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Thursday
August 9, 1979

Highlights

46949 **Health Careers Opportunity Program** HEW/PHS announces acceptance of grants for fiscal year 1980; applications by 1-4-80

46948 **Graduate Training in Family Medicine Grants** HEW/PHS makes approximately $16 million available for fiscal year 1980; applications by 9-4-79

46899 **Medical Assistance Programs** HEW/HCFA proposes Federal requirements under the Medicaid Program for the provision of family planning services; comments by 10-9-79

46949 **Medicare Program** HEW/HCFA request additional comments on schedule of limits on hospital inpatient general routine operating costs; comments by 9-10-79

46948 **Guaranteed Student Loan Program** HEW/OE announces that for the three-month period ending 6-30-79, a special allowance at an annual rate of 4 percent will be paid to holders of eligible loans

46948 **Health Education Assistance Loan Program** HEW/OE announces that for the three month period ending 9-30-79, the variable interest rate on loans shall be at the annual rate of 11 percent

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46928 **National Nutrition Education Conference** HEW/ Office of the Assistant Secretary for Health sets forth four Task Force papers to be used in conference on 9–27 and 9–28–79; comments by 8–31–79

46947 **Emergency School Aid** HEW/OE invites applications from public agencies for activities related to school desegregation; applications by 9–14–79

46947 **Emergency School Aid** HEW/OE announces the fiscal year 1979 programming categories for production of integrated children's television series

46881 **Employment Retirement Income Security** Joint Board for the Enrollment of Actuaries proposes to amend its rules governing eligibility for enrollment to perform actuarial services; comments by 9–10–79

46836 **Community Development Block Grants** HUD issues interim rule governing applicants of entitlement grants and small cities grants with respect to lower-income households; effective 9–26–79; comments by 10–9–79

47012 **Affirmative Fair Housing Marketing** HUD/FHEO establishes a comprehensive review procedure for determining compliance requirements; effective 9–10–79 (Part IV of this issue)

46996 **Housing** HUD/FHC revises requirements for development of public housing; effective 11–7–79; comments by 10–9–79 (Part II of this issue)

46886 **Housing** HUD/FHC proposes changes in its rules which will provide for greater HUD–FHA participation in home improvement and rehabilitation programs; comments by 10–9–79

46835 **Housing** HUD/FHC introduces interim rule on dollar limitation increase for solar energy systems; effective 9–26–79; comments by 10–9–79

46885 **Mortgage Insurance and Home Improvement Loans** HUD/FHC proposes changes which will permit government agencies to secure repayment of funds; comments by 10–9–79

46991 **Sunshine Act Meetings**

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47006 **Part III, HUD/Sec'y**
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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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 624; Valencia Orange Regulation 623, Amendment 1]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 10–16, 1979, and increases the quantity of such oranges that may be so shipped during the period August 3–9, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective August 10, 1979, and the amendment is effective for the period August 3–9, 1979.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are 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). 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 by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act.

The committee met on August 7, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is very weak.

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

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accordance with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, (202) 447–5975.

§ 908.924 Valencia Orange Regulation 624.

1. *Order.* (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 10, 1979, through August 16, 1979, are established as follows:

(1) District 1: 238,000 cartons;
(2) District 2: 212,000 cartons;
(3) District 3: Unlimited.

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

§ 908.923 [Amended]

2. Paragraph (a)(1) in § 908.923 Valencia Orange Regulation 623 (44 FR 45359), is hereby amended to read:

(9) * * *

(1) District 1: 288,000 cartons

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

Dated: August 8, 1979.

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

[FR Doc. 79-24824 Filed 8-8-79; 12:13 pm]

BILLING CODE 3410-02-M

7 CFR Part 1011

[Milk Order No. 11]

Milk in the Tennessee Valley Marketing Area; Termination of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of the order.

SUMMARY: This document terminates all but certain administrative provisions of the Tennessee Valley Federal milk marketing order, effective midnight, September 30, 1979. The remaining administrative provisions will be terminated at a later date.

On the basis of a public hearing on proposed amendments to the order, the department concluded that the order should be amended in several respects. In a referendum, the issuance of the proposed amended order was not approved by the required two-thirds of the producers voting. Since the Department had determined from the hearing evidence that the order must be amended to carry out the applicable statutory authority, and in view of insufficient producer support for the proposed amended order, the department notified the public that termination of the present order was being considered. Comments on the proposed termination were invited.

After reviewing the comments filed, and on the basis of the record of the public hearing, the Department has concluded that the present order should be terminated.

EFFECTIVE DATE: Midnight, September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued August 23, 1978; published August 28, 1978 (43 FR 38412).

Recommended Decision—Issued January 18, 1979; published January 23, 1979 (44 FR 4696).

Extension of Time for Filing Exceptions—Issued February 9, 1979; published February 15, 1979 (44 FR 9761).

Final Decision—Issued April 23, 1979; published April 26, 1979 (44 FR 24563).

Referendum Order—Issued May 21, 1979; published May 25, 1979 (44 FR 30353).

Notice Proposing Termination of the Order—Issued June 20, 1979; published June 26, 1979 (44 FR 37232).

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the "Act," and of the order, as amended, regulating the handling of milk in the Tennessee Valley marketing area (7 CFR Part 1011), it is hereby found and determined that:

(a) The terms and provisions of the current order, as amended, do not tend to effectuate the declared policy of the Act.

A public hearing on proposed amendments to the Tennessee Valley milk order was held at Knoxville, Tennessee, on September 13, 1978, pursuant to notice thereof issued August 23, 1978 (43 FR 38412). Following the issuance of a recommended decision and the opportunity for filing exceptions, the Deputy Assistant Secretary for Marketing and Transportation Services issued on April 23, 1979 (44 FR 24563) a final decision on the issues considered at the hearing. It was concluded that the order should be amended in several respects and that the provisions of the proposed amended order would tend to effectuate the declared policy of the Act. Having found on the basis of the hearing evidence that certain provisions of the current order should be amended, it necessarily follows that the current provisions in question are not effectuating the declared policy of the Act.

