contends that were it a corporation, rather than a partnership, interests or participations issued in connection with the Plan would be exempt from registration under Section 3(a)(2) of the Act, because no person who would be an "employee" within the meaning of Section 401(c)(1) of the Code would participate in the Plan. The Applicant argues that the mere fact that it conducts its business as a partnership rather than as a corporation should not result in a requirement that interests in the Plan be registered under the Act.

Applicant states that it is engaged in furnishing legal services of a type which necessarily involve financially sophisticated and complex matters and, for that reason as well as the extensive administrative control over the Plan maintained by the Applicant, is able to represent adequately its interests and the interests of participants in the Plan.

Applicant further argues that the characteristics of the Plan are essentially typical of those maintained by many single corporate employers and that the legislative history of the relevant language in Section 3(a)(2) of the Act does not suggest any intent on the part of Congress that interests issued in connection with single-employer Keogh plans necessarily should be registered under the Act. Rather, Congress excluded interests issued in connection with Keogh plans form the Section 3(a)(2) exemption primarily out of concern over interests or participations in commingled or collective Keogh funds which might be marketed by sponsoring financial institutions to self-employed persons unsophisticated in the securities field. The Applicant argues that its Plan is distinguishable from such funds, and that under the circumstances, granting the requested exemption would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 25, 1979, at 5:30 P.M., submit to the Commission in writing a request for a hearing on the application accompanied by a statement of the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed to Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) should be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following May 25, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notice or order issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 6064; 18-49]
[FR Doc. 79-14594 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01

Branscan, Ltd.; Order of Suspension of Trading

May 3, 1979.

In the matter of Trading in the Securities of Brascan Ltd.

It appearing to the Securities and Exchange Commission that there has been recent unusual activity in the securities of Brascan Ltd. and a resultant lack of disclosure to public investors about such activity, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Brascan Ltd.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:50 p.m. on May 3, 1979 through midnight May 12, 1979.

By the Commission.

George A. Fitzsimmons,
Secretary.

[File No. 500-1]
[FR Doc. 79-14636 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

Bullock Fund, Ltd. et al.; Filing of Application for Order Pursuant to Section 11(a) of the Act Permitting Offers of Exchange and Pursuant to Section 6(c) of the Act Granting Exemption From Section 229(d) of the Act

May 3, 1979.

In the Matter of BULLOCK FUND, LTD., BULLOCK TAX-FREE SHARES, INC., CANADIAN FUND, INC., DIVIDEND SHARES, INC., MONEY SHARES, INC., MONTHLY INCOME SHARES, INC., NATION-WIDE SECURITIES COMPANY, INC., and CALVIN BULLOCK, LTD. One Wall Street, New York, New York 10005.

Notice is hereby given that Bullock Fund, Ltd., Canadian Fund, Inc., Dividend Shares, Inc., Monthly Income Shares, Inc., and Nation-Wide Securities Company, Inc. (herein collectively referred to as the "Funds"), Bullock Tax-

Free Shares, Inc. ("Tax-Free"), and Money Shares, Inc. ("Money Shares"), each registered as a diversified, open-end, management investment company under the Investment Company Act of 1940 ("Act"), and Calvin Bullock, Ltd. ("Bullock"), principal underwriter for the Funds, Tax-Free and Money Shares (Bullock, the Funds, Tax-Free and Money Shares are collectively referred to as "Applicants"), filed an application on November 10, 1977, and amendments thereto on January 11, 1977, June 5, 1978 and January 18, 1979, for an order: (1) pursuant to Section 119(a) of the Act, permitting the Funds and Bullock to offer shares of the Funds in exchange for shares of Money Shares, which shares of Money Shares were acquired in exchange for shares of Tax-Free, on a basis other than their relative net asset values per share at the time of the exchange, and (2) pursuant to Section 6(c) of the Act, exempting such exchanges of shares of Money Shares from the provisions of Section 22(d) of the Act to the extent necessary to permit the proposed exchange offer. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Bullock maintains a continuous public offering of shares of the Funds and Tax-Free at their respective net asset values per share plus a sales charge, and that (i) shares of the Funds are offered to the public at their respective net asset values plus a sales charge which varies, in each case, from 8.50 percent of the offering price on purchases less than $10,000, to 1.00 percent of the offering price on purchases greater than $1 million, and (ii) shares of Tax-Free are offered to the public at net asset value plus a sales charge which varies from 4.75 percent of the offering price on purchases less than $100,000, to 1.00 percent of the offering price on purchases greater than $1 million. According to the application, Bullock maintains a continuous public offering of shares of Money Shares at net asset value, without the imposition of a sales charge.

Applicants state that: (i) shares of each of the Funds, including such shares acquired through reinvestment of dividends and capital gains distributions ("Fund Reinvestment Shares"), may be exchanged for shares of any of the other Funds, Tax-Free or Money Shares, in each case, on the basis of relative net asset values per share at the time of the exchange; (ii) shares of Tax-Free, including shares acquired through reinvestment of dividends and capital gains distributions ("Tax-Free Reinvestment Shares"), may be exchanged for shares of Money Shares or, in the case of Tax-Free shares acquired in exchange for Fund shares (including Fund Reinvestment Shares) or acquired as Tax-Free Reinvestment Shares, may be exchanged for shares of the Funds, in each case, on the basis of relative net asset values per share at the time of the exchange; (iii) shares of Money Shares acquired in exchange for Fund shares (including Fund Reinvestment Shares) or acquired through reinvestment of dividends and capital gains distributions on shares of Money Shares ("Money Shares Reinvestment Shares") may be exchanged for shares of the Funds or, in the case of shares acquired in exchange for the Tax-Free shares or acquired as Money Shares Reinvestment Shares, may be exchanged for shares of Tax-Free, in each case, on the basis of relative net asset values per share at the time of the exchange; and (iv) pursuant to an order of the Commission (Investment Company Act Release No. 9676, March 14, 1977), shares of Tax-Free acquired otherwise than in exchange for shares of the Funds or as Tax-Free Reinvestment Shares, may be exchanged for shares of any of the Funds on the basis of relative net asset values per share at the time of the exchange, plus a sales charge equal to the difference between the sales charge described in the prospectus of each of the Funds, less an amount equal to the sales charge originally paid on the purchase of the Tax-Free shares being exchanged.

Applicants further state that, in the case of each of the exchanges described above, (i) the shares being exchanged must have a net asset value of at least $500 or the minimum initial amount required for investment in one of the Funds, whichever is greater, and (ii) a service charge of $5.00 is deducted by Bullock to cover its clerical and other expenses.

Each of the Funds proposes to offer its shares to shareholders of Money Shares in exchange for shares of Money Shares which were acquired in exchange for Tax-Free shares, at their relative net asset values per share at the time of the exchange, plus the sales charge described in the prospectus of each of the Funds, less an amount equal to the sales charge previously paid upon the purchase of Tax-Free shares. Applicants state that, as a result, a shareholder acquiring shares of one of the Funds through any combination of exchanges or purchases of shares of Money Shares or of Tax-Free will pay the same overall sales charge as a proportion of net asset value (or of the public offering price) that would have been paid had such shareholder directly purchased shares of one of the Funds with the same net asset value. Applicants further state that, as in the case of the other offers of exchange described above, the shares being exchanged must have a net asset value of at least the greater of $500 or the minimum initial amount required for investment in one of the Funds, and a $5.00 service charge would be deducted by Bullock on each such exchange.

According to the application, the sales charges payable on the proposed exchanges will be received by Bullock as principal underwriter for the Funds, and a portion of such sales charges may be reallowed to dealers. Applicants assert that the maximum sales charge payable on an exchange would be 3¾% of the amount exchanged because that percentage is the maximum difference between the sales charge payable upon the purchase of shares of any of the Funds and the sales charge payable upon the purchase of Tax-Free shares.

Applicants state that in the event that a shareholder desires to exchange only a portion of his shares of Money Shares, those shares which may be exchanged on the basis of relative net asset values will be exchanged first, and the remaining shares to be exchanged will be selected from those shares which are entitled to be exchanged upon payment of the lowest additional sales charge.

Section 11(a) of the Act provides, in pertinent part, that it shall be unlawful for any registered open-end investment company or any principal underwriter for such company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange such security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the

issuer, except at a current public offering price described in the prospectus.

Applicants state that the exchanges they propose would be on a basis other than relative net asset values per share, because a shareholder would be required to pay a sales charge equal to the difference between the sales charge paid on purchases of Tax-Free shares and the sales charge imposed on purchases of shares of the Funds. Applicants further state that the sales charges described in the prospectuses of each of the Funds and Tax-Free differ from and may be greater than the sales charge which would be applicable under the proposed exchange offer.

Accordingly, Applicants request an order, pursuant to Section 11(a) of the Act, permitting the Funds and Bullock to offer shares of the Funds in exchange for shares of Money Shares, which shares were acquired in exchange for shares of Tax-Free, on a basis other than their relative net asset values per share at the time of the exahange, and pursuant to Section 6(c) of the Act, exempting such exchanges from the provisions of Section 22(d) of the Act to the extent necessary to permit the proposed exchanges.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act, or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that the proposed exchange offer is designed to permit a shareholder of Money Shares, whose shares were acquired as a result of an exchange of Tax-Free shares and who changes his investment objective, to change his investment to another investment company within the Bullock group without paying the full sales charge otherwise applicable. Applicants submit that the proposed exchange offer to such shareholders of Money Shares cannot be made on the basis of relative net asset values per share because that would inequitably benefit such a shareholder who would have paid substantially less sales charges on his intial investment than investors in the Funds who purchased shares of the Funds directly.

Applicants submit that if shares of the Funds could be acquired at net asset value in exchange for shares of Money Shares acquired as a result of an exchange of Tax-Free shares, the exchange would be in violation of Section 22(d) of the Act since an investor would be able to purchase shares of one of the Funds at a sales charge other than that described in its prospectus merely by exchanging shares of Tax-Free for shares of Money Shares and subsequently exchanging those shares at net asset value for shares of one of the Funds. Applicants further submit that (i) the proposed exchange offer is fair and equitable to shareholders of all the Funds, Tax-Free and Money Shares, and gives such shareholders flexibility in their financial planning, and (ii) and granting of the order requested would be appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 29, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 10681; 812–4221]
[FR Doc. 79–14637 Filed 5–9–79; 8:45 am]
BILLING CODE 8010–01–M

Columbia Gas System, Inc.; Proposed Issuance and Sale of Common Stock Pursuant to Dividend Reinvestment Plan

May 4, 1979.

In the matter of Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807.

Notice is hereby given that the Columbia Gas System, Inc. ("Columbia"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6 and 7 of the Act as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Columbia proposes to issue and sell, from time to time through August 15, 1981, up to 1,000,000 shares of its authorized, but unissued, common stock, par value $10 per share ("common stock"), pursuant to its Dividend Reinvestment Plan ("Plan"), and to have Columbia Gas System Service Corporation ("Service") assume the responsibility for acting as Agent for participating stockholders.

Since March 1971, Citibank N.A. (formerly First National City Bank), New York, New York, has been administering, as Agent, the Dividend Reinvestment Plan available to all Columbia common stockholders. Dividends and optional cash payments of participating stockholders have been reinvested through the purchase, by Citibank, of Columbia common stock in the open market. Pursuant to this Commission's authorization, dated February 1, 1977 (HCAR No. 19865), proxies were solicited and the stockholders subsequently approved a proposed Charter amendment excepting dividend reinvestment plans from stockholder preemptive rights. The approximately 15,600 stockholders participating in the plan acquired 127,674 shares of Columbia common stock in the calendar year 1978 through dividend reinvestment of $2,961,288 and optional cash payments of $599,423.

Columbia proposes to implement the decision to issue stock to the Plan. The shares will be issued at a price equal to the average closing price on the New York Stock Exchange Composite Tape for the twenty consecutive trading days immediately preceding the dividend payment and/or optional cash payment investment date. Only full shares will be issued. Due to the nature and terms of the transaction, the public invitation for

bids, required by Rule 50, is stated to be inappropriate and an exemption is requested.

Also, to facilitate administration, it is proposed that Service assume all recordkeeping responsibilities and act as Agent for stockholders participating in the Plan. To further facilitate administration, Chemical Bank, New York, New York, the New York Transfer Agent, will act as custodian and liquidating agent for the Plan. Chemical Bank will hold the stock certificates reflecting purchases by participants' dividends and optional cash payments and if a participant who wishes to withdraw from the Plan wishes to receive cash, Chemical will sell stock as instructed by Service.

The proposed issuance of common stock to the Plan will provide Columbia with an additional source of common equity capital. This will benefit Columbia to the extent that expected large expenditures for gas supply planned for the future will necessitate the raising of large amounts of capital, and the issuance of stock to the Plan will assist in maintaining the position of equity capital to debt capital required by Columbia's indentures.

The fees, commissions and expenses paid or to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 5, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the aboved-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary

[Rel. No. 21038; 70-6307]

[FR Doc 79-14638 Filed 5-9-79; 8:45 am]

BILLING CODE 8010-01-M

Consolidated Natural Gas Co.; Proposed Issuance and Sale of Common Stock in Connection With Dividend Reinvestment Plan and Employee Stock Ownership Plan

May 2, 1979.

In the matter of Consolidated Natural Gas Co., 30 Rockefeller Plaza, New York, New York 10020.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, has filed a declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transaction.

By order of March 1, 1976 (HCAR No. 19409), the Commission authorized Consolidated to solicit proxies to amend its Certificate of Incorporation, the effect of which amendment was to permit Consolidated to sell authorized and unissued shares of its common stock, free of preemptive rights to (a) an employee stock ownership plan ("ESOP") whereby Consolidated would be permitted by federal tax law to fund the plan by reducing its taxes in an amount equal to such funding and/or (b) a dividend reinvestment plan ("DRP") available to Consolidated's common stock holders. Following stockholder approval of the amendment, Consolidated sought and obtained by supplemental order of the Commission, dated July 19, 1976 (HCAR No. 19616) (also see HCAR No. 20502), authority to issue and sell up to 750,000 shares of its said common stock to the DRP and ESOP.

As of February 20, 1979, Consolidated realized in excess of $19,800,000 through the sale of its common stock to the DRP and ESOP. Taking into consideration administrative and other costs, the net amount realized through these vehicles is greater than what might have been gained through the public sale of a comparable number of shares through underwriters. Accordingly, Consolidated's Board of Directors has authorized continuance of the said plans and authorized, subject to the approval of this Commission, the issuance and sale of an additional 1,000,000 shares of Consolidated's common stock for such purpose. These shares, as were the original 750,000 shares, will be registered in accordance with the requirements of the Securities Act of 1933. The terms and conditions of the DRP are unchanged from those previously set forth in File No. 70-5799. The reasons for the institution of the DRP and ESOP and descriptions of them, including the means of determining the price per common share and other information, were also set forth in the amended Declaration in File No. 70-5799.

Consolidated now seeks authorization for the issuance and sale, from time to time through December 31, 1981, of a maximum of 1,000,000 shares of its common stock, $8 par value to the Agent for the common stockholders of Consolidated participating in the DRP and to the Trustees of the ESOP. At present, Consolidated has a total authorized capital stock of 24,500,000 shares, divided into 2,500,000 shares of preferred stock of the par value of $100 each, and 22,000,000 shares of common stock of the par value of $8 each. Of the preferred stock authorized, 500,000 shares are issued and outstanding, and 19,441,677 shares of common stock were held by 70,204 stockholders as of February 28, 1979.

The fees, expenses and commissions paid or to be incurred in connection with the proposed transaction are estimated to total $99,000, including printing fees of $10,000, accountants' fees of $9,000, geologists' fees of $7,500, agents' fees of $32,500, listing fees of $4,000, service charges performed by Consolidated Natural Gas Service Company, Inc., of $25,000 and miscellaneous expenses of $1,400. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the post-effective amendment which he desires to controvert; or he may request that he be

notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[Rel. No. 21029; 70-6306]

[FR Doc. 79-14639 Filed 5-9-79; 8:45 am]

BILLING CODE 8010-01-M

Middle South Utilities, Inc.; Proposal To Enter Into a Revolving Credit Agreement With Banks

May 2, 1979.

In the matter of Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Middle South proposes to enter into a $174.8 million revolving credit agreement ("credit agreement") providing for the issuance and sale by Middle South of its unsecured short-term promissory notes to a group of commercial banks headed by Manufacturers Hanover Trust Company ("MHTC").

Under the terms of the credit agreement, Middle South may borrow and reborrow until June 27, 1980 up to an aggregate principal amount of $174.8 million outstanding at any one time, to be evidenced by its unsecured promissory notes payable on June 27, 1980 ("notes"). The notes will be issued to the participating banks to the extent of their respective participations (collectively, the "commitments") as follows:

Name of bank	Maximum principal amount to be borrowed
Manufacturers Hanover Trust Company	$49,040,000
The First National Bank of Chicago	28,000,000
Bank of America National Trust and Savings Association	20,000,000
Continental Illinois National Bank and Trust Company of Chicago	16,000,000
The First National Bank of Boston	12,000,000
The Northern Trust Company	8,880,000
Irving Trust Company	8,880,000
Morgan Guaranty Trust Company of New York	8,000,000
North Carolina National Bank	8,000,000
First Pennsylvania Bank, N.A.	4,000,000
The Fidelity Bank	4,000,000
Crocker National Bank	4,000,000
Hartford National Bank and Trust Company	4,000,000
	174,800,000

Each borrowing and each payment by Middle South will be pro rata among the participating banks according to their respective original commitments, with appropriate adjustment for the interest rate differentials.

The notes issued will bear interest from the date thereof on their unpaid principal amount at a rate per annum equal to 110% of the commercial loan rate of MHTC from time to time in effect on borrowings having a 90-day maturity by its most responsible and substantial domestic corporate borrowers ("MHTC rates"). Interest on the notes will be payable quarterly on the last business day of each September, December, March and June, commencing September 28, 1979, or upon payment of the unpaid principal amount thereof.

Middle South will agree to pay to each participating bank a commitment fee for the period from June 29, 1979, to and including June 27, 1980 (or any earlier date of termination of the commitments) computed at the rate of ½ of 1% per annum on the average daily unused portion of the commitments in effect during the period for which payment is made. Such commitment fee will be payable to each participating bank quarterly on the last business day of each September, December, March and June, commencing September 28, 1979, and on the date upon which Middle South shall terminate the commitments.

Based upon an MHTC rate of 11¾% per annum, the effective interest cost of the proposed borrowings would be 12.93% per annum.

Middle South presently intends to repay the notes out of the proceeds of the sale of additional shares of its common stock. The notes will be prepayable at any time on two business days' notice in whole or in part without premium. Middle South shall have the right at any time on three business days' notice to the participating banks to terminate or, from time to time, to reduce the commitments, at which time it will prepay the notes and accrued interest thereon to the extent that the aggregate principal amount thereof then exceeds the commitments.

The initial borrowing under the credit agreement will be used for the payment of short-term notes issued by Middle South to MHTC and various commercial banks under an existing credit agreement dated as of June 29, 1978, which borrowings were approved by this Commission on June 15, 1978 (HCAR No. 20593). As of February 28, 1979, no notes were outstanding under the existing credit agreement, but it is estimated that at the time the initial borrowing is made under the credit agreement such notes payable will amount to approximately $110 million. The proceeds of the borrowings under the existing credit agreement were, or will have been, utilized by Middle South to purchase, at various times, the common stocks of certain of its subsidiary companies.

Subsequent borrowings under the credit agreement will be used by Middle South to purchase additional common stock of its subsidiaries. The issuance and acquisition of such common stock will be the subject of separate filings with this Commission by Middle South and the appropriate subsidiary, and these filings will set forth the purpose or purposes toward which the proceeds derived from the sale of such common stock will be used.

It is stated that no special or separate fees, commissions or expenses are anticipated in connection with the proposed transactions. It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 8, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such

request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit) or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rule 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21030; 70-6304]
[FR Doc 79-14640 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

Monongahela Power Co., et al.; Proposed Issuance and Sale of Short-Term Notes to Banks and to Commercial Paper Dealer and Request for Exception From Competitive Bidding

May 2, 1979.

In the Matter of Monongahela Power Company, 1310 Fairmont Avenue, Fairmont, West Virginia 26554; The Potomac Edison Company, Downsville Pike, Hagerstown, Maryland 21740; West Penn Power Company, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601.

Notice is hereby given that Monongahela Power Company ("Monongahela"), The Potomac Edison Company ("Potomac"), and West Penn Power Company ("West Penn"), each a wholly-owned electric utility subsidiary of Allegheny Power System, Inc. ("Allegheny"), a registered holding company, have filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Monongahela, Potomac, and West Penn (collectively, the "Companies"), propose to issue, reissue, sell and renew short-term notes to banks and commercial paper to provide short-term funds for the period July 1, 1979 through December 31, 1980. It is stated that the notes and commercial paper will be issued, reissued, sold and renewed from time to time as funds may be required prior to December 31, 1980, provided that no such notes or commercial paper will mature after April 1, 1981. Accordingly, the Companies hereby request that, from the date of the granting of the application filed in this matter to December 31, 1980, the exemption from the provisions of Section 6(a) of the Act afforded to each by the first sentence of Section 6(b) thereof be increased to the extent necessary to permit the issuance and sale of notes to banks and commercial paper to dealers in commercial paper in an aggregate amount not to exceed $58,000,000 in the case of Monongahela, $54,000,000 in the case of Potomac, and $92,000,000 in the case of West Penn.

The foregoing amounts, which in each case include any notes which may remain outstanding under the Commission's Order in File No. 70-6080 represent the maximum amount of notes for which authorization is presently sought in this Application. Changes may be made in the maximum amount of notes authorized to be outstanding after the filing of a post-effective amendment setting forth such changes and upon further order of this Commission.

As of March 31, 1979, Potomac and West Penn had short-term debt outstanding of $41,200,000 and $34,420,000, respectively; Monongahela had no short-term debt outstanding. It is stated that on July 1, 1979, Monongahela, Potomac and West Penn will be expected to have about $12,500,000, $49,000,000 and $76,000,000 of short-term debt outstanding, respectively, pursuant to this Commission's order in File No. 70-6080. No additional commercial paper or notes to banks can be issued after June 30, 1979, pursuant to this Commission's order in File No. 70-6080.

Each note payable to a bank will be dated as of the date of the borrowing which it evidences, will mature not more than two hundred-seventy (270) days after the date of issuance or renewal thereof, will bear interest at the prime or comparable interest rate of the bank from which the borrowing is made, in effect at the time of issuance, or in effect from time to time, and will be prepayable at any time without premium or penalty. The name or names of the banks from which such borrowings are proposed to be effected (maximum $275 million for all Companies outstanding at any one time) and the maximum aggregate principal amount of loans which may be outstanding from each such bank to any one or more of the Companies, including Allegheny Power System, Inc., are as follows:

Citibank, N.A.	65,000,000
The Chemical Bank	30,000,000
Mellon Bank, N.A.	70,000,000
Pittsburgh National Bank	17,500,000
Manufacturers Hanover Trust Co.	85,000,000
Irving Trust	5,000,000
Chase Manhattan Bank, N.A.	2,500,000
	275,000,000

No commitment or agreement has been made with respect to any of the approved borrowings. The maximum amount of such borrowings at any one time outstanding will not, when taken together with any commercial paper then outstanding, be in excess of $58 million in the case of Monongahela, $92 million in the case of West Penn, and $92 million in the case of Potomac, in each case including any notes or commercial paper which may be outstanding pursuant to the Order of the Commission in File No. 70-6080. Allegheny and the Companies have established lines of credit with such banks for short-term borrowing. Balances are maintained by one or more of the System companies at all of these banks to meet regular operating requirements as well as, when necessary, in connection with these lines of credit. It is stated that compensating cash balances requirements are generally either on the basis of a percentage of the line of credit extended by such bank (for example 10%), or a higher percentage of notes outstanding (for example 20%), whichever is greater, or a percentage of the line of credit (for example 10%) plus a percentage (for example 10%) of notes outstanding, in each case on an average annual basis. If such balances were maintained solely to fulfill compensating balance requirements for borrowings, the effective interest cost of issuing and selling the notes would be no more than 14.68% on the basis of a prime commercial credit rate of 11.75%.

Certain of the banks listed above have offered to substitute fees for, or to be used in conjunction with lower compensating balances than those set forth above. The fee arrangements vary. In some cases fees equal to a specific percentage of the prime commercial rate (for example 8½% of the prime commercial rate) are involved, while in another instance the arrangement provides that balances be maintained

equal to 5% of the line of credit with an additional fee of 2½% of prime payable, rather than more burdensome balance arrangements. The Companies would not utilize the fee arrangements unless the effective cost thereof is less than the compensating balance arrangement in effect at that bank at that time. The proposed fee arrangements produce an effective interest cost of issuing and selling the notes of between 13.35 and 14.05% on the basis of a prime commercial rate of 11.75% rather than the 14.68% effective cost resulting from meeting compensating balance requirements set forth above.

The commercial paper will be in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000, will be of varying maturities, with no maturity more than 270 days after the date of issue, and will not be prepayable prior to maturity. The commercial paper notes will be sold by each of the Companies directly to the dealer, at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and of the particular maturity sold by issuers to dealers in commercial paper. The dealer may reoffer the commercial paper at a discount rate of ⅛ of 1% per annum less than the discount rate to Monongahela, Potomac or West Penn. Monongahela, Potomac and West Penn may issue commercial paper notes if (1) the interest cost thereof is equal to or less than the effective interest cost at which such company could borrow the same amount from the banks named herein at that time or (2) such company cannot at that time borrow the same amount for the same period of time from the banks named herein. The dealer will reoffer the commercial paper notes to not more than 200 of its commercial and industrial customers, identified and designated in a list for each company (nonpublic) prepared in advance. It is expected that the commercial paper notes will be held by the dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others on said list. Exemption from the competitive bidding requirements of Rule 50 is requested for the proposed issuance and sale of commercial paper pursuant to paragraph (a)(5) thereof, since it is not practicable to invite competitive bids for commercial paper and current rates for commercial paper for prime borrowers such as the Companies are published daily in financial publications. The Companies also request authority to file certificates under Rule 24 with respect to the issuance and sale of commercial paper on a quarterly basis.

It is stated that the proceeds from the issuance and sale of the proposed short-term borrowings will be used by each of the Companies to reimburse its corporate treasury for past expenditures made in connection with its construction program, to pay part of the cost of future construction and for other corporate purposes. The estimated gross construction expenditures for 1979 and 1980 are estimated to aggregate $141 million in the case of Monongahela, $170 million in the case of Potomac, and $249 million in the case of West Penn. Unless otherwise authorized by this Commission, any short-term debt outstanding hereunder after December 31, 1980, will be retired by each of such Companies having such short-term debt outstanding not later than April 1, 1981, from internal cash resources of, or sale of permanent debt, preferred stock or common stock or such other securities as the Commission and other regulatory authorities having jurisdiction may authorize.

It is stated that the fees and expenses to be incurred by the Companies in connection with the proposed transaction are estimated to be approximately $32,400, including credit rating fees of $30,000. It is stated that, the State Corporation Commission of Virginia has jurisdiction over the issuance and sale by Potomac of the short-term debt. It is further stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 30, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any potponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21027; 70-6299]
[FR Doc. 79-14641 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

Northeast Utilities Co.; Filing of Post-Effective Amendment Regarding an Extension Until December 31, 1979, of the Authorization of the System Service Co.'s $3,000,000 of Bank Notes

May 2, 1979.

In the Matter of Northeast Utilities, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089 Northeast Utilities Service Company, the Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company.

Notice is hereby given that Northeast Utilities ("Northeast"), a registered holding company, and its above-named subsidiary companies have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 7, and 13(b) of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated July 30, 1969 (HCAR No. 16437), Northeast Utilities Service Company ("Service Company") was authorized to purchase and inventory all materials and supplies for the central warehouse for its own account as a wholesaler and subsequently resell and deliver such supplies and materials to the four associate operating companies, when requested by them, at Service Company's actual costs. To carry out this program Service Company was authorized to issue and sell 40-year ("Notes") to Northeast and Northeast was authorized to acquire such notes. By further orders dated June 1, 1973, May 28, 1976, and June 28, 1977 (HCAR Nos. 17976, 19547, and 20094), Service

Company was authorized to change its method of financing the central warehouse inventory by borrowing the funds up to $3,000,000 from a bank pursuant to a loan agreement, such borrowings to continue to June 1, 1979.

It is now proposed that Service Company continue the bank borrowings not to exceed $3,000,000 in the aggregate, as previously authorized, to December 31, 1979. The post-effective amendment states that, with the adoption by the Commission of the new Uniform System of Accounts for Mutual and Subsidiary Service Companies on February 2, 1979 (HCAR No. 20910), Service Company will no longer be permitted, after January 1, 1980, to purchase the central warehouse inventory for its own account and that, during the period from June 1, 1979, to December 31, 1979, the Northeast system companies will revise the method of financing the central warehouse inventory in order to conform to the new System of Accounts. On December 31, 1979, the inventory will be sold to The Connecticut Light and Power Company at cost and the bank borrowings will be repaid.

The post-effective amendment states that no fees or expenses will be incurred in conection with the proposed transactions and that no consent or approval of any state commission or federal commission, other than this Commission, is required in respect of the proposed transactions.

Notice is further given that any interested person may, not later than May 29, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment ot the application - declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attoryney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective in the manner provided by Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21028, 37-65]
FR Doc. 79-14842 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

Pennsylvania Electric Co.; Issuance and Sale of up to $50,000,000 Principal Amount of Additional First Mortgage Bonds and Request for Exemption From Competitive Bidding

In the Matter of Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907.

Notice is hereby given that Pennsylvania Electric Company ("Penelec"), an electric utility subsidiary of General Public Utilities Corporation ("GPU"), a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement concerning the proposed transaction.

Penelec proposes to issue and sell up to $50,000,000 principal amount of additional First Mortgage Bonds (the "New Bonds") to be issued under the Mortgage and Deed of Trust, dated as of January 1, 1942, of Penelec to Bankers Trust Company, Trustee, as heretofore supplemented and amended and as to be further supplemented and amended.

The New Bonds will contain a 5-year refunding limitation. Other terms of the New Bonds, including the interest rate, and the redemption terms, will be supplied by amendment.

The entire proceeds to be realized from the sale of the New Bonds, will be used to pay all or a portion of Penelec's short-term bank loans outstanding at the date of sale and to reimburse Penelec's treasury for funds previously expended therefrom.

Penelec requests an exemption from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5). It refers to the nuclear accident at Unit No. 2 of the Three Mile Island nuclear generating station ("TMI-2"), which accident occurred on March 28, 1979. Penelec owns an undivided 25% interest in TMI-2, the remainder being owned by Jersey Central Power & Light Company (25%) and Metropolitan Edison Company (50%), associate companies of Penelec. Expenditures for the clean up and repair of TMI-2 and the purchase of replacement energy will subject the GPU system including Penelec, to a serious cash drain for an indeterminable period. In view of these uncertain and exceptional conditions, Penelec believes that financing through the selling of additional securities at competitive bidding is not now feasible.

Penelec believes that it may be possible to effect such sales through private placement or a negotiated public offering, or both. Penelec proposes to explore with a group of prospective underwriters the prospects for such private or public offerings and, among other things, to obtain their recommendations for the sequence and size of such sales. It is hereby authorized to do so.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed transaction and that no other state commission, and no federal commission, other than this Commission, has jurisdiction thereover.

Notice is further given that any interested person may, not later than May 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulatons promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter,

including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21034; 70-6302]
[FR Doc. 79-14643 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

Temporary Investment Fund, Inc.; Filing of Application Pursuant to Section 6(c) of the Act for Order Granting Exemption From Section 18(g) of the Act

May 4, 1979.

In the Matter of Temporary Investment Fund, Inc., Suite 204, Webster Building, Concord Plaza, 3411 Silverside Road, Wilmington, Delaware 19810.

Notice is hereby given that Temporary Investment Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on January 8, 1979, and an amendment thereto on May 2, 1979, pursuant to Section 6(c) of the Act, for an order exempting Applicant's proposed dividend policy from the provisions of Section 18(g) of the Act, to the extent such proposed policy might be deemed to result in the creation of a "senior security," the issuance of which would be prohibited by Section 18(f)(1) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund designed as a vehicle for the short-term investment of funds held by banks and other institutions in a fiduciary, advisory, agency, custodial or similar capacity. According to the application, Applicant's investment objective is to seek current income and stability of principal through investment in a portfolio of money market instruments, including commercial paper, certificates of deposit, and government securities. Applicant states that as of January 2, 1979, it had net assets of $938,252,428, and that approximately 55% of its shares were owned by banks acting in a fiduciary or custodial capacity.

Applicant states that its net asset value per share presently is determined on each business day as of 12:00 Noon, E.S.T., and as of the close of trading on the New York Stock Exchange. Applicant further states that: (i) it includes unrealized gains and losses on portfolio securities in its net asset value per share; (ii) it uses its best efforts to maintain a constant net asset value of $1.00 per share; and (iii) pursuant to an exemptive order issued by the Commission (Investment Company Act Release No. 10451, October 26, 1978), it calculates net asset value per share to the nearest one cent on a share value of $1.00. According to the application, dividends presently are declared from net income each business day, immediately prior to the determination of net asset value as of 12:00 Noon, E.S.T., to shareholders of record as of the close of trading on the New York Stock Exchange the previous business day, and that as a result, shares are credited with their first dividends on the day after their purchase and with their last dividends on the day of their redemption.

Applicant proposes a new dividend policy whereby it would issue two classes of its shares, each with differing record dates for the purpose of declarations of dividends. Prospective shareholders wishing to be credited with their first dividend on the day after the purchase of shares and their last dividend on the day of redemption of shares would purchase Applicant's present class of common shares ("Class A shares"), and those shareholders wishing to be credited with their first dividend on the day they purchase shares and their last dividend on the day prior to redemption would purchase a newly authorized class of common shares ("Class B shares"). Applicant states that it would continue its present policy of declaring one dividend each business day from net income, but that under the proposed dividend policy dividend net income would be determined as of 4:00 p.m., E.S.T., immediately prior to the determination of net asset value. Applicant further states that, pursuant to a standing resolution of its board of directors, dividends would also be declared on weekends and holidays.

According to the application, dividends would be declared daily in an amount equal to net income, and in per share amounts determined by dividing net income by the sum of: (i) the number of Class A shares outstanding at the close of business on the preceding day (or at 5:00 p.m. on the preceding day, if such day is not a business day), and (ii) the number of Class B shares outstanding at the close of business on the day the dividend is declared (or at 5:00 p.m. of that day, if such day is not a business day), after all redemptions and sales of Class B shares are effected. Applicant states that each day's dividends would be payable *pro rata* to Class A shares held of record at the close of business on the day prior to the declaration, and to Class B shares held of record at the close of business on the day of declaration. Applicant further states that it will continue its present policy of computing its net asset value per share each day as of 12:00 Noon, and as of the close of trading on the New York Stock Exchange. By declaring dividends seven days each week, Applicant asserts that the first dividend declared to a purchaser of Class B shares on a business day preceded by a weekend or holiday would only reflect net income earned on the day the shares were purchased. According to the application, both classes of shares would have identical voting, dividend, liquidation and other rights, and shareholders of both classes would receive the same number of dividends, depending on the number of days they are shareholders.

The application states that the proposed dividend policy is designed to facilitate the sale of Applicant's shares to banks which do not utilize Applicant's sub-accounting services, some of which banks have found the timing of the dividends pursuant to Applicant's present dividend policy to be incompatible with the computer programs they utilize. Applicant states that such banks utilize computer programs designed to account for participations in variable amount master demand notes, which, unlike Applicant's shares, begin to earn interest on the day the participation is purchased and continue to earn interest until the day before the participation is sold. According to the application, such banks would have to reprogram their computers to account for Applicant's present dividends properly.

Section 18(g) of the Act, in pertinent part, defines the term "senior security" to include any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness, and any stock of a class having priority over any other class as to distribution of assets or payment of dividends. Section 18(f)(1) of the Act, generally, makes it unlawful for any registered open-end investment company to issue any class of senior security or to sell any senior security of which it is the issuer, except under certain circumstances not here relevant.

Applicant asserts that its proposed dividend policy will not result in the creation of a senior security because neither class of its shares would have

any priority over the other as to distribution of assets or payment of dividends: the respective rights of shareholders of each class would be identical and only the dates of entitlement to the first and last dividends would vary through the use of two record dates. However, Applicant requests an order, pursuant to Section 6(c) of the Act, to the extent that its proposed dividend policy might be deemed to result in the creation of a senior security within the meaning of Section 18(g) of the Act.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any of the provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemption is appropriate and in the public interest, that the proposed dividend policy will permit it to satisfy the accounting needs of bank trust departments investing in master note programs, and that such policy will not adversely affect the interests of any of its shareholders. Applicant states that: (i) shares of either class would be issued only after receipt of payment in federal funds or other funds immediately available to the transfer agent, and (ii) the participation of Class B shareholders in dividends declared on the day their shares are purchased will not affect the amount per share paid to other shareholders because Applicant has made arrangements which enable federal funds received from the sale of Class B shares to be invested on the date of receipt and the earnings thereon to be included in net income on that date. In addition, Applicant has agreed, as a condition to the requested order, that it will not reduce the amount of any dividend declared to its shareholders in order to maintain its net asset value per share at $1.00.

Notice is further given that any interested person may, not later than May 29, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,
Secretary.

[Rel. No. 10662; 812-4417]
[FR Doc. 79-14644 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Line of Succession to the Administrator

Correction

In FR Doc. 79-13647, appearing in the issue of Wednesday, May 2, 1979, on page 25717, in the middle column, the last document, the heading should be corrected to read as set forth above.

[Delegation of Authority No. 1-A (Rev. 7)]
BILLING CODE 1505-01-M

DEPARTMENT OF STATE

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), P.L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twenty-ninth meeting of the Board for International Food and Agricultural Development (BIFAD) on June 5, 1979.

The purpose of this meeting is to: receive and discuss the progress reports of the Joint Research Committee (JRC) and the Joint Committee for Agricultural Development (JCAD); discuss the status of the recommended Title XII University Strengthening Grants; discuss briefing on the President's Commission on Hunger; receive and discuss the Regional Work Groups' reports on Consultations with Countries/Missions; and discuss briefing on the Consultative Group for International Agricultural Research (CGIAR) meeting.

The meeting will begin at 9:00 a.m. and adjourn at 4:00 p.m.; and will be held in Room 1107, State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Director, Office of Title XII Cordination and University Relations, Development Support Bureau, A.I.D., is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: May 3, 1979.

Erven J. Long,
A.I.D. Advisory Committee Representative Board for International Food and Agricultural Development.

[FR Doc. 79-14561 Filed 5-9-79; 8:45 am]
BILLING CODE 4710-02-M

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The working group on standards of training and watchkeeping of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, May 30, 1979 in Room 6200 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting will be to:

Discuss the future work program of the IMCO Subcommittee on Standards of Training and Watchkeeping in preparation for the meeting of the Subcommittee commencing on July 9, 1979 in London, England.

Requests for further information should be directed to Captain D. E. Hand, U.S. Coast Guard (G-MVP/82), Washington, D.C. 20590, telephone (202) 426-1500.

The Chairman will entertain comments from the public as time permits.

Richard K. Bank,
Chairman, Shipping Coordinating Committee.

April 30, 1979.

[Public Notice CM-8/191]
[FR Doc. 79-14547 Filed 5-9-79; 8:45 am]
BILLING CODE 4710-01-M

Study Group 4 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 31, 1979, at 10:00 a.m. in Room 1408 of the Department of State, 2201 C Street, N.W., Washington, D.C. This Study Group deals with matters in telecommunications relating to the development of international digital data transmission services.

The agenda for the May 31 meeting will include consideration of the following:

1. Report on the April/May 1979 meeting of the CCITT Study Group VII Working Parties;
2. Consideration of submissions for the September 1979 meeting of the CCITT Study Group XVII Working Parties;
3. Any other business.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to May 31, members of the general public who plan to attend the meeting so advise Mr. T. de Haas, chairman of U.S. Study Group 4. Mr. de Haas can be contacted at the Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Boulder, Colorado 80303, telephone number (303) 499-1000, ext. 3728. Persons in the Washington, D.C. metropolitan area may contact Mr. Richard H. Howarth, Department of State, telephone number 632-1007. All non-Government attendees must use the C Street entrance to the building.

Dated: April 30, 1979.

Richard H. Howarth,
Chairman, U.S. CCITT National Committee.

[Public Notice CH-8/192]
[FR Doc. 79-14549 Filed 5-9-79; 8:45 am]
BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Informal Airspace Meeting

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

SUMMARY: This Notice announces an informal airspace meeting to be held at Niskayuna High School, 1626 Balltown Road, Schenectady, New York, on May 31, 1979, at 7:30 P.M. on the proposed designation of the Albany, New York, Terminal Control Area (TCA) Docket No. 18605-AEA-3-ALB.

This informal airspace meeting is to give interested persons a chance to submit such written data, views, arguments as they may desire to discuss the proposed designation of the Albany, N.Y. TCA. The information obtained from this informal airspace meeting will be given consideration during the composition of the Notice of Proposed Rule Making (NPRM). All interested individuals and groups are invited to attend, but limited to space available.

FOR FURTHER INFORMATION: Mr. Eugene Bryant, Chief, Albany Airport Traffic Control Tower (ATCT), Federal Aviation Administration, Albany, N.Y. 12211, Telephone: 518-869-5474. Office hours are 8:00 A.M. to 4:30 P.M. Monday through Friday.

Issued on: April 30, 1979.

Walter H. Mitchell,
Chief, Airspace and Procedures Branch.

[FR Doc. 79-14250 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 133—Airborne Weather and Ground Mapping Pulsed Radar; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 133 on Airborne Weather and Ground Mapping Pulsed Radars to be held May 30 through June 1, 1979, in RTCA Conference Room 261, 1717 H Street, NW, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Seventh Meeting held February 6 through 8, 1979; (3) Review of Revised Committee Terms of Reference; (4) Summary Reports from Working Group Chairmen; (5) Review of European Organization for Civil Aviation Electronics Working Group 3 Comments on RTCA Draft Report; (6) Working Groups Meet in Separate Sessions; (7) Assignment of Tasks; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW, Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on April 30, 1979.

Karl F. Bierach,
Designated Officer.

[FR Doc. 79-14249 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-13-M

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: May 30, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 4, 1979.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19114	Airline Training Center	14 CFR Part 141, Appendix D(3)(c).	To allow an additional pilot to be carried during more than 50 hours of the solo practice required by this section.
11773	Border Patrol	14 CFR 91.79(c)	Petitioner requested that Exemption No. 1533A be amended to allow flight altitudes down to 200 feet above persons vessels, vehicles or structures during in-flight identification, surveillance and pursuit operations consistent with the assigned mission of the Border Patrol.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
None	City of Vero Beach, Florida	14 CFR 139.65	To be exempt until June 30, 1979 from the requirements of Section 139.65 of the Federal Aviation Regulations which requires that certificated airports have appropriate safeguards against inadvertent entry of persons or large domestic animals onto any airport operations area. *Granted 4/25/79.*
18893	Overseas National Airways, Inc	14 CFR Sections 21, 181, 91.27, 91.29, and 91.165.	To permit Overseas National Airways Inc., to operate its DC–8 aircraft under Part 91 using the FAA-approved master minimum equipment list. *Granted 4/27/79.*

[Summary Notice No. PE–79–4]

[FR Doc. 79–14559 Filed 5–9–79; 8:45 am]

BILLING CODE 4910–13–M

Materials Transportation Bureau

United Nations Recommendations on the Transport of Dangerous Goods; Public Meeting

A public meeting will be held on June 14, 1979, at 9:30 a.m., in Room 3201 of the Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590. The purpose of this meeting will be to discuss the Report of the Tenth Session of the Committee of Experts on the Transport of Dangerous Goods. In addition, the results of the Twenty-Third Session of the Group of Rapporteurs will be given. Anticipated items of discussion by the Group of Rapporteurs and the Group of Experts on Explosives include:

1. Criteria for grouping of poisons by degree of hazard (inhalation toxicity).
2. Revision of UN list of pesticides.
3. Multimodal tank containers.
4. Permanent marking of reconditionable packagings.
5. Water resistance of fiberboard packagings.
6. Consignment procedures for dangerous goods shipments.
7. Proposals to amend the definitions of classes.
8. International Convention on the Transport of Dangerous Goods by all modes.

Interested persons are invited to attend and participate in this meeting.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79–14418 Filed 5–9–79; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Customs Service

American Manufacturer's Petition; Receipt of American Manufacturer's Petition Requesting the Reclassification of Plastic Netting

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: Customs has received a petition from an American manufacturer of plastic netting requesting the reclassification of similar imported merchandise as textile articles. Plastic netting produced in an extrusion machine process in one single continuous operation is currently precluded by Customs administrative rulings from classification as textile articles.

DATES: Interested parties may comment on this petition. Comments (preferably in triplicate) must be received on or before July 9, 1979.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Customs Service,

1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of plastic netting. This netting is described in the petitioner's submission as a continuously extruded plastic mesh having application in industrial and consumer packaging, and as the support medium for filtering systems such as blood dialysis machines. The petitioner contends that plastic netting of this kind is properly classifiable as nonwoven textile articles, presumably under the provision for other textile articles not specially provided for, of man-made fibers, in item 389.62, Tariff Schedules of the United States (TSUS). Imported merchandise of this kind is currently classifiable under the provision for film, strips, and sheets, all the foregoing which are flexible, not of cellulosic plastic materials, other, in item 771.42, TSUS, if the netting is flexible and over 15 inches in width and over 18 inches in length, and not processed (other than surface-processed), or in item 771.55, TSUS, if the netting is not flexible and meets those dimensional requirements or consists of seamless tubing made or cut into lengths measuring over 15 inches. See headnotes 1 (b) and (c), Schedule 7, Part 12, Subpart B, TSUS. If the plastic netting is made or cut into non-rectangular shapes, or measures not over 15 inches in width, or measures not over 18 inches in length, or is ground on the edges, drilled, milled, hemmed, or otherwise processed (except surface-processed), it is classifiable under the provision for articles not specially provided for, of rubber or plastics, other, in item 774.60, TSUS. See headnote 2(iv), Schedule 7, Part 12, Subpart B, TSUS.

On the basis that a textile article must be produced from previously formed filaments, Customs has precluded from classification as textile articles plastic netting which is produced in an extrusion machine process in one single continuous operation that forms the complete product.

Comments

Pursuant to section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments recived in response to this notice, will be available for public inspection in accordance with sections 103.8(b) and 175.21(b), Customs Regulations (19 CFR 103.8(b), 175.21(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Authority

This notice is published in accordance with section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

Dated: May 4, 1979.

Leonard Lehman,

Assistant Commissioner, Regulations and Rulings.

[521190]

[FR Doc. 79-14610 Filed 5-9-79; 8:45 am]

BILLING CODE 4810-22-M

American Manufacturer's Petition; Receipt of American Manufacturer's Petition To Reclassify Radio Remote Control Apparatus

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: Customs has received a petition from an American manufacturer of radio remote control apparatus requesting the reclassification of imported radio remote control apparatus designed to be used with toy and model airplanes, boats, tanks, and similar articles.

DATES: Interested persons may comment on this petition. Comments (preferably in triplicate) must be received on or before July 9, 1979.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Leon X. Ludwig, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of radio remote control apparatus. The petitioner contends that radio remote control apparatus which is imported separately, but which is designed for use with toy and model airplanes, boats, tanks, and similar articles, is properly classifiable under the provision for toys, and parts of toys, not specially provided for, other, in item 737.95, Tariff Schedules of the United States (TSUS). Radio remote control apparatus is specifically provided for in item 685.60, TSUS.

In support of its contention that the radio remote control apparatus in question is properly classifiable under item 737.95, TSUS, the petitioner alleges the following:

(1) The intent of Congress was to include only extremely sophisticated military and scientific radio remote control apparatus in the provision for radio remote control apparatus in item 685.60, TSUS; and

(2) Radio remote control apparatus which is used with toy and model airplanes, boats, tanks, and similar articles, are classifiable according to their chief use, i.e., toys for the amusement of children or adults.

Comments

Pursuant to section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with sections 103.8(b) and 175.21(b), Customs Regulations (19 CFR 103.8(b), 175.21(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Authority

This notice is published in accordance with section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

Dated: May 4, 1979.

Leonard Lehman,

Assistant Commissioner, Regulations and Rulings.

[057755]

[FR Doc. 79-14612 Filed 5-9-79; 8:45 am]

BILLING CODE 4810-22-M

Internal Revenue Service

Director of International Operations; Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The Director of International Operations has been added to the list of individuals who may approve premium pay for administratively uncontrollable overtime.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the Federal Register for Wednesday, May 24, 1978.

EFFECTIVE DATE: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Peter J. Keenan, 1111 Constitution Avenue NW., Room 3517, Washington, D.C. 20224, (202) 566-6240 (not toll free).

Donald R. Schumacher,
Staff Assistant to Assistant Commissioner (Compliance).

Premium Pay for Administratively Uncontrolled Overtime

Date of Issue: May 3, 1979.
Effective Date: May 3, 1979.

The authority delegated to the Commissioner of Internal Revenue in Chapter 550, Treasury Personnel Manual, to approve premium pay authorizations is hereby delegated as follows:

A. The Director, Personnel Division, is authorized to prescribe eligibility requirements for the payment of premium pay, and to resolve questions of application. This authority may not be redelegated.

B. The Assistant Commissioner (Inspection) is authorized to approve premium pay authorizations for Criminal Investigators under his/her jurisdiction in National Office and field positions who meet the eligibility requirements for premium pay. This authority may be redelegated by the Assistant Commissioner (Inspection) to the Director, Internal Security Division, and to the Regional Inspectors. This authority may not be redelegated by them.

C. The Director, Criminal Investigation Division is authorized to approve premium pay authorizations for Criminal Investigators under his/her jurisdiction (including Criminal Investigators detailed to the National Office) who meet the eligibility requirements for premium pay. This authority may not be redelegated.

D. The Director of International Operations is authorized to approve premium pay authorizations for Criminal Investigators under his/her jurisdiction who meet the eligibility requirements for premium pay. This authority may not be redelegated.

E. Regional Commissioners are authorized to approve premium pay authorizations for Criminal Investigators under their jurisdiction who meet the requirements for premium pay. This authority may be redelegated not lower than to the Chiefs of the Criminal Investigation Division in the district offices or the District Director in streamlined districts.

This Order supersedes Delegation Order No. 103 (Rev. 4), issued January 29, 1979.

William E. Williams,
Acting Commissioner.

[Delegation Order No. 103; Rev. 5]
[FR Doc. 79-14615 Filed 5-9-79; 8:45 am]
BILLING CODE 4830-01-M

Office of the Secretary

United States and Costa Rica To Discuss Income Tax Treaty

The Treasury Department today announced that representatives of the United States and Costa Rica will meet in San Jose in late May to begin preliminary discussions on an income tax treaty between the two countries. There currently is no income tax treaty between the United States and Costa Rica.

The proposed treaty is intended to prevent double taxation and to facilitate trade and investment between the two countries. It will be concerned with the taxation of income from business, investment and personal services, and with procedures for administering the provisions of the treaty.

The new treaty is expected to take into account the 1977 model income tax convention of the Organization for Economic Cooperation and Development, the May 17, 1977, United States model income tax convention, and recent treaties entered into by the United States.

The Treasury Department invites comments or suggestions concerning the forthcoming discussions to be in writing, and submitted, as soon as possible, to H. David Rosenbloom, International Tax Counsel, Room 3064, U.S. Treasury Department, Washington, D.C. 20220. Since the negotiations are likely to continue beyond the May meeting, even those comments received after that time will be considered.

Dated: May 4, 1979.

Donald C. Lubick,
Assistant Secretary (Tax Policy).
[FR Doc. 79-14552 Filed 5-9-79; 8:45 am]
BILLING CODE 4810-25-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

April 27, 1979.

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 98614 (Sub-6TA), filed March 16, 1979. Applicant: ARKANSAS TRANSPORT COMPANY, INC., 100 West Emily, North Little Rock, AR 72214. Representative: J. E. Siegler, P.O. Box 702, Little Rock, AR 72203. *Petroleum products* in bulk in tank trucks from North Little Rock, AR to Kennett and Clarkton, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thompson Oil Company of Tulsa, Inc., 912 Philtower Building, Tulsa, OK 74103. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 106674 (Sub-369TA), filed February 14, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson, (same as applicant). *Glass containers, caps, covers and related items,* from the facilities of Glass Containers Corporation at Knox (Clarion County), Marienville (Forest County) and Parker (Armstrong County) PA to Greenville, MS, for 180 days. Supporting shipper: Glass Containers Corporation, 114 Pennsylvania, Knox, PA 16233. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 East

Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 107515 (Sub-1219TA), filed March 7, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby & Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Bananas and agricultural commodities, otherwise exempt from regulations under 49 U.S.C. S10526(a)(6), in mixed loads with bananas* from Baltimore, MD to points in OH, MI, IN, IL, MO, MN, IA and Louisville, KY, for 180 days. Supporting Shipper(s): Chiquita Brands, Inc., 15 Mercedes Drive, Montvale, NJ 078645. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree, St., N.W., Rm. 300, Atlanta, GA 30309.