(b) The required number of producers do not favor the issuance of the proposed amended order as set forth in the April 23, 1979, decision.

On May 21, 1979, the Deputy Assistant Secretary issued an order (44 FR 30353) directing that a referendum be conducted among producers to determine whether they approved the issuance of the order as proposed to be amended by the decision issued on April 23, 1979. Less than two-thirds of the producers who participated in the referendum favored the issuance of the proposed amended order. Approval by at least two-thirds of the producers voting in a referendum is required before an amended order may be issued.

(c) The comments filed in response to the notice of proposed termination (44 FR 37232) do not provide a sufficient basis for retaining the order as currently effective.

Comments favoring the retention of the current order were received from a proprietary handler and from a cooperative association that represents a large majority of the producers on the market. Another proprietary handler, while supporting the order program in general, supported the termination of the Tennessee Valley order under the circumstances involved in this proceeding. When taken into consideration with the evidence received at the public hearing, the comments received do not provide a basis for concluding that the current order is effectuating the declared policy of the Act and should be retained.

It is therefore ordered, That the terms and provisions of the order, as amended, regulating the handling of milk in the Tennessee Valley marketing area, except for §§ 1000.4 (c) and (d), 1000.5 (b) and (c), and 1000.6 of 7 CFR Part 1000 that are incorporated by reference in § 1011.1 of the order, are hereby terminated effective at midnight, September 30, 1979.

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

Effective date: Midnight, September 30, 1979.

Signed at Washington, D.C., on: August 3, 1979.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 79-24552 Filed 8-8-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 65

[Docket No. 18739; Amendments Nos. 21-49 and 65-24]

Exhibition, Air-Racing, and Amateur-Built Aircraft; Airworthiness Certificate and Repairman Certification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments provide for the issuance of experimental certificates for exhibition, air-racing, and amateur built aircraft for periods longer than one year and for repairman certification of the primary builders of these aircraft, who may then perform the required condition inspection on such aircraft. The purpose of these amendments is to reduce, without any derorgation of safety, the burden on certain experimental aircraft owners associated with annual recertification by the FAA.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch, AVS–24, Safety Regulations Staff, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 755–8716.

SUPPLEMENTARY INFORMATION:

Background

These amendments to Parts 21 and 65 of the Federal Aviation Regulations (FAR) are based on a Notice of Proposed Rule Making (NPRM) issued as Notice 79–4 and published in the **Federal Register** on March 5, 1979 (44 FR 12042).

Notice 79–4 proposed to extend the duration of experimental certificates for aircraft certificated for the purpose of exhibition, air racing, or operating amateur-built aircraft for a period longer than one year. It also proposed that primary builders of these aircraft be eligible for repairman certification.

Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all matter presented. Two hundred and twelve comments pertaining to the proposals were received and they are discussed below.

Present section 21.181(a)(3) provides that an experimental airworthiness certificate is effective for one year after the date of issuance or renewal, unless a

shorter period is prescribed by the Administrator. Generally, this has meant that aircraft having experimental certificates are recertificated annually by FAA inspectors. This recertification process has included a condition inspection performed by the FAA.

A recent survey indicates that there are about 9,000 aircraft on the U.S. Registry certificated in the experimental category; approximately 7,000 of these are certificated for the purpose of exhibition, air racing, or operating an amateur-built aircraft. This large and ever-increasing number of experimental aircraft, particularly the amateur-built, has resulted in extended delays for many applicants seeking certification or recertification of their experimental aircraft.

Extending the duration of these experimental certificates will relieve this burden on aircraft owners by eliminating the annual recertification by the FAA. Experience with the present rule has shown that safety considerations do not require that FAA inspectors conduct the annual recertification inspection of such aircraft provided that they are inspected in a manner similar to aircraft certificated in a standard category. To ensure an adequate level of safety, the FAA will impose an operating limitation during certification requiring that, at least once a year, the aircraft receive a condition inspection in accordance with Appendix D of FAR Part 43 and be found to be in a safe condition, and that an entry recording that inspection be made in the aircraft's maintenance records.

These inspections will be able to be conducted by a certificated mechanic holding an airframe and powerplant rating (A & P mechanic) or an appropriately rated repair station. In addition, these amendments will further reduce the burden on some owners by providing for the repairman certification under Part 65 of certain aircraft builders. If a person qualifies for certification, that individual will be allowed to perform the condition inspection on the aircraft that person has built. The builder's certification as an airman is required to satisfy Section 610(a)(2) of the Federal Aviation Act of 1958 which makes it unlawful for any person to serve in any capacity as an airman without an airman certificate authorizing him to serve in this capacity.

These amendments are issued in accordance with Executive Order 12044 and the Department of Transportation's Regulatory Policies and Procedures which are intended to reduce the unnecessary burdens of regulation on the public.

Discussion of Comments

A majority of the comments received in response to Notice 79–4 contained a recommendation that the duration of experimental certificates for amateur-built, exhibition, and air-racing aircraft be permanent or for an indefinite period. Other commenters suggested that the duration of the certificates be for the length of time the aircraft is owned by the builder while some others would specify a certain number of years. The FAA agrees that once the aircraft has been shown to pose no hazard to the general public it should be certificated for an unlimited time. Since most experimental aircraft do not conform to an FAA approved type design and must be subject to a trial period of operation, the initial period of certification must necessarily be of limited duration. The FAA certificating inspector must retain the latitude needed to establish the initial certification period based on personal inspection of the aircraft and data presented by the applicant. Thereafter, following the initial certification and successful operation within the assigned flight test area for a specified period of time, it is the FAA intent that amateur-built, air racing, and exhibition aircraft be given an experimental certificate of unlimited duration. The rule therefore provides that such aircraft will be certificated for an unlimited period unless the Administrator finds for good cause that a specific period should be established.