MC 115975 (Sub-35TA), filed March 30, 1979. Applicant: C. B. W. TRANSPORT SERVICES, INC., P.O. Box 48, Wood River, IL 62095. Representative: Ernest Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. Contract, irregular. Petroleum lubricating oil, in bulk, in tank vehicles, from the facilities of Mobil Oil Corporation at Beaumont, TX to Avondale, LA, under a continuing bilateral contract with Mobil Oil Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Mobil Oil Corporation, 8350 North Central Expressway, Dallas, TX 75206. Send protests to: Charles D. Little, D/S, Interstate Commerce Commission, Room 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 128024 (Sub-12TA), filed February 23, 1979. Applicant: MORGAN PORTABLE BUILDING TRANSPORT CORP., P.O. Box 4229, Irving, TX 75061. Representative: Hicks Morgan (Same address as above). Contract carrier, irregular routes, *Portable Buildings (except mobile homes) and component parts, materials, and supplies (except commodities in bulk) used in the construction and assembly of portable buildings* between points in the United States (including Alaska but excluding Hawaii). Restriction: The operations herein are limited to a transportation service to be performed under a continuing contract(s) with Morgan Portable Building Corporation, Morgan Building Systems, and Morgan Bldg. Corp., for 180 days. Underlying ETA for 90 days sought. Supporting Shipper(s): Morgan Building Systems, Inc., 10540 N. Central Expressway, Dallas, TX 75231. Morgan Building Corp., 10540 N. Central Expressway, Dallas, TX 75231. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 136545 (Sub-16TA), filed March 13, 1979. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad St., Prentice, WI 54556. Representative: Nancy Johnson, Rt. 1, Box 169C, Crandon, WI 54520. *Steel* from the facilities of Regal Tube Co. at or near Bedford Park, IL to Pepin and points in WI on and north of WI Hwy. 29 and points in MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Regal Tube Co., 7401 S. Lindner Ave., Chicago, IL 60639. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 138054 (Sub-33 TA), filed February 12, 1979. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Contract carrier-irregular routes: *Electric motors*, from Hayti, Kennett, Ava, and St. Louis, MO, and from Paragould and Rogers, AR, to points in AZ and CA, under continuing contract(s) with Emerson Electric Company, for 180 days. Supporting Shipper(s): Emerson Electric Company, 8100 W. Florissant, St. Louis, MO 63136. Send protests to: Mary Wehner, D/S, I.C.C., 731 Federal Bldg., Cleveland, OH 44199.

MC 138824 (Sub-21 TA), filed March 15, 1979. Applicant: REDWAY CARRIERS, INC., 5910 49th St., Kenosha, WI 53140. Representative: Paul J. Maton, 10 S. LaSalle ST., Suite 1620, Chicago, IL 60603. Contract carrier; irregular routes: *Food products, dry or liquid, in containers*, between the facilities of Alaga Whitfield Foods, Inc. in Montgomery, AL on the one hand, and, on the other, points in MO, WI, IL, IN, OH, KY, AR, KS, MN & TN, for 180 days. Supporting Shipper(s): Ocean Spray Cranberries, Inc., 7600 S. 60th Ave., Kenosha, WI 53140. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202

MC 138844 (Sub-15 TA), filed February 21, 1979. Applicant: D.C. TRANSPORT, INC., 916 South Riverside Ave., St. Clair, MI 48079. Representative: John W. Bryant, 900 Guardian Bldg., Detroit, MI 48226. *Fabrics, textiles, urethane foam, and laminations of such items*, from the facilities of Shawmut Corporation at or near Stoughton, MA, to the facilities of Inmont Corporation. at or near Port Huron, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Inmont Corporation, 1905 Beard St., Port Huron, MI 48060. Send protests to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 138844 (Sub-16 TA), filed February 21, 1979. Applicant: D.C. TRANSPORT, INC., 916 South Riverside Ave., St. Clair, MI 48079. Representative: John W. Bryant, 900 Guardian Bldg., Detroit, MI 48226. *Salt and salt products*, except in bulk, from the facilities of Diamond Crystal Salt Company at or near St. Clair, MI to points in NJ, NY and MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Diamond Crystal Salt Company, 916 S. Riverside Ave., St. Clair, MI 48079. Send protests to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 138875 (Sub-148 TA), filed March 26, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh, 11900 Franklin Road, Boise, Idaho 83705. *Chemical*, except in bulk, from Lawrence, KS to points in Idaho, Oregon and Washington, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Foremost-McKesson, Inc., Crocker Plaza, One Post Street, San Francisco, CA 94104. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 139334 (Sub-1TA), filed March 21, 1979. Applicant: R. J. GLASS, INC., P.O. Box 245, Newry, PA 16665. Representative: John E. Fullerton, 407 N. Front Street, Harrisburg, PA 17101. *Fused alumina*, in bulk, in tank vehicles, from Niagara Falls and Tonawanda, NY to Sproul, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): General Refractories Company, 50 Monument Road, Bala Cynwyd, PA 19004. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, Pittsburgh, PA 15222.

MC 139434 (Sub-10TA), filed March 2, 1979. Applicant: MID AMERICA EXPRESS, INC., P.O. Box 9, Nebraska City, NE 68401. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain

Center, Kansas City, MO 64141. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Armour Food Company at St. Joseph, MO to Memphis, TN and Clarksdale and Indianola, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): Forrest H. Butler, Armour Food Co., P.O. Box 459, St. Joseph MO 64504. Send protests to: Max Johnston, ICC, 285 Federal Building, 100 Centennial Mall North, Lincoln, NE 68508.

MC 140205 (Sub-7TA), filed February 27, 1979. Applicant: MOUW TRANSPORTATION, INC., 307 Maple Drive, Sibley, IA 51249. Representative: Samuel Rubenstein and David Rubenstein, 301 North Fifth St., Minneapolis, MN 55403. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk)* from the facilities utilized by John Morrell & Co., at or near Sioux Falls, SD; Estherville and Sioux City, IA; and Worthington, MN, to points in AZ, CA, and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): Curt Y. Hopkins, John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140265 (Sub-4TA), filed March 28, 1979. Applicant: LARRY E. HICKOX d.b.a., LARRY E. HICKOX TRUCKING, Box 95, Casey, IL 62420. Representative: Michael W. O'Hara, Attorney at Law, 300 Reisch Building, Springfield, Illinois 62701. Contract, Irregular—liquid cleaning compounds for the acount of State Chemical Manufacturing Co. (a) From Cleveland, OH to Torrance, CA, Atlanta, GA and Newark, NJ. (b) From Torrance, CA to Renton, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): State Chemical Manufacturing Co., 3100 Hamilton Ave., Cleveland, OH 44114. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, Room 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 140464 (Sub-6TA), filed March 6, 1979. Applicant: DX TRUCKING, INC., 5660 Southwyck Blvd., Toledo, OH 43614. Representative: Michael M. Briley, Attorney at Law, 300 Madison Ave., 12th Fl., Toledo, OH 43603. *(1) Steel wire nails; (2) plastic film or sheeting, other than cellulose; and (3) wallboard or building board, built-up or combined wood or plywood,* from River Grove, IL to Butler, IN; Detroit, Flint, Jackson, Kalamazoo, Lansing, Pontiac, Walled Lake, Ypsilanti, MI (and their respective commercial zones); and all points in the state of OH; for 180 days. An underlying ETA seeks 90 days authority. Common carrier—irregular routes. Supporting Shipper(s): Metropolitan Wholesale Supply Co., 2101 West St., River Grove, IL 60171. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 140475 (Sub-5TA), filed March 22, 1979. Applicant: HOLCOMB TRUCKING COMPANY, INC., 313 N. Campbell St., Holcomb, MO 63852. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102. *Fertilizer and fertilizer ingredients, dry,* from Memphis and Nashville, TN to MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): United States Steel Corporation, 600 Grant St., Pittsburgh, PA 15230. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 140484 (Sub-38TA), filed March 23, 1979. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Avenue, P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day, same address as applicant. *Foodstuffs* (except in bulk) in vehicles equipped with mechanical refrigeration from the facilities of Kraft, Inc. at Champaign, IL to points in the states of IN, MI and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW. 53rd Terrace, Miami, FL 33166.

MC 140615 (Sub-34TA), filed February 21, 1979. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrence D. Jones, 2033 K Street NW., Washington, D.C. 20006. *Canned Goods* from the facilities of Campbell Soup Company at Chicago, IL to WI, for 180 days. Supporting Shipper(s): Campbell Soup Company, 2550 West 35th Street, Chicago, IL 60632. Send protests to: Ronald A. Morken, District Supervisor, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 140665 (Sub-48TA), filed March 26, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, Missouri 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. *Automotive parts and accessories,* from Rogersville and Newport, MI to the facilities of the Ford Motor Company at Pico Rivera and Milpitas, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor Company, Rotunda Drive at Southfield, Dearborn, Michigan 48121. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 140665 (Sub-49TA), filed March 30, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, Missouri 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. *Roof coatings and cement, paint, petroleum oil and grease, rust preventing compounds, caulking compounds, and materials and supplies used in the marketing or distribution of the above commodities (except in bulk)* for 180 days. Supporting shipper(s): PARR, INC., 18400 Syracuse Avenue, Cleveland, OH 44110. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 140665 (Sub-50TA), filed March 26, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, Missouri 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266 *Automotive parts and accessories,* from Cleveland, Ohio and points in the Commercial Zone thereof to the facilities of the Ford Motor Company at Pico Rivera and Milpitas, California for 180 days. Supporting shipper(s): Ford Motor Company, Rotunda Drive at Southfield, Dearborn, Michigan 48121. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 140665 (Sub-51TA), filed March 26, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, Missouri 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. *Automotive parts and accessories,* from Ellicottville, East Syracuse, and Buffalo, New York to the facilities of the Ford Motor Company in Pico Rivera and Milpitas, California, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor company, Rotunda Drive at Southfield, Dearborn, Michigan 48121.

Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 140665 (Sub-52TA), filed March 1, 1979. Applicant: PRIME, INC., Rt. 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Such commodities as are used, dealt in, or distributed by retail and wholesale, department, hardware, drug, and food stores; and equipment, materials, and supplies, used in the conduct of the businesses described above (except in bulk),* from the warehouse and storage facilities utilized by The Drackett Company located at or near Dayton, OH and Nashville, TN to points in AZ, CA, ID, MN, NV, OR, UT, and WA for 180 days. An underlying ETA seeks 90 days. Supporting Shipper(s): The Drackett Company, 5020 Spring Grove Ave., Cincinnati, OH 45232. Send protests to: DS John V. Barry, 600 Fed. Bldg., 911 Walnut, Kansas City, MO 64106.

MC 140755 (Sub-63TA), filed March 19, 1979. Applicant: BRAY TRANSPORTS, INC., 1401 N. Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). *Lubricating oils,* from Coffeyville, KS, to Rockford, Rock Island, and Chicago, IL, and Burlington, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Petroleum Sources, Inc., P.O. Box 32246, Oklahoma City, OK 73123. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office and Court House Bldg., 215 NW. 3rd, Oklahoma City, OK 73102.

MC 140914 (Sub-4TA), filed February 28, 1979. Applicant: DOBSON TRUCKING, INC., P.O. Box 498, Dobson, NC 27017. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. *Cut granite products* from Mt. Airy, NC and points in its commercial zone, to points in and east of MN, IA, MO, AR and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): North Carolina Granite Corporation, Box 151, Quarry Rd., Mt. Airy, NC 27030. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 141205 (Sub-12TA), filed March 9, 1979. Applicant: HUSKY OIL TRANSPORTATION COMPANY, 600 South Cherry Street, Denver, CO 80222. Representative: F. Robert Reeder, P.O. Box 11898, Salt Lake City, UT 84147. Contract/irregular route, crude oil, scrubber oil and condensate from the Roughrider Oil Field near Dickinson, ND to the pipeline injection station on Portal Pipeline near Stanley, ND, Donkey Creek pipeline injection station near Gillette, WY, Butte pipeline injection station near Baker, MT and the Husky Oil Company refinery at Cheyenne, WY, for 180 days. An underlying 90 day ETA has been filed. Supporting Shipper(s): Husky Oil Company, 600 South Cherry Street, Denver, CO 80222. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 141684 (Sub-5TA), filed March 22, 1979. Applicant: COMMAND CARGO CORPORATION, 7950 E. Baltimore Street, Baltimore, MD 21224. Representative: Steven L. Weiman, Suite 145, 4 Professional DR, Gaithersburg, MD 20760. *General commodities (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities which because of size or weight require special equipment, commercial papers, documents and written instruments as are use in the business of banks and banking institutions, and stocks, bonds, securities and negotiable instruments),* between Baltimore, MD, on the one hand, and, on the other, points in VA, MD, DE, PA, WV and DC, for 180 days. *Restrictions:* (1) Restricted against the transportation of articles weighing in the aggregate more than three hundred and fifty pounds (350) from one consignor at one location to one consignee at one location, in any given day, and (2) Restricted against the transportation of tissue cultures and biological products to or from points in Howard, Frederick or Montgomery Counties, MD and DC and against the transportation of live laboratory animals. An underlying ETA seeks 90 days authority. Supporting shipper(s): James L. Shreeve, Spiegels, Regency Towers, Oak Brook, IL 60521. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 141764 (Sub–14TA), filed March 28, 1979. Applicant: BLACKHAWK ENTERPRISES, 3149 Depot Road, Hayward, CA 94545. Representative: William D. Taylor, Handler, Baker & Greene, PC, 100 Pine Street, Suite 2550, San Francisco, CA 94111, phone (415) 986–1414. *Contract carrier,* irregular routes: *film and sheeting,* other than cellulose, and chemicals when moving therewith, in temperature controlled equipment; and *paper cores and tubes,* for the account of Xidex Corporation, between Holyoke, MA, Greer and Hartsville, SC, Hopewell, VA, Sunnvale, CA, on the one hand and, on the other, New Orleans, LA under contract with Xidex Corporation, for 180 days. Supporting shipper(s): Xidex Corporation, 305 Soquel Way, Sunnyvale, CA 94080. Send protests to: A. J. Rodriguez, DS,. ICC, 211 Main Street, Suite 500, San Francisco, CA 94185.

MC 141774 (Sub–20TA), filed March 20, 1979. Applicant: R & L TRUCKING., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. (1) *Plastic bags, plastic can liners, plastic containers, plastic articles, plastic film, plastic sheeting, plastic drop cloths, and plastic tarpaulins,* from Lawrence County, TN to Florida, Georgia (on the south of U.S. Hwy 80), Alabama, Kentucky, Mississippi, Arkansas; and (2) *equipment, material, and supplies* used in the manufacture and/or distribution of commodities named in (1) above, from Florida, Georgia (on and south of U.S. Hwy 80), Alabama, Kenturcky, Mississippi, and Arkansas to Lawrence County, TN; (3) *plastic bags, plastic can liners, plastic containers and plastic articles,* from the facilities utilized by Bes-Pak & Company, Inc., at points in Montgomery County, AL to points in the states of North Carolina, South Carolina, and Indiana; and (4) *equipment, materials, and supplies* used in the manufacture and/or distribution of commodities named in (3) above, from points in North Carolina, South Carolina, and Indiana to the facilities utilized by Bes-Pak & Company, Inc., at points in Montgomery County, AL, for 180 days. Supporting shipper(s): Webster Industries, Inc., 58 Pulaski Street, Peabody, MA 01960. Send protest to: Mabel El Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 141804 (Sub-203TA), filed March 5, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, California 91761. Representative: Frederick J. Coffman, same address as applicant. *General commodities, except those of unusual value; Classes A and B explosives; household goods, as defined by the Commission; commodities in bulk; and commodities requiring special equipment,* from Nashville, Greenbier, Cookeville, Murfreasboro, and McMinnville, TN, to points in CA, OR, WA, CP, NV, AZ and ID, for 180 days. Restricted to traffic moving on bills of lading of Mid-South Shippers Association, Inc., An underlying ETA

seeks 90 days authority. Supporting shipper(s): Mid-South Shippers Association, Inc., 230 Willow Street, Nashville, TN 37210. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 141804 (Sub-204TA), filed March 7, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, same address as applicant. *Juice, canned goods and dried and processed fruit,* from Yuba City, CA to points in ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL and MS, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Diamond/Sunsweet, Inc., P.O. Box 1727, 1050 S. Diamond Street, Stockton, CA 95201. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 141804 (Sub-205TA), filed February 27, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, California 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. *Plastic articles,* from City of Industry, CA to points in and east of ND, SD, NE, KS, OK and TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): A & E Plastics, Division of A & E Plastik Pak, 14505 Proctor Avenue, Box 1268, Industry, CA 91749. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 142065 (Sub-12TA), filed March 27, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Processed meats* from Houston, TX to the facilities of Peter Eckrich and Sons, Inc., at or near Allen Township, Hillsdale County, MI, under a continuing contract or contracts with Peter Eckrich and Sons, Inc., for 180 days as a contract carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peter Eckrich & Sons, Inc., P.O. Box 388, Fort Wayne, IN 46805. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142364 (Sub-11TA), filed February 26, 1979. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don A. Smith, 510 North Greenwood, P.O. Box 43, Fort Smith, AR 72902. (1) *Aluminum and wood folding furniture and aluminum institution furniture,* from the facilities of Tucker Duck and Rubber Company at Fort Smith, AR to points in AL, AZ, CA, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OK, SC, SD, TN, TX, UT and WI; and (2) *materials, supplies and equipment* (except in bulk) used in the fabrication and manufacture of the articles named in (1) above, from points in the states named in (1) above to the facilities of Tucker Duck and Rubber Company at Fort Smith, AR, for 180 days, as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tucker Duck and Rubber Company, 2701 Kelley Highway, P.O. Box 4167, Fort Smith, AR 72914. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142364 (Sub-12TA), filed March 14, 1979. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Petroleum products* in packages from Maryland Heights, MO to points in AR, OK and TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pennzoil Company, P.O. Box 808, Oil City, PA 16301. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142364 (Sub-13TA), filed March 27, 1979. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Canned foodstuffs* from Alma, Fort Smith and Van Buren, AR to points in IL, IN, KY, MO, OH and TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allen Canning Company, P.O. Box 250, Siloam Springs, AR 72761. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142464 (Sub-5TA), filed February 15, 1979. Applicant: JOHN M. CHRISTOPHER, 3444 McCarty Lane, Lafayette, IN 47905. Representative: Brent F. Clary, 68 Lafayette Bank & Trust Bldg., Lafayette, IN 47902. *Contract carrier:* irregular routes: *Iron and steel articles,* between points in IN, IL, that portion of St. Louis Commercial Zone which is in MO, KY, MI—except the upper peninsula and OH, for 180 days. RESTRICTED to a transportation service performed under a continuing contract or contracts with Bethlehem Steel Corporation. Supporting shipper: Bethlehem Steel Corporation, Box 248, Chesterton, IN 46304. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 East Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 142485 (Sub-5TA), filed March 26, 1979. Applicant: KENDRICK MOVING AND STORAGE, INC., P.O. Box 209, Lebanon, OH 45036. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Restaurant equipment, materials, supplies and furnishings,* from the facilities of Ken Hedge, Inc., located at Moraine, OH, and in Clear Creek Township, Warren County, OH, to points in NY, WY, MI, ND, IL, KY, IN, FL, MS, TN, MO, PA, WA, CO, KS, AZ, AL, AR, MD and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ken Hedge, Inc., Douglas S. Smith, Vice President, 2691 Lance Dr., Dayton, OH 45409. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 63238, Philadelphia, PA 19106.

MC 142545 (Sub-1TA), filed February 6, 1979. Applicant: DICK TAZER TRUCKING, INC., 1635 N. W. Mall, Issaquah, WA 98005. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. *Contract carrier:* irregular routes: *Condensed milk,* from Gustine, CA to points in OR and WA for the account of Carnation Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 142715 (Sub-30TA), filed March 15, 1979. Applicant: LENERTZ, INC., 411 Northwestern National Bank Building, South St. Paul, MN 55101. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Containers* from Green Bay, WI to Minneapolis-St. Paul, MN Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midway Can Company, 2341 Hampden Avenue, St. Paul, MN 55114. Send protests to:

Delores A. Poe. TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401

MC 142715 (Sub-31TA), filed March 5, 1979. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: K.O. Petrick, same address as applicant. *Bakery products (except in bulk),* from Chicago, IL to Albert Lea, Minneapolis-St. Paul, MN and points in their commercial zones and Fargo, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Salerno-Megowen Biscuit Co., 7777 North Caldwell Avenue, Niles, IL 60648. Send protests to: Delores A. Poe. TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 142715 (Sub-32TA), filed March 5, 1979.Applicant: LENERTZ, INC. P.O. Box 141, South St. Paul, MN 55075. Representative: K. O. Petrick, same address as applicant. *Such commodities as are dealt in by wholesale or retail food and drugstore outlets (except commodities in bulk)* from Chicago, IL to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Procter and Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Delores A. Poe. TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 142715 (Sub-33TA), filed March 5, 1979. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: K. O. Petrick, same address as applicant. *Foodstuffs (except commodities in bulk)* from LaPorte, IN to points in IA, KS, MN, MO, NE, ND, SD, and WI, restricted to traffic originating at the facilities of American Home Foods, LaPorte, IN and destined to points in the named states for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Home Foods Division, American Home Products Corporation, 685 Third Avenue, New York, NY 10017. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 142765 (Sub-6TA), filed March 30, 1979. Applicant: AMERICAN TRANSPORTATION, INC., 797 Amity Road, Bethany, CT 06525. Representative: Mel P. Booker, Jr., Esq., 110 South Columbus Street, Alexandria, Virginia 22314. *Contract carrier:* irregular routes: Such commodities as are dealt in or used by door-to-door sales, catalogue sale and mail order houses (except commodities in bulk), from the facilities of Avon Products, Inc., at or near Rye, NY to points in NY, RI, MA, NH, VT and ME, restricted to a transportation service to be performed under a continuing contract(s) with Avon Products, Inc. of Rye, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Avon Products, Inc., Midland & Peck Avenue, Rye, New York 10580. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, N.J. 08608.

MC 142844 (Sub-4TA), filed March 21, 1979. Applicant: DON HAUSAUER, d.b.a. DON HAUSAUER TRUCKING, Route No. 5, Carufel Addition, Bismarck, ND 58501. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Contract carrier:* irregular routes: *Knocked down grain bins and steel buildings,* from Kansas City, MO and Galesburg, IL, to points in ND on and west of U.S. Hwy No. 281, restricted to a transportation service to be performed under a continuing contract or contracts with Dakota Building Systems, Inc., for 180 days. Supporting shipper(s): Dakota Building Systems, Inc., P.O. Box 1756, Bismarck, ND 58501. Send protests to: DS, ICC, Bureau of Operations, Room 268, Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 142844 (Sub-5TA), filed March 15, 1979. Applicant: DON HAUSAUER, d.b.a. DON HAUSAUER TRUCKING, Route No. 5, Carufel Addition, Bismarck, ND 58501. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Contract carrier:* irregular routes: *Lumber,* (1) from points in CA, WY, SD, and UT to points in MN, WI, ND, SD, NE, IA, MI, IL, and IL (2) from points in WA, OR, MT, and ID to points in ND, SD, NE, IA, IL, IN, and MI, and (3) from points in MN, WI, MI, IL, and IA to points in ND, SD, MN, WI, MT, ID, WA, OR, and MI, restricted to a transportation service to be performed under a continuing contract or contracts with Owens Forest Products, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens Forest Products, Inc., 2320 East First Street, Duluth, MN 55812. Send protests to: DS, ICC, Room 268, Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo ND 58102.

MC 142864 (Sub-11TA), filed March 9, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, Ohio 44646. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, Ohio 43215. *Containers, container ends and closures* from Leetsdale, PA to points in IL. Restricted to movements originating at the facilities of the Davies Can Co. division of Van Dorn Company, located at Leetsdale, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Davies Can Co., Division of Van Dorn Company, P.O. Box 6936, Cleveland, OH 44101. Send protests to: ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Rm 3238, Philadelphia, PA 19106.

MC 142864 (Sub-12TA), filed March 9, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, Ohio 44646. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, Ohio 43215. *Ice cream, ice products, milk products, yogurt and desserts, frozen and/or refrigerated,* (1) from Canton, OH, Pittsburgh, PA, and Fort Wayne, IN, to Worcester and Lunenburg, MA, Stratford, Hamden, Pollan, Hartford and Newington, CT, Johnston, RI, Woodbridge, NJ, Syracuse, Sodus, Holley, Wolcott, Buffalo and Rochester, NY, Baltimore, MD, and Detroit, MI; (2) from Pittsburgh, PA, to Dayton, Toledo, Akron, Canton, Cleveland, and Youngstown, OH; and (3) from Fort Wayne, IN to Cedar Rapids and Des Moines, IA, St. Louis and Cape Girardeau, MO, Pekin, IL, Louisville, KY, Lansing and Saginaw, MI, Milwaukee, WI, and Toledo, Dayton, Celina and Findlay, OH for 180 days. Restricted to movements originating at or destined to the facilities of Borden, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borden, Inc., 180 E. Broad Street, Columbus, Ohio. Send protests to: ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Rm 3238, Philadelphia, PA 19106.

MC 142864 (Sub-13TA), filed March 19, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, Ohio 44646. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, Ohio 43215. *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration from the facilities of Kraft, Inc., at Dunkirk, NY and Erie, PA to points in IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Rm 3238, Philadelphia, PA 19106.

MC 142905 (Sub-3TA), filed March 19, 1979. Applicant: PETROLEUM TRANSPORTATION CORPORATION, 9717 East 42nd Street, Tulsa, OK 74145. Representative: Thomas N. Willess, 1000 Sixteenth Street, Washington, DC 20036. *Anhydrous ammonia and liquid fertilizer,* from Hoag, NE, to points in

CO, KS, IA, MN, MO, OK, SD, & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Petroleum Company, 154 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 143154 (Sub-5TA), filed March 5, 1979. Applicant: ARTHUR E. PAMIN and STEVEN V. BIDLAKE d.b.a. A & S TRUCKING, P.O. Box 4017, Missoula, MT 59806. Representative: Charles A. Murray, Jr., Rm. 107, 2822 Third Avenue North, Billings, MT 59101. *Imported and domestic wine and ale* from points in WA, OR and CA to points in MT and ID; and from points in OR and CA to Pullman, Clarkston and Spokane, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 15 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143214 (Sub-4TA), filed March 6, 1979. Applicant: MATUSZKO FARMS TRUCKING, INC., 19 Ball Lane, North Amherst, MA 01059. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Contract carrier: irregular routes: *Fruits, berries, juices, fruit and berry products and supplies and materials* used in the manufacture, sale and distribution of juices and fruit and berry products, except commodities in bulk, between the facilities of The New England Apple Products Co., Inc., at or near Littleton, MA, on the one hand, and, on the other, points in the United States (except HI) under a continuing contract or contracts with The New England Apple Products Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The New England Apple Products Co., Inc., P.O. Box 425, Harwood Station, Littleton, MA 01360. Send protests to: David M. Miller, ICC, DS, 436 Dwight Street, Springfield, MA 01103.

MC 143775 (Sub-73TA), filed February 26, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, Arizona 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, Hagerstown, Maryland 21740. *Hair care toiletries and hair care accessories and equipment, materials and supplies and ingredients* used in packaging, manufacturing and distribution of toiletry equipment except in bulk in temperature controlled vehicles, from Stamford, CT and its commercial zone to Dallas, TX; Portland OR, LaMirada and Camarillo, CA, Chicago, IL, Atlanta, GA and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clairol, Inc., 1 Blachley Road, Stamford, Connecticut 06902. Send protests to: Thomas Klobas, Acting District Supervisor, 2020 Federal Building, 230 North First Avenue, Phoenix, Arizona 85025.

MC 143775 (Sub-74TA), filed February 26, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, Arizona 85301. Representative: Michael R. Burke, same as applicant. *General commodities on vehicles equipped with mechanical refrigeration (except classes A and B explosives, commodities in bulk, and commodities requiring special equipment),* between the facilities of Baltimore Shippers and Receivers Association, Inc., at or near Baltimore, MD, on the one hand, and, on the other, Los Angeles and San Francisco, CA; Portland OR; and Seattle, WA, including their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Baltimore Shippers & Receivers Association, Inc., 3601 Benson Avenue, Baltimore, MD 21227. Send protests to: Thomas Klobas, Acting District Supervisor, 2020 Federal Building, 230 North First Avenue, Phoenix, Arizona 85025.

MC 143775 (Sub-75TA), filed March 5, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, address same as applicant. *General commodities (except Classes A and B explosives, household goods, commodities in bulk, and commodities requiring the use of special equipment),* (1) Between Philadelphia, PA and its commercial zone on the one hand, and Marinette, WI on the other. (2) From Marinette, WI to New York, NY. Restricted to traffic moving on the bills of West Coast Shippers Assn., for 180 days. Supporting shipper(s): West Coast Shippers Assn., 200 S. 71st St., Philadelphia, PA 19142. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143775 (Sub-76TA), filed March 15, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, same address as applicant. *Adhesives; pastes; cleaning, preserving and sealing compounds; solvents; stains; plastic carpeting; molding and related supplies and equipment used in the installation, sale and distribution of floor and wall coverings,* from the facilities of Roberts Consolidated Industries at Kalamazoo, MI and Dayton, OH, to points in and east of ND, SD, NB, CO, OK and TX. Restricted to the use of vehicles equipped with mechanical refrigeration, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Roberts Consolidated Ind., 600 N. Baldwin Park Blvd. City of Industry, CA 91749. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143775 (Sub-77TA), filed March 16, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *General commodities in vehicles equipped with mechanical refrigeration (except Classes A and B explosives, commodities in bulk, household goods and commodities requiring special equipment),* between the facilities of Baltimore Shippers and Receivers Association, Inc. at or near Baltimore, MD on the one hand, and, on the other, Denver, CO and Houston and Dallas, TX and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Baltimore Shippers and Receivers Association, Inc., 3601 Benson Ave., Baltimore, MD 21227. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143775 (Sub-78TA), filed March 21, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, same as applicant. Toilet preparations, foodstuffs and chemicals (except in bulk) in vehicles equipped with mechanical refrigeration, between the facilities of Alberto Culver Co. in the state of IL, on the one hand, and, on the other, points in GA, MA, NV, NJ, and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alberto Culver Co., 2525 Armitage Ave., Melrose Park, IL 60160. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143775 (Sub-79TA), filed March 22, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, same address as applicant. *General commodities (except Classes A and B explosives, household goods, commodities in bulk and those requiring the use of special equipment),* from points in MA and VT to points in CA, CO, FL, GA, IL, IN, IA, KY, MI, MN, MO,

NB, OH, TX and WI, restricted to traffic originating at the facilities of or used by New England Shipping Association Co-operative for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: New England Shipping Association Co-operative, 1029 Peart St., Brockton, MA 02403. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143775 (Sub-80TA), filed March 27, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, same address as applicant. (1) Paint, varnish, thinners, solvents and shellacs and (2) materials and supplies used in the application, sale and distribution of (1) above, restricted to traffic originating at the facilities of Dutch Boy, Inc. and against shipments in bulk, from Vernon, CA and Baltimore, MD and their respective commercial zones, to Berkeley and Kansas City, MO, Plymouth, MN, Cheektowaga, NY, Middleburg Hts., OH, Chicago, IL and Dallas, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dutch Boy, Inc., 500 Central Ave., Northfield, IL 60093. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143995 (Sub-14TA), filed March 7, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 W. River Drive, Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract, irregular routes. *Bakery goods,* from Louisville, KY to points in Arkansas, Iowa, Illinois, Indiana, Minnesota, Ohio, and Tennessee, under continuing contract(s) with Ralston Purina Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 143995 (Sub-15TA), filed March 7, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 W. River Drive, Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract, irregular routes. *Such merchandise as is dealt in by wholesale, retail, and chain grocery and feed business houses,* between Clinton, IA, on the one hand, and, on the other, points in IL, under continuing contract(s) with Ralston Purina Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 144144 (Sub-3TA), filed March 21, 1979. Applicant: RAINS TRUCKING SERVICE, INC., P.O. Box 73, DuQuoin, IL 62832. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Contract, Irregular, Aluminum grill castings from Sheboygan, WI to DuQuoin, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Turco Manufacturing Corp., DuQuoin, IL 62832. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, Room 414 LeLand Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 146225 (Sub-1TA), filed February 20, 1979. Applicant: EMIL BECKER, d.b.a. BECKER TRUCKING COMPANY, Box 217, Newton Falls, OH 44444. Representative: Paul F. Beery, Esq., 275 East State Street, Columbus, OH 43215. *Scrap slag iron,* in dump vehicles, (1) from the facilities of I. R. Siegel & Associates at Cleveland, OH, to Kukon, Bolivar, and Monessen, PA; (2) from Midland and Aliquippa, PA, to Cleveland, OH; and (3) from Weirton and Wheeling, WV, to Cleveland, OH, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): I. R. Siegel & Associates, P.O. Box 18041, Cleveland Heights, OH 44120. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 146375 (Sub-TA), filed February 22, 1979. Applicant: MERCER INTERNATIONAL TRANSPORTATION MANAGEMENT & CONSULTING SERVICES, INC., 500 Alta Drive, Fort Worth, TX 76107. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. *Pipe, pipe fitting and machinery, equipment, tar, enamel, pipe line materials and supplies* incidental to, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of natural gas, petroleum, gasoline and other energy related pipelines including the stringing and picking up thereof between points in the U.S. (except HI) restricted to traffic ultimately moving to or from pipe line rights-of-way, for 180 days. Supporting shipper(s): There are approximately 11 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C. or copies may be examined in the Field office named below. Send protests to: Robert J. Kirspel, DS, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146415 (Sub-2TA), filed February 23, 1979. Applicant: FIRSTLINE TRANSPORTATION, INC., 3435 Wilshire Boulevard, Los Angeles, California 90010. Representative: Paul M. Daniell, 235 Peachtree Street, N.E., Suite 1200, Atlanta, GA 30303. *Contract:* irregular: *(1) Building, roofing, sheathing, and wrapping paper,* from Valdosta, GA, to Arlington, TX; Bloomington, CA; Boise, ID; Bourbon, IN; Champlain, NY; Charlotte, NC; Detroit, MI; Hillsboro, KS; Beaverton, OR; Denver, CO; Malakoff, TX; New Holland, PA; New Ulm, MN; Ocala, FL; Seattle, WA; Tuscumbia, AL; Elkhart, IN; Chicago, IL; Great Falls, MT; Sweetgrass, MT; and Marshfield, WI, and *(2) Kraft paper,* from Charleston, SC, to Valdosta, GA, for 180 days. Supporting shipper(s): Firstline Corporation, 3435 Wilshire Blvd., Los Angeles, CA 90010. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 146634 (Sub-TA), filed March 16, 1979. Applicant: EUGENE A. HELLMAN, 119 S. Rusk Ave., Sparta, WI 54656. Representative: James A. Spiegel, 6425 Odana Rd., Madison, WI 53719. Contract carrier; irregular routes; *Malt beverages* from the facilities of G. Heileman Brewing Co. at St. Paul, MN to Sparta, WI, restricted to the transportation to be performed under a continuing contract(s) with Hellman Dohma Distributors, Inc., Sparta, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hellman-Dohms Distributors, Inc., 119 S. Rusk Ave., Sparta, WI 54656. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 146715 (Sub-TA) filed March 30, 1979. Applicant: AUTO INN, INC., 240 North Broadway, Wichita, KS 67202. Representative: Ronald K. Badger, 350 R. H. Garvey Bldg., Wichita, KS 67202. *Wrecked, disabled, or repossessed vehicles and trailers for such wrecked or disabled vehicles, in wrecker service only;* restricted, however, against trailers designed to be drawn by passenger automobiles, mobile homes, buildings in sections traveling on their own or removable undercarriages, unless they are wrecked, for 180 days.

common, irregular. Supporting Shipper(s): Ryder Truck Rental-One-Way, Inc., 310 N. Handley, Wichita, KS. M. Bruenger & Co., Inc., 6250 N. Broadway, Wichita, KS. Send protests to: Saunders Leasing Systems, Inc., 3305 South West St., Wichita, KS. M. E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 146734 (Sub-TA), filed March 21, 1979. Applicant: BREITEN TRUCKING COMPANY (a division of Fred J. Breiten Company), 3155 W. Big Beaver Rd., Suite 11t, Troy, MI 48034. Representative: Frank J. Kerwin, 22725 Greater Mack Ave., P.O. Box 319, St. Clair Shores, MI 48080 *Lumber, pallets, posts, poles and ties, laminated wood products, wooden boxes and crates, chipboard and flake board, woodchips, sawdust, and wood waste material,* between points in AL, AR, GA, IL, IN, KY, MI, MS, MO, NY, NC, OH, PA, SC, TN, VA, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): "Their are (6) shippers. Their statements may be examined at the office listed below and Headquarters." Send Protests to: C. R. Flemming, DS. ICC 225 Federal Building, Lansing, MI 48933.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 73]
[FR Doc. 79-14485 Filed 5-9-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Transfer Proceedings

Dated: April 26, 1979.

Application filed for temporary authority under Section 11349 in connection with transfer application under Section 10926 and Transfer Rules, 49 CFR Part 1132.

MC-FC-77955, filed December 11, 1978. Transferee: ANTHONY D. FIAMINGO, doing business as FIAMINGO MOVING & STORAGE CO., R.R. 3, Box 678, Mansfield, PA 16933. Transferor: FRANK JAMES BROWN, JR., doing business as KLAVUHN TRANSFER, 203 Independence St., Cumberland, MD 21502. Representative: Thomas F. X. Foley, State Hwy 34, Colts Neck, NJ 07722. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate MC-108069, issued October 31, 1969, as follows: *Household goods* as defined by the Commission, between Cumberland, MD, and points in MD, PA, and WV, within 10 miles of Cumberland, on the one hand, and, on the other, points in MD, PA, WV, and DC. Transferee presently holds authority from this Commission under MC-126900. Application has not been filed for temporary authority under 49 U.S.C. § 11349.

MC-FC 78090. By application filed April 17, 1979, TRAFIK SERVICES, INC., 11 Newark Street, Providence, RI 02908, seeks temporary authority to transfer the operating rights of PROVIDENCE-SPRINGFIELD DESPATCH, INC., 540 Huntington Avenue, Providence, RI 02907, under section 210(b). The transfer to TRAFIK SERVICES, INC., of the operating rights of PROVIDENCE-SPRINGFIELD DESPATCH, INC., is presently pending.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 74]
[FR Doc. 79-14631 Filed 5-9-79; 8:45 am]
BILLING CODE 7035-01-M

Policy Statement on Financial and Statistical Reporting

The Commission is authorized by the Interstate Commerce Act to require annual, periodical, and special reports from carriers under its regulation and to prescribe the manner and form of such reports. To carry out this provision, the Interstate Commerce Act also authorizes the Commission to prescribe a uniform system of accounts for any class of carriers and to examine carriers' record.[1]

The information reported by these carriers is essential to many of the Commission's responsibilities including the regulation of rates, the valuation of transportation property, and the making of decisions on granting operating authorities, mergers, acquisitions, abandonments, and discontinuing services. To carry out these responsibilities, offices and bureaus of the Commission need financial and statistical information from carriers for various purposes.

Over the history of regulation, the Commission has accumulated an extensive and complex reporting system. Forty-five reports are filed with the Commission on an annual or periodic basis by carriers. Annual reports contining financial and operating statistical data are required from all carriers regulated by the Commission. Other reports specifying key items of interest to the Commission are required from certain classes of carriers on a monthly, quarterly, or semi-annual basis.

Recently, a Data Task Force of the Commission's staff made an extensive review of these reports in order to modify and improve the Commission's system for collecting, processing, and publishing information and to reduce whenever possible the paperwork burden imposed by our regulations on industry and the public. The task force determined that some data elements and reports are no longer needed and should be eliminated, while some others should be added to meet today's needs.

Based on the task force's findings, we have concluded that an overall improvement of the reporting system is necessary. Our objectives are to ensure that useful, timely, and accurate data will be collected to meet the Commission's regulatory needs and to reduce the paperwork burden upon carriers. To guide this improvement we have adopted the following policies:

(1) A basic report shall be required from all carriers regulated by the Commission. The basic report serves to identify carriers continuing in business. It will contain the following information:

(a) Name of the carrier,

(b) Address, telephone,

(c) Type of organization and mode of transportation,

(d) ICC identification number,

(e) Name of chief officer,

(f) Total revenues and total assets.

In instances in which we feel detailed information is needed in addition to data in the basic report, we plan to test the feasibility of using statistical sampling as a method of data acquisition to reduce further the paperwork burden on the carriers.

(2) Reporting requirements beyond that of the basic report shall be limited to meeting the Commission's current needs in performing regulatory functions including the compilation of essential transportation statistics and the execution of Federal laws.

(a) Periodical reports, annual or quarterly, will be required only for information needed by the Commission regularly and frequently.

(b) Information needed occasionally will be collected only when the specific needs arise.

(c) In doing certain studies, sampling methods will be used when appropriate.

(d) Standardization of report forms will be implemented whenever possible.

The Commission will ascertain, document, and review continuously the information needs of its bureaus and offices and will revise the reporting requirements according to the information needs.

(3) Information collected from carriers shall be made accessible to the public, except those contents that are considered confidential. In addition, a

[1] Sections 11141 through 11145 of Title 49, U.S.C.

review will be made of the need for data now collected that is considered to be confidential. Whenever possible, aggregate information of this confidential data will be made available to the public.

(4) Persons and organizations outside the Commission may need information concerning carriers beyond that collected and made public by the Commission. The Commission's reporting system does not purport to meet these additional needs.

(5) Classification of carriers in certain modes serves to collect essential information from carriers which make a major impact on the transportation industry while reducing reporting burden upon smaller carriers. The Commission will continue to use this device so long as it helps to achieve the above purpose. However, the Commission will improve or select an appropriate basis of classification so that consistency in classifying carriers can be maintained and frequent changes can be avoided.

(6) The Commission shall continue to prescribe a uniform system of accounts for certain classes of carriers to ensure that the reported data is prepared on a uniform basis.

(7) The Commission directs the Office of Policy and Analysis to assist the Commission in developing financial and statistical reporting policies consistent with this statement. This responsibility includes review of information needs and suggestions to improve the Commission's data base. The Bureau of Accounts is responsible for implementing the financial and statistical reporting policies.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-14632 Filed 5-9-79; 8:45 am]

BILLING CODE 7035-01-M

Adequacy of Railroad Revenue (1979 Determination)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of limited revenue adequacy proceeding.

SUMMARY: A proceeding will be conducted to make a current determination of the railroads' cost of capital.

DATES: Notices of intent to participate due, May 21, 1979; statements of railroads due, June 30, 1979; statements of other interested parties due, August 10, 1979; rebuttal statements of railroads due, August 31, 1979; Commission decision to be issued, October 31, 1979.

ADDRESSES: Send notices of intent to participate to: Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

Send other statements to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Janice M. Rosenak or Harvey Gobetz, (202) 275-7693.

SUPPLEMENTARY INFORMATION: Section 1109.25 of our regulations (49 CFR 1109.25) provides that the Commission shall conduct a yearly proceeding in which it makes specified findings concerning adequate revenue levels for the Nation's railroads.

The first such proceeding was instituted July 7, 1978, as Ex Parte No. 353, *Adequacy of Railroad Revenue (1978 Determination).* The Commission issued a decision December 5, 1978, in which it found the cost of capital for the Nation's railroads. Administrative appeals of this decision were considered in a decision issued March 27, 1979. The remaining issues in Ex Parte No. 353 are currently under consideration by the Commission.

Under our regulations, the time has arrived to announce the institution of the current year's revenue adequacy proceeding. We have concluded that this proceeding should be limited in scope.

As Congress provided in section 205 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act), the Commission is to "revise and maintain" its revenue adequacy standards and procedures as necessary. With the experience gained in Ex Parte No. 353, we believe that the Commission and the public will be in a position to review our initial revenue adequacy regulations and make meaningful improvements. Accordingly, at the conclusion of Ex Parte No. 353, it will be our intention to conduct a proceeding for further consideration of our revenue adequacy standards and procedures. Since that proceeding will be in progress during the latter part of 1979, no useful purpose would be served by undertaking a full-scale revenue adequacy determination during the same period.

Nonetheless, one aspect of our revenue adequacy proceedings should be repeated in 1979. Cost of capital findings are assuming an increasing importance in Commission proceedings, and it is desirable that the findings available for use in such proceedings be kept reasonable current. Accordingly, the Commission will conduct a limited new revenue adequacy proceeding in 1979 to receive current evidence on the cost of capital question.

The Nation's Class I railroads shall be respondents in the proceeding. The shall, and other interested parties may, submit such evidence as will enable the Commission to update the cost of capital findings of Ex Parte No. 353 in the light of current conditions in the capital markets.

Any person intending to participate in the proceeding shall, on or before May 21, 1979, file an original and one copy of a notice of intent to participate. Because the Commission desires to conserve time, to avoid unnecessary expense, and to limit the service of statements in this proceeding to persons who intend actively to participate, each notice of intent to participate shall include a detailed statement of (1) whether the person's interest extends merely to receiving Commission releases in this proceeding; (2) whether the person wishes to participate by filing and receiving statements, (3) whether, if the person desires to file statements, his interests can be consolidated with those of other persons by the filing of joint statements; and (4) any other pertinent information to aid in limiting the service list to be issued in this proceeding. The Commission will prepare and make available, to all persons submitting notices of intent to participate, a service list which will contain the names and addresses of all persons participating in this proceeding.

Evidentiary statements of the parties are due on or before the dates set forth in the preamble to this notice. An original and 15 copies (if possible) of each statement shall be filed with the Commission, and one copy shall be served upon each person on the service list.

Copies of this notice shall be available to the public at the office of the Secretary, and the notice shall be published in the **Federal Register.** A press release describing this matter shall be issued.

Issued at Washington, D.C., May 1, 1979.

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

H. G. Homme, Jr.,
Secretary.

[Ex Parte No. 363]

[FR Doc 79-14647 Filed 5-9-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 92
Thursday, May 10, 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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CIVIL AERONAUTICS BOARD.

Notice of addition of items to the May 10, 1979, meeting agenda.

TIME AND DATE: 10 a.m., May 10, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

33a. Docket 35119, Revision of proposed ceiling for Intra-Hawaii entity in Proposed Rule extending domestic passenger-fare policies to U.S. Mainland-Hawaii and Intra-Hawaii entities. (BPDA)

34a. Dockets 35360 and 35429, Applications of TIA and World for exemption. (BPDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Board must consider Item 33a so that it can be adopted in time for the public to submit comments therein along with other comments due May 29, 1979, in response to PSDR-57. TIA requests authority effective May 18, 1979, therefore, Item 34a should be added to the May 10, 1979 agenda so that the Board can act on it as soon as possible in order to provide one week's notice. Accordingly, the following Members have voted that agency business requires the addition of Items 33a and 34a to the May 10, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-935-79 Filed 5-8-79; 3:31 pm]

BILLING CODE 6320-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda*

TIME AND DATE: 10 a.m., Wednesday, May 9, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Part open, part closed.

MATTERS TO BE CONSIDERED:

A. Open to the Public

1. *Briefing on Amendments to Section 7 Regulations.* The staff will brief the Commission on draft proposed regulations which would reorganize and amend CPSC regulations for developing proposed safety standards. The revisions are based on recent amendments to the Consumer Product Safety Act.

2. *Briefing on Rules for Investigations.* The staff will brief the Commission on draft final rules for Investigations, Inspections and Inquiries under the Consumer Product Safety Act (also known as the Non-Adjudicative Rules).

3. *Hair Dryers/Asbestos: Status report.* The staff will present one of a series of regular reports on the status of actions it is taking to deal with possible hazards associated with asbestos in hand-held hair dryers. The last previous report was May 3.

B. Closed to the Public

4. *Selection of TAB Members.* The Commission will select members of its Toxicological Advisory Board (TAB), which Congress authorized in recent legislation to provide specific scientific and technical advice to the Commission regarding the labeling of hazardous substances. (Closed under exemption 6: possible invasion of personal privacy.)

5. *Aluminum Wiring.* The staff will present an update of a survey on aluminum wiring. (Closed under exemption 10: litigation).

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon Butts, Assistant Secretary, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone (202) 634-7700.

[S-924-79 Filed 5-8-79; 10:43 am]

BILLING CODE 6355-01-M

*Agenda approved May 1, 1979. Agenda amended May 3 to add items 3 and 5. In deciding to add these items, the Commission determined that agency business requires consideration of these items without seven days advance notice.

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CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

DATE AND TIME: 10 a.m., Wednesday, May 16, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Briefing on Small Parts Regulation.* The staff will brief the Commission on a draft final regulation classifying certain children's products as banned hazardous substances because they present unreasonable risks of injury due to the presence of accessible small parts. The Commission proposed this regulation in October, 1978.

2. *Briefing on Harzardous Protrusions: Children's Products.* The staff will brief the Commission on its recommendation that CPSC begin research on possible hazards associated with blunt protrusions on children's products. The Commission and staff previously discussed this matter during meetings on CPSC's Operating Plan.

3. *Briefing On Upholstered Furniture Flammability.* The staff will present an update on its evaluation of the Upholstered Furniture Action Council (UFAC) voluntary program to reduce the flammability of upholstered furniture.

4. *Briefing on Section 16 Recordkeeping Regulation.* The staff will brief the Commission on issues related to a final regulation which would require manufacturers, importers, private labelers and distributors of consumer products to maintain records of consumer product safety complaints. The Commission proposed the regulation in November, 1977.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone (202) 634-7700.

Agenda approved May 3, 1979.

[S-925-79 Filed 5-8-79; 10:43 am]

BILLING CODE 6355-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 17, 1979.

LOCATION: Third Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Coal- and Wood-Burning Stoves, Petition AP 77-2.* The Commission will consider a petition in which Adam Paul Banner of Midland, Michigan asks the Commission to issue a labeling rule for coal- and wood-burning appliances, stoves and free-standing fireplaces. The Commission previously considered the petition at a briefing March 14.

2. *Briefing on Hair Dryers/Asbestos: Status Report.* The staff will present one of a series of regular reports on the status of actions it is taking to deal with possible hazards associated with asbestos in hand-held hair dryers. The last previous report was May 9.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone (202) 634-7700.

Agenda approved May 3, 1979.

[S-926-79 Filed 5-8-79; 10:43 am]

BILLING CODE 6355-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 4:30 p.m., Wednesday, May 2, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Emergency closed meeting.

CHANGES IN THE MEETING: Additional item considered:

Internal Personnel Matter.

The prompt and orderly conduct of Commission business did not permit announcement of this meeting prior to the meeting.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: May 3, 1979.

[S-927-79 Filed 5-8-79; 10:46 am]

BILLING CODE 6712-01-M

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 11:45 a.m., Thursday, May 3, 1979.

PLACE: Room 856, 1919 M Street., N.W., Washington, D.C.

STATUS: Emergency closed Commission meeting.

MATTER TO BE CONSIDERED: Geoffrey Cowan FOIA Request—FOIA Control No. 9-81.

The prompt and orderly conduct of Commission business did not permit announcement of this meeting prior to the meeting.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: May 3, 1979.

[S-928-79 Filed 5-8-79; 10:46 am]

BILLING CODE 6712-01-M

7

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 10, 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

Complaints and Compliance—1—Renewal application of Sonderling Broadcasting Corporation for Radio Station WOL, Washington, D.C.

This meeting may be continued the following workday 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: May 3, 1979.

[S-929-79 Filed 5-8-79; 10:46 am]

BILLING CODE 6712-01-M

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m. Thursday, May 10, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Joint request for (1) approval of agreement, (2) authorization for reimbursement of expenses, and (3) grant of application and dismissal of competing application in the Berryville, Virginia, new FM broadcast proceeding (Docket Nos. 21185 and 21186).

General—1—Termination of Docket 21271.

General—2—Application for review of a ruling by the Chief, Common Carrier Bureau granting in part and denying in part an FOIA request by Ido E. Colantuoni for inspection of materials concerning a proposed General Telephone and Electronic Corporation merger (FOIA Control No. 9-16).

Private Radio—1—Application for review of action taken under delegated authority, submitted by Robert P. Milbert.

Private Radio—2—Petition for Review submitted by RE/MAX Suburban, Inc.

Common Carrier—1—Petitions for reconsideration of the Commission's Memorandum Opinion and Order filed by the Department of Defense and the Chesapeake and Potomac Telephone Companies.

Common Carrier—2—Petition for Reconsideration filed by the Department of Defense.

Cable Television—1—Notice of Proposed Rulemaking to adopt a short form renewal application for authorizations in the Cable Television Relay Service.

Renewal—1—Petition to deny filed by National Association for Better Broadcasting against the application of KCOP Television, Inc. for renewal of license for Station KCOP (TV), Los Angeles, California, and Informal objection filed by Twentieth Century-Fox Film Corporation against KCOP's renewal application.

Renewal—2—Renewal applications of Christian Broadcasting Association for Stations KAIM and KAIM-FM, Honolulu Hawaii, and Informal Objection filed by William E. H. Tagupa.

Renewal—3—License renewal applications for Station KJRB, Sponkane, Washington, KJR and KISW (FM), Seattle, Washington and KXL (AM) and FM, Portland, Oregon, all licensed to Kaye-Smith Enterprises; petition to deny KJRB's renewal and informal objections to the other renewal applications file by Vincent L. Hoffart; Hoffart's petition for reconsideration of the Commission's staff grant of renewal of Kaye-Smith's KISW (FM), Seattle, Washington; and application for assignment of license for KEZE-FM, Spokane, Washington from Bellevue Broadcasters to Kaye-Smith; and an application for assignment of license for KEZE (AM), Spokane, Washington, from Bellevue Broadcasters to the Great American Radio Corporation.