The FAA will monitor the safety record of the aircraft certificated under this new rule. Should it appear at any time in the future that certificates of specific duration are required in order to safeguard the general public, appropriate rule making action will be taken.

One commenter objected to the proposal on the ground that it was unsafe. His major concern was that the work on these aircraft be accomplished by an A & P mechanic or under his direct supervision. As an alternative to the proposal contained in Notice 79–4, the commenter suggested that the construction of experimental aircraft be under the craftsmanship or direct supervision of a certificated mechanic, and that a mechanic holding an inspection authorization rating reissue the experimental certificate at the time of the annual inspection which would be conducted by such an inspector. The FAA has had a long-time policy of encouraging assistance of qualified private persons during aircraft construction and believes that amateur-aircraft builders should continue to utilize those persons if the need arises. A delegation of authority for issuance of experimental certificates, however, is not warranted. The FAA wishes to retain the responsibility for certification, including a determination that the aircraft is in a condition for safe operation, and for prescribing appropriate operating limitations. With respect to the conduct of the annual recurring condition inspection, the FAA has concluded that an inspection by the original builder if he holds a repairman certificate, an A & P mechanic, or a repair station holding appropriate ratings can provide a satisfactory level of safety.

As suggested above, the FAA concurs with the suggestion of several commenters that appropriately rated repair stations be allowed to conduct the annual inspection. No additional rule change is required to implement this decision.

In order to increase the time available to FAA inspectors for other required functions, one commenter suggested that A & P mechanics perform the in-progress construction inspections. He also objected to the issuance of repairman certificates to "so-called aircraft builders," many of whom, he contended, do not build the aircraft and lack building and maintenance skills. It is during the in-progress inspection that FAA inspectors can concurrently inspect the aircraft and begin their assessment of the builder's skills and qualification for repairman certification. Only qualified builders will be certificated. Thus, it is important that the FAA maintain its inspection role during aircraft construction. This commenter's contention that the repairman certification process and repairman surveillance will be a drain on the FAA inspectors' time is rejected. As already noted, much of this one-time determination of qualification will be made during the construction.

One commenter suggested that A & P mechanics were not sufficiently qualified to make the required condition inspection of certain sophisticated aircraft, such as ex-military and jet aircraft, and suggested that a mechanic holding inspection authorization should be required in these cases. Another commenter suggested that certificated mechanics with inspection authorization be required in all cases. The FAA disagrees. The scope of the recurring condition inspection is the same as that required for a 100-hour inspection of standard category aircraft. Since A & P mechanics have long been permitted to conduct 100-hour inspections, there is no reason to doubt their ability to conduct

this inspection of experimental aircraft. Furthermore, under § 65.81 a certificated mechanic may perform only the maintenance for which he is rated and that only if he has satisfactorily performed the work concerned at an earlier date.

Several commenters objected to the issuance of a repairman certificate to the original builder of an amateur-built aircraft. Their concern was that the builder may have no experience in the inspection or detection of conditions causing or leading to defects in the aircraft. They also stated that, for the most part, the amateur-aircraft builder lacks the facilities and equipment necessary to maintain the aircraft, and therefore the annual inspection should be conducted by an authorized inspector. Those original builders who obtain repairman certification will have demonstrated, to the satisfaction of the FAA, sufficient knowledge and skill to allow them to inspect the aircraft they have built. The concern over lack of facilities is not valid. Under the present rule, the FAA inspector conducts the recertification inspection, for the most part, using the same facilities and equipment available to the aircraft owner.

Another commenter objected on two grounds. First, he asserted that having built a part of the aircraft does not qualify a person to inspect all of that aircraft. For example, he noted that while a home-built constructor may actually have built only a part of the airframe, his repairman certificate would permit him to inspect a powerplant, electrical, or hydraulic component of which he may not have sufficient knowledge. In this connection the scope and detail of the Part 43, Appendix D, inspection does not require extensive knowledge of such systems. It should be noted that in the case of repair stations, one which has only an appropriate airframe rating may conduct the inspection. Second, he objected to the fact that the FAA was turning over much administrative work to the general public rather than to a professional member of the aviation community. In fact, as a result of the adoption of these amendments there should be less administrative work since there will be no need for the owner to make annual application for recertification.

One commenter objected to the proposal on the ground that its adoption will impose a financial burden on owners who are not the original builders. Additional cost will be required for condition inspections. However, it is the conclusion of the FAA, apparently supported by most commenters who support the proposal, that such cost will be more than offset by relief from the time delays associated with seeking recertification of their aircraft by the FAA and by the added flexibility made available for selecting the time and place of inspection.

In a related matter, several commenters suggested that the services of an FAA inspector be available to owners of amateur-built aircraft who are not the original builders when they are unable to secure an inspection from a certificated A & P mechanic. In those cases where an owner can show inability to get an inspection, he may apply for the services of an FAA inspector. In addition an owner may also utilize an appropriately rated repair station to perform the required inspection.

Several commenters proposed that Experimental Aircraft Association designees be authorized to perform the condition inspection. As in the case of those owners who are not the original builders, the FAA would not have a standard by which to judge the knowledge and skills of these persons.

Two commenters suggested that persons who have constructed an aircraft from a kit should not be eligible for a repairman certificate. Furthermore, one of these commenters stated his belief that a repairman certificate should only be issued to a builder whose workmanship is of acceptable quality. It should be noted that according to Advisory Circulars 20–27B, dated April 20, 1972, and 20–28A, dated December 29, 1972, aircraft which are merely assembled from kits composed completely of prefabricated components and parts, and pre-cut pre-drilled materials, are not eligible for certification as amateur-built aircraft, since the major portion of the aircraft would not have been fabricated and assembled by the builder as is required by FAR § 21.191(g). Although there is not a specific quality of workmanship requirement for receiving a repairman certificate, this is implicit in requiring that a person demonstrate to the satisfaction of the Administrator the requisite skill to determine whether the aircraft is in a condition for safe operation.

Several commenters suggested that a repairman certificate be made available to all owners of amateur-built aircraft after they demonstrate the required level of knowledge and skill needed to maintain their aircraft. Extending repairman certification to all owners of amateur-built aircraft would be impractical because the FAA does not have a standard by which to judge the knowledge and skills of owners who have not built their aircraft. The FAA conducts inspections of amateur-built aircraft at various stages of their construction. In this way, the builder is able to demonstrate the knowledge and skills considered necessary for conducting an inspection and determining that the aircraft will be in a condition for safe operations.

Because this observation of the builder and his work is the essential means for determining a builder's knowledge and skill required for issuance of a repairman certificate, the FAA rejects the suggestion of one commenter that a written examination be required. If such an examination is considered necessary, it can be required by administrative means; a regulation is not required.

One commenter suggested that once issued a repairman certificate on the basis of having built an amateur-built aircraft, a person should be allowed to inspect other amateur-built aircraft. Another commenter stated that the condition inspection should be able to be performed by any amateur builder who had built an aircraft of the same type. The FAA cannot accept these suggestions. Although many amateur-built aircraft may be of similar type, they are not fabricated to a type design or specification and the builders frequently make changes based on personal desires or the availability of materials. These changes are often significant. Thus, the original builders may possess the expertise to inspect the aircraft they have built but not one built by another person or one of similar type.

Several commenters requested that the original builder of an amateur-built aircraft be allowed to continue to conduct the required inspection of the aircraft after its sale to a new owner, if the new owner so desired. Although the proposal did not address the situation directly, it was intended that the qualified original builder be allowed to continue to inspect the aircraft after its sale, at the request of the new owner.

Several commenters suggested a "grandfather" clause be applied to the issuance of repairman certificates to allow present amateur-built aircraft owners who are not the builders of the aircraft to be eligible for a repairman certificate. These commenters believe that since they have been performing their own maintenance and repairs under the present rule they should be qualified to perform the annual condition inspection under the new rule. A "grandfather" clause for amateur-built owners who are not the builders is not warranted. The nonbuilders do not have

the privilege of performing the annual condition inspection under the present rule; therefore, they cannot be "grandfathered" to perform it under the new rule. As previously stated, the original builders are the ones who most likely will possess the expertise to inspect the aircraft they have built. To issue repairman certificates to amateur-built aircraft owners who are not the builders on the basis of their performing maintenance would require that the FAA issue repairman certificates to the present owners of exhibition and air-racing aircraft for the same reason. This would not be in the interest of safety.

One commenter proposed that the original builder be allowed to sign-off the recurring inspection and repairs performed by subsequent owners. As stated above, it is not in the interest of safety to allow nonbuilders to conduct the required inspection. Furthermore, while the FAA recognizes that qualified original builders have sufficient expertise to perform the inspection, it does not necessarily follow that they are sufficiently qualified to approve or disapprove another person's maintenance.

Several commenters proposed deletion of the citizenship requirement to be eligible for a repairman certificate. One of the commenters is a Canadian citizen who was admitted to the U.S. as a permanent resident and now holds an FAA Repairman Certificate. It is also noted that Section 501(b) of the Federal Aviation Act of 1958 was recently amended to allow an individual citizen of a foreign country who has been admitted to the United States as a permanent resident to register aircraft. Therefore, proposed Section 65.104(a)(4) is revised to provide for the issuance of a repairman certificate to an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States.

Two commenters suggested an annual inspection certificate be executed by the person performing the condition inspection. The original certificate would be contained in the logbook with a copy sent to the local district office. An annual inspection certificate is not deemed necessary. The amendment provides for the FAA to impose operating limitations requiring the condition inspection to be recorded in the aircraft's maintenance records. In the case of standard category aircraft, no certificate is issued. An entry is made in the maintenance records. This should be sufficient for experimental aircraft. However, in line with these comments, the FAA does make available an annual inspection reminder. This reminder is a decal which is secured in a conspicuous area in the aircraft and reminds the operator of the next inspection date.

One commenter suggested that the FAA perform spot checks to ensure the quality of maintenance and condition inspections of these experimental aircraft. This is an ongoing function of the FAA as to all aircraft and such surveillance will continue.

Several commenters suggested revising the applicability of Part 43 to include experimental aircraft and to require that they be inspected in accordance with Part 91. Applying such restrictions would be contrary to the intent of the amateur-built aircraft program, which is fabricating and assembling an aircraft for educational or recreational purposes. In addition, many exhibition and air-racing aircraft are ex-military aircraft and applying Parts 43 and 91 to them would be excessively restrictive on their owners.

One commenter expressed his belief that an advisory circular giving inspection guidelines is needed. While advisory material is going to be released concerning these amendments, no inspection guidelines advisory circular is planned. Appendix D of FAR Part 43 is considered to be adequate.

One commenter suggested that an airworthiness certificate be renewed by an FAA inspector or a certificated mechanic holding an inspection authorization if there is a lapse in the recurring condition inspections to prevent the sale of an unsafe aircraft to an unsuspecting person. Such a provision in the regulation is not needed. The operating limitations will not permit flight of an aircraft unless during the previous twelve months it has been inspected and found to be in safe condition.

Several commenters suggested that the repairman certificate be issued only after the aircraft has flown off its initial restriction. While it is anticipated that the certificates will be issued at this time, such a decision is being retained as a matter for policy determination. One commenter also wanted to require that the owner be in possession of the applicable service manuals and plans before repairman certification. Since some amateur-built aircraft do not even have plans, such a regulation is not considered appropriate.

Two commenters made proposals, neither of which is related to the rule changes proposed in Notice 79-4. One suggested that an experimental certificate be converted to a standard airworthiness certificate after a specified period of satisfactory operation and inspection. The FAA cannot accept this proposal. Standard category airworthiness certificates are issued only after an exacting and detailed finding that the design meets specific regulatory requirements. The mere operation of an experimental aircraft with limited inspections falls far short of the detailed compliance findings required for issuance of a standard airworthiness certificate.