Renewal—4—Renewal application of KHVH, Inc. for Station KHVH, Honolulu, Hawaii, and Petition to Deny filed by William E. H. Tagupa.

Aural—1—Request for Special Temporary Authority filed by Pinellas Radio Corporation, licensee of AM Station WPLP, Pinellas Park, Florida.

Aural—2—Application for Subsidiary Communications Authorization filed by Street Broadcasing Corporation, licensee of Station WIZR-FM, Johnstown, New York (File No. BSCA-781211AV).

Aural—3—Application for construction permit filed by Golden State Broadcasting Corporation, KHYT, South Tucson, Arizona; and a petition for reconsideration and petition to deny and a petition for recision or in the alternative for stay, filed by Frederick G. Borcherdt and 37 additional parties and responsive pleadings.

Aural—4—Memorandum Opinion and Order amending Section 0.281(a)(1)(i) of the Commission's Rules regarding delegations of authority to the Chief, Broadcast Bureau.

Broadcast—1—The "one-to-a-markert" rule exception that provides for case-by-case handling of applications that involve UHF television stations. (Section 73.35(a)(1)

Note 8, Section 73.240(a)(1) Note 8, and Section 73.636(a)(1) Note 8)
Broadcast—2—Revision of Financial Standards for Television.

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: May 3, 1979.

[S–930–79 Filed 5–8–79; 10:46 am]

BILLING CODE 6712–01–M

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on Monday, May 7, 1979, the Corporation's Board of Directors voted, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), to withdraw the following item from the agenda for consideration at the meeting, on less than seven days' notice to the public:

Application of Wilshire Bank, Oklahoma City, Oklahoma, for Federal deposit insurance.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: May 7, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–937–79 Filed 5–8–79; 3:49 pm]

BILLING CODE 6714–01–M

10

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Monday, May 7, 1979, the Corporation's Board of Directors voted, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum proposing a new contract with Government Services, Inc., relating to the operation of the Corporation's cafeteria and dining room.

The Board then determined, on motion of Chairman Sprague, seconded by Director Heimann, that Corporation business required the addition of the following items to the agenda for consideration at the meeting, on less than seven days' notice to the public:

Memorandum and resolution proposing the final adoption of an amendment to Part 336 of the Corporation's rules and regulations, entitled "Employee Responsibilities and Conduct," to designate the Executive Secretary, rather than the Assistant to the Chairman, as the Corporation's Ethics Counselor.

Memorandum proposing the approval of an agreement between the Corporation and the Federal Savings and Loan Insurance Corporation in implementation of section 1205 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, regarding the conversion of mutual savings banks.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: May 7, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–936–79 Filed 5–8–79; 3:49 pm]

BILLING CODE 6714–01–M

11

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Pub. 5/7/79, 44 FR 26838).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 9, 1979, 10:00 a.m.

CHANGE IN MEETING: The following item has been added:

Item No., Docket No., and Company

M–8(A). Notice of Well Category Determinations (Section 103) by the Railroad Commission of Texas.
M–8(B). Notice of Well Category Determination by the State of New Mexico, Oil Conservation Commission, Oil Conservation Division.

Kenneth F. Plumb,

Secretary.

[S–933–79 Filed 5–8–79; 1:27 pm]

BILLING CODE 6740–02–M

12

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Pub. 5/7/79, 44 FR 26838).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 9, 1979, 10:00 a.m.

CHANGE IN MEETING: The following items have been added:

Item No., Docket No. and Company

CP–1. CP74–192, Florida Gas Transmission Company.
CP–2. CP79–214, Transcontinental Gas Pipe Line Corporation; CP79–221, National Fuel Gas Supply Corporation; CP79–260, Tennessee Gas Pipeline Corporation; CP79–275, Transcontinental Gas Pipe Line Corporation; CP79–278, Texas Eastern Transmission Corporation.

Kenneth F. Plumb,

Secretary.

[S–923–79 Filed 5–8–79; 9:35 am]

BILLING CODE 6740–02–M

13

FEDERAL MARITIME COMMISSION.

TIME AND DATE: May 15, 1979—10:00 a.m.

PLACE: Room 12126—1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Appeal of staff action in rejecting tariff matter of Marseilles North Atlantic U.S.A. Freight Conference.
2. Appeal of staff action in rejecting tariff matter of Atlantic and Gulf-Indonesia Conference.
3. Appeal of staff action in rejecting tariff matter of Eurobridge Lines.
4. A proposed revision of General Order 18 to require the filing with the Commission of certain cargo statistics.
5. General rate increase filed by Foss Alaska Line, Inc., between Seattle, Washington, and points in Western Alaska.

Portions To Be Closed to the Public

1. Docket No. 77–4: Agreements Nos. 9902–3, 9902–4, 9902–5 and 9902–6 (Modification of Euro-Pacific Joint Service Agreement Petition for reconsideration).
2. Docket No. 77–50: North Carolina State Ports Authority, et al. v. Dart Containerline Company, Ltd.—Consideration of the record.
3. Docket No. 76–11: In Re Agreements 150 DR–7 and 3103 DR–7—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–931–79 Filed 5–8–79; 8:45 am]

BILLING CODE 6730–01–M

14

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 p.m., Friday, May 11, 1979.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, N.W., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE CONSIDERED: Compliance program discussion.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, Telephone: (202) 275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-922-79 Filed 5-8-79; 9:35 am]

BILLING CODE 7035-01-M

15

LEGAL SERVICES CORPORATION (Committee on Appropriations and Audit).

TIME AND DATE: 10 a.m., Tuesday, May 15, 1979.

PLACE: 11th Floor Conference Room, Legal Services Corporation, 733 15th Street, N.W., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of agenda.
2. Approval of the minutes of the November 15, 1978 meeting.
3. Status of the fiscal year 1979 budget.
4. Status of the fiscal year 1980 budget request.
5. Budget procedures:
   a. Improvements in administrative budget preparation and management.
   b. Schedule for preparation of the fiscal year 1981 budget request to the Congress.
6. Status of the Financial Management Improvement Program.
7. Schedule for future meetings of the Committee.
8. Other business.

CONTACT PERSON FOR MORE INFORMATION: Peggy Bell, Office of the President, telephone (202) 376-5100.

Issued: May 8, 1979.

Alice Daniel,
Acting President.

[S-932-79 Filed 5-8-79; 1:10 pm]

BILLING CODE 6820-35-M

16

UNITED STATES PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Thursday, May 24, 1979, at 9:30 a.m.

PLACE: Room 828, 320 First Street, NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 15 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst (202) 724-3094.

[S-934-79 Filed 5-8-79; 3:06 pm]

BILLING CODE 4410-01-M

federal register

Thursday
May 10, 1979

Part II

Environmental Protection Agency

Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 53 and 58

Air Programs; Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This final rulemaking sets forth ambient air quality monitoring and data reporting regulations which were proposed on August 7, 1978 (43 FR 34892). This action revokes the requirements for air quality monitoring in Part 51 and establishes a new Part 58 entitled Ambient Air Quality Surveillance. These regulations satisfy the requirements of Section 110(a)(2)(C) of the Clean Air Act (Act) by requiring ambient air quality monitoring and data reporting for purposes of State Implementation Plans (SIP). Criteria to be followed when measuring air quality and provisions for daily air pollution index reporting are established in Part 58 as required by Section 319 of the Act. Part 58 also contains requirements for reporting to EPA certain data related to air pollution episodes so that the information can be included in EPA's annual report to Congress as required by Section 313, Additional Reports to Congress, of the Act. Requirements for public notification of information related to air quality standards violations are included in Part 51 in order to meet the requirements of Section 127, Public Notification, of the Act.

DATES: These regulations take effect upon promulgation.

FOR FURTHER INFORMATION CONTACT: William M. Cox, Monitoring and Data Analysis Division (MD–14), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, N.C. 27711, phone: Commercial—(919) 541–5312; FTS—629–5312.

SUPPLEMENTARY INFORMATION

Background

The preamble to the August 7, 1978, **Federal Register** proposal notice explained EPA's concern with the quality, completeness, and timeliness of air quality data collected at the State or local level. The monitoring regulations proposed at that time were designed to eliminate the problems associated with data currently being submitted. The regulations being promulgated today are, with the exception of changes made due to public comment, the same as those proposed. The changes made and the substantive comments received are summarized under the appropriate headings below.

History

In October 1975, the Standing Air Monitoring Work Group (SAMWG) was formed at the request of the Deputy Administrator of EPA. The request was made in response to recognition of deficiencies which existed in air quality monitoring and data reporting programs of State and local agencies. The purpose of SAMWG was to identify deficiencies and develop a program for correcting them. Accordingly, SAMWG was composed of representatives from EPA headquarters offices, EPA Regional Offices, and State and local air pollution control agencies.

In June 1977, the strategy document containing SAMWG's analysis and recommendations was published as: "Air Monitoring Strategy for State Implementation Plans," EPA–450/2–77–010, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, June 1977. Basically the recommendations called for optimization of monitoring networks and better controls on data collection and handling.

On August 7, 1977, the Clean Air Act was amended; one of the amendments being the addition of § 319 to the Act. This Section requires EPA to establish monitoring criteria to be followed uniformly across the nation. It also requires major urban areas to report a uniform daily index and provides that there be a national monitoring network to supplement but not duplicate monitoring for SIP purposes.

The recommendations of SAMWG and the § 319 requirements to a large extent overlap, especially in their intent, i.e., higher quality air monitoring data. The regulations proposed on August 7, 1978, therefore, addressed both SAMWG and § 319. EPA believes that the regulations being promulgated today will provide air monitoring data of acceptable quality; comparable data from all monitoring stations; optimum, cost-effective monitoring networks; and timely data submission for national assessment purposes.

General Discussion

It is apparent from reviewing the public comments on the proposal that some confusion exists with respect to the regulations. Several commenters misunderstood the concept of the monitoring network and the data reporting requirements as set forth in the regulations. It is therefore appropriate at this time to provide another explanation of the concept. EPA is revoking § 51.17 (40 CFR Part 51) which previously required SIPs to provide for monitoring air quality and is promulgating Part 58 which contains new SIP monitoring requirements. Under the new regulations a State will establish a network of monitoring stations to monitor pollutants for which National Ambient Air Quality Standards (NAAQS) have been established. This new network will actually be the existing network with appropriate modifications to conform to criteria contained in Part 58. The network will be designed such that stations are located in all areas where the State and the EPA Regional Office decide that monitoring is necessary. The stations in the network will be termed State and Local Air Monitoring Stations (SLAMS). The regulations do not specify how large the SLAMS network must be. The number and locations of the SLAMS will be jointly determined by the State and Regional Office as data needs dictate. The SIP will contain provisions for establishing and operating the SLAMS network. The data from the network will be condensed and reported annually to EPA in a summary report. The data from which the report is generated will be available to EPA upon request if more detailed data are required for some purpose. States may, however, wish to store the data in the EPA National Air Data Bank (NADB) if facilities are not available otherwise. Using the NADB for full data storage will not relieve the State of the responsibility of seeing that a summary report is submitted each year.

It is anticipated that in most instances the new SLAMS network will be smaller than existing networks. Certain stations that are in areas with air quality consistently better than the NAAQS are, in general, unnecessary. Such stations can be eliminated. The majority of stations that will be eliminated from existing networks in order to form the SLAMS network will likely be high-volume (Hi-vol) samplers for particulate matter and SO_2 bubblers. The stations remaining in operation, relocated stations, or new stations will then all be termed SLAMS and make up the SLAMS network for purposes of the SIP. If the State wishes to continue to operate any station or establish a new station which is not a SLAMS, it may do so. The station will not be considered a SLAMS and will not be subject to any requirements including data reporting. These additional stations will be termed Special Purpose Monitoring (SPM) stations. If, however, the State wishes to

use data from an SPM station as support for a SIP revision or control strategy demonstration, then the requirements applicable to SLAMS, other than reporting, must be met in order that the data be of acceptable quality and comparability. The SPM stations could be used, among other things, to do special research studies, to monitor around a point source for a short period, to determine if a specific area may need a permanent SLAMS, or to monitor for pollutants for which NAAQS have not been established.

Stations used to determine the impact of a source for purposes of Prevention of Significant Deterioration (PSD) would not be part of the SLAMS network nor would they be considered SPM stations. PSD stations, in general, would be operated only for periods of up to a year and would be operated by the source owner or operator although a SLAMS could also serve as a PSD station. In order that the PSD data be of acceptable quality and comparable to SLAMS data, quality assurance requirements for PSD stations are included in Part 58.

The fourth type of station covered by the regulations is the National Air Monitoring Station (NAMS). The regulations do not require establishing a separate network of NAMS. The NAMS will be stations selected from the SLAMS network. These stations will also continue to be SLAMS and will be subject to all SLAMS requirements, including the annual summary report. The only distinguishing characteristics of NAMS will be:

1. Only continuous instruments will be used to monitor gaseous pollutants.

2. The regulations specify a minimum number of NAMS and locations for them.

3. Data from NAMS, in addition to being included in the annual SLAMS summary report, will be reported quarterly to EPA.

The NAMS concept is being established in order to provide timely data to EPA from a national network for national data analysis. The amount of data that will be reported quarterly to EPA will be considerably less than that required in 40 CFR 51.7, Reports, which is being revoked. The concept of the NAMS addresses the requirements of § 319 of the Act to establish a national network. It is inconceivable that monitoring would be required in any area for national analysis but not for SIP purposes. Any area where a NAMS is needed, therefore, would be an area which should be covered by a SLAMS. In order to avoid duplication of effort, the NAMS will simply be a subset of the SLAMS instead of a separate network measuring air quality in areas already being measured by SLAMS.

A most important point to understand is that, while there are minimum numbers of NAMS that must be established, these minimum numbers are not a minimum for the SLAMS network. There is no minimum or maximum size for the SLAMS network. The size of the SLAMS network is to be determined based on characteristics of any one area or State such as meteorology, geography, population, and emission density. The NAMS will typically be those SLAMS which represent locations such as those having high pollutant concentrations, high population exposure, or a combination of both. The NAMS are being established only for the purpose of providing EPA with timely data from the more important stations across the nation. EPA does not believe that the small number of NAMS will be adequate to meet all of the SIP monitoring objectives. It is anticipated that the number of NAMS will only be from 10% to 40% of the total number of SLAMS.

The final point to be made with respect to this subject is that EPA's use of air quality data will not be limited to NAMS. Important judgments or decisions will be based on all data available which will include SLAMS data.

In summary, there will be only one monitoring network; the SLAMS network. Any additional monitoring the State wishes to do will be SPM monitoring subject to no requirements unless used for SIP purposes. Source owners or operators will operate PSD stations, from which the data will be periodically reported to the permit granting authority. A certain number of select stations from the SLAMS network will also be termed NAMS, the data from which will be subject to an additional reporting requirement.

Reorganization of Part 51

In an effort to make Part 51 more readable and understandable, EPA is reorganizing and expanding the format of the regulations. The restructured regulations will contain numerous subparts containing material formerly organized as sections. More headings will be used and the reader will be able to more readily find appropriate requirements. Regulations being promulgated today in Subparts J, O, and Q of Part 51 are in the new format. Subsequent to this promulgation, other sections of Part 51 will be rewritten and reorganized utilizing the new format.

Ambient Monitoring for Lead

The preamble to the proposal of these monitoring regulations on August 7, 1978, stated that the regulations requiring ambient lead monitoring (43 FR 46264) would be incorporated into Part 58 in this promulgation. Those lead monitoring regulations which were promulgated October 5, 1978, in § 51.17(b) of Part 51 required the plan to provide for establishing lead monitoring stations; specified an operation schedule of one 24-hour sample every six days; required that a description of the monitoring system be available; specified a two-year time limit on station establishment; and reference a guideline, *Supplementary Guideline for Lead Implementation Plans*, which contained additional information on monitor siting. The lead monitoring regulations were promulgated simulataneously with the lead NAAQS.

At the time of promulgation of the lead regulations, quality assuranace criteria had not been developed for lead. Rather than incorporate the § 51.17(b) regulations alone into Part 58 in today's promulgation, EPA will propose and promulgate in Part 58 all the lead regulations in one action which will include the § 51.17(b) monitoring regulations, the siting criteria from the lead guideline, and quality assurance criteria for lead which is under development.

Accompanying the October 5, 1978, promulgation of the lead regulations and lead NAAQS was an Advance Notice of Proposed Rulemaking (ANPR) concerning ambient lead monitoring around primary and secondary lead smelters and primary copper smelters. The notice indicated that EPA was considering regulations to require such point source monitoring in order to determine if the sources were causing violations of the lead NAAQS and whether additional or alternative control strategies would therefore be necessary. The notice also indicated that a guideline would be developed covering the number of necessary monitoring stations and siting parameters for monitoring around point sources. Two quidelines have been prepared—one for short-term monitoring to obtain ambient lead air quality data essential for the development of a lead control strategy *(Guideline for Short-Term Lead Monitoring in the Vicinity of Point Sources);* the other for longer term monitoring in order to determine if point sources will cause NAAQS violations after the attainment date and to estimate the contribution of fugitive emissions to such violations *(Guideline*

for Lead Monitoring in the Vicinity of Point Sources).

EPA has reevaluated the need for specific regulations for lead monitoring around point sources and concludes that monitoring point sources to determine NAAQS violations is an objective of the SLAMS network. In designing a lead SLAMS network, the States and Regional Offices should follow the long-term guideline *(Guideline for Lead Monitoring in the Vicinity of Point Sources)* in order to assure that emissions from the point sources are adequately monitored. An alternative would be for the State to require the point source to conduct the monitoring and report the date to the State. The data could then be used for control strategy purposes provided they were collected in accordance with the long-term point source guideline.

Until such time as the lead monitoring regulations, siting criteria, and quality assurance requirements are incorporated into Part 58, States would be expected to follow the siting and quality assurance criteria in the long-term point source monitoring guideline.

Public Comments

The object of **Federal Register** proposals is to allow comments on new regulations prior to their promulgation thereby providing an opportunity for the public to participate in rulemaking. The bulk of the regulations proposed August 7, 1978, were new regulations; however, some of the regulatory material was simply being recodified. The content or meaning of the recodified regulations was not changed; the requirements were simply restructured and placed in new sections or appendices. Eventually all of 40 CFR Part 51 will be restructured in an effort to make Part 51 more readable and easier to use. The recodification taking place in these regulations is one of the first steps toward the Part 51 restructuring.

Even though the proposal preamble specified which regulations were not being changed, other than being restructured, EPA received public comments on some of those unchanged regulations. The comments on the unchanged regulations will be noted in this preamble but EPA will not entertain suggestions for changing these regulations at this time since the object of the proposal was not to repropose the regulatory content. The comments may be used in the future to determine the need for reproposing and updating the regulations.

EPA received forty-six written comment letters on the proposal of August 7, 1978. The origin of the letters is as follows:

Federal Agencies	1
Private Citizens	1
Industry	15
State Air Pollution Control Agencies	16
Local Air Pollution Control Agencies	13
Total	46

The following discussion covers the substantive public comments from the letters and any oral comments received. The discussion is organized by subject matter. No public comments were received on certain portions of the proposed regulations; therefore, no discussion of those portions of the regulations appears in this preamble. For example, no comments were received on the regulations proposed in response to § 127, Public Notification, and § 313, Additional Reports to Congress, of the Act. This preamble primarily discusses only the public comments. Detailed discussion of the regulations can be found in the preamble to the August 7, 1978, proposal.

The full text of the letters and summaries of individual comments together with the action taken by EPA and justification for that action will be available for public inspection during normal business hours at the Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

General Comments

The comments discussed under this heading were not specific to any regulation or appendix but were general comments or were comments on some aspect of the monitoring program covered by the regulations.

One commenter requested a public hearing and an economic impact statement on § 51.24(n)(3) which requires quality assurance procedures be applied to PSD monitoring. The reasoning given for the request was based on the impact of the PSD program. These regulations are not concerned with the PSD program except to apply quality assurance requirements to PSD monitoring. The impact of just the PSD quality assurance requirements falls far short of a level that would require an economic impact statement. This comment would have been appropriately made in response to the PSD regulations which were proposed in the **Federal Register** on November 3, 1977 (42 FR 57471).

One commenter felt that EPA should store and distribute air quality data collected at PSD stations because the cost of making it available to the public is prohibitive to the States. EPA suggests that the cost of reproducing and providing data to the public could be recovered by the States through fees for such a service. Handling PSD data at the State level where it is used will be much more cost effective than EPA collecting, storing, and providing the public with data from all over the nation.

Two commenters suggested that EPA should make data from all stations (SLAMS, PSD, SPM) available to the public within 90 days of the end of each quarter. Experience with obtaining air quality data shows this to be an unworkable suggestion. One of the main purposes of the NAMS concept is to mitigate data reporting problems by striving to get just a portion of the data from the SLAMS network to EPA within 90 days. The resources it would take to get all data in within 90 days could not be justified. Also, the historical usage of data from the NADB indicates no need for availability of all SLAMS data within 90 days. Concerning SPM data, the definition of SPM stations provides that the data are primarily for the State's use. Data storage for PSD stations was discussed above.

Two commenters stated that there should be only one type of station and that all data should be used for national assessment. The reasons for the types of stations were discussed under the heading "General Discussion" above. The discussion also pointed out that all SLAMS data will be used by EPA in the course of making important decisions or assessments.

One commenter stipulated that special purpose monitoring should be used for such things as particle sizing, or background. SPM stations may be used for such purposes but EPA, because of the definition of SPM stations, will not set forth such a requirement. The factor most affecting the degree to which a State carries out special purpose monitoring is the availability of resources. EPA does not wish to interfere with the allocation of any monitoring resources available to a State above those resources needed to implement the regulations being promulgated today.

One commenter emphasized the need to analyze air quality data on the basis of geographical distinctions. EPA and the States take into account geographical, meteorological, and other characteristics of monitoring sites when evaluating ambient air quality data.

One commenter suggested that State air quality monitoring networks include stations in remote locations to determine background or general pollution levels. EPA feels that sufficient monitoring to determine background is

already underway and will remain so through monitoring stations operated by EPA, States, other federal agencies, PSD sources, etc.

Eight commenters objected to the elimination of certain stations that will occur when networks are trimmed down to form a cost effective SLAMS network. The basis for the objection is that these stations have provided historical data upon which trends can be based. EPA does not feel that resources necessary to continue collecting data of questionable quality can be justified for trends purposes. In some cases the historical data quality is simply not acceptable enough to preserve the site. Even for sites which have provided good quality data, resources would be much better utilized in upgrading the entire network as these new regulations require rather than continuing to operate unnecessary stations. One solution, however, would be for the States to operate SPM stations at the sites in question.

One commenter felt that EPA should delcare valid all data collected prior to today's promulgation if the analyzers meet the requirements of 40 CFR Part 53 pertaining to reference or equivalent methods. EPA cannot make such a blanket declaration because the status of an analyzer at the time of installation is not the only factor which affects data validity. Siting of the instrument and continued proper operation of the analyzer can easily affect data quality. Also, it is not necessary to obtain EPA approval in order to use previously collected data. The preamble to the August 7, 1978, proposal discussed using historical data. To summarize that discussion, the degree to which historical data can be used depends on the intended use of the data and the degree to which various factors have affected the data quality.

One commenter was concerned that the regulations do not apply to local air pollution control agencies. It is true that the regulations are in terms of requirements on States; this reflects the language of the Clean Air Act. The States must see that regulatory requirements are met, but they can be met by a local agency to which the State has delegated certain actions. In such an instance, the State would still have the responsibility to see that requirements are met. The regulations are thereby indirectly binding on local agencies.

Three commenters stated that the material in the appendices to Part 58 should be in guideline form. One of the commenters suggested that the regulations could then require the guidelines to be followed. Such an approach would not meet EPA's intent. Guidelines are for the purpose of indicating ways in which regulatory requirements may be carried out. Guidelines are not necessarily binding and can be deviated from or not followed at all. EPA has published guidelines on monitor siting and quality assurance but the existence of those guidelines did not prevent the current problems with data quality. EPA's intent is to establish binding criteria which will be followed. The appendices have undergone the same review procedures as the regulations and are to be considered as regulations. Also, by putting the material in regulatory form, no changes can be made without proposal for public comment in the **Federal Register**. Guidelines may be changed without any notice at all. Finally, § 319 of the Act requires that EPA promulgate air quality monitoring criteria to be uniformly used nationwide.

Two commenters felt that certain portions of the regulations should be reproposed. None of the regulations have been substantively changed enough since proposal to warrant reproposal. All significant changes that have been made are due to public comment. Accordingly, no portions will be reproposed.

Two commenters requested a public hearing on the regulations; however, these requests were later withdrawn. Since no other interest was expressed, no public hearing was held.

One commenter asked that EPA describe in the regulation a "scientific method for extrapolating the boundaries of a nonattainment area from a given ambient monitoring site." The commenter contends that there exists an adequate body of scientific knowledge to permit extrapolation of ozone nonattainment areas for many hundreds of miles. EPA disagrees and does not believe that sufficient information is now available to prescribe a scientific method for determining nonattainment boundaries around a single monitoring station.

In a related matter, EPA recently responded (43 FR 6395) to comments submitted by the State of New Jersey which challenged the Agency's policy for designating areas as attainment, nonattainment, or unclassifiable for the ozone standard. New Jersey has argued that sufficient technical evidence is available to require that EPA mandate a nonattainment designation for all areas in the eastern half of the country. In that notice, the Agency determined that the scientific information relied upon by New Jersey is not definitive enough to require that all areas in the eastern portion of the country be designated nonattainment.

The regulations being promulgated today reflect the fact that monitoring stations are representative of only a finite area within the vicinity of a station. Appendix D to Part 58 describes the concept in terms of spatial scale of representativeness which means the physical dimensions of the air parcel nearest a monitoring station throughout which actual pollutant concentrations are reasonably similar. States are being asked to examine their monitoring stations and apply the concepts described in Appendix D to classify each station according to the most appropriate spatial scale of representativeness. Such a determination requires the knowledge and a case-by-case judgment of personnel who manage and operate ambient monitoring networks. Factors to be considered by agencies in making these judgments include: (1) the size and proximity of nearby sources, (2) geographical and topographical features around the station, (3) pollutant formation and transformation processes, (4) placement of the monitoring station relative to buildings, air flow obstructions, street canyons, etc. These factors have a significant impact on spatial concentration patterns and, thus, are important determinants of the size of the area around a monitoring station having reasonably homogeneous air quality.

EPA has one study underway that will attempt to determine the horizontal representativeness of ground level ozone measurements and the suitability of data collected by aircraft as an indicator of ground level ozone air quality. Ozone was chosen for this study since many ozone monitors nationally are showing days exceeding the ozone NAAQS and because of the controversy that exists over the spatial representativeness of a single ozone monitor. The results of this study will not be available for several months but will provide agencies with additional technical information for classifying SLAMS ozone stations and for reevaluating the boundaries of nonattainment areas.

In some situations, special purpose monitoring studies could be initiated by agencies to determine reasonable boundaries for which data from a station (or class of stations) are representative. Such a study might include simultaneous measurements of pollutant levels at varying distances from the station to be classified. These studies are, however, expensive to conduct and may produce results which

are applicable only to the station being evaluated. EPA will continue to provide additional guidance to States for determining the representativeness of stations as scientific data are accumulated and analyzed.

Several commenters asked that EPA specify the minimum number of stations that are needed to define the extent of nonattainment for any given pollutant. As indicated in Appendix D, EPA does not believe that it is practical to prescribe a set of criteria for determining the number of stations that would be applicable for all States. Factors that influence the size of a network and must be considered when designing a network which includes the objective of defining the extent of nonattainment are emission inventories, climatological summaries, and local geographical characteristics. These factors can vary widely from one area to another thus prohibiting the specifications of a minimum number of stations for all States. The optimum size of a particular SLAMS network must be determined on a case-by-case basis.

Two commenters stated that some provision should be made for nonattainment areas that have been designated on the basis of data from improperly sited stations. The basic purpose for the criteria in Appendix E to Part 58 for siting monitors are twofold: (1) to promote uniformity in location of new monitoring stations, and (2) to classify existing stations in terms of the most appropriate spatial scale of representativeness. The emphasis is, thus, on improving the base of monitoring information needed for making informed judgments about air quality. Classification of existing stations according to the most appropriate scale of representativeness will make data more comparable among stations having similar classifications and will also provide an improved basis for determining the geographical scope of nonattainment. In most instances, stations not technically meeting the siting criteria given in Appendix E cannot be excluded for purposes of attainment/nonattainment. These stations are simply measuring air quality over a scale smaller than would be expected if the siting criteria were strickly adhered to. The implication is that the scope of a nonattainment area is linked to the actual spatial scale of representativeness of a monitoring station—the smaller the scale of representativeness at the station, the smaller the geographical extent of nonattainment.

In some cases, existing stations may be producing data not suitable for purposes of nonattainment decisions. On September 11, 1978, a **Federal Register** notice (43 FR 40412) was published which amended nonattainment area designations as required by section 107 of the Clean Air Act. The preamble to that notice discussed provisions that should be made as a result of TSP monitors not sited in accordance with EPA siting criteria.

The policy stated for TSP in that notice was that only those monitoring sites which are unduly influenced by reentrained road dust can be excluded for establishing the design values for SIP development work and for purposes of nonattainment area designation. As explained in that notice, an evaluation could be conducted to determine if roadway influence is significant enough to warrant disregarding the data from the monitor. A similar rationale could be applied for determining the appropriateness of nonattainment reclassification for other pollutants.

Resources

Several commenters pointed out the need for additional resources in order to meet the requirements of the regulation involving instrumentation, siting, and quality assurance. EPA recognizes that in many instances, additional resources are needed and have been making increased allocations to the States for monitoring through the Section 105 Grants mechanism. For example, in FY–1979, increases over FY–1978 allocations amounted to an average of 500 thousand dollars per EPA Region. This includes a total of 360 new analyzers to be purchased nationally using FY–1979 Grants and State matching funds. Similar increases in allocations are expected for FY–1980 since the total 105 Grant monies available has been increased.

Public Comments—Regulations

The following discussion covers the comments received on specific regulations.

Section 51.322 Sources subject to emissions reporting. One commenter stated that emissions from sources smaller than the cut-off size stipulated in the regulations should be allowed to be reported in the annual emissions report. The regulations only establish the lower size limit for sources which must be included in the report. The regulation does not prevent States from including smaller sources. Smaller sources are currently included in the emissions report and may continue to be.

One commenter felt that the emissions reporting effort was of little value and should be re-evaluated. Historical usage of the emissions data in the NADB indicates ample justification for emissions reporting. The emissions data in the NADB have been and are being used in conjunction with such things as establishing new NAAQS, determining the impact of New Source Performance Standards, establishing energy policies, developing national emissions trends, and formulating volatile organic compound emissions control policies in ozone nonattainment areas.

Section 51.323 Reportable emissions data and information. One commenter pointed out that the Hazardous and Trace Emissions System (HATREMS) had not been released for use. This was true at the time of proposal but the system is now ready to accept emissions data.

Two commenters stated that new emissions data for a source should not be required to be submitted unless the emissions have changed by a specified amount. EPA agrees and has revised the regulations to require reporting of new emissions data only if the emissions have changed by 5% or more since the last time the emissions were reported. The regulation continues to require a yearly update of the year of record of data which did not change. The intent of the revisions to this section is that the data in the NADB always be up-to-date either by having it submitted in the last annual report or by having the year of record of unchanged data updated.

One commenter pointed out that § 319 of the Act did not cover emissions reporting and that the new requirements would create an additional burden on States and emissions sources. It is true § 319 does not deal with emissions reporting, but only a portion of the regulations being promulgated today are in response to § 319. Some of the regulations are in response to SAMWG recommendations. The bulk of the requirements pertaining to emissions reporting, however, are not new but are simply being restructured. The emissions reporting regulations have been in effect since August 3, 1973, and have been in § 51.7 of 40 CFR Part 51. The minor revisions that are being made should actually reduce the burden on resources by changing the semi-annual report to an annual report and extending the period within which it must be submitted.

One commenter indicated that compliance with the Storage and Retrieval of Aerometric Data (SAROAD) format for emissions data would create an additional burden. The requirement

to report emissions is in terms of the National Emissions Data System (NEDS) and not SAROAD. The SAROAD format is for reporting ambient air quality data.

Section 58.1 Definitions. One commenter felt that the definition of "local agency" should include Indian tribes to which the State has delegated authority to carry out a portion of the monitoring program. In response to this comment, definitions of "Indian Reservation" and "Indian Governing Body" have been added to § 58.1. Also, in § 58.3 the applicability of the regulations has been extended to Indian Governing Bodies which have been delegated authority to monitor for SIP purposes.

Section 58.14 Special purpose monitoring. One commenter felt that no SPM activity would be conducted if the data could not be used for SIP purposes. As discussed above, SPM data can be used for SIPs if the criteria applicable to SLAMS are followed. SPM activity is strictly at the discretion of the State for any purpose the State wishes.

Section 58.20 Air quality surveillance: Plan content. One commenter pointed out that this section requires submittal by January 1, 1980, of the SAROAD site Identification (ID) form for each SLAMS, but some of the SLAMS will not be located at that time and no forms will be available for those stations. An appropriate correction has been made to § 58.20 to require that on January 1, 1980, a schedule be submitted which would include a time frame for submission of site ID forms for those stations which were not in existence on January 1, 1980.

Section 58.21 SLAMS network design. One commenter stated that the Regional Offices of EPA should have no control over the design of the SLAMS network. Such a suggestion is contrary to the intent of the regulations. The purpose of EPA participation in network design is to insure that all monitoring necessary for purposes of the SIP is carried out. The reponsibilities of EPA with respect to monitoring are comparable to those responsibilities the Agency has of seeing that SIPs contain the proper control regulations. Accordingly, a statement has been added to § 58.21 that the final SLAMS network design is subject to the approval of the Regional Administrator.

Section 58.23 Monitoring network completion. One commenter suggested that SLAMS in nonattainment areas should be located and meet the monitoring criteria earlier than the January 1, 1983, compliance date established in this section. The completion date of January 1, 1983, applies to the entire SLAMS network. For those stations which will also be designated as NAMS, however, the completion date is January 1, 1981. As previously stated, the NAMS will be certain select stations from the SLAMS network and will represent such areas as those of highest pollutant concentration or high population exposure. EPA feels that through the NAMS mechanism, acceptable data will be available at the earliest date that is economically feasible in most cases. These completion dates for SLAMS and NAMS are only deadlines. If States wish to complete the network at an earlier date, they may do so.

Section 58.24 Interim network. This section was added to the regulations to provide that monitoring continue between today's date (§ 51.17 is being revoked today) and when the new monitoring plan is submitted on or before January 1, 1980. Without this section there would be no requirements for monitoring during that interim period. It has been decided, however, that this requirement is unnecessary since the existing SIPs contain monitoring provisions and those SIPs will not be revoked until the new monitoring plans are submitted. This section is therefore deleted. If any revisions to the existing monitoring plans are submitted, they will be approved only if consistent with the new requirements being promulgated today. SIP revisions which have been submitted and were being acted upon prior to today's date will be judged in light of the former requirements under which they were submitted if the State wishes. The State will, however, be notified of any inconsistencies with these new monitoring regulations.

Section 58.26 Annual SLAMS summary report. One commenter requested that the EPA Regional Office generate the annual SLAMS report. The regulations requiring the annual report place the responsibility for the annual report on the State. How or where the report is produced is at the discretion of the State. In many cases the SLAMS data from which the annual report is generated will be submitted through the Regional Office for storage in the NADB. For those States who have their own storage facilities for their SLAMS data, the Regional Office might not have access to the data and so would not be able to generate the annual report.

One commenter stated that certification of the annual report by the State program director would serve no useful purpose. The regulation has been changed to read "the senior air pollution control officer in the State or his designee." The requirement is being retained because EPA feels that it is the responsibility of the State to certify that data are accurate. Any EPA decisions based on such certified data can then be made with more confidence than would be the case if States were not required to check the accuracy of the annual report.

Section 58.35 NAMS data submittal. One commenter could not find data validation procedures in the AEROS Users Manual and another commenter requested that the validation procedures be published as an appendix and be proposed for comment. At the time of proposal the procedures had not been added to the AEROS manual but this task has now been completed. The regulation has been changed to require that data be edited and validated. The regulation then states that procedures for doing so can be found in the AEROS Users Manual. The manual, therefore, acts as a guideline. EPA does not feel it appropriate to make the editing and validation procedures regulatory. Validation procedures are too broad in scope and new procedures are evolving too rapidly to establish specific procedures. A regulatory approach would hamper innovative validation ideas.

One commenter felt that it should be made clear that the SLAMS annual report does not satisfy the requirements for a NAMS quarterly report. Hopefully, this has been done above under the heading "General Discussion."

Section 58.50 Federal monitoring. One commenter suggested that because of this section federal monitoring may be the only monitoring done in the commenter's State. The language in this section is simply a statement of an action that the Administrator may choose and reflects the language of § 319 of the Act. Section 319 requires federal monitoring to supplement but not duplicate State monitoring carried out for purposes of the SIP. This requirement does not assume that no SIP monitoring will be done.

One commenter stated that any federal monitoring should follow the criteria set forth for the States to follow and another commenter felt that renegotiation with the State should take place before federal stations are established. Any federal monitoring will follow the criteria as established in Part 58. If the possibility of federal monitoring exists, the State will be notified and given the opportunity to operate a station in the specific location under consideration.

Section 58.51 Monitoring other pollutants. One commenter thought that

public comment would severely slow down action on the establishment of criteria for monitoring other pollutants. The regulation, however, only states that the Administrator *may* promulgate such criteria. Such criteria could be established in guideline form.

One commenter felt that such a network should not be limited to urban areas. The reference to urban areas has been removed from this section.

Public Comments—Appendices A and B

Due to the similarity in Appendices A and B, public comments on both appendices will be addressed under the following discussion.

Two commenters suggested that the appendices should allow audits of analyzers to be done with less than five audit points or concentrations per audit. Also, one commenter requested that audit concentrations include higher concentrations such as those encountered during air pollution episodes. Both appendices have been revised to require audits at only three concentration levels for normal monitoring and four concentrations in the case of extended range monitoring for high pollutant concentrations. Accuracy of monitoring data will now be assessed at each audit point rather than using all audit points to calculate a single accuracy value from a regression equation. With this modification, accuracy can be adquately assessed with a reduced number of audit points.

Two commenters stated that the allowable intervals for generating audit concentrations are too small. Both appendices have been revised to allow larger concentration intervals at each audit level. These broadened intervals will still allow accuracy to be assessed adequately and will make generation of audit values easier.

Three commenters felt that the audit rate is too frequent. EPA disagrees and feels that periodic auditing of once per quarter is needed to assess accuracy of data. Auditing less frequently than quarterly would be inadequate for accuracy assessment.

A number of different comments were addressed to the portions of Appendices A and B concerning control of the quality of data through policies and procedures. As a result of considering the public comments, the quality control portions of the appendices have been rewritten. The nature of this change is described below after the following discussion of the public comments.

Seven commenters felt that five upscale points plus zero are more than that required to accurately define a calibration curve. Eight commenters suggested that weekly span checks be performed at a higher range. Four commenters felt that the acceptable limit for span drift is too large. One commenter requested that a zero check be performed. Three commenters stated that when acceptance limits for span checks are exceeded and corrective action is performed, a span check should be performed to determine if a complete recalibration is necessary. Six commenters were concerned that the proposed appendices provided no directions on whether, and how, to adjust analyzers for zero and span drift. One commenter stated that instrument calibration in a laboratory and subsequent transportation to the field is precluded by the wording of the proposed appendices. Five commenters felt that span checks should not be required if the checks will interfere with monitoring during an air pollution episode and one commenter was concerned that no directions are given on invalidation of data as a result of span checks. One commenter suggested allowing zero, span, and calibration gases to be introduced directly into the instrument and not through a manifold.

Consideration of the above comments brought about a reanalysis of the need for the detailed quality control requirements that had been proposed in Appendices A and B. The quality assurance program now required by Appendices A and B is based on two distinct and equally important functions. The first function is quality control which consists of controlling the quality of data through policies and procedures such as calibration practices, zero and span checks and adjustments, preventive maintenance schedules, and training and expertise of operators. The second function is the assessment of the data quality in terms of their precision and accuracy. For the sake of national uniformity, the assessment function is specified quite explicitly in the appendices. From review of public comments, however, it became apparent that the explicit quality control requirements which were proposed in Appendices A and B were not appropriate due to the nature and complexity of quality control. There are many problems or situations which can better be solved at the State level and which detailed requirements cannot account for. Accordingly, the quality control requirements have been revised and are now specified in general terms. The States are required by Appendix A to develop a detailed quality control program which is acceptable to the Regional Administrator. A State can now design a quality control program which is specific to its situation and which will be approvable as long as it provides for data of acceptable quality.

Two commenters requested a definition of agency with respect to precision and accuracy reports. The concept of a "reporting organization" has been introduced in Appendix A and a definition provided. Precision and accuracy should be reported for groups of monitors having the same laboratory and field support. The concept of a reporting organization provides for such reporting.

One commenter felt that collocated monitors for manual methods should not be fixed but should be permitted to be rotated throughout a State. In order to provide for precision and accuracy analyses for each reporting organization, collocated monitors must be maintained in each area covered by a reporting organization. The requirement for two collocated sites for manual methods in each area covered by a reporting organization will be retained.

One commenter pointed out that many station site configurations will not allow collocated monitors to be three meters apart. A wording change has been made to require collocated monitors to be between two and four meters apart.

Three commenters stated that the "t" statistic should be used in equations five and six of Appendix A and equations four and five of Appendix B rather than the "z" statistic. EPA disagrees and is maintaining the "z" statistic which is appropriate for probability limits.

One commenter requested that EPA emphasize the fact that traceability of calibration and audit gases to the National Bureau of Standards (NBS) standard reference materials (SRM) does not mean using NBS SRM's as the calibration or audit standards per se. Also, one commenter suggested allowing traceability of calibration and audit gases to the same set of NBS SRM's. Language has been added to Appendices A and B to allow for these two suggestions.

One commenter stated that the quality assurance program would cause delays in data submittal due to audits and removal of suspect data. EPA disagrees that delays will occur and maintains that audits are a necessary part of quality assurance.

One commenter felt that a system audit should be required for PSD monitoring. Appendix B has been revised to allow the permit granting authority or EPA to conduct a system audit.

One commenter asked when the requirements of Appendix B take effect. The regulations have been revised to

specify that for new stations, the requirements take effect when the station is established, and for existing stations, the requirements take effect at the discretion of the permit granting authority, but no later than January 1, 1980.

Public Comments—Appendix C

Since Appendix C was proposed on August 7, 1978, portions of Section 2.6 and the entire Section 4 have been rewritten. One purpose of these revisions is to allow analyzers to be used for monitoring during those times when air pollution levels rise above the ranges on which the analyzers have been designated for use as reference or equivalent methods. If higher, undesignated ranges are used, the use of the analyzer would no longer be considered a reference or equivalent method and would not be approved for use in a SLAMS. Provisions in the regulations were needed which indicated that monitoring should continue during periods of high concentrations and stipulated the acceptable ranges for use during those periods. Such provisions have been added to Appendix C in Section 2.6. Section 4 of this appendix addresses the problem of short-term particulate measurements for purposes of tracking air pollution episodes. The reference method for particulate matter, the Hi-vol sampler, is not designed to give real time data. Section 4 describes instruments that may be used for short-term measurements of particulate matter.

As revised, Section 2.6 of Appendix C allows an analyzer to be used on a range higher than that designated for the analyzer if it is an analyzer approved for use as a reference or equivalent method, or on a range higher than the range accepted for use under Section 2.5 of this appendix. Section 2.5 allows an analyzer which has not been designated for use as a reference or equivalent method to be used if it were purchased before February 18, 1975, and if it passes all the performance specifications for reference or equivalent methods except the range requirement found in Table B–1 of 40 CFR Part 53. The range accepted for use must not extend to higher than two times the range limit of Table B–1.

The higher ranges allowed by Section 2.6 are in two categories. The first category is a range less than or equal to two times the Table B–1 limit. The second category is a range more than two times the Table B–1 limit. Use of the higher ranges is limited to areas where and to periods of time when, high concentrations are likely to occur. This restriction will require the use of the most sensitive range capable of measuring any given concentration. The restriction is not meant to cause a continual switching of ranges (unless an instrument does this automatically) when concentrations frequently vary between two ranges. Through a case-by-case determination, certain analyzers may be continually operated at a higher range during seasons and in areas where concentrations occur in that range frequently enough to justify continual operation.

Section 4 requires, for purposes of particulate episode monitoring, use of methods which give real time data such as modified Hi-vol procedures, tape samplers, or any other appropriate device. In order to use methods other than the Hi-vol, however, a quantitative relationship to the Hi-vol (operated under reference method procedures) must be established at the site where the method will be used. It is necessary to establish a site-specific relationship because the relationship between Hi-vols and other methods varies with location. Procedures for establishing a quantitative relationship are contained in "Guidance for Selecting TSP Episode Monitoring Methods," OAQPS No. 1.2–114.

As now written, Appendix C provides that all pollutants for which NAAQS have been established, except lead, should be monitored during periods of high concentrations so that real-time data will be available for tracking air pollution episodes. Such short-term monitoring is not required for lead because episode levels have not been established for that pollutant.

The following discussion covers the substantive public comments received on Appendix C.

One commenter requested an explanation of Section 2.2 which allows SO_2, CO, or O_3 analyzers purchased prior to February 18, 1976, to be used until February 18, 1980, and allows NO_2 analyzers purchased prior to January 3, 1978, to be used until January 3, 1980. This section is only meant to limit the use of non-reference or non-equivalent methods until the two deadline dates. Any instrument designated for use as a reference or equivalent method may be used indefinitely unless the designation is withdrawn.

Four commenters stated that it would be too costly to replace after February 18, 1980, SO_2, CO, O_3 analyzers which have not been approved for use as reference or equivalent methods. This requirement in Section 2.2 is not a new requirement but was promulgated on February 18, 1975, in 40 CFR 51.17a. The requirement was established to allow States adequate time to replace analyzers which could not pass the equivalency requirements or for which equivalency testing would not or could not be done for various reasons.

One commenter suggested that EPA perform equivalency tests on analyzers that the manufacturers were uninterested in testing. Considering the time period that has been allowed for analyzer replacement, the number of analyzers that would have to be tested, the unreasonably costly modifications that would have to be made to some analyzers, and the resource constraints on EPA, such a suggestion cannot be justified.

One commenter felt that the range requirement for reference or equivalent methods should be increased by two. A range up to twice that allowed in Table B–1 of 40 CFR Part 53 is currently permitted under § 53.20(b).

Four commenters indicated that the current reference method for particulate matter measures large particules which do not cause health related effects. One of the commenters suggested a more comprehensive monitoring system that determines size and composition of particles. The existing NAAQS for particulate matter are for total suspended particulates as measured by the existing reference method (the Hi-vol). The regulations being promulgated today do not modify the particulate matter NAAQS nor the reference method. The standard for particulate matter is currently being re-evaluated as required by the Clean Air Act. Any changes to the standard and to the reference method will be made as a result of that re-evaluation.

One commenter was confused as to how Coefficient of Haze (COHs) will be replaced in 40 CFR 51.16 and Appendix L to Part 51. The action to remove COHs resulted from the fact that there is no single, nationally consistent relationship between the tape sampler, which provides particulate concentrations in terms of Coefficient of Haze (COHs), and the Hi-vol which provides data in terms of micrograms per cubic meter. Appendix C allows the use of tape samplers for air pollution episode monitoring, but only if a quantitative relationship to the Hi-vol is established at the use site. The tape sampler data can then be translated directly into micrograms per cubic meter, eliminating the need to express the data in terms of COHs.

Three commenters were confused as to what particulate samplers could be used for monitoring air pollution episodes. It appeared to the commenters

that they would have to develop new methods. As stated above in the discussion of the changes to Appendix C, any method can be used for TSP episode monitoring if it provides real time data and a quantitative relationship to the Hi-vol can be established at the use site. Procedures for using a Hi-vol over short periods or staggered Hi-vols may also be used for episode monitoring.

Three commenters felt that it would be impractical to change the range of an analyzer when concentrations rose above the range limit being used and to change back to a lower range when concentrations fell. As explained above, analyzers may be used continually at higher ranges when the frequency of high concentrations justifies continual use.

Public Comments—Appendix D

The following discussion covers public comments received on the proposed Appendix D to Part 58

One commenter was concerned with calling a CO station that measures maximum concentrations a middle scale station. Since these stations in many cases would represent midblock hotspot concentrations, which is in the microscale, a microscale CO designation has been added to Appendix D.

One commenter suggested that an urban scale station for particulate matter was needed. In response, Appendix D has been modified to indicate that the SLAMS network could contain an urban scale particulate matter station, but there is no requirement for an urban scale NAMS for particulate matter.

One commenter pointed out that while the total required number of TSP and SO_2 NAMS is given in Appendix D, no guidance is given as to how many stations should be in the maximum concentration category and how many should be in the population exposure category. The Appendix has been clarified to indicate that there should be at least one NAMS in each category for each pollutant (TSP and SO_2) but the remaining stations should be categorized based on the characteristics of the area.

One commenter pointed out that there could be difficulty in following the Appendix D instructions to minimize the impact of point sources on NAMS. EPA recognizes the difficulty in locating stations with respect to point source impact. However, EPA believes that the information contained in Appendix E and in the references cited in Appendix E is sufficient for locating stations which are not unduly influenced by any single source.

Two commenters questioned the fact that no NAMS were required for areas under 50,000 population even though there may be violations. As previously stated under the heading "General Discussion," the requirement establishing the number of NAMS necessary for certain areas is not to be considered the minimum number of stations required in the SLAMS network. The NAMS concept is meant to provide timely data from selected stations in the SLAMS network for purposes of national assessment. The national assessment needs will be met by data from areas over 50,000 population. The SLAMS network will also cover areas below 50,000, but none of those stations will be designated NAMS.

One commenter felt that more TSP and SO_2 stations are needed than are required by Appendix D. EPA feels the number of SO_2 and TSP NAMS that are required are sufficient for national data needs. EPA also believes that many more stations will be needed in the SLAMS network than the number required for NAMS. Data from all SLAMS will be considered in any important decisionmaking process.

One commenter suggested deactivating NAMS in selected areas for a year at a time on a rotational basis. This suggestion is contrary to one of the purposes of NAMS; namely, trends analysis. Also, the NAMS will be among the more important stations in the SLAMS network which is further justification for maintaining NAMS in operation.

One commenter favored the use of laser spectroscopy methods to measure TSP over a wide area. As discussed previously, the TSP standard is based on measurements of particulate matter by the TSP reference method which is the Hi-vol sampler. Use of laser spectroscopy would not be appropriate for SLAMS measurements considering the nature of the data produced. The method could, however, be used as SPM or for monitoring TSP episodes if a quantitative correlation to the Hi-vol can be established.

Two commenters felt that meteorological data should be collected at each NAMS. The collection of meteorological data at each NAMS is recommended but not required. At the present time EPA does not believe it would be cost effective to establish such a meteorological data network considering the resources that would be required.

One commenter felt that interstate and inter-regional cooperation is needed for network design. EPA agrees and is striving to attain this goal by having Regional Office involvement in SLAMS network design and by having EPA headquarters involvement in choosing NAMS sites.

Public Comments—Appendix E

The following discussion addresses the public comments received on the proposed Appendix E to Part 58.

One commenter felt that more spatial scales of representativeness were needed in order to classify all the stations in the SLAMS network. EPA agrees and has added more scales. These additional scales will allow more leeway in meeting the monitoring objectives of the SLAMS network.

One commenter requested clarification of the usage of the words "must" and "should" when applied to siting criteria. A statement has been added which stipulates that all "musts" indicate a requirement and all "shoulds" indicate criteria that do not have to be followed but which would be desirable to follow for the sake of consistency.

Eight commenters stated that the siting criteria are too restrictive and one commenter felt that waivers should be granted for some of the required siting criteria. Some of the siting criteria for CO, O_3, and NO_2 have been relaxed. Most of the siting criteria are tied to a specific monitoring scale and if the criteria are not met, the station location might represent a different scale. For those instances where it is impossible to meet a certain siting parameter, a waiver provision has been added. It is anticipated that waivers will primarily be used for existing sites and that stations in new locations will be able to meet the criteria.

Two commenters requested specifications for probe material and residence time of the air sample within the probe. A new section has been added containing probe material and residence time specifications. EPA agrees that these factors are as important as other criteria in terms of the effect on data quality and comparability.

One commenter suggested using the word "probe" instead of "monitor" when specifying siting criteria. This change has been made for clarification in the portions of Appendix E applicable to gases. For TSP it is appropriate to speak in terms of monitor siting.

One commenter felt that the curve specifying setback distances from roads for TSP stations is too restrictive. The wording has been changed to indicate

that the "acceptable zone" defined by the siting criteria is for stations designated as neighborhood, urban, regional, and for most middle scale stations. If a station is located closer to a roadway than specified in the criteria, it would represent a smaller geographical area and thus would most likely be classified as a middle scale station.

One commenter stated that the criterion specifying setback distances from roadways for TSP is ambiguous where it refers to "several thousand vehicles per day." The wording has been changed to read "approximately 3,000 vehicles per day."

One commenter noted a conflict in the criterion establishing distances from roadways for TSP and for CO. CO stations should be located near roadways because the roadway will most likely be the only source of CO. Neighborhood sites for TSP, however, are meant to represent a multisource situation and should be separated from roadways so that the air quality measurements are not totally dominated by the roadway.