The other commenter proposed to amend § 21.191 to permit the issuance of experimental certificates for the purpose of operating certain nonstandard aircraft for recreation. A similar proposal by that commenter in the form of a petition for rule making has already been denied.

Adoption of the Amendment

Accordingly, Parts 21 and 65 of the Federal Aviation Regulations (14 CFR Parts 21 and 65), are amended effective September 10, 1979, as follows:

1. By revising § 21.181(a)(3) to read as follows:

§ 21.181 Duration.

(a) * * *

(3) An experimental certificate for research and development, showing compliance with regulations, crew training, or market surveys is effective for one year after the date of issue or renewal unless a shorter period is prescribed by the Administrator. The duration of amateur-built, exhibition, and air-racing experimental certificates will be unlimited unless the Administrator finds for good cause that a specific period should be established.

* * * * *

2. By designating the text of current § 65.101 as § 65.101(a), by redesignating current paragraphs (a) through (f) of § 65.101, as paragraphs (a)(1) through (a)(6), respectively, and by adding a new § 65.101(b) to read as follows:

§ 65.101 Eligibility requirements: General.

* * * * *

(b) This section does not apply to the issuance of repairman certificates (experimental aircraft builder) under § 65.104.

3. By adding a new § 65.104 to read as follows:

§ 65.104 Repairman certificate—experimental aircraft builder—Eligibility, privileges and limitations.

(a) To be eligible for a repairman certificate (experimental aircraft builder), an individual must—

(1) Be at least 18 years of age;

(2) Be the primary builder of the aircraft to which the privileges of the certificate are applicable;

(3) Show to the satisfaction of the Administrator that the individual has the requisite skill to determine whether the aircraft is in a condition for safe operations; and

(4) Be a citizen of the United States or an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States.

(b) The holder of a repairman certificate (experimental aircraft builder) may perform condition inspections on the aircraft constructed by the holder in accordace with the operating limitations of that aircraft.

(c) Section 65.103 does not apply to the holder of a repairman certificate (experimental aircraft builder) while performing under that certificate.

(Sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421, and 1422; sec. 6(a) of the Department of Transportation Act, 49 U.S.C. 1655(c)].)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the Final Regulatory Evaluation is filed in the Public Docket. Copies of this evaluation may be requested from Raymond E. Ramakis, Regulatory Projects Branch, AVS-24, Safety Regulations Staff, Federal Aviation Administration, 800 Independence Ave., S.W., Washington, D.C. 20591; Telephone (202) 755-8716.

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

Langhorne Bond,

Administrator.

[FR Doc. 79-24556 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-NW-23-AD, Amdt. 39-3526]

Boeing Model 747 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) to require inspection and replacement as required of the lower cargo door sill truss and latch support fittings. Truss fitting cracking could eventually reduce the door latch pin fitting attachment strength to the point cabin pressurization could not be maintained.

DATES: Effective date August 15, 1979. Compliance required within 300 hours time-in-service after the effective date of this AD unless already accomplished.

ADDRESS: The Boeing service bulletin specified in this directive may be obtained 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.

FOR FURTHER INFORMATION, CONTACT: Mr. Iven D. Connally, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Several instances of cracked truss fitting have been reported at the forward and aft lower cargo doorways. The cracks are due to stress corrosion in 7079-T6 aluminum alloy. Loss of two adjacent support fittings could allow the cargo door to distort sufficiently to allow loss of cabin pressure. Since this condition is likely to exist or develop in other Boeing 747 airplanes, action is taken herein to require inspection and replacement, if required, of the latch support truss fittings.

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 all Model 747 series airplanes certificated in all categories listed in Boeing Service Bulletin 747-53-2200. Compliance required within 300 hours time-in-service after the effective date of this AD unless already accomplished.

To prevent failure of the 7079-T6 truss and related 7079-T6 latch support fittings on the lower sill of the forward and aft lower cargo doorway, accomplish the following:

A. Within 300 hours time-in-service after the effective date of this AD unless already accomplished, visually inspect the 7079-T6 truss and related 7079-T6 latch support fittings on the lower sill of forward and aft lower cargo doorways for corrosion, cracking and blocked drainage paths in accordance with Boeing Service Bulletin 747-53-2200 dated May 8, 1979, or methods approved by the Chief, Engineering and Manufacturing Branch, Northwest Region.

B. Clear all blocked drainage paths, replace cracked latch support fittings, replace or repair corroded or cracked truss fittings in accordance with Boeing Service Bulletin 747-53-2200 before further flight.

C. Repeat the inspection in accordance with Paragraph A above at intervals not to exceed 2,000 flight hours until all affected fittings are replaced with 7075-T73 fittings. Apply LPS-3, BMS3-23 or equivalent to the internal lower sill areas after each inspection.

D. Replace all 7079-T6 aluminum alloy fittings listed in Boeing Service Bulletin 747-53-2200 with 7075-T73 alloy fitting no later than April 1, 1982.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective August 15, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 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 provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

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

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

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79-24321 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-NW-22-AD; Amdt. 39-3525]

Rockwell International Model NA-265-60 Airplanes Modified in Accordance With Raisbeck Supplemental Type Certificate SA687NW; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) requires the addition of drainage provisions and a new aft balance limit for the elevators of Rockwell

International NA–265–60 airplanes which have been modified in accordance with Raisbeck Supplemental Type Certificate SA687NW. This AD is necessary since service experience has shown water may accumulate in the elevators of Rockwell NA–265–80 airplanes, which are similar to the elevators of the Raisbeck modified airplanes. The accumulation of water could result in flutter-caused catastrophic failure of the horizontal tail.

DATES: Effective date August 15, 1979.

ADDRESSES: Raisbeck service bulletins specified in this directive may be obtained upon request to The Raisbeck Group, 7777 Perimeter Road South, Boeing Field International, Seattle, Washington 98108. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Perrella, Airframe Section, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2516.

SUPPLEMENTAL INFORMATION: Service history of the Rockwell Model NA–265–80 airplanes has shown that water can accumulate in the elevators, which are similar to those used on NA–265–60 models modified in accordance with Supplemental Type Certificate SA687NW. Since the elevators do not have adequate drainage provisions, the accumulation of water can shift the elevator balance point beyond the aft limit. It has been shown by analyses and tests that catastrophic failure of the horizontal tail could result from this shift in static balance aft of 4.4 inch pounds (leading edge heavy). It has also been demonstrated that a maximum shift of 2.72 inch pounds is possible even with the additional drainage provided by this AD and this necessitates a new aft limit of 7.12 inch pounds (leading edge heavy).

Since a situation exists that requires immediate adoption of this regulation it is found that notice and public procedure herein 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:

Rockwell International.—Applies to Rockwell NA–265–60 airplanes which have been modified by Raisbeck Group Supplemental Type Certificate SA687NW. To prevent flutter caused by the accumulation of undrained water in the elevators, accomplish the following, unless already accomplished within 30 days or 30 flight hours, whichever occurs first:

A. Modify the elevators to provide water drainage provisions in accordance with Raisbeck Service Bulletin No. 8, dated July 13, 1979, or later FAA approved revisions.

B. Using the procedure specified in Raisbeck Service Bulletin No. 8, dated July 13, 1979, or later FAA approved revisions, determine the static balance of the elevators and if required, rebalance them in accordance with instructions in that service bulletin.

C. Equivalent modifications may be approved by the Chief, Engineering and Manufacturing Branch, Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to The Raisbeck Group, 7777 Perimeter Road South, Boeing Field International, Seattle, Washington 98108. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective August 15, 1979.

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

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1973.)

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

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

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79-24322 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 19429; Amdt. 39-352]8

Airworthiness Directives; Messerschmitt-Bolkow-Blohm Model BO–105A and BO–105C Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amends maneds an existing airworthiness directive (AD) applicable to Messerschmitt-Bolkow-Blohm Model BO–105 helicopters by increasing the replacement time interval specified in the AD. The amendment will allow greater utilization of the main rotor gearbox supports currently in service with no adverse effect on safety.

DATES: Effective August 23, 1979. Compliance schedule—as prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513,38.30, or C. Christie, Chief, Technical Analysis Branch, AWS–110, Federal Aviation Adminstration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: 202–426–8374.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39–2835, 42 FR 9670, AD 77–04–06, which currently imposes a 4,800 hours time service limit on the main rotor gearbox support P/N's 105–10161 and 105–10162 on Messerschmitt-Bolkow-Blohm Model BO–105A and BO–105C helicopters. Since issuing Amendment 39–2835, the FAA has determined that based on service experience and additional test investigations the total time in service for the main rotor gearbox supports P/N's 105–10161 and 105–10162 can be increased with no adverse effect on safety.

Therefore, the FAA is amending Amendment 39–2835 by increasing the replacement time for the main rotor gearbox support P/Ns 105–10161 and 105–10162 on the Messerschmitt-Bolkow-Blohm Model BO–105A and BO–105C helicopters.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedures hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39–2835, 42 FR 9670, AD 77–04–06, by deleting the term "4,800" wherever it appears in the AD, and inserting in place thereof the term "6,800".

This amendment becomes effective August 23, 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 Transporation 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 Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by writing to C. Christie, Chief, Technical Analysis Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

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

James O. Robinson,

Acting Director, Office of Airworthiness.

[FR Doc. 79-24409 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-RM-13]

Alteration of Airway Floor

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reduces the lower limits of VOR Federal Airway No. V-439 which extends from Dickinson, N. Dak., to Williston, N. Dak. This action adds approximately 300 vertical feet of controlled airspace along a segment of the airway that is not within transition areas thereby reducing chart clutter and possible confusion caused by the present airway floor variation being segmented both latitudinally and longitudinally.

EFFECTIVE DATE: October 4, 1979.

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

SUPPLEMENTARY INFORMATION:

History

On June 4, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to remove the flow restriction on V-439 airway (44 FR 32001).

Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection to the proposal. Section 71.123 of Part 71 was republished in the **Federal Register** on January 2, 1979 (44 FR 307). This amendment is the same as proposed in the notice.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations changes the lower limits of V-439 from a variable MSL floor to 1,200 feet AGL floor. This contributes to easier interpretation and chart depiction of this federal air regulation.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) is amended, effective 0901 G.m.t., October 4, 1979, as follows:

Under V-439 "Dickinson, N. Dak., 13 miles, 62 miles, 40 MSL," is deleted and "Dickinson, N. Dak., to" is substituted therefor.

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

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 a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24290 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 78-NW-10]

Alteration of Controlled Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reduces the width of additional control areas known as Control 1418 and Control 1419, which extend seaward from Hoquiam, Wash., and Newport, Oreg., respectively. This action permits more extensive use of the adjacent airspace for military training without derogating the safety that is provided by the present control areas.

EFFECTIVE DATE: October 4, 1979.

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

SUPPLEMENTARY INFORMATION:

History

On May 14, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to reduce the width of additional control areas, Control 1418 and Control 1419, (44 FR 27999). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. Section 71.163 of Part 71 was republished in the **Federal Register** on January 2, 1979, (44 FR 347). This amendment is the same as proposed in the notice and has been coordinated with the Department of State and the Department of Defense in accordance with Executive Order 10854.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 347) is amended, effective 0901 G.m.t., October 4, 1979, as follows:

In § 71.163, Under Control 1418, the text is amended to read as follows:

"From Hoquiam, Wash., to the INT of the Hoquiam 232° radial and the E. boundary of the Oakland Oceanic Control Area, excluding the airspace at and below 2,000 feet MSL."