One commenter felt that there should be no fixed minimum or maximum setback distances from roadways for CO. A table for neighborhood scale CO station setback distances from roadways based on average daily traffic has been added to Appendix E. This table, consisting of a range of minimum setback distances, will give more leeway for station siting and should result in data which are more comparable from location to location.

Three commenters stated that the minimum roadway setback distances for ozone are too restrictive and two commenters expressed the same opinion about the NO_2 criteria. The roadway setback distances for O_3 and NO_2 have been revised according to new data available since proposal. The criteria are now less restrictive.

One commenter pointed out that for TSP and NO_2, stations cannot be located in areas of hi-rise buildings because of the criterion specifying distance to obstacle heights. Another commenter pointed out the same for SO_2 stations. The criterion alluded to is for neighborhood scale stations. If the criterion cannot be met because a station has to be located such that the distance to an obstacle is less than twice the height of that obstacle above the probe, the station would be classified as a middle scale station.

One commenter indicated that if a monitor probe is located on the side of a building that it will be impossible to meet the criterion of unrestricted air flow in three of four cardinal wind directions. Two other commenters noted that the criterion requiring SO_2 monitor probes to be located less than 80% of the mean height of the building on which the probe is located is in conflict with the 3-wind direction criteria. The language concerning air flow has been changed to read an arc of 270° instead of three to four wind directions. In addition, a statement has been added which stipulates that a monitor probe located on the side of a building must only have unobstructed air flow for 180°. Also, the criteria concerning 80% of mean building height has been deleted since it is redundant. The situation is covered by other SO_2 siting criteria in Appendix E which limits probe height to between 3 and 15 meters.

One commenter indicated that if TSP stations are not allowed to be located in unpaved areas unless there is a vegetative ground cover, large areas around some stations will have to be paved. The criterion concerning unpaved areas is in terms of "should" and not "must". The criterion, therefore, does not have to be strictly followed.

One commenter felt that the criterion establishing minimum distances of O_3 stations from trees cannot be met. The criterion concerning separation of O_3 stations and trees has been put in terms of "should" instead of "must".

Two commenters indicated that the criteria limiting CO monitor probes to 3 meters $\pm$ ½ meter above ground is not practical and would require vandal-proof enclosures. EPA understands the concerns of these two commenters; however, the height restrictions are the best compromise that can be made between seeking to be vandal-proof and still representing the breathing zone. It has been determined that there is a significant vertical gradient for CO concentrations in the intercity, street canyon environment. For the neighborhood scale station which is more removed from traffic, the height restriction is not as critical since vertical concentration gradients are not as pronounced. Therefore, as one commenter suggested, the criteria has been changed to allow monitor probes to be located 3 to 15 meters above ground for neighborhood scale stations.

Public Comments—Appendix F

The following discussion pertains to public comments received on the proposed Appendix F of Part 58.

One commenter pointed out that gaseous pollutants as measured on continuous analyzers are in units of parts per million (ppm) and should be reported that way in the annual SLAMS report. EPA agrees and has made appropriate changes to the data reporting requirements.

One commenter requested that EPA address the inconsistency between the use of discrete versus running averages in comparing standards for CO and SO_2. The annual reporting requirements have been modified by requiring that for both CO and SO_2 the highest and second highest nonoverlapping eight-hour and 24-hour averages, respectively, be reported. These requirements are consistent with the EPA guidance in interpretating air quality data with respect to the standards (OAQPS Guideline No. 1.2–008). Both the SO_2 and CO standards will be reviewed in 1979 and 1980, when a decision on the need to revise the standards will be made. This could change the reporting requirements for these pollutants.

One commenter questioned who would sign the annual SLAMS summary report if some of the data were provided by local agencies to the State. The regulation, § 58.26, has been revised to indicate that the senior air pollution control officer in the State or his designee will certify the accuracy of the report. The certification statement should indicate that the data were collected under regulations that were applicable during the monitoring period. Even though a local agency collects data, the State is still responsible for assuring that the data are collected according to the criteria established in Part 58. If the State is assured of correct data collection, there should be no problem with the report being certified at the State level.

One commenter requested that precision and accuracy information be included in the annual SLAMS summary report. EPA agrees and such a requirement has been added to the regulations.

One commenter felt that the monitoring operating schedule should be included in the annual report. EPA feels that such a requirement would be too burdensome to justify. Inclusion of the monitoring operating schedule in the annual report, however, is encouraged if States have the time and resources and wish to do so.

Public Comments—Appendix G

The following discussion concerns the public comments received on the proposed Appendix G to Part 58.

Nine commenters requested that the descriptor words used to identify air quality conditions for the various ranges of daily air pollution index values be changed. Because the index is for the purpose of achieving national uniformity

of daily air quality reports as required by § 319 of the Act, the use of descriptor words other than those proposed is not permitted unless approved by the EPA Administrator . None of the suggested descriptor words appears superior to those proposed.

Two commenters indicated that the breakpoints separating the air quality index ranges should correspond to levels of State air quality standards and air pollution episodes instead of national standards, national significant harm levels, and EPA suggested episode levels. In order to achieve national uniformity, federal standards, suggested episode levels, and significant harm levels must be used. Index values of 200, 300 and 400 for the most part correspond to the federal alert, warning, and emergency episode levels given in Appendix L to Part 51. However, because many factors, including meteorological conditions, are taken into account before triggering episode control actions, reported index values and the calling of an episode do not always correspond. Variable breakpoints from State to State would not satisfy the § 319 requirements for a uniform index.

The index has been modified to reflect the new ozone NAAQS of 0.12 p.p.m. (235 $\mu g/m^3$) which was promulgated in the **Federal Register** on February 8, 1979 (44 FR 8202). The index value of 100 for ozone corresponds to this new level of the standard. The new standard replaces the previous photochemical oxidant standard level of 0.08 p.p.m. (160 $\mu g/m^3$).

Two commenters disagreed with the proposed procedure of reporting only the index of the pollutant of highest concentration (subindex). They felt that an index based on the reporting of the maximum subindex value would be insufficient and would mask the significance of other pollutants and their impact on health and environmental quality. The Appendix G requirements do not prevent a State from reporting subindices for other pollutants. Appendix G suggests that a State should report the other subindices, but it is left to the State's discretion whether it will be done.

Three commenters suggested basing the TSP subindex on COHs. As stated previously under the discussion of Appendix C, a tape sampler may be used for episode or daily index purposes if a site specific quantitative relationship to the Hi-vol is established.

Two commenters requested that the breakpoint between the good range and the moderate range for TSP and O_3 be raised to account for higher levels which are due to naturally occuring background levels of the two pollutants. EPA disagrees that the breakpoints should be changed. Air quality is good or bad because of ambient concentrations regardless of the source or cause of the concentrations. Language has been added to Appendix G, however, which recommends reporting information and causes for unusually high concentrations.

One commenter was concerned that index values would be used to compare air quality in different areas. EPA does not encourage the use of index values for air quality comparisons from area to area. The index is for the purpose of giving citizens in a specific area an idea of the quality of air they will encounter on a daily basis.

Two commenters stated that EPA should publish health effects criteria before promulgating Appendix G. Specifically, concentrations of SO_2 defined as "significant harm" should be supported by published health effects research data. The EPA Office of Public Affairs has prepared for the public a brochure with discusses the Pollutant Standards Index (PSI) and presents pollutant specific health effects. The brochure (Measuring Air Quality—The New Pollutant Standards Index, July, 1978, OPA, 11/8) is available from the Environmental Protection Agency, Library (MD–35), Research Triangle Park, N.C. 27711. Health effects associated with the significant harm level for SO_2 can be found in "Air Quality Criteria for Sulfur Oxides," U.S. Department of Health, Education, and Welfare, Washington, D.C., AP–50, April 1970. The information in the criteria document will be re-examined by EPA when the SO_2 NAAQS are reviewed during 1979 and 1980. After review of the latest data on health effects and the criteria document, a decision will be made as to the need to revise the SO_2 standards.

One commenter did not think that real-time data will be available for determining a daily index. EPA disagrees and feels that data can be made available at times when it is needed for index calculation.

One commenter felt that public acceptance of the index is doubtful. Since the PSI, which is the basis for the Appendix G index, was published, it has been generally well accepted throughout the country and has been adopted by 15 State agencies and is reported by State or local agencies in 24 States.

One commenter stated that the index is not applicable to a large metropolitan area, such as the Los Angeles Basin. Appendix G recommends that the index be reported for multiple sub-regions within a metropolitan area and should at a minimum include the region with the highest subindex.

One commenter indicated that implementation of this index would create serious administrative problems, especially the proposed recording of index values. The reporting requirements in Appendix G are minimal, requiring that the reporting agency keep annual records of the frequency with which reported index values occur in each of the index descriptor categories.

Two commenters requested that the index be reported on weekends and holidays as well as weekdays. The requirement to report the index only at least five days per week, presummable the normal workweek, does not restrict an agency from reporting every day. If an agency has the resources to do so, EPA encourages index reporting every day.

Two commenters felt that the index breakpoint of 100 for the NO_2 subindex and the subindex for the product of TSP and SO_2 should be based on State short-term standards or their equivalent because there are no short-term standards for NO_2 and the product of SO_2 and TSP. EPA is presently considering a short-term NO_2 standard. (For the other pollutants the breakpoint of 100 is based on short-term NAAQS.) The exemption provision in Appendix G allows a State or local agency to petition the Adminstrator and request such a modification to the index.

Review of Public Comments

Copies of the public comments received on the proposal of these regulations on August 7, 1978, are available for public inspection during normal business hours at the Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

Effective date: These regulations promulgated herein take effect on June 11, 1979.

Dated: April 27, 1979.

Douglas M. Costle,

Administrator.

PART 51—REGULATIONS FOR AMBIENT AIR QUALITY MONITORING AND DATA REPORTING

Part 51 of Title 40, *Code of Federal Regulations*, is amended as follows:

1. The table of contents to this part is amended by adding, Subpart J and Subpart O in the appropriate places, the following:

* * * * *

Subpart J—Ambient Air Quality Surveillance

§ 51.190 Ambient air quality monitoring requirements.

* * * * *

Subpart O—Miscellaneous Plan Content Requirements

§ 51.285 Public notification.

* * * * *

Subpart Q—Reports

Air Quality Data Reporting

§ 51.320 Annual air quality data report.

Source Emissions and State Action Reporting

§ 51.321 Annual source emissions and State action report.
§ 51.322 Sources subject to emissions reporting.
§ 51.323 Reportable emissions data and information.
§ 51.324 Progress in plan enforcement.
§ 51.325 Contingency plan actions.
§ 51.326 Reportable revisions.
§ 51.327 Enforcement orders and other State actions.
§ 51.328 Plan prescribed actions.

* * * * *

2. Section 51.3 is amended by revising the second sentence in paragraph (c) to remove the reference to § 51.17. As amended, § 51.3(c) reads as follows:

§ 51.3 Classification of regions.

* * * * *

(c) * * * The requirements applicable to Priority IA Regions shall be the same as those for other Priority I regions, except that the requirements applicable to Priority II regions under § 51.16 shall apply. * * *

3. Section 51.6 is amended by revising paragraph (e) to remove the reference to the § 51.7 semiannual report and adding a reference to the annual report required by § 51.321. As amended, § 51.6(e) reads as follows:

§ 51.6 Revisions.

* * * * *

(e) Revisions other than those covered by paragraphs (a) and (d) of this section must be identified and described in the next annual report required by § 51.321.

* * * * *

§ 51.7 and 51.17 [Reserved]

4. Sections 51.7 and 51.17 are revoked and reserved.

5. Section 51.13 is amended by revising the second sentence of paragraph (g) to read as follows:

§ 51.13 Control strategy: Sulfur oxides and particulate matter.

* * * * *

(g) * * * Actual measurements must be used where available if based on use of the measurement methods specified in Appendix C to Part 58 of this chapter. * * *

§ 51.15 [Amended]

6. Section 51.15 is amended by revoking paragraph (a)(2).

7. Section 51.16 is amended by removing the two references to "COHs" in paragraph (a). As amended, § 51.16(a) reads as follows:

§ 51.16 Prevention of air pollution emergency episodes.

(a) * * *

Particulate matter—1,000 micrograms/cubic meter; 24-hour average.

Sulfur dioxide and particulate matter combined—product of sulfur dioxide in micrograms/cubic meter, 24-hour average, and particulate matter in micrograms/cubic meter, 24-hour average, equal to 490×10^3.

* * * * *

§ 51.17a [Revoked]

8. Section 51.17a is revoked.

9. Section 51.24 is amended by adding paragraph (n)(3) to read as follows:

§ 51.24 Prevention of significant deterioration of air quality.

* * * * *

(n) * * *

(3) The owner or operator shall meet the requirements of Appendix B to Part 58 of this chapter during the operation of monitoring stations required by paragraph (n)(1) of this section as follows:

(i) No later than January 1, 1980, for existing stations, or

(ii) For new stations, at the time the station is put into operation.

§ 51.59 [Reserved]

10. Section 51.59 is revoked and reserved.

11. Subpart J consisting of § 51.190 is added to read as follows:

Subpart J—Ambient Air Quality Surveillance

§ 51.190 Ambient air quality monitoring requirements.

The requirements for monitoring ambient air quality for purposes of the plan are located in Subpart C of Part 58 of this chapter.

12. Subpart O consisting of § 51.285 is added to read as follows:

Subpart O—Miscellaneous Plan Content Requirements

§ 51.285 Public notification.

By March 1, 1980, the State shall submit a plan revision that contains provisions for:

(a) Notifying the public on a regular basis of instances or areas in which any primary standard was exceeded during any portion of the preceeding calendar year,

(b) Advising the public of the health hazards associated with such an exceedance of a primary standard, and

(c) Increasing public awarness of:

(1) measures which can be taken to prevent a primary standard from being exceeded, and

(2) ways in which the public can participate in regulatory and other efforts to improve air quality.

13. Subpart Q is added to read as follows:

Subpart Q—Reports

Air Quality Data Reporting

§ 51.320 Annual air quality data report.

The requirements for reporting air quality data collected for purposes of the plan are located in Subpart C of Part 58 of this chapter.

Source Emissions and State Action Reporting

§ 51.321 Annual source emissions and State action report.

On an annual (calendar year) basis beginning with calendar year 1979, the State agency shall report to the Administrator (through the appropriate Regional Office) information as specified in Sections 51.323 through 51.326. Reports must be submitted by July 1 of each year for data collected and actions which took place during the period January 1 to December 31 of the previous year.

§ 51.322 Sources subject to emissions reporting.

(a) Point sources subject to the annual emissions reporting requirements of § 51.321 are defined as follows:

(1) For particulate matter, sulfur dioxide, hydrocarbons, and nitrogen dioxide, any facility that actually emits a total of 90.7 metric tons (100 tons) per year or more of any one pollutant.

(2) For carbon monoxide, any facility that actually emits a total of 907 metric tons (1000 tons) per year or more.

(3) For lead or lead compounds measured as elemental lead, any facility that actually emits a total of 4.5 metric tons (5 tons) per year or more.

(b) Annual emissions reporting requirements apply only to emissions of each pollutant from any individual emission point within the facility that emits:

(1) For particulate matter, sulfur dioxide, hydrocarbons, and nitrogen dioxide, 22.7 metric tons (25 tons) per year or more.

(2) For carbon monoxide, 227 metric tons (250 tons) per year or more.

(3) For lead or lead compounds measured as elemental lead, 4.5 metric tons (5 tons) per year or more.

§ 51.323 Reportable emissions data and information.

(a) The State shall submit in the annual report the following emissions data and information:

(1) Emissions of particulate matter, sulfur dioxide, carbon nonoxide, nitrogen dioxide, and hydrocarbons as specified by AEROS Users Manual, Vol. II (EPA 450/2–76–029, OAQPS No. 1.2–039) to be coded into the National Emission Data System (NEDS) points source coding forms, and

(2) Emissions of lead or lead compounds measured as elemental lead as specified by AEROS Users Manual, Vol. II (EPA 450/2–76–029, OAQPS No. 1.2–039) to be coded into the Hazardous and Trace Emissions System (HATREMS) points source coding forms.

(b) Such emissions data and information specified in paragraph (a) of this section must be submitted on either paper forms, punched cards, or magnetic tape in the format of the NEDS point source coding forms or the HATREMS point source coding forms as appropriate.

(c) The emissions data and information specified by paragraph (a) of this section must be submitted in the annual report for any point source for which one or more of the following conditions occurs:

(1) A source achieves compliance at any time within the reporting period with any regulation of an applicable plan,

(2) A new or modified source receives approval to construct during the reporting period or begins operating during the reporting period,

(3) A source ceases operations during the reporting period, or

(4) A source's emissions have changed more than 5% from the most recently submitted emissions data.

(d) If, as determined by the State and the Regional Administrator, the emissions from any point source have not changed more than 5% from the most recently submitted emissions data, the State shall update the year of record of the previously reported data and information specified by paragraph (a) of this section.

§ 51.324 Progress in plan enforcement.

(a) For each point source, the State shall report any achievement made during the reporting period of any increment of progress of compliance schedules required by:

(1) The applicable plan, or

(2) Any enforcement order or other State action required to be submitted pursuant to Section 51.327.

(b) For each point source, the State shall report any enforcement action taken during the reporting period and not submitted under Section 51.327 which results in civil or criminal penalties.

§ 51.325 Contingency plan actions.

The State shall report any measures taken during the reporting period, and an evaluation of their effectiveness, such as those actions specified in the contingency plan required by § 51.16, to stop emissions of air pollutants causing or contributing to any incident of air pollution which corresponds to a stage of episode criteria as established in the contingency plan. The State shall also report an account of any episode stage, as established in the contingency plan, during which no action was taken by the State or local air pollution control agency and an explanation for the failure to take such action.

§ 51.326 Reportable revisions.

The State shall identify and describe all substantive plan revisions during the reporting period of the applicable plan other than revisions to rules and regulations or compliance schedules submitted in accordance with § 51.6(d). Substantive revisions shall include but are not limited to changes in stack-test procedures for determining compliance with applicable regulations, modifications in the projected total manpower needs to carry out the approved plan, and all changes in responsibilities given to local agencies to carry out various portions of the plan.

§ 51.327 Enforcement orders and other State actions.

(a) Any State enforcement order, including any State court order, must be submitted to the Administrator within 60 days of its issuance or adoption by the State.

(b) A State enforcement order or other State action must be submitted as a revision to the applicable implementation plan pursuant to § 51.6 and approved by the Administrator in order to be considered a revision to such plan.

§ 51.328 Plan prescribed actions.

(a) The State shall report on the status and progress of the following actions if the plan prescribed such action:

(1) Obtaining additional resources.

(2) Adopting new laws or regulations.

(3) Conducting studies to provide a basis for further actions directed toward the attainment and maintenance of national standards.

(4) initiating new programs or expanding existing programs for the attainment and maintenance of national standards.

(b) The State shall make the report required under paragraph (a) of this section with the annual report as described in § 51.321, commencing with the first annual reporting period following submission of the plan provision that prescribes such action and ending with the completion of the action on which the State must report.

(c) The Administrator will identify those matters on which the State must report.

Subparts F—I, K—N and P [Reserved]

14. Subparts F through I, K through N, and P are reserved.

15. Appendix L is amended by removing references to "COHs" in paragraphs 1.1(b), 1.1(c), and 1.1(d). As amended, Appendix L reads as follows:

Appendix L—Example Regulations for Prevention of Air Pollution Emergency Episodes

* * * * *

1.1 Episode criteria. * * *

(b) "Alert": * * *

Particulate—375 $\mu g/m^3$, 24-hour average.

SO_2 and particulate combined—product of $SO_2 \mu g/m^3$, 24-hour average and particulate $\mu g/m^3$, 24-hour average equal to 65×10^3.

* * * * *

(c) "Warning": * * *

Particulate—$625 \mu g/m^3$, 24-hour average.

SO_2 and particulate combined—product of $SO_2 \mu g/m^3$, 24-hour average and particulate $AG2 \mu g/m^3$, 24-hour average equal to 261×10^3.

* * * * *

(d) "Emergency": * * *

Particulate—$875 \mu g/m^3$, 24-hour average.

SO_2 and particulate combined—product of $SO_2 \mu g/m^3$, 24-hour average and particulate $\mu g/m^3$, 24-hour average equal to 393×10^3.

* * * * *

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Title 40, *Code of Federal Regulations*, is amended as follows:

1. Section 52.21 is amended by adding paragraph (n)(3) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(n) * * *

(3) The owner or operator shall meet the requirements of Appendix B to Part 58 of this chapter during the operation of monitoring stations required by paragraph (n)(1) of this section as follows:

(i) No later than January 1, 1980, for existing stations, or

(ii) For new stations, at the time the station is put into operation.

2. The following sections are amended by removing the reference "§ 51.7" and replacing it with the reference "§ 58.35."

§ 52.93(b), second sentence.
§ 52.93(c), second sentence.
§ 52.140(b), second sentence.
§ 52.140(c), second sentence.
§ 52.266(d), first sentence.
§ 52.479(c)(2), second sentence.
§ 52.479(c)(3), second sentence.
§ 52.734(b), second sentence.
§ 52.734(c), third sentence.
§ 52.1077(c)(2), second sentence.
§ 52.1077(c)(3), second sentence.
§ 52.1155(f), first sentence.
§ 52.1593(d), first sentence.
§ 52.2053(b), second sentence.
§ 52.2053(c), third sentence.
§ 52.2298(c), first sentence.
§ 52.2343(b), second sentence.
§ 52.2343(c), second sentence.
§ 52.2427(d)(2), second sentence.
§ 52.2427(d)(3), second sentence.
§ 52.2477(c)(2), second sentence.
§ 52.2477(c)(3), second sentence.

§§ 52.779, 52.2029, 52.2482 [Reserved]

3. Sections 52.779, 52.2029, and 52.2482 are revoked and reserved.

4. Section 52.1160 is amended by revising the last sentence in paragraph (l). As amended, § 52.1160 reads as follows:

§ 52.1160 Monitoring reports.

* * * * *

(l) * * * In addition, all air quality data collected at SLAMS will be summarized and submitted as an annual summary report to the Administrator as required by § 58.26 of this chapter.

* * * * *

5. Section 52.1175 is amended by revising paragraph (a) to read as follows:

§ 52.1175 Compliance schedules.

(a) The requirements of § 51.15(a)(2) of this chapter as of May 31, 1972, (36 FR 22398) are not met since Rule 336.49 of the Michigan Air Pollution Control Commission provides for individual compliance schedules to be submitted to the State Agency by January 1, 1974. This would not be in time for submittal to the Environmental Protection Agency with the first semiannual report.

* * * * *

PART 53—AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Part 53 Title 40, *Code of Federal Regulations*, is amended as follows:

§ 53.16 [Amended]

Section 53.16 amended by removing the citation "§ 51.17a(a)(4)" from the third sentence of paragraph (e)(1) and from subdivision (iv) of the first sentence in paragraph (e)(2) and replacing the citations with "section 2.3 of Appendix C to Part 58 of this chapter."

Title 40, *Code of Federal Regulations*, is amended by adding a new Part 58 to read as follows:

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

Subpart A—General Provisions

Sec.
58.1 Definitions.
58.2 Purpose.
58.3 Applicability.

Subpart B—Monitoring Criteria

58.10 Quality assurance.
58.11 Monitoring methods.
58.12 Siting of instruments or instrument probes.
58.13 Operating schedule.
58.14 Special purpose monitors.

Subpart C—State and Local Air Monitoring Stations (SLAMS)

58.20 Air quality surveillance: Plan content.
58.21 SLAMS network design.
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Appendix A—Quality Assurance Requirements for State and Local Air Monitoring Stations (SLAMS).
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Appendix E—Probe Siting Criteria for Ambient Air Quality Monitoring.
Appendix F—Annual SLAMS Air Quality Information.
Appendix G—Uniform Air Quality Index and Daily Reporting.

Authority: The provisions of this Part 58 are issued under sections 110, 301(a), 313, and 319 of the Clean Air Act (42 U.S.C. 7410, 7601(a), 7613, 7619).

Subpart A—General Provisions

§ 58.1 Definitions.

As used in this part, all terms not defined herein have the meaning given them in the Act:

(a) "Act" means the Clean Air Act as amended (42 U.S.C. 7401, et seq.).

(b) "SLAMS" means State or Local Air Monitoring Station(s). The SLAMS make up the ambient air quality monitoring network which is required by § 58.20 to be provided for in the State's implementation plan. This definition places no restrictions on the use of the physical structure or facility housing the SLAMS. Any combination of SLAMS and any other monitors (Special Purpose, NAMS, PSD) may occupy the same facility or structure without affecting the respective definitions of those monitoring station.

(c) "NAMS" means National Air Monitoring Station(s). Collectively the NAMS are a subset of the SLAMS ambient air quality monitoring network.

(d) "PSD station" means any station operated for the purpose of establishing the effect on air quality of the emissions from a proposed source for purposes of prevention of significant deterioration as required by § 51.24(n) of Part 51 of this chapter.

(e) "SO_2" means sulfur dioxide.

(f) "NO_2" means nitrogen dioxide.

(g) "CO" means carbon monoxide.

(h) "O_3" means ozone.

(i) "Plan" means an implementation plan, approved or promulgated pursuant to section 110 of the Clean Air Act.

(j) "Administrator" means the Administrator of the Environmental Protection Agency (EPA) or his or her authorized representative.

(k) "Regional Administrator" means the Administrator of one of the ten EPA Regional Offices or his or her authorized representative.

(l) "State agency" means the air pollution control agency primarily responsible for development and implementation of a plan under the Act.

(m) "Local agency" means any local government agency, other than the State agency, which is charged with the responsibility for carrying out a portion of the plan.

(n) "Indian Reservation" means any Federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

(o) "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(p) "Storage and Retrieval of Aerometric Data (SAROAD) system" is a computerized system which stores and reports information relating to ambient air quality.

(q) "SAROAD site identification form" is one of the several forms in the SAROAD system. It is the form which provides a complete description of the site (and its surroundings) of an ambient air quality monitoring station.

§ 58.2 Purpose.

(a) This part contains criteria and requirements for ambient air quality monitoring and requirements for reporting ambient air quality data and information. The monitoring criteria pertain to the following areas:

(1) Quality assurance procedures for monitor operation and data handling.

(2) Methodology used in monitoring stations.

(3) Operating schedule.

(4) Siting parameters for instruments or instrument probes.

(b) The requirements pertaining to provisions for an air quality surveillance system in the State Implementation Plan are contained in this part.

(c) This part also acts to establish a national ambient air quality monitoring network for the purpose of providing timely air quality data upon which to base national assessments and policy decisions. This network will be operated by the States and will consist of certain selected stations from the States' SLAMS networks. These selected stations will remain as SLAMS and will continue to meet any applicable requirements on SLAMS. The stations, however, will also be designated as National Air Monitoring Stations (NAMS) and will be subject to additional data reporting and monitoring methodology requirements as contained in Subpart D of this part.

(d) Requirements for the daily reporting of an index of ambient air quality, to insure that the population of major urban areas are informed daily of local air quality conditions, are also included in this part.

§ 58.3 Applicability.

This part applies to:

(a) State air pollution control agencies.

(b) Any local air pollution control agency or Indian governing body to which the State has delegated authority to operate a portion of the State's SLAMS network.

(c) Owners or operators of proposed sources.

Subpart B—Monitoring Criteria

§ 58.10 Quality assurance.

(a) Appendix A to this part contains quality assurance criteria to be followed when operating the SLAMS network.

(b) Appendix B to this part contains the quality assurance criteria to be followed by the owner or operator of a proposed source when operating a PSD station.

§ 58.11 Monitoring methods.

Appendix C to this part contains the criteria to be followed in determining acceptable monitoring methods or instruments for use in SLAMS.

§ 58.12 Siting of instruments or instrument probes.

Appendix E to this part contains criteria for siting instruments or instrument probes for SLAMS.

§ 58.13 Operating schedule.

Ambient air quality data collected at any SLAMS must be collected as follows:

(a) For continuous analyzers—consecutive hourly averages except during:

(1) Periods of routine maintenance,

(2) Periods of instrument calibration, or

(3) periods or seasons exempted by the Regional Administrator.

(b) For manual methods—at least one 24-hour sample every six days except during periods or seasons exempted by the Regional Administrator.

§ 58.14 Special purpose monitors.

Any ambient air quality monitoring station other than a SLAMS or PSD station from which the State intends to use the data as part of a control strategy demonstration or as support for a plan revision must meet the requirements for SLAMS described in § 58.22 and, after January 1, 1983, meet the requirements for SLAMS described in § 58.13 and Appendices A and E to this part.

Subpart C—State and Local Air Monitoring Stations (SLAMS)

§ 58.20 Air quality surveillance: Plan content.

By January 1, 1980, the State shall adopt and submit to the Administrator a revision to the plan which will:

(a) Provide for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) which measure ambient concentrations of those pollutants for which standards have been established in Part 50 of this chapter.

(b) Provide for meeting the requirements of Appendices A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The SAROAD site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for;

(i) locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal,

(ii) implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal, and

(iii) resiting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

§ 58.21 SLAMS network design.

The design criteria for SLAMS contained in Appendix D to this part must be used in designing the SLAMS network. The State shall consult with the Regional Administrator during the network design process. The final network design will be subject to the approval of the Regional Administrator.

§ 58.22 SLAMS methodology.

Each SLAMS must meet the monitoring methodology requirements of Appendix C to this part at the time the station is put into operation as a SLAMS.

§ 58.23 Monitoring network completion.

By January 1, 1983:

(a) Each station in the SLAMS network must be in operation, be sited in accordance with the criteria in Appendix E to this part, and be located as described on the station's SAROAD site identification form, and

(b) The quality assurance requirements of Appendix A to this part must be fully implemented.

§ 58.24 [Reserved].

§ 58.25 System modification.

The State shall annually develop and implement a schedule to modify the ambient air quality monitoring network to eliminate any unnecessary stations or to correct any inadequacies indicated by the result of the annual review required by § 58.20(d). The State shall consult with the Regional Administrator during the development of the schedule to modify the monitoring program. The final schedule and modifications will be subject to the approval of the Regional Administrator. Nothing in this section will preclude the State, with the approval of the Regional Administrator, from making modifications to the SLAMS network for reasons other than those resulting from the annual review.

§ 58.26 Annual SLAMS summary report.

(a) The State shall submit to the Administrator (through the appropriate Regional Office) an annual summary report of all the ambient air quality monitoring data from all monitoring stations designated State and Local Air Monitoring Stations (SLAMS). The annual report must be submitted by July 1 of each year for data collected from January 1 to December 31 of the previous year.

(b) The annual summary report must contain:

(1) The information specified in Appendix F,

(2) The annual precision and accuracy information described in Section 5.2 of Appendix A, and

(3) The location, date, pollution source, and duration of each incident of air pollution during which ambient levels of a pollutant reached or exceeded the level specified by § 51.16(a) of this chapter as a level which could cause significant harm to the health of persons.

(c) The senior air pollution control officer in the State or his designee shall certify that the annual summary report is accurate to the best of his knowledge.

§ 58.27 Compliance date for air quality data reporting.

The annual air quality data reporting requirements of § 58.26 apply to data collected after December 31, 1980. Data collected before January 1, 1981, must be reported under the reporting procedures in effect before the effective date of Subpart C of this part.

§ 58.28 Regional Office SLAMS data acquisition.

The State shall submit all or a portion of the SLAMS data to the Regional Administrator upon his request.

Subpart D—National Air Monitoring Stations (NAMS)

§ 58.30 NAMS network establishment.

(a) By January 1, 1980, the State shall:

(1) Establish, through the operation of stations or through a schedule for locating and placing stations into operation, that portion of a National Ambient Air Quality Monitoring Network which is in that State, and

(2) Submit to the Administrator (through the appropriate Regional Office) a description of that State's portion of the network.

(b) Hereinafter, the portion of the national network in any State will be referred to as the NAMS network.

(c) The stations in the NAMS network must be stations from the SLAMS network required by § 58.20.

(d) The requirements of Appendix D to this part must be met when designing the NAMS network. The process of designing the NAMS network must be part of the process of designing the SLAMS network as explained in Appendix D to this part.

§ 58.31 NAMS network description.

The NAMS network description required by § 58.30 must contain the following for all stations, existing or scheduled:

(a) The SAROAD site identification form for existing stations.

(b) The proposed location for scheduled stations.

(c) Identity of the urban area represented.

(d) The sampling and analysis method.

(e) The operating schedule.

(f) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(g) A schedule for:

(1) Locating, placing into operation, and submitting the SAROAD site identification form for each NAMS which is not located and operating at the time of network description submittal,

(2) Implementing quality assurance procedures of Appendix A to this part for each NAMS for which such procedures are not implemented at the time of network description submittal, and

(3) Resiting each NAMS which does not meet the requirements of Appendix E to this part at the time of network description submittal.

§ 58.32 NAMS approval.

The NAMS network required by § 58.30 is subject to the approval of the Administrator. Such approval will be contingent upon completion of the network description as outlined in § 58.31 and upon conformance to the NAMS design criteria contained in Appendix D to this part.

§ 58.33 NAMS methodology.

Each NAMS must meet the monitoring methodology requirements of Appendix C to this part applicable to NAMS at the time the station is put into operation as a NAMS.

§ 58.34 NAMS network completion.

By January 1, 1981:

(a) Each NAMS must be in operation, be sited in accordance with the criteria in Appendix E to this part, and be located as described in the station's SAROAD site identification form; and

(b) The quality assurance requirements of Appendix A to this part must be fully implemented for all NAMS.

§ 58.35 NAMS data submittal.

(a) The requirements of this section apply only to those stations designated as NAMS by the network description required by § 58.30.

(b) The State shall report quarterly to the Administrator (through the

appropriate Regional Office) all ambient air quality data and information specified by AEROS Users Manual (EPA–450/2–76–029, OAQPS No. 1.2–039) to be coded into the SAROAD Air Quality Data forms. Such air quality data and information must be submitted on either paper forms, punched cards, or magnetic tape in the format of the SAROAD Air Quality Data forms.

(c) The quarterly reporting periods are January 1–March 31, April 1–June 30, July 1–September 30, and October 1–December 31. The quarterly report must:

(1) Be submitted within 90 days of the end of each reporting period, and

(2) Contain all data and information gathered during the reporting period.

(d) The first quarterly report will be due on or before June 30, 1981, for data collected during the first quarter of 1981.

(e) Air quality data submitted in the quarterly report must have been edited and validated so that such data are ready to be entered into the SAROAD data files. Procedures for editing and validating data are described in AEROS Users Manual (EPA–450/2–76–029, OAQPS No. 1.2–039).

(f) This section does not permit a State to exempt those SLAMS which are also designated as NAMS from all or any of the reporting requirements applicable to SLAMS in § 58.26.

Subpart E—Air Quality Index Reporting

§ 58.40 Index reporting.

(a) The State shall report to the general public on a daily basis through prominent notice an air quality index in accordance with the requirements of Appendix G to this part.

(b) Reporting must commence by January 1, 1981, for all urban areas with a population exceeding 500,000, and by January 1, 1983, for all urban areas with a population exceeding 200,000.

(c) The population of urban areas for purposes of index reporting are as defined in "1970 Census of Population; Supplementary Report: Population of Urbanized Areas Established Since the 1970 Census, for the United States; 1970," U.S. Bureau of Census, PC(S)–106, U.S. Government Printing Office, Washington, D.C., October, 1976.

Subpart F—Federal Monitoring

§ 58.50 Federal monitoring.

The Administrator may locate and operate an ambient air monitoring station if the State fails to locate, or schedule to be located, during the initial network design process or as a result of the annual review required by § 58.20(d):

(a) A SLAMS at a site which is necessary in the judgment of the Regional Administrator to meet the objectives defined in Appendix D to this part, or

(b) A NAMS at a site which is necessary in the judgment of the Administrator for meeting EPA national data needs.

§ 58.51 Monitoring other pollutants.

The Administrator may promulgate criteria similar to that referenced in Subpart B of this part for monitoring a pollutant for which a National Ambient Air Quality Standard does not exist. Such an action would be taken whenever the Administrator determines that a nationwide monitoring program is necessary to monitor such a pollutant.

Appendix A. Quality Assurance Requirements For State and Local Air Monitoring Stations (SLAMS)

1. General Information

This Appendix specifies the minimum quality assurance requirements for SLAMS networks. These requirements are regarded as the minimum necessary for the control and assessment of the quality of the ambient air monitoring data submitted to EPA. States are encouraged to develop and implement quality assurance programs more extensive than the minimum required or to continue such programs where they already exist.

The quality assurance program specified herein must be fully implemented by the dates specified in § 58.23 and § 58.34(b). Earlier implementation is encouraged.

Quality Assurance consists of two distinct and equally important functions. One function is the assessment of the quality of the monitoring data by estimating their precision and accuracy. The other function is the control, and improvement, of the quality of the monitoring data by implementation of quality control policies, procedures, and corrective actions. These two functions form a control loop: When the assessment function indicates that the data quality is inadequate, the control effort must be increased until the data quality is acceptable.

In order to provide uniformity in the assessment and reporting of data quality among all SLAMS networks, the assessment procedures are specified explicitly in sections 3, 4, and 5 of this Appendix.

In contrast, the control and corrective action function encompasses a variety of policies, procedures, specifications, standards, and corrective measures which have varying effects on the resulting data quality. The selection and degree of specific control measures and corrective actions used depend on a number of factors such as the monitoring methods and equipment used, field and laboratory conditions, the objectives of the monitoring, the level of the data quality needed, the expertise of assigned personnel, the cost of control procedures, pollutant concentration levels, etc. Accordingly, quality control requirements are specified in general terms, in section 2 of this Appendix, to allow each State to develop a quality control system which is most effective for its own circumstances.

2. Quality Control Requirements

2.1 Each State must develop and implement a quality control program consisting of policies, procedures, specifications, standards, and documentation necessary to:

(1) Provide data of adequate quality to meet monitoring objectives.

(2) Minimize loss of air quality data due to malfunctions or out-or-control conditions.

The quality control program must be described in detail, suitably documented, and approved by the Regional Administrator or his designee. The quality control program will be reviewed during the annual system audit described in section 2.4

2.2 Primary guidance for developing the quality control programs is contained in references 1 and 2, which also contain many suggested procedures, checks, and control specifications. Many specific quality control checks and specifications for manual methods are included in the respective reference methods described in Part 50 of this chapter or in the respective equivalent method descriptions available from EPA (see reference 5). Similarly, quality control procedures related to specifically designated reference and equivalent analyzers are contained in their respective operation and instruction manuals. This guidance, and any other pertinent information from appropriate sources, should be used by the States in developing their quality control programs.

As a minimum, each quality control program must have operational procedures for each of the following activities:

(1) Selection of methods, analyzers, or samplers.

(2) Installation of equipment.

(3) Calibration.

(4) Zero/span checks and adjustments of automated analyzers.

(5) Control checks and their frequency.

(6) Control limits for zero, span and other control checks, and respective corrective actions when such limits are surpassed.

(7) Calibration and zero/span checks for multiple range analyzers (see § 2.6 of Appendix C of this Part).

(8) Preventive and remedial maintenance.

(9) Quality control procedures for air pollution episode monitoring.

(10) Recording and validating data.

(11) Documentation of quality control information.

2.3 Pollutant Standards.

2.3.1 Gaseous standards (permeation tubes, permeation devices or cylinders of compressed gas) used to obtain test concentrations for CO, SO_2, and NO_2 must be working standards certified by comparison to a National Bureau of Standards (NBS) gaseous Standard Reference Material (SRM). A traceability protocol for certifying a working standard by direct comparison to an NBS SRM is given in reference 3. Direct use of an NBS SRM as a working standard is not prohibited but is discouraged because of their limited supply and expense.

2.3.2 Test concentrations for ozone must be obtained in accordance with the UV photometric calibration procedure specified in Appendix D of Part 50 of this chapter, or by means of an ozone transfer standard which has been certified. Consult reference 4 for guidance on ozone transfer standards.

2.3.3 Flow measurements must be made by a flow measuring instrument which is traceable to an authoritative volume or other standard.

2.4 National Performance and System Audit Programs

Agencies operating all or a portion of a SLAMS network are required to participate in EPA's national performance audit program and to permit an annual EPA system audit of their ambient air monitoring program. See section 1.4.16 of reference 1 and reference 6 for additional information about these programs. Agencies should contact either the appropriate EPA Regional Quality Control Coordinator or the Quality Assurance Branch, EMSL/RTP, at the address given in reference 3 for instructions for participation.

3. Data Quality Assessment Requirements

Data quality is measured (below), specified (section 4), and reported (section 5) on the basis of "reporting organizations." A reporting organization is defined as a State or subordinate organization within a State which is responsible for a set of stations which monitor the same pollutant and for which precision and accuracy assessments can be pooled. States must define one or more reporting organizations for each pollutant such that each monitoring station in the State SLAMS network is included in one, and only one, reporting organization.

Each reporting organization shall be defined such that precision and accuracy among all stations in the organization can be expected to be reasonably homogeneous, as a result of common factors. Common factors which should be considered by States in defining reporting organizations include: (1) operation by a common team of field operators, (2) common calibration facilities, and (3) support by a common laboratory or headquarters. Where there is uncertainty in defining the reporting organizations or in assigning specific sites to reporting organizations, States must consult with the appropriate EPA Regional Office for guidance.

3.1 *Automated Methods.*

3.1.1 *Precision.* A one-point precision check must be carried out at least once every two weeks on each automated analyzer used to measure SO_2, NO_2, O_3 and CO. The precision check is made by challenging the analyzer with a precision check gas of known concentration between 0.08 and 0.10 ppm for SO_2, NO_2, and O_3 analyzers, and between 8 and 10 ppm for CO analyzers. The standards from which precision check test concentrations are obtained must meet the specifications of section 2.3. Except for certain CO analyzers described below, analyzers must operate in their normal sampling mode during the precision check, and the test atmosphere must pass through all filters, scrubbers, conditioners and other components used during normal ambient sampling and as much of the ambient air inlet system as is practicable. If permitted by the associated operation or instruction manual, a CO analyzer may be temporarily modified during the precision check to reduce vent or purge flows, or the test atmosphere may enter the analyzer at a point other than the normal sample inlet, *provided that* the analyzer's response is not likely to be altered by these deviations from the normal operational mode. If a precision check is made in conjunction with a zero/span adjustment, it must be made prior to such zero and span adjustments.

The difference between the actual concentration of the precision check gas and the concentration indicated by the analyzer is used to assess the precision of the monitoring data as described in section 4.1.1. Report data only from automated analyzers that are approved for use in the SLAMS network.

3.1.2 *Accuracy.* Each calendar quarter audit at least 25 percent of the SLAMS analyzers that monitor for SO_2, NO_2, O_3 or CO such that each analyzer is audited at least once per year. If there are fewer than four analyzers for a pollutant within a reporting organization, randomly reaudit one or more analyzers so that at least one analyzer for that pollutant is audited each calendar quarter.

The audit is made by challenging the analyzer with at least one audit gas of known concentration from each of the following ranges which fall within the measurement range of the analyzer being audited:

Audit point	Concentration range, ppm	
	SO_2, NO_2, O_3	CO
1	0.03–0.08	3–8
2	0.15–0.20	15–20
3	0.40–0.45	40–45
4	0.80–0.90	80–90

The standards from which audit gas test concentrations are obtained must meet the specifications of section 2.3. Working or transfer standards and equipment used for auditing must be different from the standards and equipment used for calibration and spanning. The auditing standards and calibration standards may be referenced to the same NBS SRM or primary UV photometer. The auditor should not be the operator/analyst who conducts the routine monitoring, calibration, and analysis.

The audit shall be carried out by allowing the analyzer to analyze an audit test atmosphere in the same manner as described for precision checks in section 3.1.1. The excepting given in section 3.1.1 for certain CO analyzers does not apply for audits.

The difference between the actual concentration of the audit test gas and the concentration indicated by the analyzer is used to assess the accuracy of the monitoring data as described in section 4.1.2. Report data only from automated analyzers that are approved for use in the SLAMS network.

3.2 *Manual Methods.*

3.2.1 *Precision.* Within each reporting organization, select at least two sites for duplicate sampling and collocate two samplers at each selected site. Although only two pairs of collocated samplers are required to estimate the precision of a reporting organization, additional collocated sampling is encouraged. Sites with the highest expected geometric mean concentration must be selected or, if such sites are impractical, alternate sites approved by the Regional Administrator may be selected. The two samplers must be within 4 meters of each other, and high-volume samplers must be at least 2 meters apart to preclude airflow interference. Calibration, sampling and analysis must be the same for both collocated samplers as well as for all other samplers in the network. The collocated samplers must be operated whenever routine sampling is scheduled. For each pair of collocated samplers, designate one as the sampler which will be used to report air quality for the site and designate the other as the duplicate sampler. The differences in measured concentration ($\mu g/m^3$) between the two collocated samplers are used to calculate precision as described in section 4.2.1.

3.2.2 *Accuracy.* The accuracy of manual sampling methods is assessed by auditing a portion of the measurement process. For TSP, the flow rate during sample collection is audited. For the SO_2 and NO_2 methods, the analytical measurement is audited.

(a) *TSP Method.* (Appendix B of Part 50 of this chapter). Each calendar quarter, audit the flow rate of at least 25 percent of the high-volume samplers such that each sampler is audited at least once per year. If there are fewer than four high-volume samplers within a reporting organization, randomly reaudit one or more samplers so that one sampler is audited each calendar quarter.

Audit the flow rate at one flow rate using a reference flow device described in section 2.2.8, pages 3–5, of reference 2, or a similar transfer flow standard. The device used for auditing must be different from the one used to calibrate the flow of the high-volume sample being audited. The auditing device and the calibration device may both be referenced to the same primary flow standard. With the audit device and a normal glass fiber filter in place, operate the high-volume sampler at its normal flow rate. The difference in flow rate (in m^3/min) between the audit flow measurement and the flow indicated by the sampler's normal flow indicator are used to calculate accuracy as described in section 4.2.2.

Great care must be used in auditing high-volume samplers having flow regulators because the introduction of resistance plates in the audit device can cause abnormal flow patterns at the point of flow sensing. For this reason, the orifice of the flow audit device should be used without resistance plates in auditing flow regulated high-volume samplers, or other steps should be taken to assure that flow patterns are not perturbed at the point of flow sensing.

(b) *SO_2 Methods.* Prepare audit solutions from a working sulfite-TCM solution as described in section 6.2.9 of the SO_2 Reference Method (40 CFR 50, Appendix A). These audit samples must be prepared independently from the standardized sulfite solutions used in the routine analysis procedure. New sulfite-TCM audit samples

must be prepared every 30 days and must be stored between 0 and 5°C.

Prepare audit samples in each of the concentration ranges of 0.2–0.3, 0.5–0.6, and 0.8–0.9 μg SO_2/ml. Analyze an audit sample in each of the three ranges at least once each day that samples are analyzed and at least twice per calendar quarter. The differences between the audit concentrations (in μg SO_2/ml) and the indicated concentrations (in μg SO_2/ml) are used to calculate accuracy as described in section 4.2.2.

(c) *NO_2 Methods.* Prepare audit solutions from a working sodium nitrite solution as described in the appropriate equivalent method (see reference 5). These audit samples must be prepared independently from the standardized nitrate solution used in the routine analysis procedure. New aqueous sodium nitrate audit samples must be prepared every three months. Prepare audit samples in each of the concentration ranges of 0.2–0.3, 0.5–0.6, and 0.8–0.9 μg NO_2/ml. Analyze an audit sample in each of the three ranges at least once each day that samples are analyzed and at least twice per calendar quarter. The differences between the audit concentrations (in μg NO_2/ml) and the indicated concentrations (in μg NO_2/ml) are used to calculate accuracy as described in section 4.2.2.

4. Calculations For Data Quality Assessment

4.1 *Automated Methods.*

4.1.1 *Precision.* Estimates of the precision are calculated from the results of biweekly precision checks as specified in section 3.1.1. At the end of each calendar quarter calculate a combined precision probability interval for all SLAMS analyzers in the reporting organization for each pollutant. Directions for calculations are given below and directions for reporting are given in section 5. DO NOT include results from non-approved analyzers in the calculation of precision estimates. If monitoring data is invalidated during the entire period represented by a given precision check, the results of that precision check shall be excluded from the calculations.

(a) *Single Analyzer Precision.*

Calculate the percentage difference (d_i) for each precision check using equation 1.

$$d_i = \frac{Y_i - X_i}{X_i} \times 100 \qquad (1)$$

where:

Y_i = analyzer's indicated concentration from the i-th precision check.

X_i = known concentration of test gas used for the i-th precision check.

For each instrument, calculate the quarterly average ($\bar{d}_j$), equation 2, and the standard deviation (S_j), equation 3.

$$\bar{d}_j = \frac{1}{n}\sum_{i=1}^{n} d_i \qquad (2)$$

$$S_j = \sqrt{\frac{1}{n-1}\left[\sum_{i=1}^{n} d_i^2 - \frac{1}{n}\left(\sum_{i=1}^{n} d_i\right)^2\right]} \qquad (3)$$

where n is the number of precision checks on the instrument made during the calendar quarter. For example, n should be 6 or 7 if precision checks are made biweekly during a quarter.

(b) *Precision for Reporting Organization.*

For each pollutant, calculate the average of averages (D) and pooled standard deviation (S_a) for all analyzers monitoring the pollutant using either equations 4 and 5 or 4a and 5a.

$$D = \frac{1}{k}\sum_{j=1}^{k} \bar{d}_j \qquad (4)$$

$$S_a = \sqrt{\frac{1}{k}\sum_{j=1}^{k} S_j^2}, \qquad (5)$$

where k is the number of analyzers within the reporting organization for a single pollutant. Use equations 4 and 5 when the same number of precision checks are made for each instrument. Otherwise, use equations 4a and 5a to obtain a weighted average and a weighted standard deviation.

$$D = \frac{n_1\bar{d}_1 + n_2\bar{d}_2 + \ldots + n_j\bar{d}_j + \ldots + n_k\bar{d}_k}{n_1 + n_2 + \ldots + n_j + \ldots + n_k} \qquad (4a)$$

$$S_a = \sqrt{\frac{(n_1 - 1)S_1^2 + (n_2 - 1)S_2^2 + \ldots + (n_j - 1)S_j^2 + \ldots + (n_k - 1)S_k^2}{n_1 + n_2 + \ldots + n_j + \ldots + n_k - k}} \qquad (5a)$$

For each pollutant, calculate the 95 Percent Probability Limits for the precision of a reporting organization using equations 6 and 7 and record these limits on the front of Form 1 (Figure 1) under columns 22–27. (See section 5 for explanation of Form 1).

Upper 95 Percent Probability Limit = $D + 1.96\ S_a$, (6)

Lower 95 Percent Probability Limit = $D - 1.96\ S_a$, (7)

4.1.2 *Accuracy.* Estimates of the accuracy are calculated from the results of independent audits as described in section 3.1.2. At the end of each calendar quarter calculate a combined accuracy probability interval for all SLAMS analyzers in the reporting organization for each pollutant. Separate probability limits are calculated for each audit concentration level listed in section 3.1.2. Directions for calculations are given below (directions for reporting are given in section 5). DO NOT include results from nonapproved analyzers in the calculation.

(a) *Single Analyzer Accuracy.* Calculate the percentage difference (d_i) for each audit concentration using equation 1 where Y_i is the analyzer's indicated concentration from the i-th audit check and X_i is the known concentration of the audit gas used for the i-th audit check.

(b) *Accuracy for Reporting Organization.* Using equation 8, calculate, for each audit concentration level, the average (D) of the individual percentage differences (d_i) for all k analyzers measuring a given pollutant audited during the quarter.

$$D = \frac{1}{k}\sum_{i=1}^{k} d_i \qquad (8)$$

For each concentration level, calculate the standard deviation (S_a) of all the individual percentage differences for all analyzers audited during the quarter, using equation 9. Repeat for each pollutant.

$$S_a = \sqrt{\frac{1}{k-1}\left[\sum_{i=1}^{k} d_i^2 - \frac{1}{k}\left(\sum_{i=1}^{k} d_i\right)^2\right]} \qquad (9)$$

For reporting organizations having four or fewer analyzers for a particular pollutant, only one audit is required each quarter. Therefore, the average and standard deviation cannot be calculated. For such reporting units, the audit results of two consecutive quarters are required to calculate an average and a standard deviation using equations 8 and 9, and the reporting of probability limits are therefore required on a semi-annual (instead of a quarterly) basis. For each pollutant, calculate the 95 Percent Probability Limits for the accuracy of a reporting organization at each audit concentration level using equations 6 and 7 and record these limits on the front of Form 1 (Figure 1) under columns 39–62. (See section 5 for explanation of Form 1).

4.2 *Manual Methods.*

4.2.1. *Precision.* Estimates of the precision are calculated from the results obtained from collocation of two samplers as described in section 3.2.1. At the end of each calendar quarter, calculate a combined precision probability interval for all collocated samplers for each pollutant. Directions for calculation are given below and directions for reporting are given in section 5.

(a) *Single Instrument Precision.* For each of the paired measurements described in section 3.2.1, calculate the percentage difference (d_i) using equation 1 where Y_i is the concentration of pollutant measured by the duplicate sampler and X_i is the concentration of pollutant measured by the sampler reporting air quality for the site. For each site, calculate the quarterly average percentage difference (d_j), equation 2, and the standard deviation (S_j), equation 3.

At low concentrations, agreement between the measurements of collocated samplers, expressed as 95 Percent Probability Limits, may be poor. For this reason a separate count is made of the occurrence of pollutant measurements below specified levels. Count the number of samples from all collocated sites which indicate a measurement from a sampler reporting air quality for the site (See section 3.2.1) below the following limits:

TSP—less than 20 $\mu g/m^3$
SO_2—less than 40 $\mu g/m^3$
NO_2—less than 30 $\mu g/m^3$

Report the counts on columns 20–23 of Form 1 (Back).

(b) *Precision for Reporting Organization.* For each pollutant, calculate the average percentage difference (D) and pooled standard deviation (S_a) using equations 4 and 5, or using equations 4a and 5a if different numbers of paired measurements are made at the collocated sites. For these calculations, the k of equations 4, 5, 4a and 5a is the number of samplers at collocated sites designated to report air quality. Results from all collocated sampling sites shall be reported.

Calculate the 95 Percent Probability Limits for the precision of a reporting unit, using equations 10 and 11, and record them in columns 24–29 on the back of Form 1 (See section 5 for explanation of Form 1).

Upper 95 Percent Probability Limit = $D + 1.96\ S_a/\sqrt{2}$ (10)

Lower 95 Percent Probability Limit = $D - 1.96\ S_a/\sqrt{2}$ (11)

4.2.2 *Accuracy.*

(a) *Single Sampler Accuracy (TSP).* For the flow rate audit described in section 3.2.2(a), let X_i represent the known flow rate and Y_i represent the indicated flow rate. Calculate the percentage difference (d_i) for each audit using equation 1.

(b) *Accuracy for Reporting Organization (TSP).* Using equation 8 calculate the average (D) of the individual percent differences for all high-volume samplers audited during the calendar quarter. Compute the standard deviation (S_a) of all the percentage differences for all of the instruments audited during the calendar quarter using equation 9.

Calculate the 95 Percent Probability Limits for the accuracy of a reporting organization using equations 6 and 7, and record these limits on the back of Form 1 under columns 46–51. Note that since the audit is conducted at only one level, columns 40–45 and 52–57 are not used. For reporting organizations having four or fewer high-volume samplers for TSP, only one audit is required each quarter. For such reporting organizations, the audit results of two consecutive quarters are required to calculate an average and a standard deviation using equations 8 and 9. Therefore, semi-annual reporting (instead of quarterly) of probability limits is required.

(c) *Single-Analysis-Day Accuracy (SO_2 and NO_2).* For each of the audits of the analysis for SO_2 or NO_2 described in section 3.2.2 (b) and (c), let X_i represent the known value of the audit sample and Y_i the indicated value of SO_2 or NO_2. Calculate the percentage difference (d_i) for each audit at each concentration level using equation 1.

(d) *Accuracy for Reporting Organization (SO_2 and NO_2).* Calculate the average (D) of the percent differences at each concentration level for all analysis days during the quarter using equation 8. Compute the standard deviation (S_a) of the individual percentage differences using equation 9. Calculate the 95 Percent Probability Limits for the accuracy for the reporting organization using equations 6 and 7 and record these limits on the back of Form 1 for each concentration level under columns 40–57.

5. Reporting Requirements

For each pollutant, prepare a list of all monitoring sites and their SAROAD site identification codes in each reporting organization and submit the list to the Regional Office, with a copy to Environmental Monitoring and Support Laboratory (MD–75), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711 (EMSL/RTP). Whenever there is a change in the assignment of a monitoring site in a reporting organization, report this change to the Regional Office and to EMSL/RTP.

5.1 *Quarterly Reports.*

For each reporting organization fill out form 1 (Front) and (Back) according to the directions given below, and submit the form within 90 days of the end of the quarter to the appropriate Regional Office, with a copy to EMSL/RTP.

5.2 *Annual Reports.*

Compute simple unweighted arithmetic averages of the probability limits for precision and accuracy from the four quarterly periods of the calendar year and report them with the annual SLAMS report required by 58.26. Also include in the SLAMS annual report a listing by pollutant, of the monitoring sites in each reporting organization within the state.

5.3 *Instructions for Form 1.*

Block No.	Description
	General Information (Form 1, Front and Back)
1–2	*SAROAD State:* The two digit SAROAD State code.
3–5	*Reporting Organization:* A unique 3-digit code assigned by each State to each of its respective reporting organizations.
6–7	*Year:* Last two digits of the calendar year.
8	*Quarter:* for SLAMS/NAMS Quarterly Report: Enter 1, 2, 3 or 4 to refer to calendar quarter the monitoring data and quality assessments were made. For SLAMS *Annual* Report: Enter O to indicate annual SLAMS report.
	Automated Analyzers (Form 1, Front)
9–14	*Pollutant Identifiers:* Precoded.
28–33	(Rows labeled "E" are available for future additional pollutants.)
15–17	*Number of Analyzers:* Count only the number of approved analyzers in the network that report monitoring data for each pollutant.
18–21	*Number of Precision Checks:* Count the total number of precision checks included in the calculations reported.
22–24	*Lower Probability Limit, Precision:* Block 22 is either "+" or "−". Blocks 22–24 contain the percentage (round off to a whole number) obtained from equation 7.

Block No.	Automated Analyzers (Form 1, Front) —Continued
25–27	*Upper Probability Limit, Precision:* Block 25 is either "+" or "−". Blocks 26–27 contain the percentage obtained from equation 6. Note: If precision limits exceed two digits, e.g., 103% report as *99*.
34–35	*Source of Audit Gas:* For accuracy determination, refer to code table, note 2, on the form.
36–38	*Number of Audits:* Report the total number of multipoint audits performed on the analyzers.
39–62	*Probability Limits, Accuracy:* The lower and upper probability limits for each pollutant concentration level of the accuracy audits are entered in blocks 39–62. Levels, their corresponding concentration ranges for each pollutant and the appropriate blocks for this information are given in the following table.

Blocks	Levels	Pollutant Concentration Range, ppm	
		NO_2, O_3, SO_2	CO
39–44	1	.03 to .08	3 to 8.
45–50	2	.15 to .20	15 to 20.
51–56	3	.40 to .45	40 to 45.
57–62	4	.80 to .90	80 to 90.

Block No.	Description
39–41, 45–47, 51–53, 57–59	*Lower Probability Limits, Accuracy:* Blocks 39, 45, 51 and 57 are either "+" or "−". Blocks 40–41, 46–47, 52–53 and 56–57 contain the percentages obtained from equation 7.
42–44, 48–50, 54–56, 60–62	*Upper Probability Limit, Accuracy:* Blocks 42, 48, 54 and 60 are either "+" or "−". Blocks 43–44, 49–50, 55–56 and 61–62 contain the percentage obtained from equation 6. NOTE: If only one audit is performed during a given quarter for a given pollutant, it is not possible to calculate probability limits for that quarter. In that case, blocks 39–62 are left blank for the first such quarter and the number 001 is reported in blocks 36–38. Probability limits are then computed and reported on a semi-annual basis (i.e., after the next quarter) from the audit data obtained during the two consecutive quarters.

Block No.	Manual Methods (Form 1, Back)
9–14	*Pollutant Identifiers:* Precoded
30–35	(Rows labeled "D" are available for future additional pollutants.)
15–17	*Number of Samplers:* Count only the number of samplers for each pollutant that is associated with an approved method and from which monitoring data are reported as part of a SLAMS network.
18–19	*Number of Collocated Sites:* Number of sites having collocated samplers. The minimum number is 2.
20–23	*Number of Collocated Samples Below the Limit:* Count the number of samples from the collocated sites where the measurements from sampler reporting air quality for the site (see section 3.2.1) are below the following limits: TSP—20 μg TSP/m³ SO_2—40 μg SO_2/m³ NO_2—30 μg NO_2/m³
24–26	*Lower Probability Limit, Precision:* Block 24 is either "+" or "−". Blocks 25–26 contain the percentage obtained from equation 11.
27–29	*Upper Probability Limit, Precision:* Block 27 is either "+" or "−". Blocks 28–29 contain the percentage obtained from equation 10. Note: If precision limits exceed two digits, e.g., 103%, report as 99.
36	*Type of Sampler:* Code from note 2 on the form. Codes A and B are intended for use with TSP to indicate whether or not samplers are equipped with automatic flow control. Code C is intended for use with SO_2 and NO_2 methods to indicate that flow control is accomplished with critical orifice.
37–39	*Number of Audits:* Count the total number of audits performed on the *entire network* for the pollutants. A single audit may consist of several audit level checks, but count only once for each audit. For example, although an audit conducted for NO_2 or SO_2 consists of checks at three different concentration levels, count this as one audit, not three.
40–57	*Probability Limits, Accuracy:* The lower and upper probability limits for each level of the accuracy audits are entered in blocks 40–57. Levels, their corresponding concentration ranges and the appropriate blocks for this information are given in the following table:

Blocks	Levels	Audit Concentrations	
		TSP cfm	SO_2, NO_2, μg/ml
40–45	1	.....	0.2 to 0.3.
46–51	2	One within 40–60 cfm.	0.5 to 0.6.
52–57	3	.....	0.8 to 0.9.

Block No.	Description
40–42, 46–48, 52–54	*Lower Probability Limits, Accuracy:* Blocks 40, 46 and 52 are either "+" or "−". Blocks 41–42, 47–48 and 53–54 contain the percentage obtained from equation 7.
43–45, 49–51, 55–57	*Upper Probability Limits, Accuracy:* Blocks 43, 49 and 55 are either "+" or "−". Blocks 44–45, 50–51 and 56–57 contain the percentage obtained from equation 6. Note: If accuracy limits exceed two digits, e.g., 103%, report as *99*. Report, as required, all pollutants (TSP, SO_2 and NO_2) as determined by manual sampling methods. Note that only blocks 46–51 are used for TSP. NOTE: If only one audit is performed during a given quarter for a given pollutant, it is not possible to calculate probability limits for that quarter. In that case, blocks 40–57 are left blank for the first such quarter and the number 001 is reported in blocks 37–39. Probability limits are then computed and reported on a semi-annual basis (i.e., after the next quarter) from the audit data obtained during the two consecutive quarters.

References

1. "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I—Principles." EPA–600/9–76–005. March 1976. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory (MD–77), Research Triangle Park, N.C. 27711.

2. "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II—Ambient Air Specific Methods." EPA–600/4–77–027a, May 1977. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory (MD–77), Research Triangle Park, N.C. 27711.

3. "Traceability Protocol for Establishing True Concentrations of Gases Used for Calibration and Audits of Air Pollution Analyzers," (Protocol No. 2), June 1978. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory, Quality Assurance Branch, (MD–77), Research Triangle Park, N.C. 27711.

4. "Transfer Standards for Calibration of Ambient Air Monitoring Analyzers for Ozone," June 1978. Available from U.S. Environmental Protection Agency, Department E (MD–77), Research Triangle Park, N.C. 27711.

5. "List of Reference and Equivalent Methods." Available from U.S. Environmental Protection Agency, Department E (MD–77), Research Triangle Park, N.C. 27711.

6. "Criteria, Procedures and Forms for the Evaluation of Ambient Air Monitoring Programs—Laboratory and Field," June 1979. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory, Quality Assurance Branch (MD–77), Research Triangle Park, N.C. 27711.

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DATA ASSESSMENT REPORT

STATE | REPORTING ORGANIZATION | YEAR | QUARTER | SEND COMPLETED FORM TO REGIONAL OFFICE WITH COPY TO EMSL RTP

1 2 | 3 4 5 | 6 7 | 8

NAME OF REPORTING ORGANIZATION _____

AUTOMATED ANALYZERS

PRECISION

		NO OF ANALYZERS [1] (15-17)	NO OF PRECISION CHECKS (18-21)	PROBABILITY LIMITS LOWER (22-24)	PROBABILITY LIMITS UPPER (25-27)
A	CO (C 4 2 1 0 1) (9-14)				
B	NO_2 (C 4 2 6 0 2) (9-14)				
C	O_3 (C 4 4 2 0 1) (9-14)				
D	SO_2 (C 4 2 4 0 1) (9-14)				
E	___ (9-14)				

ACCURACY

		SOURCE OF AUDIT GAS [2] (34-35)	NO OF AUDITS (36-38)	LEVEL 1 LOWER (39-44)	LEVEL 1 UPPER (39-44)	LEVEL 2 LOWER (45-50)	LEVEL 2 UPPER (45-50)	LEVEL 3 LOWER (51-56)	LEVEL 3 UPPER (51-56)	LEVEL 4 LOWER (57-62)	LEVEL 4 UPPER (57-62)
A	CO (C 4 2 1 0 1) (28-33)										
B	NO_2 (C 4 2 6 0 2) (28-33)										
C	O_3 (C 4 4 2 0 1) (28-33)										
D	SO_2 (C 4 2 4 0 1) (28-33)										
E	___ (C) (28-33)										

[1] COUNT ONLY REFERENCE OR EQUIVALENT MONITORING METHODS

[2] CODE USING THE FOLLOWING:

A. NBS SUPPLIED SRM
B. EMSL REFERENCE GAS
C. OTHER (IDENTIFY VENDOR) CO
D. OTHER (IDENTIFY VENDOR) NO_2
E. OTHER (IDENTIFY VENDOR) O_3
F. OTHER (IDENTIFY VENDOR) SO_2

DATA ASSESSMENT REPORT

STATE (1 2) REPORTING ORGANIZATION (3 4 5) YEAR (6 7) QUARTER (8) SEND COMPLETED FORM TO REGIONAL OFFICE WITH COPY TO EMSL/RTP

NAME OF REPORTING ORGANIZATION _____

MANUAL METHODS

PRECISION

		NO. OF SAMPLERS [1] (15–17)	NO. OF COLLOCATED SITES (18–19)	NO. OF COLLOCATED SAMPLES < LIMIT (20–23)	PROBABILITY LIMITS LOWER (24–29)	PROBABILITY LIMITS UPPER (24–29)
A. TSP	1 1 1 1 0 1 (9–14)				+/-	+/-
B. SO_2	1 4 2 4 0 1 (9–14)				+/-	+/-
C. NO_2	1 4 2 6 0 2 (9–14)				+/-	+/-
D.	1 (9–14)				+/-	+/-

LIMITS APPLICABLE TO BLOCKS 20–23

TSP: 20 μg TSP/m^3

SO_2: 40 μg SO_2/m^3

NO_2: 30 μg NO_2/m^3

ACCURACY

		TYPE OF SAMPLER [2] (36)	NO. OF AUDITS (37–39)	PROBABILITY LIMITS LEVEL 1 LOWER (40–45)	LEVEL 1 UPPER (40–45)	LEVEL 2 LOWER (46–51)	LEVEL 2 UPPER (46–51)	LEVEL 3 LOWER (52–57)	LEVEL 3 UPPER (52–57)
A. TSP	1 1 1 1 0 1 (30–35)			+/-	+/-	+/-	+/-	+/-	+/-
B. SO_2	1 4 2 4 0 1 (30–35)			+/-	+/-	+/-	+/-	+/-	+/-
C. NO_2	1 4 2 6 0 2 (30–35)			+/-	+/-	+/-	+/-	+/-	+/-
D.	1 (30–35)			+/-	+/-	+/-	+/-	+/-	+/-

[1] COUNT ONLY REFERENCE OR EQUIVALENT MONITORING METHODS

[2] CODE USING THE FOLLOWING.

A WITH AUTOMATIC FLOW CONTROL
B WITHOUT AUTOMATIC FLOW CONTROL
C WITH CRITICAL OFFICE FLOW CONTROL

BILLING CODE 6560-01-C

FIGURE 1 FORM 1 (BACK)

Appendix B. Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring

1. General Information

This Appendix specifies the minimum quality assurance requirements of an organization operating a network of PSD stations. These requirements are regarded as the mimimum necessary for the control and assessment of the quality of the PSD ambient air monitoring data submitted to EPA. Organizations are encouraged to develop and implement quality assurance programs more extensive than the minimum required or to continue such programs where they already exist.

Quality assurance consists of two distinct and equally important functions. One function is the assessment of the quality of the monitoring data by estimating their precision and accuracy. The other function is the control, and improvement, of the quality of the monitoring data by implementation of quality control policies, procedures and corrective actions. These two functions form a control loop: When the assessment function indicates that the data quality is inadequate, the control effort must be increased until the data quality is acceptable.

In order to provide uniformity in the assessment and reporting of data quality, the assessment procedures are specified explicitly in sections 3, 4, 5 and 6 of this Appendix.

In contrast, the control and corrective action function encompasses a variety of policies, procedures, specifications, standards, and corrective measures which have varying effects on the resulting data quality. The selection and degree of specific control measures and corrective actions used depend on a number of factors such as the monitoring methods and equipment used, field and laboratory conditions, the objectives of the monitoring, the level of data quality needed, the expertise of personnel, the cost of control procedures, pollutant concentration levels, etc. Accordingly, quality control requirements are specified in general terms, in section 2 of this Appendix, to allow each organization to develop a quality control system which is most effective for its own circumstances.

For purposes of this Appendix "organization" is defined as a source owner/operator, a government agency, or their contractor which operates an ambient air pollution monitoring network for PSD purposes.

2. Quality Control Requirements

2.1 Each organization must develop and implement a quality control program consisting of policies, procedures, specifications, standards and documentation necessary to:

(1) Meet the monitoring objectives and quality assurance requirements of the permit granting authority.

(2) Minimize loss of air quality data due to malfunctions or out-of-control conditions.

The quality control program must be described in detail, suitably documented, and approved by the permit granting authority.

2.2 Primary guidance for developing the quality control program is contained in references 1 and 2, which also contain many suggested procedures, checks, and control specifications. Method specific quality control checks and specifications for manual methods are included in the respective reference methods described in Part 50 of this chapter, or in the respective equivalent method descriptions available from EPA (see reference 5). Similarly, quality control procedures related to specifically designated reference and equivalent analyzers are contained in their respective operation and instruction manuals. This guidance, and any other pertinent information from appropriate sources, should be used by organizations in developing their quality control programs.

As a minimum each quality control program must have operational procedures for each of the following activities:

(1) Selection of methods, analyzers, or samplers.

(2) Installation of equipment.

(3) Calibration.

(4) Zero and span checks and adjustments of automated analyzers.

(5) Control checks and their frequency.

(6) Control limits for zero, span and other control checks, and respective corrective actions when such limits are surpassed.

(7) Calibration and zero/span checks for multiple range analyzers.

(8) Preventive and remedial maintenance.

(9) Recording and validating data.

(10) Documentation of quality control information.

2.3 *Pollutant Standards.*

2.3.1 Gaseous standards (permeation tubes, permeation devices or cylinders of compressed gas) used to obtain test concentrations for CO, SO_2, and NO_2 must be working standards certified by comparison to a National Bureau of Standards (NBS) gaseous Standard Reference Material (SRM). A traceability protocol for certifying a working standard by direct comparison to an NBS SRM is given in reference 3. Direct use of an NBS SRM as a working standard is not prohibited but is discouraged because of the limited supply and expense of NBS SRM's.

2.3.2 Test concentrations for ozone must be obtained in accordance with the UV photometric calibration procedure specified in Appendix D of Part 50 of this chapter, or by means of an ozone transfer standard which has been certified. Consult reference 4 for guidance on ozone transfer standards.

2.3.3. Flow measurements must be made by a flow measuring instrument which is traceable to an authoritative volume or other standard.

2.4 Performance and System Audit Programs

The organization operating a PSD monitoring network must participate in EPA's national performance audit program. The permit granting authority, or EPA, may conduct system audits of the ambient air monitoring programs of organizations operating PSD networks. See section 1.4.16 of reference 1 and reference 6 for additional information about these programs. Organizations should contact either the appropriate EPA Regional Quality Control Coordinator or the Quality Assurance Branch, EMSL/RTP, at the address given in reference 3 for instructions for participation.

3. Data Quality Assessment Requirements

3.1 *Precision of Automated Methods.*

A one-point precision check must be carried out at least once every two weeks on each automated analyzer used to measure SO_2, NO_2, O_3 and CO. The precision check is made by challenging the analyzer with a precision check gas of known concentration between 0.08 and 0.10 ppm for SO_2, NO_2 and O_3 analyzers, and between 8 and 10 ppm for CO analyzers. The standards from which precision check test concentrations are obtained must meet the specifications of section 2.3. Except for certain CO analyzers described below, analyzers must operate in their normal sampling mode during the precision check, and the test atmosphere must pass through all filters, scrubbers, conditioners, and other components used during normal ambient sampling and as much of the ambient air inlet system as is practicable. If permitted by the associated operation or instruction manual, a CO analyzer may be temporarily modified during the precision check to reduce vent or purge flows, or the test atmosphere may enter the analyzer at a point other than the normal sample inlet, *provided that* the analyzer's response is not likely to be altered by these deviations from the normal operational mode.

If a precision check is made in conjunction with zero/span adjustment, it must be made prior to such zero and span adjustments. The difference between the actual concentration of the precision check gas and the concentration indicated by the analyzer is used to assess the precision of the monitoring data as described in section 4.1. Report data only from automated analyzers that are approved for use in the PSD network.

3.2 *Accuracy of Automated Methods.*

Each sampling quarter audit each analyzer that monitors for SO_2, NO_2, O_3 or CO at least once. The audit is made by challenging the analyzer with at least one audit gas of known concentration from each of the following range which fall within the measurement range of the analyzer being audited:

	Concentration Range, ppm	
Audit Point	SO_2, NO_2, O_3	CO
1	0.03–0.08	3–8
2	0.15–0.20	15–20
3	0.40–0.45	40–45
4	0.80–0.90	80–90

The standards from which audit gas test concentrations are obtained must meet the specifications of section 2.3. Working and transfer standards and equipment used for auditing must be different from the standards and equipment used for calibration and spanning. The auditing standards and calibration standards may be referenced to the same NBS SRM or primary UV photometer. The auditor must not be the operator/analyst who conducts the routine monitoring, calibration and analysis.

The audit shall be carried out by allowing the analyzer to analyze an audit test

atmosphere in the same manner as described for precision checks in section 3.1. The exception given in section 3.1 for certain CO analyzers does not apply for audits.

The difference between the actual concentration of the audit test gas and the concentration indicated by the analyzer is used to assess the accuracy of the monitoring data as described in section 4.2. Report data only from automated analyzers that are approved for use in the PSD network.

3.3 *Precision of Manual Methods.*

3.3.1 *TSP Method.* For a given organization's monitoring network, one sampling site must have collocated samplers. A site with the highest expected 24-hour pollutant concentration must be selected. The two samplers must be within 4 meters of each other but at least 2 meters apart to preclude airflow interference. Calibration, sampling and analysis must be the same for both collocated samplers as well as for all other samplers in the network. The collocated samplers must be operated as a minimum every third day when continuous sampling is used. When a less frequent sample schedule is used, the collocated samplers must be operated at least once each week. For each pair of collocated samplers, designate one sampler as the sampler which will be used to report air quality for the site and designate the other as the duplicate sampler. The differences in measured concentration ($\mu g/m^3$) between the two collocated samplers are used to calculate precision as described in section 5.1.

3.4 *Accuracy of Manual Methods.*

3.4.1 *TSP Method.* Each sampling quarter audit the flow rate of each high-volume sampler at least once. Audit the flow rate at one flow rate using a reference flow device described in section 2.2.8, pages 3–5, of reference 2, or a similar transfer flow standard. The device used for auditing must be different from the one used to calibrate the flow of the high-volume sampler being audited. The auditing device and the calibration device may both be referenced to the same primary flow standard. With the audit device and a normal glass fiber filter in place, operate the high-volume sampler at its normal flow rate. The difference in flow rate (in m^3/min) between the audit flow measurement and the flow indicated by the sampler's normal flow indicator are used to calculate accuracy as described in section 5.2.

Great care must be used in auditing high-volume samplers having flow regulators because the introduction of resistance plates in the audit device can cause abnormal flow patterns at the point of flow sensing. for this reason, the orfice of the flow audit device should be used without resistance plates in auditing flow regulated high-volume samplers, or other steps should be taken to assure that flow patterns are not perturbed at the point of flow sensing.

4. Calculations for Automated Methods

4.1 *Single Analyzer Precision.*

Each organization, at the end of each sampling quarter, shall calculate and report a precision probability interval for each analyzer. Directions for calculations are given below and directions for reporting are given in section 6. If monitoring data are invalidated during the period represented by a given precision check, the results of that precision check shall be excluded from the calculations. Calculate the percentage difference (d_i) for each precision check using equation 1.

$$d_i = \frac{Y_i - X_i}{X_i} \times 100 \quad (1)$$

where:

Y_i = analyzer's indicated concentration from the i-th precision check

X_i = known concentration of the test gas used for the i-th precision check.

For each instrument, calculate the quarterly average (a_j), equation 2, and the standard deviation (S_j), equation 3.

$$\bar{d}_j = \frac{1}{n}\sum_{i=1}^{n} d_i \quad (2)$$

$$S_j = \sqrt{\frac{1}{n-1}\left[\sum_{i=1}^{n} d_i^2 - \frac{1}{n}\left(\sum_{i=1}^{n} d_i\right)^2\right]} \quad (3)$$

where n is the numnber of precision checks on the instrument made during ther sampling quarter. For example, n should be 6 or 7 if span checks are made biweekly during a quarter.

Calculate the 95 percent probability limits for precision using equation 4 and 5.

Upper 95 Percent Probability Limit = $d_j + 1.96\ S_j$ (4)

Lower 95 Percent Probability Limit = $a_j - 1.96\ S_j$ (5)

4.2 *Single Analyzer Accuracy.*

Each organization, at the end of each sampling quarter, shall calculate and report the percentage difference for each audit concentration for each analyzer audited during the quarter. Directions for calculations are given below (directions for reporting are given in section 6).

Calculate and report the percentage difference (d_i) for each audit concentration using equation 1 where Y_i is the analyzer's indicated concentration from the i-th audit check and X_i is the known concentration of the audit gas used for the i-th audit check.

5. Calculations For Manual Methods

5.1 *Single Instrument Precision for TSP.*

Estimates of precision for ambient air quality measurements from the TSP method are calculated from results obtained from the collocation of two samplers at one sampling site as described in section 3.3.1. At the end of each sampling quarter calculate and report a precision probability interval using weekly collocation sampler results. Directions for calculation are given below and directions for reporting are given in section 6.

For the paired measurements described in section 3.3.1, calculate the percentage difference (d_i), using equation 1 where Y_i is the TSP concentration measured by the duplicate sampler and X_i is the TSP concentration measured by the sampler reporting air quality for the site. Calculate the quarterly average percentage difference (d_j), equation 2, standard deviation (S_j), equation 3, and upper and lower 95 percent probability limits for precision (equations 6 and 7).

Upper 95 Percent Probability Limit = $d_j + 1.96\ S_j/\sqrt{2}$ (6)

Lower 95 Percent Probability Limit = $d_j - 1.96\ S_j/\sqrt{2}$ (7)

5.2 *Single Instrument Accuracy for TSP.*

Each organization, at the end of each sampling quarter, shall calculate and report the percentage difference for each high-volume sampler audited during the quarter. Directions for calculation are given below and directions for reporting are given in section 6.

For the flow rate audit described in section 3.4, let X_i represent the known flow rate and Y_i represent the indicated flow rate. Calculate the percentage difference (d_i) using equation 1.

6. Organization Reporting Requirements

At the end of each sampling quarter, the organization must report the following data assessment information: (1) For automated analyzers—precision probability limits from section 4.1 and percentage differences from section 4.2, and (2) For manual methods—precision probability limits from section 5.1 and percentage differences from section 5.2.

The quarterly precision and accuracy information must be submitted with the air monitoring data. All data used to calculate reported estimates of precision and accuracy including span checks, collocated sampler and audit results must be made available to the permit granting authority upon request.

References

1. "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I—Principles." EPA–600/9–76–005, March 1976. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory (MD–77), Research Triangle Park, North Carolina 27711.

2. "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II—Ambient Air Specific Methods." EPA–600/4–77–027a, May 1977. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory (MD–77), Research Triangle Park, North Carolina 27711.

3. "Traceability Protocol for Establishing True Concentrations of Gases Used for Calibration and Audits of Air Pollution Analyzers." (Protocol No. 2), June 1978. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory, Quality Assurance Branch (MD–77), Research Triangle Park, North Carolina 27711.

4. "Transfer Standards for Calibration of Ambient Air Monitoring Analyzers for Ozone," June 1978. Available from U.S. Environmental Protection Agency, Department E (MD–77), Research Triangle Park, North Carolina 27711.

5. "List of Reference and Equivalent Methods." Available from U.S. Environmental Protection Agency, Department E (MD–77), Research Triangle Park, North Carolina 27711.

6. "Criteria, Procedures, and Forms for the Evaluation of Ambient Air Monitoring Programs—Laboratory and Field," June 1978. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory, Quality Assurance Branch (MD–77), Research Triangle Park, North Carolina 27711.

Appendix C—Ambient Air Quality Monitoring Methodology

1.0 Purpose

This appendix specifies the monitoring methods (manual methods or automated analyzers) which must be used in State ambient air quality monitoring stations.

2.0 State And Local Air Monitoring Stations (SLAMS)

2.1 Except as otherwise provided in this appendix, a monitoring method used in a SLAMS must be a reference or equivalent method as defined in § 50.1 of this chapter.

2.2 The following provisions under this subsection (2.2) apply to analyzers not covered by a current reference or equivalent method designation.

2.2.1 Any analyzer for SO_2, CO, or O_3 purchased before February 18, 1976, may be used in a SLAMS until February 18, 1980.

2.2.2 Any analyzer for NO_2 purchased before January 3, 1978, may be used in a SLAMS until January 3, 1980.

2.3 Any manual method or analyzer purchased prior to cancellation of its reference or equivalent method designation under § 53.11 or § 53.16 of this chapter may be used in a SLAMS following cancellation for a reasonable period of time to be determined by the Administrator.

2.4 Use of Nonconforming Analyzers in Certain Geographical Areas.

2.4.1 The State may use an analyzer that is not a reference or equivalent method in a SLAMS in a particular geographical area if the analyzer was purchased prior to February 18, 1975, and the Administrator determines:

2.4.1.1 That the analyzer (or the method of which the analyzer is representative) meets all the requirements of Part 53 of this chapter that would apply if an application for a reference or equivalent method determination were submitted for the method of which the analyzer is representative except: (A) the test for interference equivalent specified in § 53.23(d) of this chapter, and (B) requirements of Subpart C of Part 53 of this chapter, if applicable, to the extent that failure to meet the Subpart C requirements results from sensitivity to interferants; and

2.4.1.2 That interferants that cause or would cause the analyzer to fail the requirements of § 53.23(d) and Subpart C of Part 53 of this chapter do not occur in significant concentrations in the geographical area in which use of the analyzer is proposed. For purposes of this section (2.4), a "significant concentration" means one that would cause a measurement error equal to or greater than the lower detectable limit specification in Table B–1 in Subpart B of Part 53 of this chapter.

2.4.2 Requests for approval under this section (2.4) must meet the submittal requirements of section 2.7. Except as provided in subsection 2.7.3, each such request must contain the information specified in subsection 2.7.2 in addition to the following:

2.4.2.1 The date on which the analyzer was purchased;

2.4.2.2 An identification and description of the geographical area in which use of the analyzer is proposed;

2.4.2.3 Such data or other information as may be necessary to demonstrate that the interferants referred to in subsection 2.4.1.2 do not occur in significant concentrations in the geographical area in which use of the analyzer is proposed; and

2.4.2.4 Test data for tests conducted with the analyzer in accordance with Subpart C of Part 53 of this chapter in the geographical area in which use of the analyzer is proposed, if Subpart C would apply if an application for a reference or equivalent method determination were submitted for the method of which the analyzer is representative.

2.4.3 Any person who has obtained approval of a request under this section (2.4) shall:

2.4.3.1 Assure that the analyzer for which approval was obtained is used only in the geographical area identified in the request;

2.4.3.2 Report to the Administrator within 60 days any significant increase in concentrations of the interferants referred to in subsection 2.4.1.2 in the geographical area identified in the request and concurrently submit such new or additional information as may be necessary to supplement the demonstration required by subsection 2.4.2.3; and

2.4.3.3 On a semi-annual basis, submit reports containing such data or other information as may be necessary to demonstrate that the interferants referred to in subsection 2.4.1.2 continue to occur in insignificant concentrations in the geographical area identified in the request. Reports required by this subsection (2.4.3) shall be submitted to the address specified in subsection 2.7.1.

2.5 Use of Methods with Nonconforming Ranges.

2.5.1 The State may use in a SLAMS an analyzer that is not a reference or equivalent method if:

2.5.1.1 The analyzer was purchased prior to February 18, 1975;

2.5.1.2 The Administrator determines that the analyzer (or the method of which the analyzer is representative) meets all requirements of Part 53 of this chapter that would apply if an application for a reference or equivalent method determination were submitted for the method of which the analyzer is representative except the range requirement specified in Table B–1 in Subpart B of Part 53 of this chapter; and

2.5.1.3 The range of the analyzer does not extend to concentrations more than two times the upper range limit specified in such Table B–1, or, if the analyzer has more than one selectable range, the analyzer will not be used while operated in any range extending to such concentrations.

Note.—If the use of the analyzer is approved under section 2.6, the limitations specified in this subsection (2.5.1.3) will not apply unless the approval under section 2.6 is later withdrawn.

2.5.2 Requests for approval under this section (2.5) must meet the submittal requirements of section 2.7. Except as provided in subsection 2.7.3, each such request must contain the information specified in subsection 2.7.2 in addition to the following:

2.5.2.1 The date on which the analyzer was purchased; and

2.5.2.2 A statement that the range of the analyzer does not extend to concentrations more than two times the upper range limit specified in Table B–1 in Subpart B of Part 53 of this chapter, or, if the analyzer has more than one selectable range, that the analyzer will not be operated in any range extending to such concentrations.

Note.—If use of the analyzer is approved under section 2.6, the statements required by this subsection (2.5.2.2) will be considered inapplicable unless the approval under section 2.6 is later withdrawn.

2.5.3 Any person who has obtained approval of a request under this section (2.5) shall, if the analyzer has more than one selectable range, assure that the analyzer is not operated in any range extending to concentrations more than two times the upper range limit specified in such Table B–1.

2.6 Use of methods with higher, unapproved, or nonconforming ranges in certain geographical areas.

2.6.1 *Unapproved ranges.* Until January 1, 1983, a designated analyzer (reference or equivalent method) may be used without

special approval as required by section 2.7 while operating on a range higher (broader) than the range or ranges covered by the analyzer's designation, provided that (1) the range does not extend to concentrations more than two times the upper range limit specified in Table B–1 of Part 53 of this chapter, (2) the analyzer is located in a geographical area where the pollutant to be measured is likely to occur in concentrations higher than the range for which the analyzer is designated, and (3) the unapproved range is used only during periods when those higher concentrations are likely to occur.

2.6.2 *Nonconforming ranges.* An analyzer may be used (indefinitely) on a range which extends to concentrations higher than two times the upper limit specified in Table B–1 of Part 53 of this chapter if:

2.6.2.1 The analyzer has more than one selectable range and has been designated as a reference or equivalent method on at least one of its ranges, or has been approved for use under section 2.5 (which applies to analyzers purchased before February 18, 1975);

2.6.2.2 The pollutant intended to be measured with the analyzer is likely to occur in concentrations more than two times the upper range limit specified in Table B–1 of Part 53 of this chapter in the geographical area in which use of the analyzer is proposed; and

2.6.2.3 The Administrator determines that the resolution of the range or ranges for which approval is sought is adequate for its intended use. For purposes of this section (2.6), "resolution" means the ability of the analyzer to detect small changes in concentration.

2.6.3 Requests for approval under section 2.6.2 must meet the submittal requirements of section 2.7. Except as provided in subsection 2.7.3, each request must contain the information specified in subsection 2.7.2 in addition to the following:

2.6.3.1 The range or ranges proposed to be used;

2.6.3.2 Test data, records, calculations, and test results as specified in subsection 2.7.2.2 for each range proposed to be used;

2.6.3.3 An identification and description of the geographical area in which use of the analyzer is proposed;

2.6.3.4 Data or other information demonstrating that the pollutant intended to be measured with the analyzer is likely to occur in concentrations more than two times the upper range limit specified in Table B–1 of Part 53 of this chapter in the geographical area in which use of the analyzer is proposed; and

2.6.3.5 Test data or other information demonstrating the resolution of each proposed range that is broader than that permitted by section 2.5.

2.6.4 Any person who has obtained approval of a request under this section (2.6.2) shall assure that the analyzer for which approval was obtained is used only in the geographical area identified in the request and only while operated in the range or ranges specified in the request.

2.7 Requests for Approval; Withdrawal of Approval.

2.7.1 Requests for approval under sections 2.4, 2.5, or 2.6.2 must be submitted to: Director, Environmental Monitoring and Support Laboratory, Department E (MD 75), United States Environmental Protection Agency, Environmental Research Center, Research Triangle Park, North Carolina 27711.

2.7.2 Except as provided in subsection 2.7.3, each request must contain:

2.7.2.1 A statement identifying the analyzer (e.g., by serial number) and the method of which the analyzer is representative (e.g., by manufacturer and model number); and

2.7.2.2 Test data, records, calculations, and test results for the analyzer (or the method of which the analyzer is representative) as specified in Subpart B, Subpart C, or both (as applicable) of Part 53 of this chapter.

2.7.3 A request may concern more than one analyzer or geographical area and may incorporate by reference any data or other information known to EPA from one or more of the following:

2.7.3.1 An application for a reference or equivalent method determination submitted to EPA for the method of which the analyzer is representative, or testing conducted by the applicant or by EPA in connection with such an application;

2.7.3.2 Testing of the method of which the analyzer is representative at the initiative of the Administrator under § 53.7 of this chapter; or

2.7.3.3 A previous or concurrent request for approval submitted to EPA under this section (2.7).

2.7.4 To the extent that such incorporation by reference provides data or information required by this section (2.7) or by sections 2.4, 2.5, or 2.6, independent data or duplicative information need not be submitted.

2.7.5 After receiving a request under this section (2.7), the Administrator may request such additional testing or information or conduct such tests as may be necessary in his judgment for a decision on the request.

2.7.6 If the Administrator determines, on the basis of any information available to him, that any of the determinations or statements on which approval of a request under this section (2.7) was based are invalid or no longer valid, or that the requirements of sections 2.4, 2.5, or 2.6, as applicable, have not been met, he may withdraw the approval after affording the person who obtained the approval an opportunity to submit information and arguments opposing such action.

2.8 Modifications of Methods by Users.

2.8.1 Except as otherwise provided in this section (2.8), no reference method, equivalent method, or alternative method may be used in a SLAMS if it has been modified in a manner that will, or might, significantly alter the performance characteristics of the method without prior approval by the Administrator. For purposes of this section (2.8), "alternative method" means an analyzer the use of which has been approved under sections 2.4, 2.5, or 2.6 of this appendix or some combination thereof.

2.8.2 Requests for approval under this section (2.8) must meet the submittal requirements of sections 2.7.1 and 2.7.2.1 of this appendix.

2.8.3 Each request submitted under this section (2.8) must include:

2.8.3.1 A description, in such detail as may be appropriate, of the desired modification;

2.8.3.2 A brief statement of the purpose(s) of the modification, including any reasons for considering it necessary or advantageous;

2.8.3.3 A brief statement of belief concerning the extent to which the modification will or may affect the performance characteristics of the method; and

2.8.3.4 Such further information as may be necessary to explain and support the statements required by subsections 2.8.3.2 and 2.8.3.3.

2.8.4 Within 75 days after receiving a request for approval under this section (2.8) and such further information as he may request for purposes of his decision, the Administrator will approve or disapprove the modification in question by letter to the person or agency requesting such approval.

2.8.5 A temporary modification that will or might alter the performance characteristics of a reference, equivalent, or alternative method may be made without prior approval under this section (2.8) if the method is not functioning or is malfunctioning, provided that parts necessary for repair in accordance with the applicable operation manual cannot be obtained within 45 days. Unless such temporary modification is later approved under subsection 2.8.4, the temporarily modified method shall be repaired in accordance with the applicable operation manual as quickly as practicable but in no event later than 4 months after the temporary modification was made, unless an extension of time is granted by the Administrator. Unless and until the temporary modification is approved, air quality data obtained with the method as temporarily modified must be clearly identified as such when submitted in accordance with § 58.28 or § 58.35 of this chapter and must be accompanied by a report containing the information specified in subsection 2.8.3. A request that the Administrator approve a temporary modification may be submitted in accordance with subsections 2.8.1 through 2.8.4. In such cases the request will be considered as if a request for prior approval had been made.

3.0 National Air Monitoring Stations (NAMS)

3.1 Methods used in those SLAMS which are also designated as NAMS to measure SO_2, CO, NO_2, or O_3, must be reference or equivalent methods which have the capability of providing hourly measurements.

4.0 Particulate Matter Episode Monitoring

4.1 For short-term measurements of particulate matter during air pollution episodes (see § 51.16 of this chapter) the measurement method must be:

4.1.1 Either the "Staggered High Volume Sampling" method or the "High Volume Sampling Over Short Sampling Times" method, both of which are based on the reference method for suspended particulates and are described in reference 1; or

4.1.2 Any other method for measuring suspended particulates:

4.1.2.1 Which has a measurement range or ranges appropriate to accurately measure air pollution episode concentrations of suspended particulates,

4.1.2.2. Which has a sample period appropriate for short-term measurements, and

4.1.2.3 for which a quantitative relationship to the reference method for suspended particulates has been established at the use site. Procedures for establishing a quantitative site-specific relationship are contained in reference 1.

4.2 *Quality Assurance.* Particulate methods other than the reference method are not covered under the quality assessment requirements of Appendix A. Therefore, States must develop and implement their own quality assessment procedures for those methods allowed under this Section 4. These quality assessment procedures should be similar or analogous to those described in Section 3 of Appendix A for the particulate reference method.

5.0 References

5.1 "Guidance for Selecting TSP Episode Monitoring Methods," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, OAQPS No. 1.2–114, February, 1979.

APPENDIX D—NETWORK DESIGN FOR STATE AND LOCAL AIR MONITORING STATIONS (SLAMS) AND NATIONAL AIR MONITORING STATIONS (NAMS)

1. SLAMS MONITORING OBJECTIVES AND SPATIAL SCALES
2. SLAMS NETWORK DESIGN PROCEDURES
2.1 Background Information for Establishing SLAMS
2.2 Total Suspended Particulates (TSP) Design Criteria for SLAMS
2.3 Sulfur Dioxide (SO_2) Design Criteria for SLAMS
2.4 Carbon Monoxide (CO) Design Criteria for SLAMS
2.5 Ozone (O_3) Design Criteria for SLAMS
2.6 Nitrogen Dioxide (NO_2) Design Criteria for SLAMS
3. NETWORK DESIGN FOR NATIONAL AIR MONITORING STATIONS (NAMS)
3.1 Total Suspended Particulates (TSP) Design Criteria for NAMS
3.2 Sulfur Dioxide (SO_2) Design Criteria for NAMS
3.3 Carbon Monoxide (CO) Design Criteria for NAMS
3.4 Ozone (O_3) Design Criteria for NAMS
3.5 Nitrogen Dioxide (NO_2) Design Criteria for NAMS
4. SUMMARY
5. REFERENCES

1. SLAMS Monitoring Objectives and Spatial Scales

The purpose of this appendix is to describe monitoring objectives and general criteria to be applied in establishing the State and Local Air Monitoring Stations (SLAMS) networks and for choosing general locations for new monitoring stations. It also describes criteria for determining the number and location of National Air Monitoring Stations (NAMS). These criteria will also be used by EPA in evaluating the adequacy of SLAMS/NAMS networks.

The network of stations which comprise SLAMS should be designed to meet a minimum of four basic monitoring objectives. These basic monitoring objectives are: (1) To determine highest concentrations expected to occur in the area covered by the network; (2) to determine representative concentrations in areas of high population density; (3) to determine the impact on ambient pollution levels of significant sources or source categories; and (4) to determine general background concentration levels.

To a large extent, the existing State Implementation Plan (SIP) monitoring networks have been designed with these four objectives in mind. Thus, they can serve as the logical starting point for establishing the SLAMS network. This will, however, require a careful review of each existing SIP ambient network to determine the principal objectives of each station and the extent to which the location criteria presented herein are being met. It should be noted that this appendix contains no criteria for determining the total number of stations in SLAMS networks. The optimum size of a particular SLAMS network involves trade offs among data needs and available resources which EPA believes can best be resolved during the network design process.

This appendix focuses on the relationship between monitoring objectives and the geographical location of monitoring stations. Included are a rationale and set of general criteria for identifying candidate station locations in terms of physical characteristics which most closely match a specific monitoring objective. The criteria for more specifically siting the monitoring station including spacing from roadways and vertical and horizontal probe placement, are described in Appendix E of this part.

To clarify the nature of the link between general monitoring objectives and the physical location of a particular monitoring station, the concept of spatial scale of representativeness of a monitoring station is defined. The goal in siting stations is to correctly match the spatial scale represented by the sample of monitored air with the spatial scale most appropriate for the monitoring objective of the station.

Thus, spatial scale of representativeness is described in terms of the physical dimensions of the air parcel nearest to a monitoring station throughout which actual pollutant concentrations are reasonably similar. The scale of representativeness of most interest for the monitoring objectives defined above are as follows:

- *Microscale*—defines the concentrations in air volumes associated with area dimensions ranging from several meters up to about 100 meters.
- *Middle Scale*—defines the concentration typical of areas up to several city blocks in size with dimensions ranging from about 100 meters to 0.5 kilometer.
- *Neighborhood Scale*—defines concentrations within some extended area of the city that has relatively uniform land use with dimensions in the 0.5 to 4.0 kilometers range.
- *Urban Scale*—defines the overall, citywide conditions with dimensions on the order of 4 to 50 kilometers. This scale would usually require more than one site for definition.
- *Regional Scale*—defines usually a rural area of reasonably homogeneous geography and extends from tens to hundreds of kilometers.
- *National and Global Scales*—these measurement scales represent concentrations characterizing the nation and the globe as a whole.

Proper siting of a monitoring station requires precise specification of the monitoring objective which usually includes a desired spatial scale of representativeness. For example, consider the case where the objective is to determine maximum CO concentrations in areas where pedestrians may reasonably be exposed. Such areas would most likely be located within major street canyons of large urban areas and near traffic corridors. Stations located in these areas are most likely to have a microscale of representativeness since CO concentrations typically peak nearest roadways and decrease rapidly as the monitor is moved from the roadway. In this example, physical location was determined by consideration of CO emission patterns, pedestrian activity, and physical characteristics affecting pollutant dispersion. Thus, spatial scale of representativeness was not used in the selection process but was a *result* of station location.

In some cases, the physical location of a station is determined from joint consideration of both the basic monitoring objective, and a desired spatial scale of representativeness. For example, to determine CO concentrations which are typical over a reasonably broad geographic area having relatively high CO concentrations, a neighborhood scale station is more appropriate. Such a station would likely be located in a residential or commercial area having a high overall CO emission density but not in the immediate vicinity of any single roadway. Note that in this example, the desired scale of representativeness was an important factor in determining the physical location of the monitoring station.

In either case, classification of the station by its intended objective and spatial scale of representativeness is necessary and will aid in interpretation of the monitoring data.

Table 1 illustrates the relationship between the four basic monitoring objectives and the scales of representativeness that are generally most appropriate for that objective.

Table 1.—*Relationship among monitoring objectives and scale of representativeness*

Monitoring objective	Appropriate siting scales
Highest concentration	Micro, middle, neighborhood (sometimes urban).
Population	Neighborhood, urban.
Source impact	Micro, middle, neighborhood.
General/background	Neighborhood, regional.

Subsequent sections of this appendix describe in greater detail the most appropriate scales of representativeness and general monitoring locations for each pollutant.

2. Slams Network Design Procedures

The preceding section of this appendix has stressed the importance of defining the objectives for monitoring a particular pollutant. Since monitoring data are collected to "represent" the conditions in a section or subregion of a geographical area, the previous section included a discussion of the scale of representativeness of a monitoring station. The use of this physical basis for locating stations allows for an objective approach to network design.

The discussion of scales in Sections 2.2–2.6 does not include all of the possible scales for each pollutant. The scales which are discussed are those which are felt to be most pertinent for SLAMS network design.

In order to evaluate a monitoring network and to determine the adequacy of particular monitoring stations, it is necessary to examine each pollutant monitoring station individually by stating its monitoring objective and determining its spatial scale of representativeness. This will do more than insure compatibility among stations of the same type. It will also provide a physical basis for the interpretation and application of the data. This will help to prevent mismatches between what the data actually represent and what the data are interpreted to represent. It is important to note that SLAMS are not necessarily sufficient for completely describing air quality. In many situations, diffusion models must be applied to complement ambient monitoring, e.g., determining the impact of point sources or defining boundaries of nonattainment areas.

2.1 *Background Information for Establishing SLAMS*

Background information that must be considered in the process of selecting SLAMS from the existing network and in establishing new SLAMS includes emission inventories, climatological summaries, and local geographical characteristics. Such information is to be used as a basis for the judgmental decisions that are required during the station selection process. For new stations, the background information should be used to decide on the actual location considering the monitoring objective and spatial scale while following the detailed procedures in References 1 through 4.

Emission inventories are generally the most important type of background information needed to design the SLAMS network. The emission data provide valuable information concerning the size and distribution of large point sources. Area source emissions are usually available for counties but should be subdivided into smaller areas or grids where possible, especially if diffusion modeling is to be used as a basis for determining where stations should be located. Sometimes this must be done rather crudely, for example, on the basis of population or housing units. In general, the grids should be smaller in areas of dense population than in less densely populated regions.

Emission inventory information for point sources should be generally available for any area of the country for annual and seasonal averaging times. Specific information characterizing the emissions from large point sources for the shorter averaging times (diurnal variations, load curves, etc.) can often be obtained from the source. Area source emission data by season, although not available from the EPA, can be generated by apportioning annual totals according to degree days.

Detailed area source data are also valuable in evaluating the adequacy of an existing station in terms of whether the station has been located in the desired spatial scale of representativeness. For example, it may be the desire of an agency to have an existing CO station measuring in the neighborhood scale.

By examining the traffic data for the area and examining the physical location of the station with respect to the roadways, a determination can be made as to whether or not the station is indeed measuring the air quality on the desired scale.

The climatological summaries of greatest use are the frequency distributions of wind speed and direction. The wind rose is an easily interpreted graphical presentation of the directional frequencies. Other types of useful climatological data are also available, but generally are not as directly applicable to the site selection process as are the wind statistics.

In many cases, the meteorological data originating from the most appropriate (not necessarily the nearest) national weather service (NWS) airport station in the vicinity of the prospective siting area will adequately reflect conditions over the area of interest, at least for annual and seasonal averaging times. In developing data in complex meteorological and terrain situations, diffusion meteorologists should be consulted. NWS stations can usually provide most of the relevant weather information in support of network design activities anywhere in the country. Such information includes joint frequency distributions of winds and atmospheric stability (stability-wind roses).

The geographical material is used to determine the distribution of natural features, such as forests, rivers, lakes, and manmade features. Useful sources of such information may include road and topographical maps, aerial photographs, and even satellite photographs. This information may include the terrain and land-use setting of the prospective monitor siting area, the proximity of larger water bodies, the distribution of pollutant sources in the area, the location of NWS airport stations from which weather data may be obtained, etc. Land use and topographical characteristics of specific areas of interest can be determined from U.S. Geological Survey (USGS) maps and land use maps. Detailed information on urban physiography (building/street dimensions, etc.) can be obtained by visual observations, aerial photography, and also surveys to supplement the information available from those sources. Such information could be used in determining the location of local pollutant sources in and around the prospective station locations.

2.2 *Total Suspended Particulates (TSP) Design Criteria for SLAMS*

The first step in designing the TSP SLAMS network is to collect the necessary background information as discussed previously. For TSP monitoring purposes, emphasis on background information would be placed on regional and traffic maps and aerial photographs showing topography, settlements, major industries, and highways. These maps and photographs would be used to identify areas of the type that are of concern to the particular monitoring objective. After potentially suitable monitoring areas for TSP have been identified on a map, a model [5] may be used to provide an estimate of TSP concentrations throughout the area of interest.

The second step is to evaluate existing TSP stations which are candidates for SLAMS designation. Stations meeting one or more of the four monitoring objectives shown in Section 1, must be classified into one of four scales of representativeness (middle, neighborhood, urban, and regional) if the stations are to become SLAMS. In siting and classifying TSP stations, the procedures described in reference 1 should be used to evaluate existing stations and must be used to relocate an existing station or to locate any new SLAMS stations.

The following describes in detail the characteristics of each of the four scales relevant to TSP SLAMS.

• *Middle Scale.*—Much of the measurement of short-term public exposure to particulates is on this scale. People moving through downtown areas, or living near major roadways, encounter particulates that would be adequately characterized by observations of this spatial scale. Thus, measurements of this type would be appropriate for the evaluation of possible short-term public health effects of particulate pollution. This scale also includes the characteristic concentrations for other areas with dimensions of a few hundred meters such as the parking lot and feeder streets associated with indirect sources, that is, complexes that do not produce pollutants themselves but which attract a significant number of autos. Shopping centers, stadia, and office buildings are examples of indirect sources. In the case of TSP, unpaved or seldom swept parking lots associated with indirect sources could be an important source in addition to the vehicular emissions themselves.