Under Control 1419, the text is amended to read as follows:

"From Newport, Oreg., to the INT of the Newport 237° radial and the E. boundary of the Oakland Oceanic Control Area, excluding the airspace at and below 2,000 feet MSL."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

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 a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24295 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-SW-11]

Alteration of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters V-15, V-16 and V-66 airways by deleting an alternate airway segment in each of their definitions. V-15E between Scurry, Tex., and Blue Ridge, Tex., V-16S between Acton, Tex., and Scurry, and V-66N between Bridgeport, Tex., and Blue Ridge are no longer required or used for controlling air traffic and can no longer be justified as an assignment of airspace. This action reduces chart clutter and makes available additional airspace for other types of use.

EFFECTIVE DATE: October 4, 1979.

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

SUPPLEMENTARY INFORMATION:

History

On May 21, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to delete unused alternate airway segments near Dallas, Tex. (44 FR 29483). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection. Section 71.123 of Part 71 was republished in the **Federal Register** on January 2, 1979, (44 FR 307). This amendment is the same as proposed in the notice.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) and amended (44 FR 1087, 23203, 31944, 34103 and 34112) is further amended, effective 0901, G.m.t., October 4, 1979 as follows:

Under V-15, "Blue Ridge, Tex., including an east alternate via INT Scurry 023° and Blue Ridge 153° radials;" is deleted and "Blue Ridge, Tex.;" is substituted therefor.

Under V-16, "Scurry, Tex., including a south alternate;" is deleted and "Scurry, Tex.;" is substituted therefor.

Under V-66, "Blue Ridge, Tex., including a north alternate via INT Bridgeport 069° and Blue Ridge 285° radials;" is deleted and "Blue Ridge, Tex.;" is substituted therefor.

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

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 a regulatory evaluation.

Issued in Washington, D.C. on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24313 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-14]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Control Zone: Houston (David Wayne Hooks Memorial Airport), Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is the designation of the control zone at Houston, Tex. The intended effect of this action is to provide controlled airspace to the surface for aircraft executing instrument approach procedures to the David Wayne Hooks Memorial Airport, Houston, Texas. The circumstance which created the need for the action is that the FAA will be commissioning a part-time Airport Traffic Control Tower (ATCT) at the David Wayne Hooks Memorial Airport in October 1979. The airport will meet the requirements for a part-time control zone by having communication available down to the runway surface and a federally certified weather observer to take hourly and special weather observations at the airport during the times the control zone is effective.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101; telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On May 29, 1979, a notice of proposed rule making was published in the **Federal Register** (44 FR 30691) stating that the Federal Aviation Administration proposed to designate the Houston (David Wayne Hooks Memorial Airport), Texas, control zone. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

The Rule

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Houston (David Wayne Hooks Memorial Airport), Texas, control zone. This action provides controlled airspace from the surface for the protection of aircraft executing instrument approach procedures to the David Wayne Hooks Memorial Airport.

Adoption to the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F, of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 353) is amended, effective 0901 G.m.t., October 4, 1979, as follows:

In Subpart F, § 71.171 (44 FR 353), the following control zone is added:

Houston, Tex. (David Wayne Hooks Memorial Airport)

Within a 5-mile radius of the David Wayne Hooks Memorial Airport (Latitude 30°04'00" N., Longitude 95°33'00"W.). The control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

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 a regulatory evaluation.

Issued in Fort Worth, Texas, on July 26, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79-24406 Filed 8-8-79; 8:45]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-13]

Designation of Transition Area: Corning, Ark.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Corning, Ark. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Corning Municipal Airport. The circumstance which created the need for the action is the development of a standard instrument approach procedure using the Walnut Ridge VORTAC. Coincident with this action, the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER IMFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On June 7, 1979, a notice of proposed rulemaking was published in the **Federal Register** (44 FR 32709) stating that the Federal Aviation Administration proposed to designate the Corning, Ark., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No objections were received to the proposal. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Corning, Ark., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Corning Municipal Airport.

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) as republished (44 FR 442) is amended, effective 0901 G.m.t., October 4, 1979, as follows:

In Subpart G, § 71.181 (44 FR 442) the following transition area is added:

Corning, Ark.

That airspace extending upward from 700 feet above the surface within a 5.0 statute mile radius of the Corning Municipal Airport, Corning, Ark., latitude 36°24'14" N., longitude 90°38'58" W.

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

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 a regulatory evaluation.

Issued in Fort Worth, Texas, on July 26, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79-24427 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-SO-48]

Alteration of Transition Area, Albany, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Albany, Georgia, 700-foot transition area by revoking the portion associated with the Sylvester Airport as it is no longer required.

EFFECTIVE DATE: August 31, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In the Albany, Georgia, transition area, described in § 71.181 (44 FR 442), a portion was designated to provide controlled airspace for instrument operations at the Sylvester Airport. The non-Federal, nondirectional radio beacon which supported the standard instrument approach procedure at the airport has been decommissioned and the approach procedure, NDBRWY1, has been canceled. Therefore, it is necessary to revoke the transition area as it no longer serves a useful purpose. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., August 31, 1979, as follows:

Albany, Ga.

All after "* * * 9.5-mile radius area to the VORTAC * * *" is deleted.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not 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.

Issued in East Point, Georgia, on August 1, 1979.

Lonnie D. Parrish,

Acting Director, Southern Region.

[FR Doc. 79-24428 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 75

[Airspace Docket No. 79-AL-1]

Alteration of Airways and Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments realign VOR Federal Airway V-436 and Jet Route J-125 in the Anchorage, Alaska, area and designate a new VOR Federal Airway in the vicinity of Big Lake, Alaska. These airway/route changes improve traffic flow in the Anchorage terminal area.

EFFECTIVE DATE: October 4, 1979.

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

SUPPLEMENTARY INFORMATION:

History

On May 21, 1979, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to realign V-436 and J-125 near the Anchorage, Alaska, area, and designate new VOR Federal Airway V-491 in the vicinity of Big Lake, Alaska (44 FR 29484).