• *Neigborhood Scale.*—Measurements in this category would represent conditions throughout some reasonably homogeneous urban subregion with dimensions of a few kilometers and generally more regularly shaped than the middle scale. Homogeneity refers to the TSP concentration, as well as the land use and land surface characteristics. In some cases, a location carefully chosen to provide neighborhood scale data would represent not only the immediate neighborhood but also neighborhoods of the same type in other parts of the city. Stations of this kind provide good information about trends and compliance with standards because they often represent conditions in

areas where people commonly live and work for periods comparable to those specified in the NAAQS. In the sense used here, this category includes industrial and commercial neighborhoods, as well as residential.

Neighborhood scale data could provide valuable information for developing, testing, and revising models that describe the larger-scale concentration patterns, especially those models relying on spatially smoothed emission fields for inputs. The neighborhood scale measurements could also be used for neighborhood comparisons within or between cities. This is the most likely scale of measurement to meet the needs of planners.

• *Urban Scale.*—This class of measurement would be made to typify the particulate concentration over an entire metropolitan area. Such measurements would be useful for assessing trends in city-wide air quality, and hence, the effectiveness of large scale air pollution control strategies.

• *Regional Scale.*—These measurements would characterize conditions over areas with dimensions of as much as hundreds of kilometers. As noted earlier, using representative conditions for an area implies some degree of homogeneity in that area. For this reason, regional scale measurements would be most applicable to sparsely populated areas with reasonably uniform ground cover. Data characteristics of this scale would provide information about larger-scale processes of particulate emissions, losses, and transport.

2.3 *Sulfur Dioxide (SO_2) Design Criteria for SLAMS*

The spatial scales for SO_2 SLAMS monitoring are the middle, neighborhood, urban, and regional scales. Because of the nature of SO_2 distributions over urban areas, the middle scale is the most likely scale to be represented by a single measurement in an urban area, but only if the undue effects from local sources (minor or major point sources) can be eliminated. Neighborhood scales would be those most likely to be represented by single measurements in suburban areas where the concentration gradients are less steep. Urban scales would represent areas where the concentrations are uniform over a larger geographical area. Regional scale measurements would be associated with rural areas.

• *Middle Scale.*—Some data uses associated with middle scale measurements for SO_2 include assessing the effects of control strategies to reduce urban concentrations (especially for the 3-hour and 24-hour averaging times) and monitoring air pollution episodes.

• *Neighborhood Scale.*—This scale applies in areas where the SO_2 concentration gradient is relatively flat (mainly suburban areas surrounding the urban center) or in large sections of small cities and towns. In general, these areas are quite homogeneous in terms of SO_2 emission rates and population density. Thus, neighborhood scale measurements may be associated with baseline concentrations in areas of projected growth and in studies of population responses to exposure to SO_2. Also concentration maxima associated with air pollution episodes may be uniformly distributed over areas of neighborhood scale, and measurements taken within such an area would represent neighborhood, and to a limited extent, middle scale concentrations.

• *Urban Scale.*—Data from this scale could be used for the assessment of air quality trends and the effect of control strategies on urban scale air quality.

• *Regional Scale.*—These measurements would be applicable to large homogeneous areas, particularly those which are sparsely populated. Such measurements could provide information on background air quality and interregional pollutant transport.

After the spatial scale has been selected to meet the monitoring objectives for each station location, the procedures found in reference 2 should be used to evaluate the adequacy of each existing SO_2 station and must be used to relocate an existing station or to locate any new SLAMS stations. The background material for these procedures should consist of emission inventories, meteorological data, wind roses, and maps for population and topographical characteristics of specific areas of interest. Isopleth maps of SO_2 air quality as generated by diffusion models [5] are useful for the general determination of a prospective area within which the station is eventually placed.

2.4 *Carbon Monoxide (CO) Design Criteria for SLAMS*

Micro, middle, and neighborhood scale measurements are necessary station classifications for SLAMS since most people are exposed to CO concentrations in these scales. Carbon monoxide maxima occur primarily in areas near major roadways and intersections with high traffic density and poor atmospheric ventilation. As these maxima can be predicted by ambient air quality modeling, a large fixed network of CO monitors is not required. Long-term CO monitoring should be confined to a limited number of micro and neighborhood scale stations in large metropolitan areas to measure maximum pollution levels and to determine the effectiveness of control strategies.

• *Microscale.*—Measurements on this scale would represent distributions within street canyons, over sidewalks, and near major roadways. The measurements at a particular location in a street canyon would be typical of one high concentration area which can be shown to be a representation of many more areas throughout the street canyon or other similar locations in a city. This is a scale of measurement that would provide valuable information for devising and evaluating "hot spot" control measures.

• *Middle Scale.*—This category covers dimensions from 100 meters to 0.5 kilometer. In certain cases discussed below, it may apply to regions that have a total length of several kilometers. In many cases of interest, sources and land use may be reasonably homogeneous for long distances along a street, but very inhomogeneous normal to the street. This is the case with strip development and freeway corridors. Included in this category are measurements to characterize the CO concentrations along the urban features just enumerated. When a location is chosen to represent conditions in a block of street development, then the characteristic dimensions of this scale are tens of meters by hundreds of meters. If an attempt is made to characterize street-side conditions throughout the downtown area or along an extended stretch of freeway, the dimensions may be tens of meters by kilometer.

The middle scale would also include the parking lots and feeder streets associated with indirect sources which attract significant numbers of pollutant emitters, particularly autos. Shopping centers, stadia, and office buildings are examples of indirect sources.

• *Neighborhood Scale.*—Measurements in this category would represent conditions throughout some reasonably homogeneous urban subregions, with dimensions of a few kilometers and generally more regularly shaped than the middle scale. Homogeneity refers to CO concentration, but it probably also applies to land use. In some cases, a location carefully chosen to provide neighborhood scale data, might represent not only the immediate neighborhood, but also neighborhoods of the same type in other parts of the city. These kinds of stations would provide information relating to health effects because they would represent conditions in areas where people live and work. Neighborhood scale data would provide valuable information for developing, testing, and revising concepts and models that describe the larger scale concentration patterns, especially those models relying on spatially smoothed emission fields for inputs. These types of measurements could also be used for interneighborhood comparisons within or between cities.

After the spatial scale has been determined to meet the monitoring objectives for each location, the location selection procedures, as shown in reference 3 should be used to evaluate the adequacy of each existing CO station and must be used to relocate an existing station or to locate any new SLAMS stations. The background material necessary for these procedures may include the average daily traffic on all streets in the area, wind roses for different hours of the day, and maps showing one-way streets, street widths, and building heights. If the station is to typify the area with the highest concentrations, the streets with the greatest daily traffic should be identified. If some streets are one-way, those streets that have the greatest traffic during the afternoon and evening hours should be selected as tentative locations, because the periods of high traffic volume are usually of greatest duration through the evening hours. However, the strength of the morning inversion has to be considered along with the traffic volume and pattern when seeking areas with the highest concentrations. Traffic counters near the stations will provide valuable data for interpreting the observed CO Concentrations.

Monitors should not be placed in the vicinity of possible anomalous source areas. Examples of such areas include toll gates on turnpikes, metered freeway ramps, and drawbridge approaches. Additional information on network design may be found in reference 3.

2.5 *Ozone (O_3) Design Criteria for SLAMS*

Ozone is not directly emitted into the atmosphere but results from complex photochemical reactions involving organic compounds, oxides of nitrogen, and solar radiation.

The relationships between primary emissions (precursors) and secondary pollutants (O_3) tend to produce large separations spatially and temporally between the major sources and the areas of high oxidant pollution. This suggests that the meteorological transport process and the relationships between sources and sinks need to be considered in the development of the network design criteria and placement of monitoring stations, especially in measuring peak concentration levels.

The principal spatial scales for SLAMS purposes based on the monitoring objectives are neighborhood, urban, regional, and to a lesser extent, middle scale. Since ozone requires appreciable formation time, the mixing of reactants and products occurs over large volumes of air, and this reduces the importance of monitoring small scale spatial variability.

• *Middle Scale.*—Measurement in this scale would represent conditions close to sources of NO_x such as roads where it would be expected that suppression of O_3 concentrations would occur. Measurements at these stations would represent conditions over relatively small portions of the urban area.

• *Neighborhood Scale.*—Measurements in this category represent conditions throughout some reasonably homogeneous urban subregion, with dimensions of a few kilometers. Homogeneity refers to pollutant concentrations. Neighborhood scale data will provide valuable information for developing, testing, and revising concepts and models that describe urban/regional concentration patterns. They will be useful to the understanding and definition of processes that take periods of hours to occur and hence involve considerable mixing and transport. Under stagnation conditions, a station located in the neighborhood scale may also experience peak concentration levels within the urban areas.

• *Urban Scale.*—Measurement in this scale will be used to estimate concentrations over large portions of an urban area with dimensions of several kilometers to 50 or more kilometers. Such measurements will be used for determining trends, and designing area-wide control strategies. The urban scale stations would also be used to measure high concentrations downwind of the area having the highest precursor emissions.

• *Regional Scale.*—This scale of measurement will be used to typify concentrations over large portions of a metropolitan area and even larger areas with dimensions of as much as hundreds of kilometers. Such measurements will be useful for assessing the ozone that is transported into an urban area. Data from such stations may be useful in accounting for the ozone that cannot be reduced by control strategies in that urban area.

The location selection procedure continues after the spatial scale is selected based on the monitoring objectives. The appropriate network design procedures as found in reference 4, should be used to evaluate the adequacy of each existing O_3 monitor and must be used to relocate an existing station or to locate any new O_3 SLAMS stations. The first step in the siting procedure would be to collect the necessary background material, which may consist of maps, emission inventories for nonmethane hydrocarbons and oxides of nitrogen (NO_x), climatological data, and existing air quality data for ozone, nonmethane hydrocarbons, and NO_2/NO.

For locating a neighborhood scale station to measure typical city concentrations, a reasonably homogeneous geographical area near the center of the region should be selected which is also removed from the influence of major NO_X sources. For an urban scale station to measure the high concentration areas, the emission inventories should be used to define the extent of the area of important nonmethane hydrocarbons and NO_X emissions. The most frequent wind speed and direction for periods of important photochemical activity should be determined. Then the prospective monitoring area should be selected in a direction from the city that is most frequently downwind during periods of photochemical activity. The distance from the station to the upwind edge of the city should be about equal to the distance traveled by air moving for 5 to 7 hours at wind speeds prevailing during periods of photochemical activity. Prospective areas for locating O_3 monitors should always be outside the area of major NO_X.

In locating a neighborhood scale station which is to measure high concentrations, the same procedures used for the urban scale are followed except that the station should be located closer to the areas bordering on the center city or slightly further downwind in an area of high density population.

For regional scale background monitoring stations, the most frequent wind associated with important photochemical activity should be determined. The prospective monitoring area should be upwind for the most frequent direction and outside the area of city influence.

Where ozone levels have significant fluctuations throughout the year, consideration should be given to monitoring ozone only during the seasons when levels above the NAAQS occur as documented by previous data. Additional discussion on the procedures for siting ozone stations may be found in reference 4.

2.6 *Nitrogen Dioxide (NO_2) Design Criteria for SLAMS*

The typical spatial scales of representativeness associated with nitrogen dioxide monitoring based on monitoring objectives are middle, neighborhood, and urban. Since nitrogen dioxide is primarily formed in the atmosphere from the oxidation of NO, large volumes of air and mixing times usually reduce the importance of monitoring on small scale spatial variability especially for long averaging times. However, there may be some situations where NO_2 measurements would be made on the middle scale for both long- and short-term averages.

• *Middle Scale.*—Measurements on this scale would cover dimensions from about 100 meters to 0.5 kilometer. These measurements would characterize the public exposure to NO_2 in populated areas. Also monitors that are located closer to roadways than the minimum distances specified in Table 3 of Appendix E of this part, would be represented by measurements on this scale.

• *Neighborhood and Urban Scales.*—The same considerations as discussed in Section 2.5 for O_3 would also apply to NO_2.

After the spatial scale is selected based on the monitoring objectives, then the siting procedures as found in reference 4 should be used to evaluate the adequacy of each existing NO_2 station and must be used to relocate an existing station or to locate any new NO_2 SLAMS stations. The siting procedures begin with collecting the background material. This background information may include the characteristics of the area and its sources under study, climatological data to determine where concentration maxima are most likely to be found, and any existing monitoring data for NO_2.

For neighborhood or urban scales, the emphasis in site selection will be in finding those areas where long-term averages are expected to be the highest. Nevertheless, it should be expected that the maximum NO_2 concentrations will occur in approximately the same locations as the maximum total oxides of nitrogen concentrations. The best course would be to locate the station somewhat further downwind beyond the expected point of maximum total oxides of nitrogen to allow more time for the formation of NO_2. The dilution of the emissions further downwind from the source should be considered along with the need for reaction time for NO_2 formation in locating stations to measure peak concentration. If dispersion is favorable, maximum concentrations may occur closer to the emission sources than the locations predicted from oxidation of NO to NO_2 alone. This will occur downwind of sources based on winter wind direction or in areas where there are high ozone concentrations and high density NO_2 emissions such as on the fringe of the central business district or further downwind. The distance and direction downwind would be based on ozone season wind patterns.

Once the major emissions areas and wind patterns are known, areas of potential maximum NO_2 levels can be determined. Nitrogen dioxide concentrations are likely to decline rather rapidly outside the urban area. Therefore, the best location for measuring NO_2 concentrations will be in neighborhoods near the edge of the city.

3. Network Design for National Air Monitoring Stations (NAMS)

The NAMS must be stations selected from the SLAMS network with emphasis given to urban and multisource areas. Areas to be monitored must be selected based on urbanized population and pollutant concentration levels. Generally, a larger number of NAMS are needed in more polluted urban and multisource areas. The network design criteria discussed below reflect these concepts. However, it should be emphasized that deviations from the NAMS

network design criteria may be necessary in a few cases. Thus, these design criteria are not a set of rigid rules but rather a guide for achieving a proper distribution of monitoring sites on a national scale.

The primary objective for NAMS is to monitor in the areas where the pollutant concentration and the population exposure are expected to be the highest consistent with the averaging time of the NAAQS. Accordingly, the NAMS fall into two categories:

Category (a): Stations located in the area(s) of expected maximum concentrations (generally neighborhood scale, except micro scale for CO and urban scale for O_3);

Category (b): Stations which combine poor air quality with a high population density but not necessarily located in an area of expected maximum concentrations (neighborhood scale, except urban scale for NO_2). Category (b) monitors would generally be representative of larger spatial scales than category (a) monitors.

For each urban area where NAMS are required, both categories of monitoring stations must be established. In the case of TSP and SO_2 if only one NAMS is needed, then category (a) must be used. The analysis and interpretation of data from NAMS should consider the distinction between these types of stations as appropriate.

The concept of NAMS is designed to provide data for national policy analyses/ trends and for reporting to the public on major metropolitan areas. It is not the intent to monitor in every area where the NAAQS are violated. On the other hand, the data from SLAMS should be used primarily for nonattainment decisions/ analyses in specific geographical areas. Since the NAMS are stations from the SLAMS network, station locating procedures for NAMS are part of the SLAMS network design process.

3.1 *Total Suspended Particulates (TSP) Design Criteria for NAMS*

Table 2 indicates the approximate number of permanent stations needed in urban areas to characterize national and regional TSP air quality trends and geographical patterns. The criteria require that the number of stations in areas where urban populations exceed 500,000 and concentrations exceed the primary NAAQS range from 6 to 8 but in small urban areas, no more than two stations are required. A range of monitoring stations is specified in Table 2 because sources of pollutants and local control efforts can vary from one part of the country to another and therefore, some flexibility is allowed in selecting the actual number of stations in any one locale. For those cases where more than one station is required for an urban area, there should be at least one station for category (a) and category (b) objectives as discussed in Section 3. Where three or more stations are required, the mix of category (a) and (b) stations is determined on a case-by-case basis. The actual number of NAMS and their locations must be determined by EPA Regional Offices and the State agencies subject to the approval of EPA Headquarters (OANR). The EPA Headquarters approval is necessary to insure that individual stations conform to the NAMS selection criteria and the network as a whole is sufficient in terms of number and location for purposes of national analyses.

Table 2.—*TSP National Air Monitoring Station Criteria (Approximate Number of Stations Per Area)* [a]

Population category	High concentration [b]	Medium concentration [c]	Low concentration [d]
High population, >500,000	6–8	4–6	0–2
Medium population, 100,000–500,000	4–6	2–4	0–2
Low population, 50,000–100,000	2–4	1–2	0

[a] Selection of urban areas and actual number of stations per area will be jointly determined by EPA and the State agency.
[b] High concentration—exceeding level of the primary NAAQS by 20 percent or more.
[c] Medium concentration—exceeding secondary NAAQS.
[d] Low concentration—less than secondary NAAQS.

The estimated number of TSP NAMS required nationwide will range from approximately 600 to 700. This range of stations is based on a statistical analysis of the data and computations of the probability of detecting certain rates of change over a specific number of years. An assumption was made that the variability of the data was 20 percent, i.e., a 95 percent confidence interval around the annual mean would be 20 percent. This assumption may be regarded as a "ballpark figure." The sampling error from an every sixth-day schedule would be roughly 10 percent so an overall variability of 20 percent may be regarded as a reasonable approximation.

For TSP, it is unlikely that the same rate of change would apply throughout the nation. Regional differences in the TSP problem make it essential that the networks also be useful for regional trend assessments. In most practical applications, trends will be assessed on the basis of 3–5 years of data to minimize the impact of meteorological influences. With 60 to 70 sites in each geographical region, there is a reasonably good chance of detecting 3-year trends of more than 2 percent per year.

Using a TSP trend network of 600–700 stations there would be a reasonable chance of determining 5-year trends of more than 3 percent per year in the medium population cities with high TSP, but less than 50/50 chance of detecting 3-year trends of less than 5 percent per year in any city. Therefore, the overall range of 600–700 TSP NAMS seems to be acceptable for the purposes of national and regional trends. The actual number of monitors in any specific area would depend on local factors such as meteorology, topography, urban and regional air quality gradients, and the potential for significant air quality improvement or degradation. Generally, the greatest density of stations would occur in the northeastern States, where urban populations are large and where pollutant levels are high.

Generally, the worst air quality in an urban area should be used as the basis for determining the required number of TSP NAMS (see Table 2). This includes air quality levels, within populated parts of urbanized areas, that are affected by one or two point sources of particulates if the impact of the source(s) extends over a reasonably broad geographic scale (neighborhood or larger). Maximum air quality levels in remote unpopulated areas should be excluded as a basis for selecting TSP NAMS regardless of the sources affecting the concentration levels. Such remote areas are more appropriately monitored by SLAMS or SPM networks and/ or characterized by diffusion model calculations as necessary.

3.2 *Sulfur Dioxide (SO_2) Design Criteria for NAMS*

As with TSP monitoring, it is desirable to have a greater number of NAMS in the more polluted and densely populated urban and multisource areas. The data in Table 3 show the approximate number of permanent stations needed in urban areas to characterize the national and regional SO_2 air quality trends and geographical patterns. These criteria require that the number of NAMS in areas where urban populations exceed 500,000 and concentrations also exceed the primary NAAQS may range from 6 to 8 and that in areas where the SO_2 problem is minor, only one or two (or no) monitors are required. For those cases where more than one station is required for an urban area, there should be at least one station for category (a) and category (b) objectives as discussed in section 3. Where three or more stations are required, the mix of category (a) and (b) stations is determined on a case-by-case basis. The actual number and location of the NAMS must be determined by EPA Regional Office and the State agency, subject to the approval of EPA headquarters (OANR).

Table 3.—*SO_2 National Air Monitoring Station Criteria (Approximate Number of Stations Per Area)* [a]

Population category	High Concentration [b]	Medium Concentration [c]	Low Concentration [d]
High population, >500,000	6–8	4–6	0–2
Medium population, 100,000–500,000	4–6	2–4	0–2
Low population, 50,000–100,000	2–4	1–2	0

[a] Selection of urban areas and actual number of stations per area will be jointly determined by EPA and the State agency.
[b] High concentration—exceeding level of the primary NAAQS.
[c] Medium concentration—exceeding 60 percent of the level of the primary or 100 percent of the secondary NAAQS.
[d] Low concentration—less than 60 percent of the level of the primary or 100 percent of the secondary NAAQS.

The estimated number of SO_2 NAMS which would be required nationwide ranges from approximately 200 to 300. This range in the number of stations is less than for TSP. This is because there are more urban areas with high TSP levels than with high SO_2 levels. Also, the background air quality levels are higher for TSP than for SO_2, and thus air quality is more sensitive to SO_2 emission changes than for TSP. Therefore, fewer NAMS are needed on a national basis for SO_2 than for TSP. The actual number of stations in any specific area depends on local factors such as meteorology, topography, urban and regional air quality gradients, and the potential for significant air quality improvements or degradation. The greatest density of stations should be where urban

populations are large and where pollution levels are high. Fewer NAMS are necessary in the western States since concentrations are seldom above the NAAQS in their urban areas. Exceptions to this are in the areas where an expected shortage of clean fuels indicates that ambient air quality may be degraded by increased SO_2 emissions. In such cases, a minimum number of NAMS is required to provide EPA with a proper national perspective on significant changes in air quality.

Like TSP, the worst air quality in an urban area is to be used as the basis for determining the required number of SO_2 NAMS (see Table 3). This includes SO_2 air quality levels within populated parts of urbanized areas, that are affected by one or two point sources of SO_2 if the impact of the source(s) extends over a reasonably broad geographic scale (neighborhood or larger). Maximum SO_2 air quality levels in remote unpopulated areas should be excluded as a basis for selecting NAMS regardless of the sources affecting the concentration levels. Such remote areas are more appropriately monitored by SLAMS or SPM networks and/or characterized by diffusion model calculations as necessary.

3.3 *Carbon Monoxide (CO) Design Criteria for NAMS*

Information is needed on ambient CO levels in major urbanized areas where CO levels have been shown or inferred to be a significant concern. At the national level, EPA will not routinely require data from as many stations as are required for TSP, and perhaps, SO_2, since CO trend stations are principally needed to assess the overall air quality progress resulting from the emission controls required by the Federal motor vehicle control program (FMVCP).

Although State and local air programs may require extensive monitoring to document and measure the local impacts of CO emissions and emission controls, an adequate national perspective is possible with as few as two stations per major urban area. The two categories for which CO NAMS would be required are: (a) peak concentration areas such as are found around major traffic arteries and near heavily traveled streets in downtown areas (micro scale); and (b) neighborhoods where concentration exposures are significant (neighborhood scale).

The peak concentration station (micro scale) is usually found near heavily traveled downtown streets (street canyons), but could be found along major arterials (corridors), either near intersections or at low elevations which are influenced by downslope drainage patterns under low inversion conditions. The peak concentration station should be located so that it is representative of several similar source configurations in the urban area, where the general population has access. Thus, it should reflect one of many potential peak situations which occur throughout the urban area. It is recognized that this does not measure air quality which represents large geographical areas. Thus, a second type of station on the neighborhood scale is necessary to provide data representative of the high concentration levels which exist over large geographical areas.

The neighborhood station (neighborhood scale) should be located in areas with a stable, high population density, projected continuity of neighborhood character, and high traffic density. The stations should be located where no major zoning changes, new highways, or new shopping centers are being considered. The station should be where a significant CO pollution problem exists, but not be under the influence of any one line source. Rather, it should be more representative of the overall effect of the sources in a significant portion of the urban area.

Because CO is generally associated with heavy traffic and population clusters, an urbanized area with a population greater than 500,000 is the principal criterion for identifying the urban areas for which pairs of NAMS for this pollutant will be required. The criterion is based on judgment that stations in urban areas with greater than 500,000 population would provide sufficient data for national analysis and national reporting to Congress and the public. Also, it has generally been shown that major CO problems are found in areas greater than 500,000 population.

3.4 *Ozone (O_3)* Design Criteria for NAMS

The criterion for selecting locations for ozone NAMS is any urbanized area having a population of more than 200,000. This population cut off is used since the sources of hydrocarbons are both mobile and stationary and are more diverse. Also, because of local and national control strategies and the complex chemical process of ozone formation and transport, more sampling stations than for CO are needed on a national scale to better understand the ozone problem. This selection criterion is based entirely on population and will include those relatively highly populated areas where most of the oxidant precursors originate.

Each urban area will generally require only two ozone NAMS, One station would be representative of maximum ozone concentrations (category (a), urban scale) under the wind transport conditions as discussed in section 2.5. The exact location should balance local factors affecting transport and buildup of peak O_3 levels with the need to represent population exposure. The second station (category (b), neighborhood scale), should be representative of high density population areas on the fringes of the central business district along the predominant summer/fall daytime wind direction. This latter station should measure peak O_3 levels under light and variable or stagnant wind conditions. Two ozone NAMS stations will be sufficient in most urban areas since spatial gradients for ozone generally are not as sharp as for other criteria pollutants.

3.5 *Nitrogen Dioxide (NO_2) Criteria for NAMS*

Nitrogen dioxide NAMS will be required in those areas of the country which have a population greater than 1,000,000. These areas will have two NO_2 NAMS. It is felt that stations in these major metropolitan areas would provide sufficient data for a national analysis of the data, and also because NO_2 problems occur in areas of greater than 1,000,000 population.

Within urban areas requiring NAMS, two permanent monitors are sufficient. The first station (category (a) neighborhood scale) would be to measure the photochemical production of NO_2 and would best be located in that part of the urban area where the emission density of NO_x is the highest. The second station (category (b) urban scale), would be to measure the NO_2 produced from the reaction of NO with O_3 and should be downwind of the area of peak NO_x emission areas.

4. Summary

Table 4 shows by pollutant, all of the spatial scales that are applicable for SLAMS and the required spatial scales for NAMS. There may also be some situations, as discussed later in Appendix E, where additional scales may be allowed for NAMS purposes.

Spatial scale	Scales applicable for SLAMS					Scales required for NAMS				
	TSP	SO_2	CO	O_3	NO_2	TSP	SO_2	CO	O_3	NO_2
Micro			✓					✓		
Middle	✓	✓	✓	✓	✓					
Neighborhood	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Urban	✓	✓		✓	✓				✓	✓
Regional	✓	✓		✓						

5. References

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Appendix E—Probe Siting Criteria for Ambient Air Quality Monitoring

1. Introduction
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1. Introduction

This appendix contains probe siting criteria to be applied to ambient air quality monitors or monitor probes after the general station location has been selected based on the monitoring objectives and spatial scale of representativeness as discussed in Appendix D of this part. Adherence to these siting criteria is necessary to ensure the uniform collection of compatible and comparable air quality data.

The probe siting criteria as discussed below must be followed to the maximum extent possible. It is recognized that there may be situations when the probe siting criteria cannot be followed. If the siting criteria cannot be met, this must be thoroughly documented with a written request for a waiver which describes how and why the siting criteria differs. This documentation should help to avoid later questions about the data. Conditions under which EPA would consider an application for waiver from these siting criteria are discussed in Section 8 of this appendix.

The spatial scales of representativeness used in this appendix, i.e., micro, middle, neighborhood, urban, and regional are defined and discussed in Appendix D of this part. The pollutant specific probe siting criteria generally apply to all spatial scales except where noted otherwise. Specific siting criteria that are prefaced with a "must" are defined as a requirement and exceptions must be approved through the waiver provisions. However, siting criteria that are prefaced with a "should" are defined as a goal to meet for consistency but are not a requirement.

2. Total Suspended Particulates (TSP)

2.1 *Vertical Placement*

The most desirable height for a TSP monitor is near the breathing zone. Practical considerations such as prevention of vandalism, security, accessibility, availability of electricity, etc., require that the sampler be elevated and that a range of acceptable heights be specified. For TSP, the air intake for a TSP monitor must be located 2 to 15 meters above ground level. The lower limit was based on a compromise between ease of servicing the sampler and the desire to avoid reentrainment from dusty surfaces. The upper limit represents a compromise between the desire to have measurements which are most representative of population exposures, and the consideration for the location of existing monitors.

2.2 *Spacing from Obstructions*

If the sampler is located on a roof or other structure, then there must be a minimum of 2 meters separation from walls, parapets, penthouses, etc. No furnace or incineration flues should be nearby. This separation distance from flues is dependent on the height of the flues, type of waste or fuel burned, and quality of the fuel (ash content). For example, if the emissions from the chimney are the result of natural gas combustion, no special precautions are necessary except for the avoidance of obstructions, i.e., at least 2 meters separation.

On the other hand, if fuel oil, coal, or solid waste is burned and the stack is sufficiently short so that the plume could reasonably be expected to impact on the sampler intake a significant part of the time, other buildings/locations in the area that are free from these types of sources should be considered for sampling. Trees provide surfaces for particulate deposition and also restrict airflow. Therefore, the sampler should be placed at least 20 meters from trees.

The sampler must also be located away from obstacles such as buildings, so that the distance between obstacles and the sampler is at least twice the height that the obstacle protrudes above the sampler. Sampling stations that are located closer to obstacles than this criterion allows should not be classified as neighborhood, urban, or regional scale, since the measurements from such a station would closely represent middle scale stations. Therefore, stations not meeting the criterion should be classified as middle scale. There must also be unrestricted airflow in an arc of at least 270° around the sampler, and the predominant wind direction for the season of greatest pollutant concentration potential must be included in the 270° arc.

2.3 *Spacing from Roads*

A number of studies [10-8] support the conclusion that TSP concentrations decrease with increasing height of the monitor and distance from roads. Quite high concentrations have been reported at monitors located at a low elevation close to heavily traveled roads. Moreover, monitors located close to streets are within the concentrated plume of particulate matter emitted and generated by vehicle traffic. Except for special purpose monitoring studies where the monitoring objective is to determine the impact of a single source, ambient monitors should not be located so as to measure the plume of a single source. For TSP, it is appropriate that ambient monitors be located beyond the concentrated particulate plume generated by traffic, and not so close that the roadway totally dominates the measured ambient concentration.

An analysis of various monitoring studies [9] shows that a linear relationship between sampler height and distance from roadways defines a zone where the plume generated by traffic greater than approximately 3,000 vehicles per day is diminished. Figure 1 illustrates this relationship by showing two zones where TSP SLAMS could be located. Zone A represents locations which are recommended for the neighborhood, urban and regional scales and also for most middle scale locations. Zone B represents locations which should be avoided in order to minimize undesirable roadway influences.

Because of the pronounced TSP air quality gradients generally expected near roadways, SLAMS which for certain reasons cannot be located in Zone A and are located in Zone B would be classified as having a middle scale of representativeness. NAMS must be located in Zone A, and it is recommended that most SLAMS be located in Zone A.

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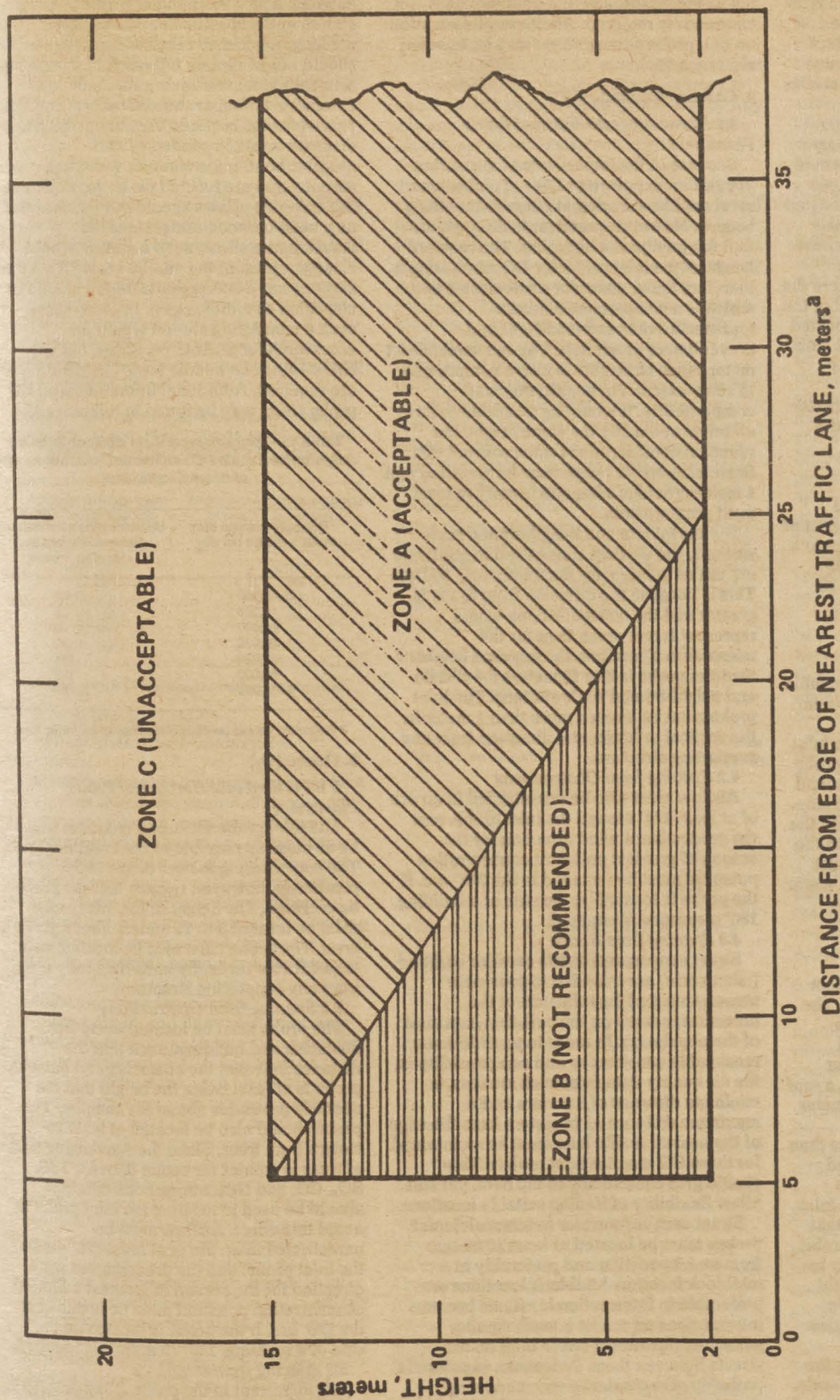

[a]APPLIES WHERE ADT >3 000

Figure I. Acceptable zone for siting TSP monitors.

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In light of several street canyon studies cited above, it appears that the street canyon may confine resuspended roadway dust and may not be a suitable location for ambient monitors. However, since roads with lower traffic (less than approximately 3,000 vehicles per day) generally do not generate a concentrated particulate plume, monitors located in Zone B should not be adversely influenced. Therefore, for those cases where the traffic is less than approximately 3,000 vehicles per day, the monitor must be located greater than 5 meters from the edge of the nearest traffic lane and 2 to 15 meters above ground level (either Zone A or Zone B).

In the case of elevated roadways where the monitor must be placed below the level of the roadway, then the monitor should be located no closer than approximately 25 meters from the edge of the nearest traffic lane. This separation distance applies for those situations where the road is elevated greater than 5 meters above the ground level, and applies to all traffic volumes.

2.4 *Other Considerations*

Stations should not be located in an unpaved area unless there is vegetative ground cover year round so that the impact of reentrained or fugitive dusts will be kept to a minimum. Addtional information on TSP probe siting may be found in reference 10.

3. Sulfur Dioxide (SO_2)

3.1 *Horizontal and Vertical Probe Placement*

As with TSP monitoring, the most desirable height for an SO_2 monitor inlet probe is near the breathing height. Various factors enumerated before may require that the inlet probe be elevated. Therefore, the inlet probe must be located 3 to 15 meters above ground level. If the inlet probe is located on the side of a building, then it should be located on the windward side of the building relative to the prevailing winter wind direction. The inlet probe must also be located more than 1 meter vertically or horizontally away from any supporting structure and also away from dirty, dusty areas.

3.2 *Spacing from Obstructions*

No furnace or incineration flues, or other minor sources of SO_2 should be nearby. The separation distance is dependent on the height of the flues, type of waste or fuel burned, and the quality of the fuel (sulfur content). If the inlet probe is located on a roof or other structure, it must be at least 1 meter from walls, parapets, penthouses, etc.

The inlet probe should be placed more than 20 meters from trees and must be located away from obstacles and buildings. The distance between the obstacles and the inlet probe must be at least twice the height that the obstacle protrudes above the inlet probe. Sampling stations that are located closer to obstacles than this criterion allows should not be classified as a neighborhood scale, since the measurements from such a station would closely represent middle scale stations. Therefore, stations not meeting the criterion should be classified as middle scale. Airflow must also be unrestricted in an arc of at least 270° around the inlet probe, and the predominant wind direction for the season of greatest pollutant concentration potential must be included in the 270° arc. If the probe is located on the side of a building, 180° clearance is required. Additional information on SO_2 probe siting criteria may be found in reference 11.

4. Carbon Monoxide (CO)

4.1 *Horizontal and Vertical Probe Placement*

Because of the importance of measuring population exposure to CO concentrations, air should be sampled at average breathing heights. However, practical factors require that the inlet probe be higher. The required height of the inlet probe for CO monitoring is therefore $3 \pm \frac{1}{2}$ meter for a microscale site, which is a compromise between representative breathing height and prevention of vandalism. The recommended 1 meter range of heights is also a compromise to some extent. For consistency and comparability, it would be desirable to have all inlets at exactly the same height, but practical considerations often prevent this. Some reasonable range must be specified and 1 meter provides adequate leeway to meet most requirements.

For the middle and neighborhood scale stations, the vertical concentration gradients are not as great as for the microscale station. This is because the diffusion from roads is greater and the concentrations would represent larger areas than for the microscale. Therefore, the required height of the inlet probe is 3 to 15 meters for middle and neighborhood scale stations. The inlet probe must be located more than 1 meter in the vertical or horizontal direction from any supporting structure.

4.2 *Spacing from Obstructions*

Airflow must also be unrestricted in an arc of at least 270° around the inlet probe, and the predominant wind direction for the season of greatest pollutant concentration potential must be included in the 270° arc. If the probe is located on the side of a building, 180° clearance is required.

4.3 *Spacing from Roads*

Street canyon and traffic corridor stations (microscale) are intended to provide a measurement of the influence of the immediate source on the pollution exposure of the population. In order to provide some reasonable consistency and comparability in the air quality data from such stations, a minimum distance of 2 meters and a maximum distance of 10 meters from the edge of the nearest traffic lane must be maintained for these CO monitor inlet probes. This should give consistency to the data, yet still allow flexibility of finding suitable locations.

Street canyon/corridor (microscale) inlet probes must be located at least 10 meters from an intersection and preferably at a midblock location. Midblock locations are preferable to intersection locations because intersections represent a much smaller portion of downtown space than do the streets between them. Pedestrian exposure is probably also greater in street canyon/corridors than at intersections. Finally, the practical difficulty of positioning sampling inlets is less at midblock locations than at the intersection.

In determining the minimum separation between a neighborhood scale monitoring station and a specific line source, the presumption is made that measurements should not be unduly influenced by any one roadway. Computations were made to determine the separation distances, and table 1 provides the required minimum separation distance between roadways and neighborhood scale stations. Sampling stations that are located closer to roads than this criterion allows should not be classified as a neighborhood scale, since the measurements from such a station would closely represent the middle scale. Therefore, stations not meeting this criterion should be classified as middle scale. In some cases, such a monitoring station would be acceptable for SLAMS purposes, but not NAMS since no middle scale NAMS stations are required. Additional information on CO probe siting may be found in reference 12.

Table 1.—*Minimum separation distance between neighborhood scale CO stations and roadways (edge of nearest traffic lane)*

Roadway average daily traffic, vehicles per day	Minimum separation distance between stations and roadways, meters
≤ 10,000	≥10*
15,000	25
20,000	45
30,000	80
40,000	115
50,000	135
≥60,000	≥150

* Distances should be interpolated based on traffic flow.

5. Ozone (O_3)

5.1 *Vertical and Horizontal Probe Placement*

The inlet probe for ozone monitors should be as close as possible to the breathing zone. The complicating factors discussed previously, however, require that the probe be elevated. The height of the inlet probe must be located 3 to 15 meters above ground level. The probe must also be located more than 1 meter vertically or horizontally away from any supporting structure.

5.2 *Spacing from Obstructions*

The probe must be located away from obstacles and buildings such that the distance between the obstacles and the inlet probe is at least twice the height that the obstacle protrudes above the sampler. The probe should also be located at least 20 meters from trees. Since the scavenging effect of trees is greater for ozone than for TSP, SO_2, CO, and NO_2, strong consideration should be used in locating the inlet probe to avoid this effect. Airflow must be unrestricted in an arc of at least 270° around the inlet probe, and the predominant wind direction for the season of greatest pollutant concentration potential must be included in the 270° arc. If the probe is located on the side of a building, 180° clearance is required.

5.3 *Spacing from Roads*

It is important in the probe siting process to minimize destructive interferences from sources of nitric oxide (NO) since NO readily reacts with ozone. Table 2 provides the required minimum separation distances

between roadways and ozone monitoring stations. These distances were based on recalculations using the methodology in reference 13 and validated using more recent ambient data collected near a major roadway. Sampling stations that are located closer to roads than this criterion allows should not be classified as neighborhood or urban scale, since the measurements from such stations would more closely represent the middle scale. Accordingly, such stations should be classified as middle scale. In some cases, a middle scale station would be acceptable for SLAMS purposes, but not for NAMS since no middle scale NAMS are required. The minimum separation distance must also be maintained between an ozone station and other similar volumes of automotive traffic, such as parking lots. Additional information on ozone probe siting criteria may be found in reference 13.

Table 2.—*Minimum separation distance between neighborhood and urban scale ozone stations and roadways (edge of nearest traffic lane)*

Roadway average daily traffic, vehicles per day	Minimum separation distance between roadways and stations, meters
≤10,000	≥10[a]
15,000	20
20,000	30
40,000	50
70,000	100
≥110,000	≥250

[a] Distances should be interpolated based on traffic flow.

6. Nitrogen Dioxide (NO_2)

6.1 *Vertical and Horizontal Probe Placement*

The height of the NO_2 inlet probe must be 3 to 15 meters above the ground. This is a compromise between measuring in the breathing zone and avoidance of vandalism, finding suitable sites, etc. For NO_2, the height does not appear to be a critical factor since the NO_2 should be fairly well mixed and somewhat uniform in the vertical direction. The distance of the inlet probe from any supporting structure must be greater than 1 meter vertically or horizontally.

6.2 *Spacing from Obstructions*

Buildings, trees, and other obstacles may possibly scavenge NO_2. In order to avoid this kind of interference, the station must be located well away from such obstacles so that the distance between obstacles and the inlet probe is at least twice the height that the obstacle protrudes above the probe. Sampling stations that are located closer to obstacles than this criterion allows should not be classified in the neighborhood or urban scales, since the measurements from such stations would more closely represent the middle scale. Such stations should be classified as middle scale. For similar reasons, a probe inlet along a vertical wall is undesirable because air moving along that wall may be subject to possible removal mechanisms. The inlet probe should also be at least 20 meters from trees. There must be unrestricted airflow in an arc of at least 270° around the inlet probe, and the predominant wind direction for the season of greatest pollutant concentration potential must be included in the 270° arc. If the probe is located on the side of the building, 180° clearance is required.

6.3 *Spacing from Roads*

It is important that the monitoring probe be removed from oxides of nitrogen sources to avoid measurements being dominated by any one source and to allow time for conversion (reactions) of NO emissions to NO_2. Further, the effects of roadway sources must be minimized by using separation distances for neighborhood and urban scale stations found in Table 3. These distances were based on recalculations using the methodology in reference 13 and validated using more recent ambient data collected near a major roadway. The minimum separation distance must also be maintained between an NO_2 probe and any other similar volume of automotive traffic such as parking lots. Sampling stations that are located closer to roads than this criterion allows should not generally be classified as neighborhood or urban scales, since the measurements from such stations would more closely represent middle scale stations. Such stations should generally be classified as middle scale. In some cases, such a monitoring station would be acceptable for SLAMS purposes, but not for NAMS since no middle scale NAMS are acceptable. Additional information on NO_2 probe siting criteria may be found in reference 13.

Table 3.—*Minimum separation distance between neighborhood and urban scale NO_2 stations and roadways (edge of nearest traffic lane)*

Roadway average daily traffic, vehicles per day	Minimum separation distance between roadways and station, meters
≥10,000	≥10[a]
15,000	20
20,000	30
40,000	50
70,000	100
≥110,000	≥250

[a] Distances should be interpolated based on traffic flow.

7. Probe Material and Pollutant Sample Residence Time

For the reactive gases, SO_2, NO_2, and O_3, special probe material must be used. Studies [14-18] have been conducted to determine the suitability of materials such as polypropylene, polyethylene, polyvinylchloride, tygon, aluminum, brass, stainless steel, copper, pyrex glass and teflon for use as intake sampling lines. Of the above materials, only pyrex glass and teflon have been found to be acceptable for use as intake sampling lines for all the reactive gaseous pollutants. Furthermore, EPA [19] has specified borosilicate glass or FEP teflon as the only acceptable probe materials for delivering test atmospheres in the determination of reference or equivalent methods. Therefore, borosilicate glass, FEP teflon, or their equivalent must be used for existing and new NAMS or SLAMS.

No matter how nonreactive the sampling probe material is initially, after a period of use reactive particulate matter is deposited on the probe walls. Therefore, the time it takes the gas to transfer from the probe inlet to the sampling device is also critical. Ozone in the presence of NO will show significant losses even in the most inert probe material when the residence time exceeds 20 seconds.[20] Other studies [21,22] indicate that a 10-second or less residence time is easily achievable. Therefore, sampling probes for reactive gas monitors at SLAMS or NAMS must have a sample residence time less than 20 seconds.

8. Waiver Provisions

It is believed that most sampling probes or monitors can be located so that they meet the requirements of this appendix. New stations with rare exceptions, can be located within the limits of this appendix. However, some existing stations may not meet these requirements and yet still produce useful data for some purposes. EPA will consider a written request from the State Agency to waive one or more siting criteria for some monitoring stations providing that the State can adequately demonstrate the need (purpose) for monitoring or establishing a monitoring station at that location. For establishing a new station, a waiver may be granted only if both of the following criteria are met:

- The site can be demonstrated to be as representative of the monitoring area as it would be if the siting criteria were being met.
- The monitor or probe cannot reasonably be located so as to meet the siting criteria because of physical constraints (e.g., inability to locate the required type of station the necessary distance from roadways or obstructions).

However, for an existing station, a waiver may be granted if either of the above criteria are met.

Cost benefits, historical trends, and other factors may be used to add support to the above, however, they in themselves, will not be acceptable reasons for granting a waiver. Written requests for waivers must be submitted to the Regional Administrator. For those SLAMS also designated as NAMS, the request will be forwarded to the Administrator.

9. Discussion and Summary

Table 4 presents a summary of the requirements for probe siting criteria with respect to distances and heights. It is apparent from Table 4 that different elevation distances above the ground are shown for the various pollutants. The discussion in the text for each of the pollutants described reasons for elevating the monitor or probe. The differences in the specified range of heights are based on the vertical concentration gradients. For CO, the gradients in the vertical direction are very large for the microscale, so a small range of heights has been specified. For SO_2, NO_2, TSP, and O_3 (except near roadways), the vertical gradients are smaller and thus a larger range of heights can be used. The upper limit of 15 meters was specified for consistency between pollutants and to allow the use of a single manifold for monitoring more than one pollutant.

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Table 4. Summary of probe siting criteria

Pollutant	Scale	Height above ground, meters	Distance from supporting structure, meters		Other spacing criteria
			Vertical	Horizontal[a]	
TSP	All	2 - 15	—	> 2	1. Should be >20 meters from trees. 2. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler.[b] 3. Must have unrestricted airflow 270° around the sampler. 4. No furnace or incineration flues should be nearby.[c] 5. Must have minimum spacing from roads. This varies with height of monitor and spatial scale (see Figure 1).
SO_2	All	3 - 15	> 1	> 1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe.[b] 3. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 4. No furnace or incineration flues should be nearby.[c]
CO	Micro	3 ± 1/2	> 1	> 1	1. Must be >10 meters from intersection and should be at a midblock location. 2. Must be 2-10 meters from edge of nearest traffic lane. 3. Must have unrestricted airflow 180° around the inlet probe.
	Middle Neighborhood	3 - 15	> 1	> 1	1. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 2. Spacing from roads varies with traffic (see Table 1).
O_3	All	3 - 15	> 1	> 1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe. 3. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 4. Spacing from roads varies with traffic (see Table 2).
NO_2	All	3 - 15	> 1	> 1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe.[b] 3. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 4. Spacing from roads varies with traffic (see Table 3).

[a] When probe is located on rooftop, this separation distance is in reference to walls, parapets, or penthouses located on the roof.

[b] Sites not meeting this criterion would be classified as middle scale (see text).

[c] Distance is dependent on height of furnace or incineration flue, type of fuel or waste burned, and quality of fuel (sulfur and ash content). This is to avoid undue influences from minor pollutant sources.

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Appendix F—Annual Slams Air Quality Information

1. General
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2.5.2 Annual Summary Statistics

1. *General*

This appendix describes information to be compiled and submitted annually to EPA for each ambient monitoring station in the SLAMS Network in accordance with § 58.26. The annual summary statistics that are described in section 2 below shall be construed as only the minimum necessary statistics needed by EPA to overview national air quality status. They will be used by EPA to convey information to a variety of interested parties including environmental groups, Federal agencies, the Congress, and private citizens upon request. As the need arises, EPA may issue modifications to these minimum requirements to reflect changes in EPA policy concerning the National Ambient Air Quality Standards (NAAQS).

As indicated in § 58.26(c), the contents of the SLAMS annual report shall be certified by the senior air pollution control officer in the State to be accurate to the best of his knowledge. In addition, the manner in which the data were collected must be certified to have conformed to the applicable quality assurance, air monitoring methodology, and probe siting criteria given in Appendices A, C, and E to this part. A certified statement to this effect must be included with the annual report. As required by § 58.26(a), the report must be submitted by July 1 of each year for data collected during the period January 1 to December 31 of the previous year.

EPA recognizes that most air pollution control agencies routinely publish air quality statistical summaries and interpretive reports. EPA encourages State and local agencies to continue publication of such reports and recommends that they be expanded, where appropriate, to include analysis of air quality trends, population exposure, and pollutant distributions. At their discretion, State and local agencies may wish to integrate the SLAMS report into routine agency publications.

2. *Required Information*

This paragraph describes air quality monitoring information and summary statistics which must be included in the SLAMS annual report. The required information is itemized below by pollutant. Throughout this appendix, the time of occurrence refers to the ending hour. For example, the ending hour of an 8-hour CO average from 12:01 a.m. to 8:00 a.m. would be 8:00 a.m.

2.1 *Sulfur Dioxide* (SO_2)

2.1.1 *Site and Monitoring Information.* City name (when applicable), county name and street address of site location. SAROAD site code. SAROAD monitoring method code. Number of hourly observations. (*1*) Number of daily observations. (*2*)

2.1.2 *Annual Summary Statistics.* Annual arithmetic mean (ppm). Highest and second highest 24-hour averages (*3*) (ppm) and dates of occurrence. Highest and second highest 3-hour averages (*1, 3*) (ppm) and dates and times (*1*) (ending hour) of occurrence. Number of exceedances of the 24-hour primary NAAQS. (*3*) Number of exceedances of the 3-hour secondary NAAQS. (*3*) Number of 24-hour average concentrations (*4*) in ranges:

Range:	*Number of values*
0.00 to 0.04 (ppm)	
0.05 to 0.08	
0.09 to 0.12	
0.13 to 0.16	
0.17 to 0.20	
0.21 to 0.24	
0.25 to 0.28	
Greater than .28	

2.2 *Particulates* (TSP)

2.2 *Particulates* (TSP)

2.2.1 *Site and Monitoring Information.* City name (when applicable), county name and street address of site location. SAROAD site code. Number of daily observations.

2.2.2 *Annual Summary Statistics.* Annual geometric mean ($\mu g/m^3$). Highest and second highest daily values and dates of occurrence. Number of exceedances of the 24-hour primary NAAQS. Number of exceedances of the 24-hour secondary NAAQS. Number of 24-hour average concentrations in ranges:

Range:	Number of values
0 to 65 ($\mu g/m^3$)	
66 to 130	
131 to 195	
196 to 260	
261 to 325	
326 to 390	
391 to 455	
Greater than 455	

2.3 *Carbon Monoxide* (CO)

2.3.1 *Site and Monitoring Information.* City name (when applicable), county name and street address of site location. SAROAD site code. SAROAD monitoring method code. Number of hourly observations.

2.3.2 *Annual Summary Statistics.* Highest and second highest 1-hour values (ppm) and date and time of occurrence. Highest and second highest 8-hour averages (*3*) (ppm) and date and time of occurrence (ending hour). Number of exceedances of the 1-hour primary NAAQS. Number of exceedances of the 8-hour average primary NAAQS. (*3*) Number of 8-hour average concentrations (*4*) in ranges:

Range:	Number of values
0 to 4 (ppm)	
5 to 8 (ppm)	
9 to 12	
13 to 16	
17 to 20	
21 to 24	
25 to 28	
Greater than 28	

2.4 *Nitrogen Dioxide* (NO_2)

2.4.1 *Site and Monitoring Information.* City name (when applicable), county name, and street address of site location. SAROAD site code. SAROAD monitoring method code. Number of hourly observations. (*1*) Number of daily observations. (*2*)

2.4.2 *Annual Summary Statistics.* Annual arithmetic mean (ppm). Highest and second highest hourly averages (*3*) (ppm) and their dates and time of occurrence. Highest and second highest 24-hour averages (*2*) and their date of occurrence (ppm). Number of hourly average concentrations in ranges. (*1*)

Range:	Number of values
.0 to .04 (ppm)	
.05 to .08	
.09 to .12	
.13 to .16	
.17 to .20	
.21 to .24	
.25 to .28	
Greater than 0.28	

2.5 *Ozone* (O_3)

2.5.1 *Site and Monitoring Information.* City name (when applicable), county name and street address of site location. SAROAD site code. SAROAD monitoring method code. Number of hourly observations.

2.5.2 *Annual Summary Statistics.* Four highest daily maximum hour values (ppm) and their dates and time of occurrence. Number of exceedances of the daily maximum 1-hour primary NAAQS. Number of daily maximum hour concentrations in ranges:

Range:	Number of values
0 to .04 (ppm)	
.05 to .08	
.09 to .12	
.13 to .16	
.17 to .20	
.21 to .24	
.25 to .28	
Greater than .28	

Footnotes

1. Continuous methods only.
2. Manual or intermittent methods only.
3. Based on nonoverlapping values computed according to procedures described in reference (1) or on individual intermittent measurements.
4. Based on overlapping running averages for continuous measurements as described in reference (1) or on individual measurement for intermittent methods.

REFERENCE

1. "Guidelines for the Interpretation of Air Quality Standards" U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711. OAQPS No. 1.2-008, February, 1977.

Appendix G—Uniform Air Quality Index and Daily Reporting

1. General.
2. Definitions.
3. Monitoring data.
4. Geographic applicability.
5. Daily index report.
6. Prominent public notice.
7. Uniform air quality index.
7.1 Uniform index computation.
7.2 Example computation.
8. Exceptions.
9. Reporting agency recordkeeping.
10. Basis for PSI.
11. Additional information.
12. References.

1. General

This appendix describes the uniform air quality index to be used by States in reporting the daily air quality index required by § 58.40.

2. Definitions

a. The uniform air quality required for the daily reporting of air quality is a modified form of the Pollutant Standards Index (PSI).

b. "Reporting agency" means the applicable State agency or, in metropolitan areas, a local air pollution control agency designated by the State to carry out the provisions of § 58.40.

c. "Reporting area" means the geographical area for which the daily index is representative for the reporting period. This area(s) may be the total urban area (or subpart thereof) or each of any number of distinct geographical subregions of the urban area deemed necessary by the reporting agency for adequate presentation of local air quality conditions.

d. "Reporting day" means the calendar day during which the daily report is given.

e. "Reporting period" means the time interval for which the daily report is representative. Normally, the reporting period is the 24-hour period immediately preceding the time of the report and should coincide to the extent practicable with the reporting day. In cases where the index will be forecasted the reporting period will include portions of the reporting day for which no monitoring data are available at the time of the report.

f. "Critical pollutant" means the pollutant or pollutant combination (TSP x SO_2) with the highest subindex during the reporting period.

g. "Subindex" means the calculated index value for a single pollutant as described in section 7.

3. Monitoring Data

The monitoring data used to prepare the daily index report must be based on data obtained from the SLAMS network (or portions thereof) required under 40 CFR 58.20. Air quality measurements need not be made on reporting days for which the agency does not ordinarily schedule monitoring to occur. For example, TSP measurements are to be included in the index calculations on days for which data are required (minimum of one sample per 6 days), but may be excluded on other days. Particulate measurements from samplers other than the hi-volume sampler, may be included in index calculations provided such measurements can be quantitatively related to hi-volume measurements.

Data used to calculate the daily index (and respective subindices) should come from the most recent sampling period. The index should be based on data obtained during the 24-hour period for which the index is reported. No monitoring data are to be used for index calculations for which the end of the sampling period precedes the reporting day by more than 24-hours. To the extent practicable, agencies should forecast the index using whatever procedures are most accurate and reasonable through consideration of local meteorological and topographical conditions and the availability of data and forecasting expertise.

4. Geographic Applicability

Generally, the area contained within the geographic boundaries of the urban area is sufficient for purposes of calculating and reporting the index. The exception occurs in cases where a significant air quality problem exists (PSI greater than 100) in highly populated areas adjacent to, but outside of, the urban area. For example, ozone concentrations are often highest downwind and outside the urban area.

Agencies should report a separate air quality index for each subregion of the urban area which is likely to have air quality significantly different from other portions of the urban area if such data are readily available. At a minimum, the subregion subject to the highest index values shall be included in the index computation. This

subregion shall be selected by the reporting agency after past air quality has been reviewed to determine which monitoring stations typically record the highest pollutant concentrations.

5. Daily Index Report

The daily index report must be based on the uniform air quality index described in section 7 and contain the following information: (1) The reporting area(s); (2) the reporting period; (3) the critical pollutant; (4) the subindex corresponding to the critical pollutant; and (5) the descriptor word according to the following system:

Index Range and Descriptor Category

0 to 50..... "Good"
51 to 100..... "Moderate"
101 to 199..... "Unhealthful"
200 to 299..... "Very Unhealthful"
300 and above..... "Hazardous"

Reporting agencies should, at their discretion, report additional information such as the following: (1) Pollutants other than the critical pollutants and their individual subindices; (2) subindices and respective pollutant names for each of a number of distinct reporting areas within the urban area; (3) actual pollutant concentration values; and (4) causes for unusual PSI readings, such as high background air quality levels and other natural phenomena.

6. Prominent Public Notice

The reporting agency shall make prominent public notice of the daily index report on at least 5 days per week. Prominent public notification consists of at a minimum: (1) furnishing the daily report to one or more of the appropriate news media (radio, television, newspapers); and (2) making the daily index report publicly available at one or more places of public access. Index reports also may be disseminated by means of recorded messages.

7. Uniform Air Quality Index

The uniform index is based on the pollutants standards index (PSI) structure (see section 10), which includes the five pollutants for which primary National Ambient Air Quality Standards (NAAQS) have been established. These pollutants are: total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3) and nitrogen dioxide (NO_2). For each pollutant, a subindex is calculated from a segmented linear function that transforms ambient concentrations onto a scale extending from 0 through 500, with 100 corresponding to the primary NAAQS concentrations and 500 corresponding to the significant harm levels established in § 51.16 of this chapter. In order to achieve relative uniformity for intermediate PSI values of 200, 300, and 400 among the several pollutants, their effects were approximately normalized by using the breakpoints corresponding to the Alert, Warning and Emergency levels in the example episode criteria. (1) However, because many factors, including meteorological conditions, are taken into account before triggering episode control actions, the reported PSI values and the calling of an episode do not always correspond. It should be recognized that over time with new information on effects, the actual concentrations corresponding to the PSI values may change. The PSI values themselves and their health implications, however, should remain the same. Similarly, concentrations and conditions leading to administrative episode actions may change.

In addition to the five health-related pollutants, a subindex is calculated for the product TSP x SO_2 because it has both Federal episode criteria and a significant harm level. The breakpoint used in defining each of the six pollutant subindices are listed in gravimetric units (Table 1) and in volumetric units (Table 2). The individual computational scheme is defined below for calculating the pollutant subindex values.

7.1 Uniform Index Computation

Each subindex i, is calculated by using a segmented linear function (Figures 1–6) that relates pollutant concentration, X_i, to subindex value, I_i. A segmented linear function consists of straight-line segments joining discrete coordinates (i.e., breakpoints). For pollutant i and segment j, the coordinates of the jth breakpoint are represented by subindex value $I_{i,j}$ and concentration $X_{i,j}$ giving the ordered pair $(X_{i,j}, I_{i,j})$. If the observed concentration is X_i, the corresponding subindex value I_i is calculated using the following equation over the concentration range:

$$X_{i,j} \leq X_i \leq X_{i,j+1}:$$

$$I_i = \frac{I_{i,j+1} - I_{i,j}}{X_{i,j+1} - X_{i,j}} (X_i - X_{i,j}) + I_{i,j} \qquad (1)$$

$$\text{for } X_{i,j} \leq X_i \leq X_{i,j+1}$$

where X_i = observed concentration for ith pollutant
$I_{i,j}$ = PSI value for ith pollutant and jth breakpoint (Table 1 or 2)
$I_{i,j+1}$ = PSI value for ith pollutant and (j + 1)th breakpoint (Table 1 or 2)
$X_{i,j}$ = concentration for ith pollutant and jth breakpoint (Table 1 or 2)
$X_{i,j+1}$ = concentration for ith pollutant and (j + 1)th breakpoint (Table 1 or 2)

Finally, the overall index is calculated as the maximum of subindices:

$$PSI = \max (I_1, I_2, \ldots, I_i, \ldots, I_n)$$

where
I_i = subindex for ith pollutant
n = number of pollutants (including pollutant combinations)

7.2 Example Computation

Suppose a TSP 24-hour concentration of 283 $\mu g/m^3$ is observed. The TSP subindex is calculated using equation 1 as follows. In Table 1, the observed concentration of $X_1 = 283\ \mu g/m^3$ lies between 260 and 375 $\mu g/m^3$, therefore this computation is carried out for the second segment (j=2). For this segment, $X_{1,2}=260$ and $X_{1,3}=375$, with corresponding subindex values for $I_{1,2}=100$ and $I_{1,3}=200$. The computation is as follows:

$$I_1 = \frac{I_{1,3} - I_{1,2}}{X_{1,3} - X_{1,2}} (283 - X_{1,2}) + I_1 =$$

$$\frac{200 - 100}{375 - 260} (283 - 260) + 100 = \frac{100}{115} \times 23 + 100 = 120$$

Therefore, the TSP subindex is I=120. If four other pollutant subindices calculated in a similar manner from observations on the same data were: $I_2=0$, $I_3=0$, $I_4=20$, and $I_5=30$. Then, the overall index is reported as the maximum of these values:

PSI=max (120, 0, 0, 20, 30)=120Q02

A typical report might contain the following statement: "Today's air quality index is 120 which is regarded as unhealthful. The responsible pollutant is suspended particulate matter. This report represents conditions prevailing over most of the downtown urban area for the previous 24-hour period ending at noon today." If the index were forecast for the next day, the following additional language might also be used: "The current forecast is for improved air quality tomorrow with the index not expected to exceed 80."

8. Exceptions

In many urban areas, a given air pollutant may exhibit low concentrations repetitively. At the discretion of the reporting agency, pollutants for which PSI values are consistently below 50 for an extended period (for example, a season or year) may be excluded in calculations of the daily index.

Because the index is for the purpose of achieving national uniformity of daily air quality reports, the following variations are not permitted unless approved by the EPA Administrator:

a. Exlusion of pollutants described in section 7 from index calculations except as permitted above.

b. Incorporation of pollutants and/or pollutant combinations into the index not described in section 7.

c. Use of breakpoints other than those given in Table 1 or 2.

d. Use of descriptor words other than those given in section 5.

9. Reporting Agency Recordkeeping

The reporting agency shall keep annual records of the frequency with which reporting index values occur in each of the index descriptor categories. These records must also indicate the pollutant monitors in the SLAMS network being used for purposes of calculating the index for each reporting area. Such records must be made available for inspection at the request of the Administrator.

10. Basis for PSI

The development and evaluation of the PSI index structure have been documented extensively. (2–12) The index was created as a result of a joint EPA/CEQ study (2) which identified problems resulting from the diversity of indices used in the United States and Canada. This report proposed design principles that could be used to develop a nationally uniform index to meet the needs of State and local agencies. The design principles on which PSI is based, along with previous versions of the index, have been presented in various scientific reports, (3, 4) articles in technical journals, (4, 5, 11) and at various scientific meetings and conferences. (7–10) Most recently, the history of the development of PSI along with its scientific rationale, has been summarized in a book. (6) In September 1976, PSI was published in the **Federal Register** (13) for use by State and local air pollution control agencies on a voluntary basis.

11. Additional Information

A variety of computational techniques have been developed to assist the user in calculating PSI in an accurate, convenient and rapid manner. (6) The primary techniques available are graphs (linear and logarithmic), nomograms, tables, and computer approaches. An EPA report (14) describes each technique, lists its advantages and disadvantages, includes examples of the methods, and provides nomograms and tables in both gravimetric and volumetric units. The nomograms are considered to be the most efficient way of competing the index and should be of greatest assistance to State and local agencies. Computer approaches for calculating PSI also are available. (15) These approaches lend themselves to applications with programmable hand calculators, minicomputers, or large-scale digital computers. A general computer program, Index Plot, used in an earlier evaluation of PSI, (11) is available from EPA and is fully documented. (15) This computer program is useful for analyzing air quality data by means of PSI over relatively long periods (a month, a season, or a year). It plots the time series of daily index values on the line printer, generates and plots a histogram and cumulative frequencies of PSI values, computes summary data by subindex and descriptor category, computes overall statistics for PSI, and inventories all missing values in the data set. Agencies can use this program to translate all historical data collected at any station into the corresponding PSI values, and, thus, retain for recordkeeping purposes a uniform retrospective record of air quality. (11, 15) Requests for these reports should be addressed to the Environmental Protection Agency, Library, MD–35, Research Triangle Park, N.C. 27711.

Additional information on descriptive language to report with the index is provided in an earlier report (1) and in the air quality criteria documents published for each air pollutant. (16–20) Additional information on meteorological forecasting services from the National Weather Service also is available in the literature. (21, 22)

Additional information on the health effects of each air pollutant used in PSI is available in a brochure entitled, "Measuring Air Quality: The New Pollutant Standards Index," Printing Management Office (PM–215), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

12. References

1. "Guideline for Public Reporting of Daily Air Quality-Pollutant Standards Index (PSI)," U.S. Environmental Protection Agency Office of Air Quality Planning and Standards, Research Triangle Park, N.C. OAQPS No. 1.2–044, August 1976.

2. Thom, Gary C., and Wayne R. Ott., *Air Pollution Indices: A Compendium and Assessment of Indices Used in the United States and Canada*, joint study supported by the Council on Environmental Quality and the U.S. Environmental Protection Agency, December 1975, and reprinted by Ann Arbor Science Publishers, Ann Arbor, Mich., 1976.

3. "A Recommended Air Pollution Index," report prepared by the Federal Interagency Task Force on Air Quality Indicators, Council on Environmental Quality, Environmental Protection Agency, and Department of Commerce, September 1976.

4. Thom, Gary C., and Wayne R. Ott., "A Proposed Uniform Air Pollution Index," *Atmos Environ* 10:261 (1976).

5. Ott, Wayne R., and Gary C. Thom, "A Critical Review of Air Pollution Index Systems in the United States and Canada," *J. Air Pollution Control Association* 26:460 (1976).

6. Ott, Wayne R., *Environmental Indices*, Ann Arbor Science Publishers, Ann Arbor, Michigan, 1978.

7. Hunt, William F., William M. Cox, Wayne R. Ott, and Gary C. Thom. "A Common Air Quality Reporting Format: Precursor to an Air Quality Index," *Proceedings of the Fifth Annual Environmental Engineering and Science Conference, Louisville, Ky.*, March 3–4, 1975, pp. 101–121.

8. Ott, Wayne R., and Gary C. Thom, "Air Pollution Indices in the United States and Canada—the Present Picture," presented at the 171st National Meeting of the American Chemical Society, New York, NY, April 7, 1976.

9. Thom, Gary C., Wayne R. Ott, William F. Hunt, and John B. Moran "A Recommended Standard Air Pollution Index," presented at the 171st National Meeting of the American Chemical Society, New York, NY, April 7, 1976.

10. Hunt, William F., Raymond Smith, Wayne R. Ott, and Wilson B. Riggan, "The Pollutant Standards Index (PSI)—An Early Warning System for Air Pollution," presented at the 8th International Scientific Meeting of the International Epidemiological Association, Las Croabas, P.R., September 18–23, 1977.

11. Ott, Wayne R., and William F. Hunt, "A Quantitative Evaluation of the Daily Air Pollution Index Proposed by the U.S. Environmental Protection Agency," *J. Air Pollution Control Association* 26:1050 (1976).

12. Hunt, William F., and Wayne R. Ott, Pollutant Standards Index (PSI) Evaluation Study, Joint Office of Air and Waste Management and Research and Development Report, U.S. Environmental Protection Agency, Research Triangle Park, N.C., April 1976.

13. **Federal Register**, Vol. 41, September 7, 1976, pp. 37660–37671.

14. Wallace, Lance A., and Wayne R. Ott, "Rapid Techniques for Calculating the Pollutant Standards Index (PSI)," U.S. Environmental Protection Agency, Washington, D.C. Report No. EPA–600/4–78–002, March 1978.

15. Ott, Wayne R., "A FORTRAN Program for Computing the Pollutant Standards Index (PSI)," U.S. Environmental Protection Agency, Washington, D.C., Report No. EPA–600/4–78–001, May 1978.

16. "Air Quality Criteria for Particulate Matter," USDEHEW, PHS, CPEHS, NAPCA, Washington, D.C., January 1969, No. AP–49.

17. "Air Quality Criteria for Sulfur Oxides," USDHEW, PHS, CPEHS, NAPCA, Washington, D.C., January 1969, No. AP–50.

18. "Air Quality Criteria for Carbon Monoxide," USDHEW, PHS, CPEHS, Washington, D.C., March 1970, No. AP–42.

19. "Air Quality Criteria for Photochemical Oxidants," USDHEW, PHS, CPEHS, Washington, D.C., March 1970, No. AP–63.

20. "Air Quality Criteria for Nitrogen Dioxide," EPA, APCO, Washington, D.C., January 1971, No. AP–84.

21. *National Weather Service Operations Manual Air Pollution Weather Forecasts*, WSOM Issuance 75–13, Part C. Chapter 30, April 1975.

22. *National Weather Service Technical Procedures Bulletin* No. 122: "Air Stagnation Guidance for Facsimile and Teletype (3rd Edition)," October 21, 1974. (supercedes previous TPB's Nos. 52, 58 and 69).

Table 1.—*Breakpoints for PSI in Metric Units*[a]

PSI value (ψ)	24-hr. TSP μg/m³	24-hr. SO_2 μg/m³	TSP×SO_2 (μg/m³)²	8-hr. CO μmg/m³	1-hr. O_3 μg/m³	1-hr. NO_2 μg/m³
50	75	80	[b]	5	18	[b]
100	260	365	[b]	10	235	[b]
200	375	800	65×10^3	17	400	1,130
300	625	1,600	261×10^3	34	800	2,260
400	875	2,100	393×10^3	46	1,000	3,000
500	1,000	2,620	490×10^3	57.5	1,200	3,750

[a]At 25°C and 760 mm Hg.
[b]No index value reported at these concentration levels because there is no short-term NAAQS.

Table 2.—*Breakpoints for PSI*

[Parts per million]

PSI value (ψ)	24-hr. SO_2	TSP×SO_2 (μg/m³×ppm)	8-hr. CO	1-hr. O_3	1-hr. NO_2
50	0.03	[a]	4.5	.06	[a]
100	0.14	[a]	9	.12	[a]
200	0.30	24.82	15	0.2	0.6
300	0.60	99.66	30	0.4	1.2
400	0.80	150.1	40	0.5	1.6
500	1.00	187.1	50	0.6	2.0

[a]No index value reported at these concentration levels because there is no short-term NAAQS.

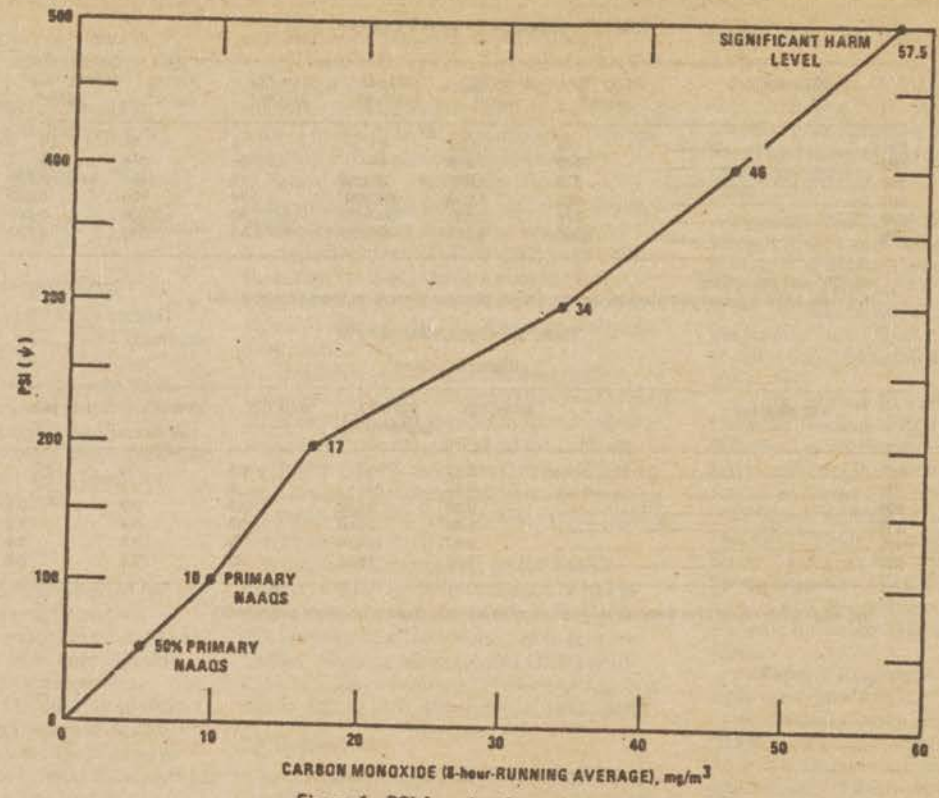

Figure 1. PSI function for carbon monoxide.

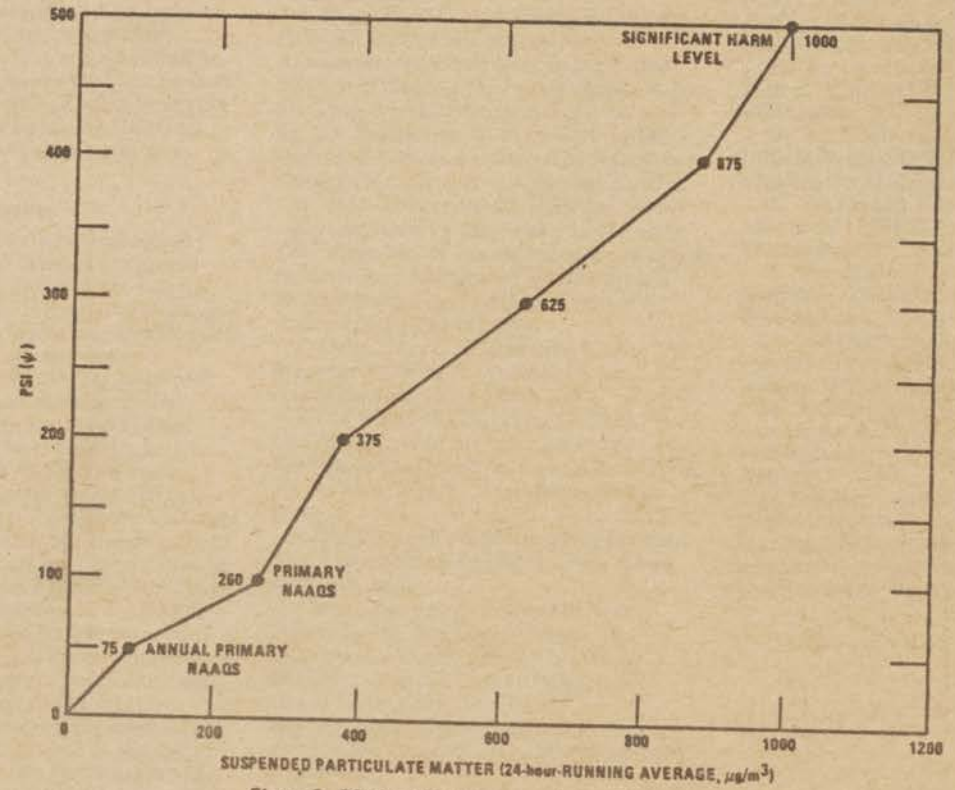

Figure 2. PSI function for suspended particulate matter.

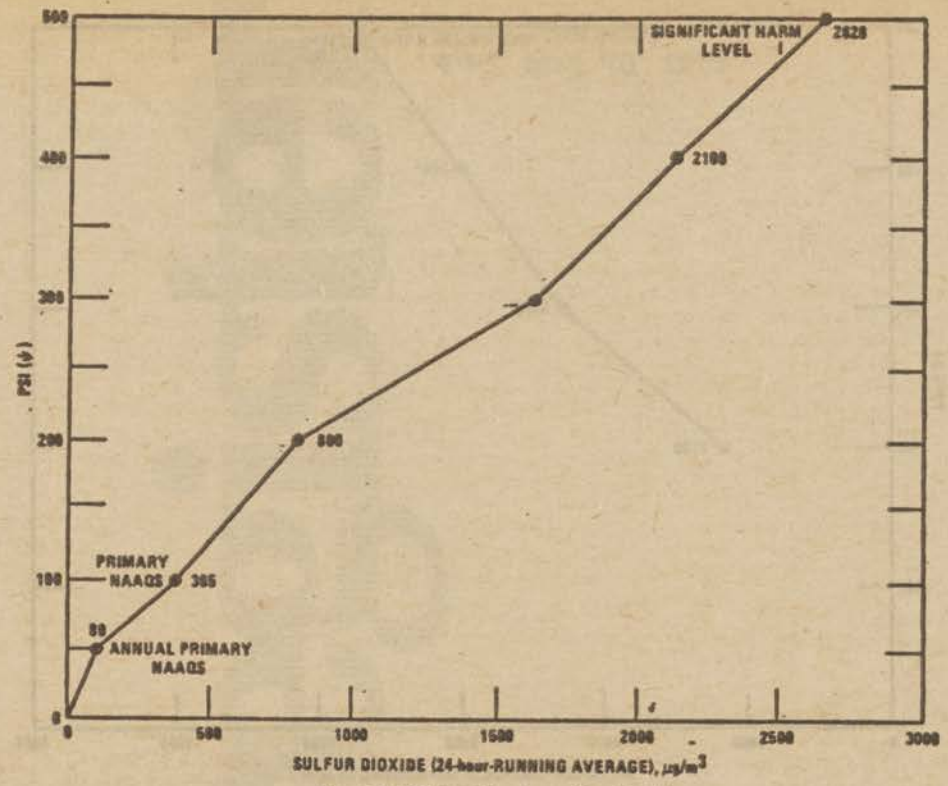

Figure 3. PSI function for sulfur dioxide.

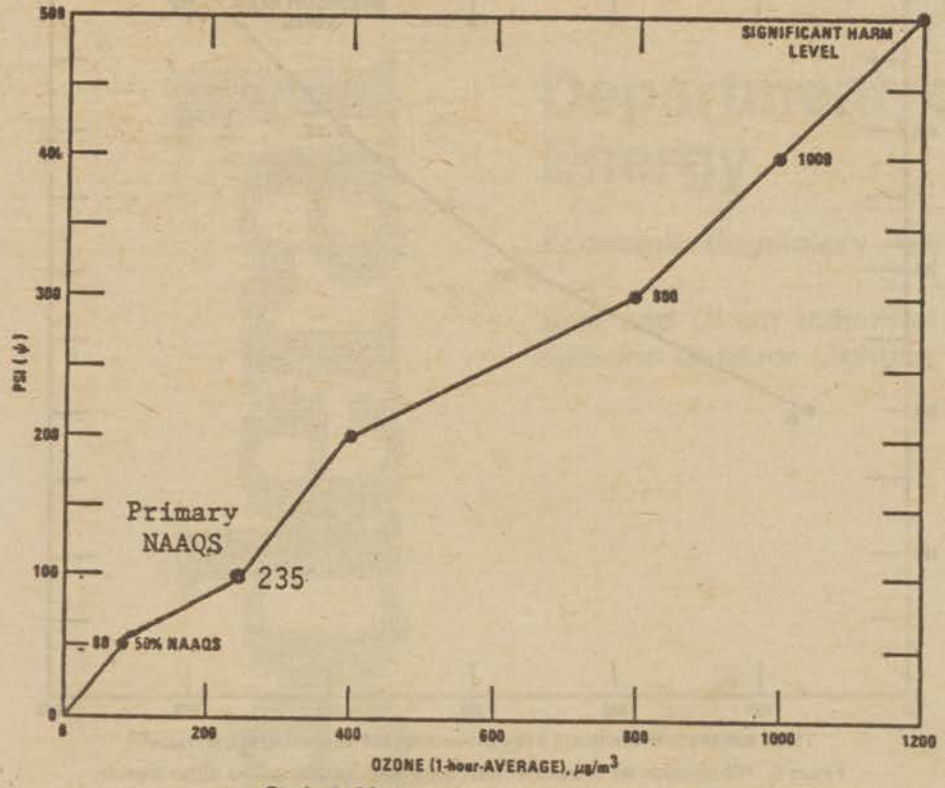

Figure 4. PSI function for photochemical oxidants.

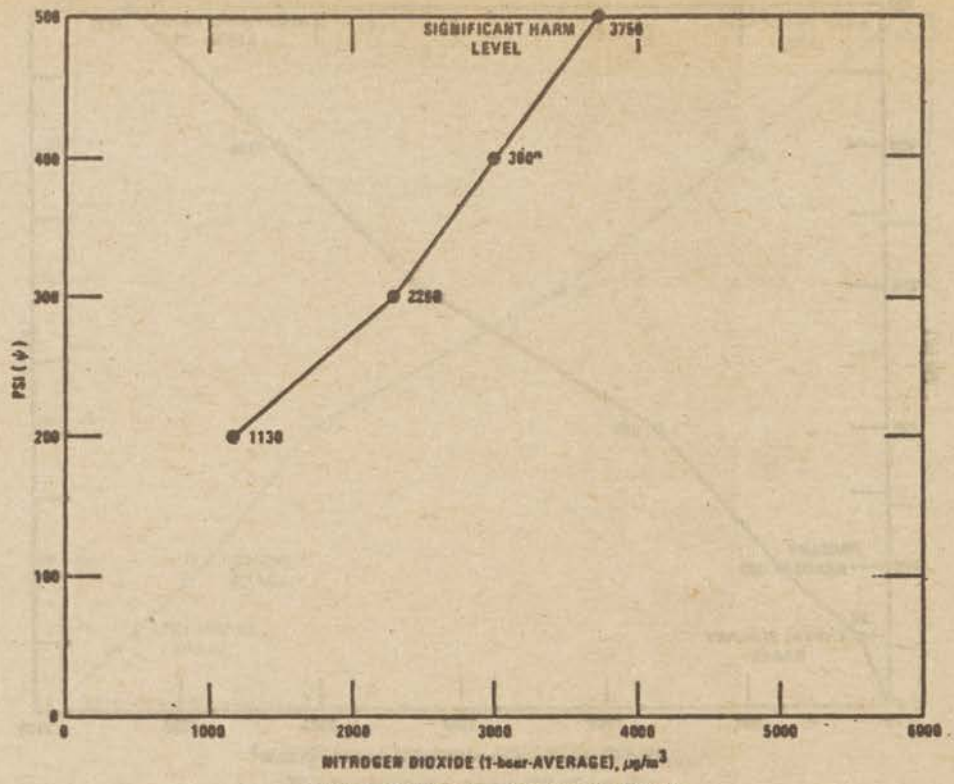

Figure 5. PSI function for nitrogen dioxide.

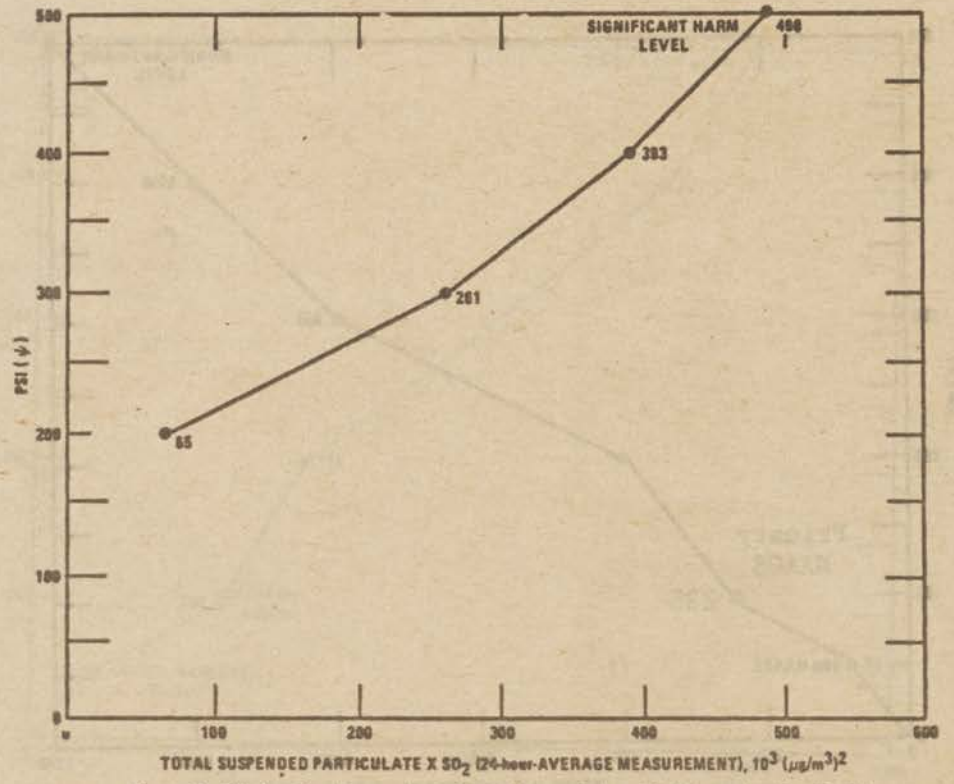

Figure 6. PSI function for product of total suspended particulate and sulfur dioxide.

[FRL 1089-3]

[FR Doc. 79-14488 Filed 5-9-79; 8:45 am]

BILLING CODE 6560-01-C

federal register

Thursday
May 10, 1979

Part III

Department of Energy

Economic Regulatory Administration

Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 516

Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: This final rule carries out provisions of the Powerplant and Industrial Fuel Use Act of 1978 (the Act) which prohibit the installation of new or replacement natural gas outdoor lighting fixtures by local distribution companies and direct industrial customers. The Act also prohibits local distribution companies from providing natural gas to residential, commercial, and industrial customers for use in outdoor lighting, as well as prohibiting the use of natural gas by direct industrial customers for outdoor lighting. In this rule ERA delegates to the States its authority for administering prohibitions with regard to gas lighting under section 402 of the Act.

EFFECTIVE DATE: See §§ 516.20, 516.21, and 516.22.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, U.S. Department of Energy, Room B–110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634–2170.

Barry W. Hirsch, Office of Utility Systems, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, (202) 254–9700.

SUPPLEMENTARY INFORMATION:

I. Purpose

On November 9, 1978, the President signed into law the Powerplant and Industrial Fuel Use Act of 1978 as one part of the National Energy Act. Section 402 of the Act, "Prohibition on Use of Natural Gas for Decorative Outdoor Lighting," directs DOE (ERA) to prohibit by rule, by May 8, 1979, any local distribution company from supplying natural gas for use in outdoor lighting. The purpose of this rule is to implement this legal requirement. In addition, the Act prohibits, effective November 9, 1978, the installation of new outdoor lighting fixtures using natural gas.

Under the Act, ERA has the prerogative of fully delegating responsibility and authority for implementation of section 402 to appropriate State regulatory authorities. This rule exercises this prerogative and prescribes those conditions and requirements imposed by ERA pursuant to delegation.

II. Background

On February 13, 1979, this rule was proposed in draft form (44 FR 9570) and ERA announced that the period for public review of and comment on the proposed rule would extend for 2 months until April 16, 1979. ERA was greatly assisted by the scores of people who responded to our request for suggestions on how to best implement section 402 of the Act. ERA sought the views of hundreds of private organizations, State and local agencies, Federal agencies and other interested persons through a special mailing. Testimony was received from seven speakers at the public hearing held in Washington, D.C. on March 22, 1979. Among those represented were State utility commissioners, the natural gas industry, liquid petroleum gas retailers, and consumers.

ERA carefully reevaluated the rule in light of the comments we received, each of which was read and analyzed. When, after discussions and review ERA determined that a comment warranted changes in the rule, we altered the rule accordingly. When we decided that reasons supporting the rule were stronger than those for challenging them, we left the rule unchanged. Part III of this Preamble describes by section the more significant comments we received, and how we reponded to them.

III. Comments and ERA's Response

Subpart A—General Purpose and Scope: Definitions

Comments on § 516.11(g): Definition of "State regulatory authority." One commenter observed that the proposed definition of "State regulatory authority" would include privately-owned local distribution companies not subject to State regulation (such as liquid petroleum gas retail outlets) which does not appear to be consistent with the intent of the Act. The impact of this would be to empower such companies to grant their own exemptions, establish their own regulatory programs, and enforce their own compliance programs. In addition, these companies would be required, under the proposed definition, to file the annual report required under § 516.31. This was not ERA's intent. Our intent was to give municipalities which have the authority for determining their own rates the responsibility for program administration in their service areas. In other cases, State law may provide that some agency other than the State utility commission has jurisdiction in regard to prohibiting the use of natural gas for outdoor lighting. Our intent was to allow flexibility in such cases.

ERA changed the definition of "State regulatory authority" to preserve our original intent but to exclude privately-owned local distribution companies not subject to State rate regulation. In such a case, the State regulatory authority will be designated by the Governor.

Subpart C—Delegation of Authority

Comments on § 516.30: Scope. Many commenters responded to our proposal regarding delegation of authority for administration of section 402 of the Act to the appropriate State regulatory authorities. The overwhelming reaction was positive. Several of these comments questioned the flexibility of the State regulatory authorities in regard to those authorities and responsibilities delegated and enumerated in paragraphs (a) through (g) of § 516.30. It is our intent that the States have flexibility in administering the program within the constraints of section 402 of the Act.

ERA recognizes that 21 States have laws or regulations in place regarding prohibitions on outdoor gas lighting. In some cases, these laws or regulations may provide sufficient authority to comply with the Act. In other cases, modifications may be necessary in order to implement the added authorities delegated by this rule. We believe that the following States have laws or regulations in effect regarding prohibitions on outdoor gas lighting: Arizona, California, Connecticut, District of Columbia, Florida, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Virginia, and Wisconsin.

With regard to States with existing prohibitions on gas lighting, ERA does not envisage that the delegation of authority under this rule will require complete restructuring of an existing State program. Similarly, where State regulatory authorities in States not presently regulating outdoor gas lighting have established procedures under other programs that are adaptable to decorative gas lighting, ERA believes that these should be used to the greatest extent possible. ERA's intention is that this rule should be interpreted to minimize the addition of new State organizations or procedures where existing organizations and procedures

can be used. ERA believes this is particularly true with respect to enforcement authority. ERA recognizes the authority of the States to impose the civil penalty provisions of section 723(c) of the Act, but does not necessarily contemplate that a State will utilize any procedures other then those currently in use by a State regulatory authority.

Comments on § 516.31: Reports. Some commenters noted that the reports required to be submitted to ERA would represent a significant administrative burden to State regulatory authorities, especially those that are understaffed. A flexible approach to the reporting requirements was urged. Although we had recognized the need for such flexibility and did attempt to minimize the reporting burden, this section was re-analyzed and significantly altered to further reduce the administrative burden for reporting in three significant ways.

First, the requirement for the submission of an enforcement plan was eliminated because some of the elements required in the enforcement plan were duplicative of elements required in the annual report. Second, we now require reporting of only those changes which had occurred since submission of the previous annual report. Finally, § 516.31(d) creates a mechanism whereby a State regulatory authority may certify, to ERA, its belief that no further annual reports need to be submitted. The rationale for such a determination may be, for example, that a prohibition on the use of natural gas for outdoor lighting is already in place and all such lighting has been eliminated. The final determination as to whether or not further annual reports are required will be made by ERA. In all cases, the first annual report (due January 1, 1980) is required.

Comments on § 516.32: Rescission. One commenter noted that the section on rescission was inadequate in terms of minimal procedural requirements to be followed by ERA prior to rescinding delegation of authority to a State. The specific recommendation was made that ERA provide the States with written notice of the intent to rescind and the reasons it believes rescission is appropriate. This comment also recommended that ERA provide an opportunity for the States to contest a rescission at a hearing. This recommendation was adopted by ERA and section 516.32 has been changed to provide for written notice and an opportunity for hearing prior to any final ERA decision to rescind a State's delegation of authority.

Subpart D—Guidance on Exemptions

Comments on § 516.41: Lighting of historical significance (proposed as § 516.42). Some commenters took exception to paragraph (b)(2) of § 516.41 because they felt it was too restrictive and that it should, at a minimum, include properties protected by local as well as State statutes. This recommendation was adopted. Comments were also submitted stating that this criterion should be broadened to include properties listed by State or local government. We did not adopt this proposal because we felt that it would not provide an adequate mechanism for insuring that only qualified properties be exempt from the prohibitions.

Comments on § 516.43: Commercial lighting of historical significance (new section). Many commenters made the observation that the proposed rule did not provide for an exemption category pursuant to section 402(c)(2) of the Act. This section provided for exemptions for natural gas outdoor lighting "* * * which is used for commercial purposes, * * * of a traditional nature, and which conforms with the cultural or architectural style of the area in which such light is located." It was not our intention to omit this exemption category. Because the legislative history identified this exemption as "similar" to that for lights of historical significance, ERA attempted to simplify the rules by combining this exemption with the exemption established by section 402(c)(1) of the Act. In order to avoid misunderstanding of ERA's intention, a new § 516.43 has been added to clearly identify a separate exemption for qualified commercial lighting.

Comments on § 516.44: Safety of persons and property. Many commenters objected to our proposed criteria for exemptions regarding the safety of persons and property, noting that the criteria should be based solely on safety considerations rather than tying the exemption to a cost criterion. ERA did not adopt this course of action in the final rule, however. We feel that it should be necessary for a petitioner to show not only that the lighting provided by the gas light fixture is necessary for safety, but also that it would represent a financial hardship or would not be cost-beneficial for him to convert his gas light to alternative lighting. By including this requirement, we feel that we will be encouraging conversion of gas lights to more efficient alternative lighting where cost-effective and while allowing exemptions for people who need outdoor lighting for safety purposes but for whom conversion would be a personal financial hardship.

Other comments. ERA received many comments regarding the usefulness of any ban on outdoor gas lighting. These comments were directed at section 402 of the Fuel Use Act itself, and not this rule; therefore, it is not within our authority to make the requested modifications.

Issued in Washington, D.C., on May 3, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

Part 516 is added to Title 10, Chapter II to read as follows:

PART 516—PROHIBITION ON SALE AND DIRECT INDUSTRIAL USE OF NATURAL GAS FOR OUTDOOR LIGHTING

Subpart A—General Purpose and Scope; Definitions

Sec.

516.10 General purpose and scope.
516.11 Definitions.

Subpart B—Prohibitions

516.20 General prohibition on installation of natural gas outdoor lighting fixtures.
516.21 General prohibition on sale of natural gas for use in outdoor lighting.
516.22 Prohibition on use of natural gas by direct industrial customers for outdoor lighting.

Subpart C—Delegation of Authority

516.30 Scope
516.31 Annual reports.
516.32 Rescission.

Subpart D—Guidance on Exemptions

516.40 Applicability.
516.41 Lighting of historical significance.
516.42 Memorial lighting.
516.43 Commercial lighting of historical significance.
516.44 Safety of persons and property.
516.45 Time to install substitute lighting.
516.46 Substantial expense.
516.47 Public interest.

Authority: Sec. 402, Pub. L. 95–620; 92 Stat. 3315; 42 U.S.C. 8372.

Subpart A—General Purpose and Scope; Definitions

§ 516.10 General purpose and scope.

(a) The purpose of this rule is to implement section 402 of Pub. L. 95–620, the Powerplant and Industrial Fuel Use Act of 1978 (the Act). The objective of section 402 of the Act is to eliminate the nonessential use of natural gas for outdoor lighting and to conserve such gas for the benefit of present and future generations.

(b) The rule consists of four subparts. Subpart A consists of this section, entitled "General Purpose and Scope," and § 516.11, "Definitions."

(c) Subpart B contains the prohibitions on the installation of natural gas outdoor lighting fixtures and the sale and direct industrial use of natural gas for outdoor lighting. Section 516.20 prohibits the installation of natural gas outdoor lighting fixtures. Sections 516.21 and 516.22 prohibit local distribution companies from providing natural gas to residential, commercial, and industrial customers for use in outdoor lighting as well as prohibiting the use of natural gas by direct industrial customers for outdoor lighting.

(d) Subpart C delegates to the appropriate State regulatory authorities the responsibility and authority of the Secretary of DOE with regard to natural gas outdoor lighting. The specific authorities delegated are set forth in § 516.30. Section 516.31 sets forth the requirements for annual reports which the appropriate State regulatory authorities are required to submit to ERA. Section 516.32 provides for rescission, by ERA, of the delegation of authority as it applies to any particular State.

(e) Subpart D sets forth guidance to be followed by the appropriate State regulatory authorities in granting or denying requests for exemption in the absence of the exercise of authority by the State in promulgating its own criteria. Criteria for granting or denying exemptions are provided for each of the categories of exemption established by the Act: Lighting of historical significance (§ 516.41); memorial lighting (§ 516.42); commercial lighting of historical significance (§ 516.43); safety of persons and property (§ 516.44); time to install substitute lighting (§ 516.45); substantial expense (§ 516.46); public interest (§ 516.47).

§ 516.11 Definitions.

Unless otherwise expressly provided, for the purposes of this rule—

(a) The term "direct industrial customer" means an industrial user of natural gas who obtains the natural gas under a contract with a natural gas pipeline company, or any agent thereof.

(b) The term "local distribution company" means any person engaged in the business of interstate or intrastate transportation and local distribution of natural gas for ultimate consumption.

(c) The term "natural gas" means any fuel consisting in whole or in part of natural gas, liquid petroleum gas, or synthetic gas derived from petroleum or natural gas liquids.

(d) The term "natural gas outdoor lighting fixture" means a complete stationary natural gas outdoor lighting unit, or any parts thereof, which may include a mantle(s) together with the parts designed to distribute the light, to position and protect the mantle(s) and fuel supply lines, and to connect the mantle(s) to the fuel supply.

(e) The term "pipeline company" means any person engaged in the business of interstate or intrastate transportation of natural gas by pipeline other than as a local distribution company.

(f) The term "residence" means any single or multiple family dwelling unit, including commonly held areas associated with such unit and including multiple family dwelling units which may be classified by the local distribution company as "commercial" customers.

(g) Unless otherwise designated by ERA, upon recommendation of the Governor, the term "State regulatory authority" means that agency of any of the 50 States, the District of Columbia, Puerto Rico, or any territory or possession of the United States, which has primary or exclusive authority to fix, modify or approve rates for the sale of natural gas by local distribution companies within that State, except that:

(1) In the case of a local distribution company which is publicly-owned, and not subject to State rate regulation, references in this part to "State regulatory authority" or "State" shall be treated as references to such company; and

(2) In the case of any direct industrial customer or any local distribution company which is privately-owned, and not subject to State rate regulation, the Governor shall designate the responsible State regulatory authority.

(h) The term "substitute lighting" means outdoor lighting which does not directly burn natural gas.

Subpart B—Prohibitions

§ 516.20 General prohibition on installation of natural gas outdoor lighting fixtures.

(a) *Prohibition.* No local distribution company or direct industrial customer shall install any natural gas outdoor lighting fixture.

(b) *Effective date.* The prohibition stated in paragraph (a) of this section shall be effective beginning on November 9, 1978.

§ 516.21 General prohibition on sale of natural gas for use in outdoor lighting.

(a) *Prohibition.* No local distribution company shall supply natural gas for use in outdoor lighting.

(b) *Effective dates.* (1) In the case of any residential, commercial, or industrial customer, the prohibition stated in paragraph (a) of this section shall be effective on May 8, 1979, unless a later effective date is applicable under paragraphs (a) (2), (3), or (4) of this section.

(2) In the case of any industrial or commercial structure to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective on November 5, 1979.

(3) In the case of any municipal outdoor lighting fixture to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective January 1, 1982.

(4) In the case of any outdoor lighting fixture used in connection with a residence to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective January 1, 1982.

§ 516.22 Prohibition on use of natural gas by direct industrial customers for outdoor lighting.

(a) *Prohibition.* No direct industrial customer shall use natural gas for outdoor lighting.

(b) *Effective dates.* (1) In the case of a direct industrial customer who was using natural gas for outdoor lighting on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective on November 5, 1979.

(2) In the case of a direct industrial customer using a natural gas outdoor lighting fixture(s) that:

(i) Was installed prior to the ban on the installation of such fixture(s) set out in § 516.20 of this rule; and

(ii) Was not using natural gas for such fixture(s) on the date this rule is issued as a final rule—

the prohibition stated in paragraph (a) of this section shall be effective on May 8, 1979.

Subpart C—Delegation of Authority

§ 516.30 Scope.

Pursuant to section 402(e) of the Act, ERA delegates to the appropriate State regulatory authorities, effective on the date this rule is issued as a final rule, the full responsibility and authority of the Secretary of DOE with regard to natural gas outdoor lighting. The authorities and responsibilities delegated by this rule to the appropriate

State regulatory authorities are those enumerated in paragraphs (a) through (g) of this section. The appropriate State regulatory authorities should normally consult with the State Historic Preservation Officers for their respective States (as recognized by the U.S. Department of Interior, Heritage Conservation and Recreation Service) when fulfilling their responsibilities and authorities as set forth in this section particularly when decisions are made or options considered relating to historic preservation.

(a) *Authority to promulgate regulations.* The authority to promulgate any regulations necessary to carry out the purposes of section 402 of the Act is delegated to the appropriate State regulatory authorities.

(b) *Authority to issue orders.* The authority to issue orders exempting certain natural gas outdoor lighting fixtures from the prohibitions set forth in Subpart B of this rule is delegated to the appropriate State regulatory authorities. Such exemption orders may be issued on the basis of:

(1) Lighting of historical significance;

(2) Memorial lighting;

(3) Commercial lighting of historical significance;

(4) Lighting which is necessary to protect the safety of persons and property;

(5) The necessity to permit the installation of substitute lighting where no adequate outdoor lighting (other than that using natural gas) existed on November 9, 1978;

(6) Substantial expense which would not be cost justified; or

(7) The public interest and consistency with the purposes of the Act.

(c) *Authority to establish exemption criteria.* The authority to establish criteria to be used in making any determinations to issue any orders relating to exemptions from the prohibitions set forth in Subpart B of this rule is delegated to the appropriate State regulatory authorities.

(d) *Authority to establish exemption procedures.* The authority to establish procedures for the acceptance, processing, consideration, and grant or denial of applications and requests for exemptions from the prohibitions set forth in Subpart B of this rule is delegated to the appropriate State regulatory authorities.

(e) *Authority to establish enforcement mechanisms.* The authority to establish enforcement policies, criteria and procedures with respect to the prohibitions set forth in Subpart B of this rule is delegated to the appropriate State regulatory authorities.

(f) *Authority to enforce prohibitions and assess civil penalties.* The authority to enforce the prohibitions set forth in Subpart B of the rule, including the authority to assess civil penalties for noncompliance with such prohibitions pursuant to section 723(c) of the Act, is delegated to the appropriate State regulatory authorities.

(g) *Authority to investigate.* The authority to initiate investigations and compel the submission of data or relevant documents is delegated to the appropriate State regulatory authorities.

§ 516.31 Annual reports.

(a) *General requirements.* Pursuant to this delegation, the appropriate State regulatory authority shall submit to ERA two copies of the annual report as specified in this section. The annual report shall be submitted to: Economic Regulatory Administration, U.S. Department of Energy, Office of Utility Systems, 2000 M Street, NW., Washington, D.C. 20461, Attention: Gas Light Prohibitions.

(b) *Schedule for submission.* The appropriate State regulatory authority shall submit annually to ERA, by January 1 of each year, beginning no later than January 1, 1980, a report as specified in this section, except as provided for in paragraph (d) of this section. The last annual report shall be submitted by January 1, 1984. The appropriate State regulatory authority shall submit the annual report either separately or together with the "PURPA Annual Report on Gas Utilities" required to be submitted to DOE by November 1 of each year pursuant to requirements established by section 309 of the Public Utility Regulatory Policies Act of 1978, 92 Stat. 3117 (Pub. L. 94–617).

(c) *Contents of report.* (1) The first annual report shall contain all of the elements specified in subparagraph (2) of this paragraph. Subsequent reports shall contain only those elements or portions of elements to which there were significant changes since the last annual report was submitted.

(2) The appropriate State regulatory authority shall include in their report the following elements:

(i) A list of all local distribution companies and all direct industrial customers who use natural gas for outdoor lighting covered by the report;

(ii) Current estimated annual natural gas consumption for the local distribution companies and all direct industrial customers covered by the report attributable to outdoor lighting;

(iii) Copies of all State statutes, rules and regulations prohibiting natural gas lighting, enforcing the prohibitions, and granting or denying exemptions to the prohibitions;

(iv) A summary of exemption requests granted or denied, by category of exemption, and including the rationale for such grant or denial; and

(v) A description of the State's current or projected efforts to enforce the prohibitions set forth in Subpart B of this rule.

(d) *Optional certification of submission of final report.* An appropriate State regulatory authority may submit to ERA a certification stating that, to the best knowledge of such authority, further annual reports are unnecessary, stating the rationale for such determination. The certification must be submitted prior to the date on which the annual report is due. ERA shall be the sole determinant, however, as to whether or not annual reports are required.

§ 516.32 Recission.

This delegation as it applies to any particular State may be rescinded by ERA if, after notice and opportunity for a hearing, ERA finds that the State regulatory authority has failed to comply with any substantial provision of section 402 of the Act or this rule. Such finding and rescission shall be published in the Federal Register, and shall become effective no sooner than 15 days after the date of publication.

Subpart D—Guidance on Exemptions

§ 516.40 Applicability.

The appropriate State regulatory authority shall grant or deny a request for exemption on the basis of the guidance specified in this subpart until such time as the appropriate State regulatory authority chooses to exercise the authority to establish exemption criteria, delegated by § 516.30(c) of this rule.

§ 516.41 Lighting of historical significance.

(a) *Scope.* A Federal, State or local government agency, or an appropriate historical association, may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.20 and 516.21 of this rule for any property on the basis of historical significance. In the case of a petition for an exemption from the prohibition set forth in § 516.20 of this rule (General prohibition on installation of natural gas outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor

lighting fixture(s) that was installed prior to November 9, 1978. Such replacement shall include:

(1) Replacement of an extant original or reproduction fixture; or

(2) Installation of an original or reproduction fixture to replace a fixture which existed during the life of the specified historic property.

(b) *Criteria.* The criteria for an exemption on the basis of historic significance shall be satisfied upon certification, by the petitioner, that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and upon a finding that the specifically identified historic property:

(1) Is listed on the National Register of Historic Places maintained by the Heritage Conservation and Recreation Service, Department of Interior, or is officially determined eligible for listing by the Secretary of Interior, pursuant to the National Historic Preservation Act (16 U.S.C. 470 as amended), applicable regulations (36 CFR Parts 60 and 63), and Executive Order 11593; or

(2) Is in a district whose State or local statutes are certified as providing adequate protection of historic places by the Secretary of the Department of Interior, pursuant to the Tax Reform Act of 1976 (26 U.S.C. 191, 280B) and applicable regulations.

(c) *Stays.* An exemption request shall result in a stay from the prohibitions set forth in Subpart B of this rule if:

(1) The petitioner has certified that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and

(2) An application is pending, before the Department of Interior, for inclusion in one of the categories specified in subparagraphs (1) or (2) of paragraph (b) of this section.

§ 516.42 Memorial lighting.

(a) *Scope.* A Federal, State or local government agency, or an appropriate historical association, may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.20 and 516.21 of this rule on the basis of memorial lighting. In the case of a petition for an exemption from the prohibition set forth in § 516.20 of this rule (General prohibition on installation of natural gas for outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor lighting fixture(s) that was installed prior to November 9, 1978. Such replacement shall include replacement of an extant fixture only.

(b) *Criteria.* The criteria for an exemption on the basis of memorial lighting shall be satisfied upon a finding that the specifically identified outdoor lighting fixture(s) directly contributes to preserving the memory of a deceased person or persons.

§ 516.43 Commercial lighting of historical significance.

(a) *Scope.* A person using natural gas outdoor lighting for commercial purposes may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.20 and 516.21 of this rule on the basis of historical significance. In the case of a petition for an exemption from the prohibition set forth in § 516.20 of this rule (general prohibition on installation of natural gas outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor lighting fixture(s) that was installed prior to November 9, 1978. Such replacement shall include:

(1) Replacement of an extant original or reproduction fixture; or

(2) Installation of an original or reproduction fixture to replace a fixture which existed during the life of the specified historic property.

(b) *Criteria.* The criteria for an exemption on the basis of historical significance shall be satisfied upon certification, by the petitioner, that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and upon a finding that the specifically identified historic property:

(1) Is listed on the National Register of Historic Places maintained by the Heritage Conservation and Recreation Service, Department of Interior, or is officially determined eligible for listing by the Secretary of Interior, pursuant to the National Historic Preservation Act (16 U.S.C. 470 as amended), applicable regulations (36 CFR Parts 60 and 63), and Executive Order 11593; or

(2) Is in a district whose State or local statutes are certified as providing adequate protection of historic places by the Secretary of the Department of Interior, pursuant to the Tax Reform Act of 1976 (26 U.S.C. 191, 280B) and applicable regulations.

(c) *Stays.* An exemption request shall result in a stay from the prohibitions set forth in Subpart B of this rule if:

(1) The petitioner has certified that the specifically identified natural gas outdoor lightening fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and

(2) An application is pending, before the Department of Interior, for inclusion in one of the categories specified in subparagraphs (1) or (2) of paragraph (b) of this section.

§ 516.44 Safety of persons and property.

(a) *Scope.* A local distribution company, a direct industrial customer, or an interested person, may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.21 and 516.22 of this rule on the basis of the necessity to protect the safety of persons and property if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of the necessity to protect the safety of persons and property shall be satisfied upon a finding that:

(1) (i) Compliance with the prohibition would significantly increase the chances of bodily injury or damage to property;

(ii) Compliance with the prohibition would significantly increase the chances of the occurrence of crime; or

(iii) The lighting is necessary because other existing lighting does not provide lighting adequate to insure conformance with American National Standards Institute (ANSI) Standard No. D 12.1, "The American National Standard Practice for Roadway Lighting;" and

(2) (i) Would impose a substantial hardship on a person other than a local distribution company, a pipeline company, or a company that manufactures or supplies natural gas outdoor lighting fixtures, in terms of personal income or savings; or

(ii) Would not be justified by the savings likely to be accrued over the useful life of the substitute lighting facility.

§ 516.45 Time to install substitute lighting.

(a) *Scope.* A local distribution company, a direct industrial customer, or an interested person, may petition the appropriate State regulatory authority for a temporary exemption from the prohibitions set forth in §§ 516.21 and 516.22 of this rule. Such an exemption shall be on the basis of the time needed to permit the installation of substitute lighting where no adequate outdoor lighting (other than that using natural gas) exists, if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of time to install substitute lighting shall be satisfied upon a finding that:

(1) No adequate outdoor lighting (other than that using natural gas) is available at the time the applicable prohibition became effective; and

(2) The time required for installation of the substitute lighting will not extend beyond one year from the date the applicable prohibition became effective, unless facts and circumstances warrant a longer period.

§ 516.46 Substantial expense.

(a) *Scope.* A local distribution company, a direct industrial customer, or an interested person, may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.21 and 516.22 of this rule on the basis of substantial expense which would not be cost justified, if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of substantial expense which would not be cost justified shall be satisfied upon a finding that compliance with the prohibitions set forth in §§ 516.21 and 516.22 of this rule would substantially and negatively affect the profit margin, return on investment, or rates of a local distribution company or direct industrial customer.

§ 516.47 Public interest.

(a) *Scope.* A local distribution company, a direct industrial customer, or an interested person, may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.21 and 516.22 of this rule on the basis of the public interest and consistency with the purposes of the Act, if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of the public interest and consistency with the purposes of the Act shall be satisfied upon a finding that converting a specific natural gas outdoor lighting fixture(s) to substitute lighting would not reduce the use of natural gas.

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May 10, 1979

Part IV

Department of Health, Education, and Welfare

Social Security Administration and Office of Child Support Enforcement

Income Maintenance Research and Demonstration; Availability of Grants

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

Office of Child Support Enforcement

Income Maintenance Research and Demonstration Grants; Availability of Grants

The Commissioner of Social Security and the Director of the Office of Child Support Enforcement (OCSE) give notice of the availability of fiscal year (FY) 1979 funds for income maintenance and child support enforcement research and demonstration (R&D) grants supportive of public assistance programs funded under Title IV of the Social Security Act. The grants are authorized under sections 1115(a) and 1110 of the Social Security Act respectively. Applications must be received by July 6, 1979. Section 1115(a) grants are available only to the State agency responsible for administering federally aided programs of income maintenance. Section 1110 grants are available to public and nonprofit agencies and organizations including institutions of higher learning.

General Policy Considerations

The R & D activities are intended to resolve major Department of Health, Education, and Welfare (HEW) policy and program issues, and to assist States in developing new methods for improving the effectiveness of public assistance programs.

In general, the Social Security Administration (SSA) and OCSE are interested in the following types of projects: (1) Those which develop and demonstrate new financing mechanisms, administrative procedures, and technological innovations for improving the effectiveness and efficiency of public assistance programs at the State and local levels.

(2) Those which develop more knowledge on the characteristics and financial needs of a target group.

(3) Those which develop and implement analytical models for comparing the relative merits of alternative methods for carrying out the income maintenance and child support enforcement programs.

Priority Areas for R. & D. Funds

Research and demonstration projects will be directed toward priorities and strategies derived from major policy and program issues. The areas designated as high priority for R & D funding for FY 1979 are: (A) Fraud and abuse control; (B) the development analysis of innovative practices in local welfare office administration; and (C) the identification and evaluation of effective child support enforcement techniques. Proposals on other topics will be considered if funds are available.

(A) Fraud and Abuse Control

Income maintenance R & D efforts for new projects dealing with fraud control in fiscal year 1979 will concentrate on fraud prevention and detection. Several areas may be explored including:

(1) Development of techniques to measure the cost effectiveness of existing eligibility verification procedures;

(2) Testing techniques for preventing or reducing improper redemption of recipient benefits, e.g., Electronic Fund Transfer (EFT) of recipient benefits to local bank accounts;

(3) Development of techniques to promote prevention of fraud;

(4) Development of systems or methodologies for measurement of the incidence of fraud and the effectiveness of fraud prevention techniques;

(5) Development of systems for identifying cases with characteristics which represent potential "high risk" for fraud;

(6) Development of systems or methodologies that minimize employee and recipient fraud in local welfare administration procedures; and

(7) Development and testing of systems to prevent or detect "multiple registration" fraud, including the identification of primary case characteristics other than Social Security numbers to be used in intrastate or interstate file checks. In the area of Electronic Fund Transfer of recipient benefits to local bank accounts, two-year projects will be considered. The first year should be devoted to planning activities such as site selection, obtaining commitments of local banks to participate, developing an evaluation plan, arranging for an independent evaluation, recruiting volunteer recipients, and establishing control groups. The second year will be devoted to actual operation.

(B) Development and Analysis of Innovative Practices in Local Welfare Office Administration Study.

development, and analysis of innovative welfare office administration of AFDC is the second area of priority. Emphasis will be placed on the potential transferability of tested practices to other States. Applications should include—

(1) An experimental design that measures the impact of the administrative practice on the AFDC program;

(2) Provision for collection of data from at least one experimental or "model" center, and from at least one comparable "control" center with a before and after description of agency operation; and

(3) A comprehensive evaluation plan for practice(s).

Examples of areas open to innovative administrative practices include—

(a) Control procedures which insure prompt action;

(b) Improved accountability;

(c) Use of structured guides for caseworker/recipient contacts (e.g. eligibility determination); and,

(d) Training techniques.

(C) Identification and Evaluation of Effective Child Support Enforcement Techniques

Child support enforcement is a relatively new activity in the States. One project will be funded in this third priority area. This project will seek to improve the efficiency and effectiveness of State child support enforcement programs by applying a systems analysis approach to the various program functions such as paternity establishment, absent parent location, support obligation termination, and support enforcement. The approaches developed will be assessed and operational models for integrating the component activities in efficient child support enforcement should be formulated. The results of the project will be expected to impact directly on Federal Regulations, and perhaps, indirectly on State laws. One or more States may undertake the operational model as a follow-up project.

Availability and Duration of Funding

Projects in the first two areas of priority (A and B) will be financed under section 1115(a) of the Social Security Act. For fiscal year 1979, SSA has allocated a total of $200,000 for new projects in each priority area—$100,000 in special Federal project funds and $100,000 in regular Federal matching funds. At least two projects will be funded in area (A) and one in area (B). The new project on Child Support Enforcement (priority area C) will be financed under section 1110 of the Social Security Act with a total grant of $170,000. Grants will be awarded for a period of one year; and may be continued on a noncompetitive basis for up to three years if originally awarded as a multiple year project. Continuation funding is contingent upon the availability of future year funds, the

meeting of project objectives; and the continued relevance of the project to current program priorities.

Basic Criteria for Funding New Projects

The basic criteria for funding new projects include:

1. The proposal should address an area of declared interest and the anticipated results should be relevant to SSA or OCSE programs.

2. The concept to be studied must be innovative and not duplicate other efforts.

3. The knowledge, methods or technology developed must be such that a positive impact can be made on a significant portion of the AFDC program and child support enforcement.

4. The knowledge, methods or technologies developed must be replicable in whole or in part and potentially applicable in areas other than the test sites.

5. The proposed project methodology must be rigorous and consistent with what is generally agreed to be the State-of-the-Art.

6. The overall budget, the personnel resources to be used and the facilities and equipment must be appropriate for the project.

7. Section 1115 demonstration projects must have a commitment of State interest and cite conditions for State continuation if the demonstration is judged to be successful once the demonstration project terminates.

Project Requirements

In addition to meeting the basic criteria for funding new projects described above, the project proposal must meet the following requirements as detailed in the project narrative section of the grant application package:

1. The application must clearly state: measurable project goals and objectives; the project design, including the questions addressed; scientifically valid methods and data to be used; and scheduled tasks and milestones.

2. The application should list the qualifications of the project personnel and demonstrate how these qualifications make those people capable of competently performing their assigned tasks in the project. The application should also show the organization of personnel in the project, i.e., who will be responsible for which portions of the project and what lines of authority will exist.

3. The budget must be given in detail with justifications and explanations for the amounts requested. Estimated costs must be reasonable considering the anticipated results.

4. All projects must have an evaluation component which describes the date collection and analysis procedures that will be used to quantitatively assess to what degree the project's objectives are being achieved. This evaluation component must be clearly distinguished from activities designed primarily to give the project's staff feedback on their progress toward meeting the project's objectives.

5. The applicant organization must have adequate facilities and resources to carry out the project.

6. Section 1115(a) projects that require waivers must list the waivers, discuss the implications if such waivers are granted, and state the effect on Federal, State and local laws as well as the effect (beneficial or adverse) on beneficiaries enrolled in the project.

7. Plans for utilization of the project's results should be discussed along with deliverable products and the points in the project schedule when these reports or products, or both, will be available.

8. The application must assure the applicant's willingness to comply with the human subjects regulations by inclusion of a completed form HEW–596 (Rev. 1975) "Protection of Human Subjects" (45 CFR Part 46).

Review of Applications

Applications are initially screened for relevance to the interests of SSA and OCSE. Irrelevant applications are returned to the applicant. Relevant applications are reviewed and numerically rated by a review panel of not less than three experts. Written assessment of each application is made, followed by a ranking of the applications showing the suggested order for approval.

Application Procedures

1. Application forms

Application kits are available from: Social Security Administration, Division of Contracting and Procurement, Post Office Box 7696, Gwynn Oak Branch, Baltimore, Maryland 21207, Telephone: 301–594–0284, Grants Management Officer—Lawrence Pullen.

Additional information about the projects desired in the three priority areas is also available at the above address upon request. Requests should specify the type of project intended to insure receipt of the proper application and guidelines.

2. Grant Policies

Funding of grants is made through a competitive process based on a choice of proposals submitted in response to this notice. Grantee responsibilities, awarding and payment procedures, special provisions and assurances are explained in the application kit.

3. Closing Dates

In order to be considered for a grant using fiscal year 1979 funds in the priority areas, an applicaton must be received by the Division of Contracting and Procurement (at the address shown above) no later than Friday, July 6, 1979.

An application will be considered to be received on time if—

(a) the postmark shows that the application was sent by registered or certified mail no later than July 6, 1979, or (b) the application is received on or before the closing date by the Social Security Administration in Baltimore, Maryland. The date of receipt will be established by the time date stamp of the mailroom or other documentary evidence of receipt maintained by SSA.

(Catalog of Federal Domestic Assistance Program No. 13.812—Assistance Payments—Research)

Dated: April 30, 1979.

Stanford G. Ross,

Commissioner of Social Security and Director, Office of Child Support Enforcement.

[FR Doc. 79–14568 Filed 5–9–79; 8:45 am]

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federal register

Thursday
May 10, 1979

Part V

Department of Housing and Urban Development

Office of the Secretary

Cost-Effective Energy Conservation Standards

HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 39

Cost-Effective Energy Conservation Standards

AGENCY: Office of the Secretary, (HUD).

ACTION: Interim rule.

SUMMARY: The Secretary is prescribing cost-effective energy conservation and efficiency standards for certain HUD programs and is inviting public comment on these standards before they become effective. With the exception of one program in which the Secretary has determined that these standards are needed as a matter of policy, adoption and implementation of the standards are required by recently enacted legislation.

COMMENT DUE: June 11, 1979.

EFFECTIVE DATE: July 9, 1979.

FOR FURTHER INFORMATION COATACT: Joseph Sherman, Director, Division of Energy, Building Technology and Standards Research, Office of Policy Development and Research, (202) 755–6443 or Duane Keplinger, Acting Director, Office of Architecture and Engineering Standards, Office of Housing, (202) 755–5718, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Housing and Community Development Amendments of 1978, 42 U.S.C. 1425(b) et seq., Pub. L. 95–557 (1978 Amendments) require the Secretary to prescribe cost-effective energy conservation and efficiency standards governing improvements and rehabilitation in four HUD programs. In addition, the Secretary has determined as a matter of policy that the standards are needed in a fifth program to assure conservation of energy resources. Thus, the standards, which are set forth as an Appendix to this rule, will apply to (1) rehabilitation loans under Section 312 of the Housing Act of 1964 (see Section 101(a)(7) of the 1978 Amendments); (2) rehabilitation loans under Section 203(k) of the National Housing Act (see Section 101(c)(1) of the 1978 Amendments); (3) Federal financial assistance for troubled multifamily housing projects (see Section 201(d)(6) of the 1978 Amendments); (4) Federal financial assistance for substantial rehabilitation projects under Section 8 of the United States Housing Act of 1937 (see Section 206(d)(1) of the 1978 Amendments); and (5) Federal financial assistance for moderate rehabilitation projects under Section 8 of the United States Housing Act of 1937 (Secretary's policy determination).

The Secretary has determined that the standards are urgently needed and must be adopted 60 days after publication since the 1978 Amendments prohibit Section 312 Rehabilitation loans after July 27, 1979, covering work which does not conform to the standards. Hence, the Section 312 program cannot continue unless these standards have been adopted in sufficient time to acquaint participants adequately with the cost-effective energy provisions by that date. Furthermore, the program under Section 203(k) of the National Housing Act cannot be effectively implemented until the standards have been adopted. The 1978 Amendments also require expedited implementation of the Standards for the Section 8 Substantial Rehabilitation Program and Troubled Multifamily Housing Assistance Program.

Before adopting the standards, the Secretary is providing 30 days for submittal of public comments. If as a result of comment, the Secretary determines that change in the standards is appropriate, their effectiveness will be deferred by publication in the **Federal Register.** Otherwise, unless deferred by such publication, the standards will become effective without notification by the Secretary 30 days after the close of the period allowed for public comment, that is 60 days after publication of this document. Interested parties are invited to participate in this rulemaking proceeding by submitting relevant comments and suggestions to the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. A substantive response will be provided as to each comment received through a notice published in the **Federal Register** or by mail.

The Secretary has determined that this amendment does not affect the quality of environment and a statement to that effect has been prepared. This statement is available for inspection and copying in the Office of the Rules Docket Clerk at the above address.

The legislative review provisions of Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o) have been met.

Accordingly Subtitle A is amended by adding a new Part 39 to read as follows:

PART 39—COST-EFFECTIVE ENERGY CONSERVATION AND EFFECTIVENESS STANDARDS

Sec.

39.1 Title and purpose.
39.3 Authority.
39.5 Scope.
39.7 Standards.
Appendix I Cost-Effective Energy Efficiency (Conservation) Standards for Rehabilitation of Residential Properties

§ 39.1 Title and purpose.

The purpose of this Part is to set foirth cost-effective energy conservation and efficiency standards applicable to HUD programs.

§ 39.3 Authority.

This Part implements the provisions of the Housing and Community Development Amendments of 1978. 42 U.S.C. 1425(b), et seq., Pub. L. 95–557.

§ 39.5 Scope.

The standards apply to the following programs:

(a) Rehabilitation loans under Section 312 of the Housing Act of 1964.

(b) Rehabilitation loans under Section 203(k) of the National Housing Act.

(c) Operating assistance for troubled multifamily housing projects under Section 201 of the Housing and Community Development Amendments of 1978.

(b) Financial assistance for substantial rehabilitation projects under Section 8 of the United States Housing Act of 1937.

(e) Financial assistance for moderate rehabilitation projects under Section 8 of the United States Housing Act of 1937.

§ 39.7 Standards.

The standards are set forth in detail in the Appendix to this Part.

Appendix

Cost-Effective Energy Efficiency (conservation) Standards for Rehabilitation of Residential Properties

A–1. *General.* (a) These standards provide the mandatory levels of various energy-efficiency features that are considered as cost-effective in the rehabilitation of residential properties. The material is arranged to give consideration to local climatic conditions and fuel prices in determining the measures to be used.

(b) It is realized that not all of the requirements can be followed in all situations due to existing building conditions and funds available.

A–2. *Application.* (a) It is the intent of these standards to apply only to those improvements proposed as part of the

rehabilitation, except those listed in A–3 below. If new material or construction is contemplated, conformance to these standards is mandatory for these features.

(b) It is not the intent to require thermal improvement of construction elements which would not ordinarily be made accessible or become exposed during the rehabilitation.

(c) The requirements contained herein must be applied judiciously. Any one or more of the requirements may be eliminated to the extent they are not practical in rehabilitation situations, considering economic feasibility, program needs and the materials and type of construction involved. (Example: The use of the following Tables for a structure of 1500 square feet located in an area of 4200 degree days with a fuel cost of 4 cents per Kwh for electricity, would require R–30 ceiling insulation for certain programs. If the structure presently had no ceiling insualtion, the savings in fuel cost would be approximately $1000 per year after adding the R–30 insulation. However, if the present ceiling contained R–19 insulation, improvement to R–30 would result in an annual reduction in fuel cost of only $170.) The reduced operating cost must be weighed against the amortization cost for the improvements to determine cost-effectiveness for the specific program terms. (The energy estimating methods contained in Chapter 43 of the 1976 Systems Handbook of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc. were used in preparing the above comparison.)

A–3. *Additional Criteria.* (a) In addition to the measures shown in the Tables, the following shall apply to those structures which are not subjected to the energy audit procedures described in (b) below: (1) Doors and windows shall be weatherstripped to reduce infiltration of air when weatherstripping is inadequate or nonexistent.

(2) Caulk, gasket, or otherwise seal all openings, cracks, or joints in the building envelope when existing materials are inadequate. Replace all loose or brittle caulking with new elastomeric material. Leave bottom edge of siding uncaulked to allow moisture drainage.

(3) Replacement heating, ventilating and airconditioning (HVAC) system supply and return pipes and ducts shall be insulated whenever they run through unconditioned spaces. Pipe insulation shall be R–2 or greater, and duct insulation shall be R–4 or greater. Duct seams shall be tightly sealed to reduce air leakage.

(4) Replacement heating systems, burners and airconditioning systems shall be of high-efficiency design, and should be carefully sized to be no greater than 15% oversize for the critical design, hearing or cooling, except to satisfy the manufacturers' next closest nominal size.

(b) For mid-rise and high-rise structures and for many low-rise multifamily projects an energy audit must be carried out to identify and specify the energy and cost savings which are estimated to result from installing or accomplishing an energy conservation measure. All measures determined to be cost-effective, given the loan time and rate and in accordance with paragraph A–2 shall be accomplished. Amortization cost of improvements must be offset by reduced operating costs attributable to the improvements. Generally, assistance in conducting energy audits is available through local supplies, energy officials and utility companies. The energy audit shall cover all of the following energy conservation measures, to the degree feasible, except those that are not appropriate for the building types or equipment:

Installation of individual utility meters or checkmeters
Ceiling insulation
Insulation of hot water and steam pipes
Insulation of heating and cooling ducts in unheated spaces
Caulking and sealants in building joints
Weatherstripping doors and windows
Clock thermostats for units with individual heating units
Storm windows or replacement of single glazed windows with double glazed windows
Flow restrictors for hot water lines to shower heads or faucets
Thermostatic radiator valves
Replacement of incandescent fixtures in public spaces with higher efficiency lighting
Exterior insulation for water heaters located in unheated spaces
Improved burners, controls, capacitors and other improvements to mechanical systems which will lower fuel consumption or energy costs

A–4. *Use of Table 1.* In order to use the recommendations shown in Table 3, the Heating Index must be determined from Table 2. If the structure is mechanically cooled, the Cooling Index must also be selected from Table 2. In order to choose a Heating Index and a Cooling Index from Table 2 it is necessary to identify the appropriate reference column number. Table 1 presents those column reference numbers. At the top of Table 1 are unit prices for oil, gas, and electricity (electricity prices apply to resistance electric heating and air conditioning only) expressed in cents per gallon, per therm, and per Kwh, respectively. The costs used in choosing the proper reference column number should be the marginal cost—the cost of the last unit of fuel purchased in the heating or cooling season—and should include all taxes and fuel adjustment charges. Choose reference column numbers for the Heating Index by selecting the reference number directly below the fuel costs in the row representing the financing terms to be used. Similarly select a Cooling Index reference column by noting the number in the row of the applicable financing terms that is directly below the unit price of cooling energy. When fuel costs exceed those shown in the Table, use the last column on the right of the Table.

A–5. *Table 2—Selection of Heating and Cooling Indices.* At the top of Table 2 are column reference numbers. Along the left side of Table 2 are Degree Days for heating and Cooling Hours for cooling. The Heating Index is derived by reading down the correct reference column and across for the applicable Degree Day entry. The point of convergence indicates the Heating Index. The reference column for cooling and the Cooling Hours are used in the same manner to determine the Cooling Index.

A–6. *Table 3—Selection of Recommended Measures.* The levels of protection are determined by reading horizontally across the Table from the Heating Index shown on the left side of the Table. For ceiling insulation the applicable Colling Index column must be used with the appropriate Heating Index. If mechanical cooling is not contemplated, use the column for Cooling Index 1

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Table 1

FUEL PRICES AND REFERENCE COLUMNS FOR HEATING AND COOLING INDICES

FUEL PRICES

Oil (c/Gallon)	29	33	37	42	46	51	55	64	73	82	91
Gas (c/Therm)	23	26	29	33	36	40	43	51	58	65	72
Electricity (c/Kwh)	1.6	1.8	2	2.3	2.5	2.8	3.0	3.5	4.0	4.5	5

(1) FINANCING TERMS

REFERENCE COLUMNS

15 yrs @ 11 1/2 % or 10 yrs @ 5%	1	2	2	3	4	5	5	6	7	8	8
30 yrs @ 9 1/2% or 40 yrs @ 9 1/2%	1	2	3	4	5	6	7	8	9	10	11
20 yrs @ 6% or 40 yrs @ 7 1/2% or 40 yrs @ 8%	1	2	3	5	6	7	8	9	10	11	11
20 yrs @ 3%	1	3	4	6	7	9	10	11	11	11	11

(1) To determine the appropriate Reference Column for financing terms with rates or terms not shown, interpolate between the above Reference Columns. Use next higher reference column if interpolation yields a result between columns.

Table 2
HEATING AND COOLING INDICES

REFERENCE COLUMN	1	2	3	4	5	6	7	8	9	10	11

HEATING INDEX

DEGREE DAYS (1)											
500 - 1500	A										
1501 - 2500											
2501 - 3500			B								
3501 - 4500											
4501 - 5500					C						
5501 - 6500						D					
6501 - 7500											
7501 - 8500							E				
8501 - 9500								F			
9501 and above										G	

COOLING INDEX

COOLING HOURS (1)											
100											
300		1									
500											
700											
900				2							
1100											
1300						3					
1500											
1700							4				
2000								5			
2200										6	
2500											

(1) Degree Day and Cooling Hour information is available in the ASHRAE Systems Handbook, from local weather stations and from local utility companies.

TABLE 3
INSULATION: R VALUES

Heating Index	CEILINGS(1) Cooling Index 1	2	3	4	5	6	WALL (2) (3)	FLOOR Over Unheated Spaces	GLASS No. of Layers	STORM DOOR OR THERMAL DOOR
A	R-19								1	No
B		R-26					R-11 to R-13	0	1	No
C				R-30				R-11	2	No
D					R-38				2	No
E									3(5)	No(6)
F							(4) R-13		3(5)	No(6)
G								R-19	3(5)	Yes(7)

Notes to Table 3 on next page.

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Notes to Table 3

(1) The addition of insulation to ceilings which presently contain insulation may not be cost-effective. If the additional insulation needed to conform to the recommendations is less than R–19, benefits are doubtful. (See example in A–2(c).)

(2) For frame construction, the R value of sheathing may be included in the insulation R value of walls.

(3) Required only when wall covering, interior or exterior, is removed and an adequate vapor barrior is applied. (When the existing wall contains any amount of insulation, additional insulation applied by blowing or pouring is not recommended.)

(4) Extra insulation, up to R–19, is recommended where practicable under the conditions of Note (3) above.

(5) Three layers of glass not typically cost-effective unless existing windows are double glazed or complete replacement of sash is contemplated. If replacing sash, should have insulating frames.

(6) Storm doors or thermal doors recommended if primary door is hollow-core or is over 25 percent glass.

(7) Applicable only to individual living unit doors opening directly to the exterior.

(Section 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d))

Issued at Washington, D.C. April 6, 1979.

Patricia Roberts Harris,

Secretary of Housing and Urban Development.

[Docket No. R–79–642]

[FR Doc. 79–14592 Filed 5–9–79; 8:45 am]

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federal register

Thursday
May 10, 1979

Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary of Community Planning and Development

Rehabilitation Loan Program

Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Rehabilitation Loan Program

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 510

Rehabilitation Loan Program

AGENCY: Housing and Urban Development/Office of the Assistant Secretary for Community Planning and Development.

ACTION: Final Rule

SUMMARY: The Secretary is adopting a rule under the Section 312 Rehabilitation Loan Program that implements recently enacted law requiring HUD to adopt standards for cost effective energy conservation. Applications must meet the standards before a loan can be made under this program.

EFFECTIVE DATE: July 9, 1979.

FOR FURTHER INFORMATION CONTACT: Leonard J. Czarniecki, Rehabilitation Policy Division, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 7168, Washington, D.C. 20410 (202) 245–7576.

SUPPLEMENTARY INFORMATION: Concurrently with this rule, the Secretary is publishing in Docket No. R–79–642 Cost Effective Energy Conservation Standards applicable to certain HUD programs, among them, Rehabilitation Loans under Section 312 of the Housing Act of 1964, 42 U.S.C. 1452 (b). These standards, codified as Part 39, are scheduled to become effective on the same date as this rule. The Housing and Community Development Amendments of 1978, 42 U.S.C. 5301, require these standards to be met for each Section 312 Rehabilitation Loan made after July 27, 1979, and the Secretary is adopting them in sufficient time to acquaint participants adequately with the energy requirements before that date. Public participation is not necessary with respect to this rule since comments on the standards are being invited in Docket No. R–79–642 which prescribes Part 39. This new Part 510 is being added to Chapter V in outline form to accommodate in the future basic regulations governing the 312 loan programs, now being developed. In particular, however, the part also contains Section 510.409 implementing the basic requirements of Section 101(a)(7) of the 1978 Amendments. This legislation provides that beginning 270 days after its enactment, the Secretary may not make any loan under Section 312 without determining that the improvements to the property, upon completion of the rehabilitation, will meet cost effective Energy Conservation Standards prescribed by the Secretary. The Committee on Banking, Finance and Urban Affairs, House of Representatives has stated that: "The Committee does not intend that the total structure receiving assistance must meet cost effective Energy Conservation Standards, but it expects the Secretary will at least require that the improvements financed shall meet such standards". (Report of the House Finance and Urban Affairs Committee, No. 95–1161, May 15, 1978 at page 11). Accordingly, the Energy Conservation Standards set forth in Appendix I to Part 39 apply only to those property improvements intended as part of the rehabilitation. Furthermore, it is not the purpose of these standards to require thermal improvement of construction elements which would not ordinarily be accessible or become exposed during the rehabilitation. A finding of inapplicability with respect to environmental impact has been prepared in accordance with Procedures for Protection and Enhancement of Environmental Quality, HUD Handbook 1390.1. A copy of this finding is available for inspection and copying in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 5218, Washington, D. C. 20410. Accordingly, it is proposed to amend 24 CFR by adding a new Part 510 as follows:

PART 510—SECTION 312 REHABILITATION LOAN PROGRAM

Sec.
510.409 Energy Conservation Standards
510.1—510.408 [Reserved]

§ 510.409 Energy conservation standards.

No loan shall be approved under Section 312, Housing Act of 1964, as amended, after July 27, 1979, unless the rehabilitation work proposed for financing under Section 312 complies with the cost effective energy efficiency (conservation) standards for rehabilitation of residential properties set forth in Appendix I to Part 39 of this Title.

Issued at Washington, D.C., April 23, 1979.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning and Development.

[Docket No. R–79–662]

[FR Doc. 79–14591 Filed 5–9–79; 8:45 am]

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federal register

Thursday
May 10, 1979

Part VII

Department of Health, Education and Welfare

Office of Education

Population Education Program

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Office of Education

[45 CFR Part 161m]

Population Education Program

AGENCY: Office of Education, HEW

ACTION: Proposed Regulations.

SUMMARY: The Commissioner proposes to amend Title 45 of the Code of Federal Regulations by adding a new part 161m, for the Population Education Program enacted by the Education Amendments of 1978. The proposed regulations—which were developed in consultation with the Deputy Assistant Secretary for Population Affairs—will govern the awarding of direct discretionary grants that are designed to encourage the training of educational personnel, the development and dissemination of instructional materials, and the support of elementary and secondary school programs in population education.

DATES: All comments on the proposed regulations must be received on or before July 9, 1979. Public meetings will be held in each of the ten regions on June 19, 1979. The time for these meetings is—

9 a.m.–12 noon; 1 p.m.–5 p.m.; 7 p.m.–9 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Ernest A. Crider, (202) 245–8118. For information on regional hearings contact: The appropriate Regional Commissioner for Educational Programs listed below:

Region I, Boston, Dr. Thomas J. Burns, (617) 223–7500.
Region II, New York, Dr. William D. Green, (212) 264–4370.
Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596–1001.
Region IV, Atlanta, Dr. William L. Lewis, (404) 221–2063.
Region V, Chicago, Dr. Juliette Noone Lester, (312) 353–5215.
Region VI, Dallas, Mr. Edward J. Baca, (214) 767–3626.
Region VII, Kansas City, Dr. Harold Blackburn, (816) 374–2276.
Region VIII, Denver, Dr. John Runkel, (303) 837–3544.
Region IX, San Francisco, Dr. Caroline Gillin, (415) 556–4920.
Region X, Seattle, Mr. Allen Apodaca, (206) 442–0460.

ADDRESSES: Written comments should be addressed to Dr. Ernest A. Crider, U.S. Office of Education, 400 Maryland Avenue SW., Room 2083, FOB–6, Washington, D.C. 20202.

The location of public meetings are—

Region I—Boston: Boston School Department, Administration Building, Boston Committee Hearing Room, 26 Court Street, Boston, Mass.
Region II—New York: New York University, Schimmel Auditorium, Tisch Hall, 40 West 4th Street, New York City, N.Y.
Region III—Philadelphia: University Holiday Inn, 34th & Chestnut Streets, Philadelphia, Pa.
Region IV—Atlanta: Atlanta American Motor Hotel, Spring Street at Carnegie Way, Atlanta, Ga.
Region V—Chicago: Center for Urban Education, 160 West Wendell Street (1050 North Wells), Chicago, Ill.
Region VI—Dallas: El Centro College, Performance Hall, Main and Lamar Streets, Dallas, Tex..
Region VII—Kansas City: Penn Valley Junior College, 3201 Southwest Trafficway, Room 503, Kansas City, Mo.
Region VIII—Denver: George Washington High School, Lunch Room, 655 South Monaco Street, Denver, Colo.
Region IX—San Francisco: Sutter Middle School, 3150 I Street (Alhambra Street), Sacramento, Calif.
Region X—Seattle: Sea—Mat Center, At Wilson—Pacific Special Education School, 1330 North 90th Street, Seattle, Wash.

SUPPLEMENTARY INFORMATION:

A. No Funds

The Commissioner is required by law to publish regulations for programs authorized by Congress. Please note that the Congress has not appropriated funds to operate this program in Fiscal Year 1979, and the President's budget does not request funds for Fiscal Year 1980.

A–1 Background

The purpose of the Population Education Program is to enhance an awareness and knowledge of population issues in elementary and secondary school students throughout the Nation. Consistent with the Senate and House Committee Reports on the Education Amendments of 1978 (S. Rep. No. 856, 95th Cong., 2d Sess. 44–45 (1978); H.R. Rep. No. 1137, 95th Cong., 2d Sess. 74–75 (1978)), the Population Education Program focuses on the nature and impact of population change and encourages the incorporation of population education into a broad variety of academic subjects.

The Population Education Program results from a recognition that population phenomena—such as births, deaths, migration, and characteristics relating to the size, distribution, and composition of the population—have a profound impact on the quality of life. This recognition reflects, in part, an increased understanding of the relationship between population issues and environmental issues and a growing awareness that natural resources are limited.

Recent events have contributed to an enhanced perception of how the size, rate of growth, composition, and distribution of the population affect social, economic, and political life; that is, how people affect and are affected by population trends. The following examples gives some idea of the range of issues that can be explored in population education:

(1) The effects of changing age structure upon the Social Security and pension system.

(2) The impact of immigration—both legal and illegal—upon the Nation's growth rate, the labor market, and the provision of health, educational, and social services.

(3) The impact of the post-World War II "baby boom" on a broad array of services, including education, health, housing, and employment.

(4) Changing age composition and family size and their impact on housing and other essential services.

(5) Changes in the modes and patterns of transportation and their impact on population distribution.

(6) The causes and consequences of rural-urban migration.

(7) The relationship between population growth and distribution and the availability and use of resources.

Increasing interest in, and concern about, population issues has generated activity at various levels. For example, in its 1972 report the Congressionally established Commission on Population Growth and the American Future recommended the enactment of a Population Education Act. In a special 1976 report the Subcommittee on Population Education of the Federal Interagency Committee on Education recommended that Population Education be considered a national educational priority.

The Office fo Environmental Education, within the U.S. Office of Education, has supported several curriculum development and demonstration projects in population education. At the local school level, the Baltimore City public school system has incorporated population education concepts into its curricula.

B. Overview of the Proposed Regulations

The proposed regulations state the purpose of the Population Education Program, provide a definition of "population education," describe the nature of projects that the Commissioner funds under the program, and outline the Commissioner's criteria for judging the

quality of project applications. Application content requirements for this program are being published as an appendix to these proposed regulations. While these application content requirements are being published in order to give the public an opportunity to comment, they will not be codified as part of the final regulations.

Education Division General Administrative Regulations

These proposed regulations do not contain certain types of requirements. Those regulations are covered in the Education Division General Administrative Regulations (EDGAR), which will replace the General Provisions for Office of Education Program Regulations and which have been published as a notice of proposed rulemaking (NPRM).

Anyone wanting to comment on these requirements should do so in response to the EDGAR NPRM, rather than to this NPRM.

The following items applicable to this program are now among those covered generally in EDGAR:

How to apply for a grant.
How grants are made.
Certain conditions that must be met by a grantee.
The administrative responsibilities of a grantee.
The Office of Education's procedures to assure compliance.

EDGAR was published in the Federal Register as a proposed regulation. After EDGAR takes effect as a final regulation the cross references in §§ 161m.3(a), 161m.4 and 161m.400(b) of the Population Education Program regulations will be changed to refer to EDGAR.

Major provisions of the proposed regulations include the following:

§ 161m.4 *Definition of Population Education.* In accordance with Congressional intent, "population education" is defined as including the study of issues related to the size, age, composition, and geographical distribution of the population; also fertility, mortality, migratory patterns, and pulbic and private policies that have a direct and indirect impact on population phenomena.

The proposed definition also reflects the intent of Congress that population education be incorporated into a variety of academic fields at the elementary and secondary school levels.

The Senate Committee Report indicates that "[p]opulation education is not sex education" (see S. Rep. No. 856, 95th Cong. 2d Sess. 44–45 (1978)). The Commissioner is implementing this Congressional intent by defining "population education" to exclude the teaching of the biological elements of human reproduction and techniques of contraception.

§ 161m.300 *Criteria for review of applications.* The Commissioner proposes to fund population education projects that show promise of maximum impact on curricula at the elementary and secondary school levels. Therefore, the Commissioner's criteria for review of applications include a criterion (§ 161m.300(i)) that gives up to 15 points to projects that focus primarily on one or more of the following:

(1) The development and dissemination of new teacher and student materials in population education.

(2) The adaptation of existing population education curricula and materials to new situations.

(3) The development of inservice training programs for educational personnel who will implement population education activities at the elementary and secondary school levels.

These activities constitute projects of potential national significance. For example, inservice training projects should reflect an orientation toward the development of nationally significant approaches to training. The primary objective of inservice training projects is to support the development of various approaches to training, not the training of local educational personnel.

161m.400(a) *Allowability of costs for stipends, released time and substitutes.* The Commissioner proposes to allow payments for stipends, released time, and the employment of substitutes only in those cases in which the applicant clearly demonstrates in the project application the financial need and prgorammatic necessity for that assistance.

161m.401 *Cooperation with State and local Educational agencies.* Section 392(b) of the Elementary and Secondary Education Act of 1965 specifically requires that the following population education activities be carried out in cooperation with appropriate State and local educational agencies:

(1) Development and dissemination of teacher and student educational, training, and instructional materials, including the identification, evaluation, improvement and adaptation of existing curricula and educational materials.

(2) Research support to develop curriculum content and to evaluate programs and materials for the purpose of widespread dissemination.

Section 161m.401 of the proposed regulations implements this statutory requirement.

National studies, such as the Rand report, "Federal Programs Supporting Educational Change, Vol. IV: The Findings in Review," have shown that the involvment of State and local educational agencies in the development of innovative projects substantially increases the likelihood that the projects will be incorporated into existing elementary and secondary school programs.

Therefore, in addition to requiring cooperation for the population education activities listed in § 161m.401 of the proposed regulations, the Commissioner proposes a selection criterion (§ 161m.300(h)) that gives an applicant up to 5 points for "the extent to which each population education project is developed and operated in cooperation with appropriate State and local educational agencies, as well as with other public and private organizations."

C. Public Comments and Participation

Public comments were received from a variety of organizations and individuals prior to the drafting of these regulations. These comments have addressed to definition of population education, types of activities that should be given preference in funding, and duration of grant support. These comments influenced the development of these proposed regulations, including the weighting of some criteria for review of applications.

Invitation to Comment

A public meeting on this Notice of Proposed Rulemaking will be held in each of the ten Federal regions. Since we expect to schedule public meetings for several regulations on the same day, at the same place, we need to get an idea of how many persons are interested in speaking about these regulations. If you are interested in making oral comments at a public meeting, we encourage you to call the appropriate Regional Commissioner of Education. He/she will schedule a time for your comments to be given. Persons who do not notify the Regional Commissioner of their intention to make oral comments will be given an opportunity to speak. Those persons making presentations will be called upon according to their prearranged schedule, or if not prearranged, in the order of registration.

We expect that comments on these proposed regulations will be heard first on the date of the public meeting.

Interested persons are also invited to submit written comments, suggestions,

and recommendations regarding the proposed regulations. Comments, suggestions, and recommendations may be sent to the address given at the beginning of this document. All comments received on or before July 9, 1979, will be considered in the development of the final regulation.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 2083, FOB–6, 400 Maryland Avenue, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

D. Citations of Authority

These proposed regulations are issued under the authority of Section 392, Title III, Part M, of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 3062).

As required by Section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation of statutary authority for each section of the proposed regulations has been placed in parentheses on the line following the text of each section. References to "Sec." in these citations of authority relate to sections of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978, Pub. L. 95–561.

(Catalog of Federal Domestic Assistance No. ——, Population Education Program)

Dated: March 14, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

Approved: April 12, 1979.

Joseph A. Califano, Jr.,

Secretary of Health, Education, and Welfare.

It is proposed that Title 45 of the Code of Federal Regulations be amended by adding a new part 161m to read as follows:

PART 161m—POPULATION EDUCATION PROGRAM

Subpart A—General

Sec.

161m.1 Purpose of the Population Education Program.
161m.2 Eligible parties.
161m.3 Regulations that apply to the Population Education Program.
161m.4 Definitions that apply to the Population Education Program.

Subpart B—What Kind of Projects Does the Office of Education Assist Under This Program?

161m.100 Nature of projects.
161m.101 Project duration.

Subpart C—How Does One Apply for a Grant?

161m.200 Application requirements.

Subpart D—How Is a Grant Made?

161m.300 Criteria for review of applications.

Subpart E—What Conditions Must Be Met by a Grantee?

161m.400 Allowable costs.
161m.401 Cooperation with State and local educational agencies.
161m.402 Participation by private school children.

Appendix—Application contents.

Authority: Part M of Title III of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978, Pub. L. 95–561 (20 U.S.C. 3062).

Subpart A—General

§ 161m.1 Purpose of the population education program.

The purpose of the Population Education Program is to encourage through Federal assistance the development of population education in elementary and secondary schools.

(Sec. 392 (a) and (b); 20 U.S.C. 3062 (a) and (b))

§ 161m.2 Eligible parties.

The Commissioner may make grants to institutions of higher education, State and local educational agencies, or other nonprofit organizations and institutions.

(Sec. 392(a); 20 U.S.C. 3062(a))

§ 161m.3 Regulations that apply to the population education program.

(a) *Regulations.* The following regulations apply to the Population Education Program.

(1) The Education Division General Administration Regulations (EDGAR) in Part 100a (Direct Grant Programs) and Part 100c (Definitions).

(2) The regulations in this Part 161m.

(20 U.S.C. 1221e–3(a)(1))

§ 161m.4 Definitions that apply to the population education program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in Part 100c:

Applicant.
Application.
Commissioner.
Elementary school Project.
Secondary school.

(b) *Definitions in the Elementary and Secondary Education Act.* The following terms that are used in this part are defined in Section 1001 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 3381): Local Educational Agency State Educational Agency

(c) *Program definitions.* As used in this part:

"Appropriate State and local educational agencies" means those State or local educational agencies which are representative of those State and local educational agencies that are affected, either directly or indirectly, by a project activity.

"Educational personnel" means—

(1) Teachers, teacher aides, and educational administrators and supervisors; and

(2) Other persons who teach students, train teachers, or perform professional services that are closely related to the teaching of students or to the training of teachers or educational administrators, supervisors, or planners.

"Population education" means the educational process by which an individual develops an awareness and understanding of—

(1) The nature of demographic trends, population characteristics, and population variables;

(2) The causes and consequences of population change;

(3) The political, social, economic, environmental, and cultural implications of population phenomena;

(4) The direct and indirect impact of public and private policies on population phenomena;

(5) The variety of issues and events that are related to the study of population; and

(6) Methods by which individuals, families, communities, the Nation and the world might effectively respond to and affect population processes.

Population education does not mean the teaching of the biological elements of human reproduction or techniques of contraception.

(Sec. 392(a) and (b); 20 U.S.C. 3062 (a) and (b); S. Rep. No. 856, 95th Cong. 2d Sess. 44–45 (1978))

Subpart B—What Kind of Projects Does the Office of Education Assist Under This Program?

§ 161m.100 Nature of projects.

A project assisted under this part must encourage the development or incorporation of population education in a variety of subject areas at the elementary or secondary school levels.

(Sec. 392(a) and (b); 20 U.S.C. 3062(a) and (b))

§ 161m.101 Project duration.

The Commissioner determines the duration of Federal assistance on a case-by-case basis. In general, the Commissioner does not assist projects

for more than three years, and in no case does the Commissioner assist projects for more than five years.

(Sec. 392(a) and (b); 20 U.S.C. 3062(a) and (b))

Subpart C—How Does One Apply for a Grant?

§ 161m.200 Application requirements.

The Commissioner considers making a grant to an eligible applicant only if the applicant prepares and submits an application according to—

(a) Part M of Title III of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 3062);

(b) The regulations in this part;

(c) The procedures contained in the Notice of Closing Date for Receipt of Applications; and

(d) The instructions and program materials included in the application package.

(20 U.S.C. 1232c(b)(3))

Subpart D—How Is a Grant Made?

§ 161m.300 Criteria for review of applications.

(a) General criteria that the Commissioner uses to review applications are contained in EDGAR §§ 100a.202 through 100a.206. The general criteria comprise 35 possible points. The value assigned to each criterion indicates the relative importance the Commissioner places on that criterion.

(1) Plan of operation. (10 points)

(2) Quality of key personnel. (10 points)

(3) Budget and cost effectiveness. (5 points)

(4) Evaluation plan. (5 points)

(5) Adequacy of resources. (5 points)

(b) In addition to the general criteria in paragraph (a), the Commissioner uses criteria specific to this program to review applications. The specific criteria comprise 65 possible points.

(1) The quality of the applicant's plan to disseminate information related to the project. (5 points)

(2) The likelihood that the applicant will incorporate the results of the project into its continuing activities, or those of cooperating organizations, after Federal funding ends. (10 points)

(3) The degree to which the project involves a variety of appropriate academic fields in all phases of its development and operation. (10 points)

(4) The overall potential of the project to make a substantial qualitative contribution toward improving population education at the elementary and secondary school levels. This includes the likelihood that the results of the project will be of potential use to a variety of groups throughout the Nation. (20 points)

(5) The extent to which the project is developed and operated in cooperation with appropriate State and local educational agencies, as well as with other public and private organizations. (5 points)

(6) The extent to which the project focuses primarily on one or more of the following: (15 points)

(i) The development, field testing, and dissemination of teacher and student educational, training, and instructional materials in population education.

(ii) The identification, evaluation, improvement, and adaptation of existing population education curricula and educational materials.

(iii) The development of inservice training programs for educational personnel who will implement population education activities at the elementary and secondary school levels.

(Sec. 392(a) and (b); 20 U.S.C. 3062(a) and (b))

Subpart E—What Conditions Must Be Met by a Grantee?

§ 161m.400 Allowable costs.

The following costs are allowable: Only in exceptional cases where the applicant clearly demonstrates in the project application financial need and programmatic necessity—limited payments for stipends, released time or employment of substitutes to enable educational personnel to participate in activities of the project

(Sec. 392(a) and (b); 20 U.S.C. 3062(a) and (b))

§ 161m.401 Cooperation with State and local educational agencies.

If a project assisted under this part includes any of the following population education activities, the grantee must carry out the activity in cooperation with appropriate State and local educational agencies:

(a) Development and dissemination of teacher and student educational, training, and instructional materials, including the identification, evaluation, improvement, and adaption of existing curricula and educational materials.

(b) Research support to develop curriculum content and to evaluate programs and materials for the purpose of widespread dissemination.

(Sec. 392 (b); 20 U.S.C. 3062 (b))

§ 161m.402 Participation by private school children.

A grant to a State or local educational agency is subject to the requirements in section 302(b) of the Elementary and Secondary Education Act of 1965 concerning consultation with private school officials and participation by private school children.

(Sec. 302(b); 20 U.S.C. 2942(b))

Appendix—Application Contents

An applicant shall include the following in its application:

(1) A statement of the needs to be addressed by the project, including a description of how those needs were identified.

(2) A statement of how the project will contribute to the development of population education.

(3) A statement of the rationale for the project, data that support the approach, and the content of the approach, including the relationship of program objectives to activities and the use of resources.

(4) A description of methods the applicant intends to use for cooperating with appropriate State and local educational agencies and other organizations.

(5) A description of how the applicant is using, or plans to use, the results of the project in its continuing activities after Federal funding ends.

(6) A description of the field testing, validation, evaluation, and dissemination procedures the applicant intends to use in the project.

(7) A description of proposed staffing patterns and the qualifications of the proposed project director and professional staff, including their education, training, awards, published work, and experience in population education. If staff members are not yet named, the applicant shall include a description and required qualifications of each position. The applicant shall also include the qualifications of any consultants who may be involved in the project.

(8) A description of the proposed budget and an explanation of how it relates to the goals and objectives of the project. If the proposed budget includes stipends, released time, or payment of substitutes, the applicant shall include a detailed description of the financial need and programmatic necessity for these costs.

(9) Information that provides a basis for evaluating the application under each of the criteria in § 161m.300 of the Population Education Program regulations (45 CFR 161m.300).

(10) If the applicant is a State educational agency or local educational agency, a statement of how the development and operation of the project complies with the requirements for the involvement of private schools in Sec. 302(b), Title III, of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 2942(b)).

[FR Doc. 79-14623 Filed 5-9-79; 8:45 am]

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Federal Register

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Thursday, May 10, 1979

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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
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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.

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21020 4–9–79 / Allowances and reimbursements for members of policy-making bodies; correction

FEDERAL COMMUNICATIONS COMMISSION

18974 3–30–79 / Authorization of use of certain frequencies by aeronautical utility mobile stations at landing areas without control towers or FAA flight service stations

21267 4–10–79 / Fee refunds and future FCC fees; first report and order

GENERAL SERVICES ADMINISTRATION

22725 4–17–79 / Validation of Performance in automated data processing (ADP) systems and services procurements; temporary regulation

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21253 4–10–79 / Asylum; filing of applications in exclusion and deportation proceedings

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 Apr. 24, 1979