These changes provide additional route/airway segments that give controllers additional airspace flexibility in the Anchorage terminal area to expedite traffic. This action increases aviation safety and reduces controller workload by providing reliever routes, thereby improving traffic flow. Subpart C of Part 71 and Subpart B of Part 75 were republished in the **Federal Register** on January 2, 1979, (44 FR 341 and 722). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. These amendments are the same as proposed in the notice.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (44 FR 341 and 722) are amended, effective 0901 G.m.t., October 4, 1979, as follows:

In § 71.125:

1. Under V-436, "From Anchorage, Alaska, via Talkeetna, Alaska;" is deleted and "From Anchorage, Alaska, via INT Anchorage 347° and Talkeetna, Alaska, 196° radials Talkeetna;" is substituted therefor.

2. "V-491 From Big Lake, Alaska; to Talkeetna, Alaska." is added.

In § 75.100:

Under Jet Route No. 125 "via Anchorage, Alaska; Talkeetna, Alaska" is deleted and "via Anchorage, Alaska; INT Anchorage 347° and Talkeetna, Alaska, 196° radials; Talkeetna;" is substituted therefor.

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

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 a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24293 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 79-RM-21]

Special Use Airspace; Change to Restricted Areas

AGENCY: Federal Aviation Administration, (FAA) DOT.

ACTION: Final rule.

SUMMARY: A recent amendment to § 73.26, Fort Carson, Colo., and § 73.64, Dugway Proving Ground, Dugway, Utah, with an effective date of June 14, 1979, changed the time of use of several restricted areas 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, does not satisfy military requirements. This action amends those provisions so that the affected restricted areas will revert to the "Continuous" time of use.

EFFECTIVE DATE: August 9, 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) 426-8525.

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 19, 1979, (44 FR 23207) changing the "Time of designation" for Restricted Areas R-2601, R-2602, R-6402 and R-6407, 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 should be reestablished. This action rescinds the effect of Airspace Docket No. 78-RM-31. Since immediate action is necessary to reinstate the previous time of designation to reflect the continuing military requirements of the areas, I find that notice and public procedure regarding this amendment is impractical and that good cause exists for making it effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 713 and 680) and amended (44 FR 23207) is further amended, effective upon publication in the **Federal Register** as follows:

§ 73.26 [Amended]

Under § 73.26

R-2601 Fort Carson, Colo. Time of designation. "Intermittent, activated by NOTAM 24 hours in advance." is deleted and "Continuous." is substituted therefor.

R-2602 Fort Carson, Colo. Time of designation. "Intermittent, activated by NOTAM 24 hours in advance." is deleted and "Continuous." is substituted therefor.

§ 73.64 [Amended]

§ 73.64

R-6402 Dugway Proving Ground, Dugway, Utah. Time of designation. "Intermittent, activated by NOTAM 24

hours in advance." is deleted and "Continuous." is substituted therefor.

R-6407 Dugway Proving Ground, Dugway, Utah. Time of designation. "Intermittent, activated by NOTAM 24 hours in advance." is deleted and "Continuous." is substituted therefor.

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

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 1134; 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.

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

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24421 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 79-WA-2]

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Jet Route J-25 between Tulsa, Okla., and Des Moines, Iowa, via Kansas City, Mo., rather than via Butler, Mo. This realignment eliminates two doglegs in this route segment thereby reducing the distance and fuel consumption required.

EFFECTIVE DATE: October 4, 1979.

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

SUPPLEMENTARY INFORMATION:

History

The FAA on May 21, 1979, with a correction on June 14, 1979, proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign J-25 between Tulsa, Okla., and Des Moines, Iowa (44 FR 29485, 34153). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objections. Section 75.100 was republished in the **Federal Register** on January 2, 1979 (44 FR 722). This amendment is the same as proposed in the notice.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations realigns a segment of J-25 to extend from Tulsa to Des Moines via Kansas City which is on a direct route between these points. This route bypasses Butler and an INT south of Lamoni, Iowa. A segment of J-89 continues to be designated from Tulsa to Kirksville, Mo., via Butler, retaining a jet route segment for use between Tulsa and Butler. Flight planning and pilot/controller coordination is reduced by the realigned route.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) is amended, effective 0901 G.m.t., October 4, 1979 as follows:

Under Jet Route No. 25, "Butler, Mo.; INT of the Butler 009° and the Des Moines, Iowa, 196° radials; Des Moines;" is deleted and "Kansas City, Mo.; Des Moines, Iowa;" is substituted therefor.

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

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 a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24315 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 79-RM-6]

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns a segment of J-10 from Gunnison, Colo., to Denver, Colo., via the Gunnison 046° rather than the 041° magnetic radial to permit the use of lower altitudes. This action helps to reduce fuel consumption and improve descent procedures for landings at Denver.

EFFECTIVE DATE: October 4, 1979.

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

SUPPLEMENTARY INFORMATION:

History

On May 14, 1979, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign J-10 between Gunnison, Colo., and Denver, Colo. (44 FR 28000). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. Section 75.100 of Part 75 was republished January 2, 1979 (44 FR 722). This amendment is the same as proposed in the notice.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations realigns a segment of J-10 to extend from Gunnison to Denver via a route that permits use of lower altitudes for a more advantageous descent to Denver.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) is amended, effective 0901 G.m.t., October 4, 1979, as follows:

Under Jet Route No. 10, "INT Gunnison, Colo., 055°" is deleted and "INT Gunnison 060°" is substituted therefor.

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

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 a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24289 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace docket No. 78-EA-17]

Alteration of Federal Airways and Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: In a rule published in the **Federal Register** of June 4, 1979, Volume 44, page 31944, and amended June 14, 1979, volume 44, page 34103, to change the effective date to October 4, 1979, the effective date is further changed to November 29, 1979, because of technical problems encountered in the installation process for the Calverton, N.Y., VORTAC.

EFFECTIVE DATE: August 9, 1979.

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

SUPPLEMENTARY INFORMATION: FR Doc. 79-17237 was published on June 4, 1979, (44 FR 31944) with an effective date of August 9, 1979, which was changed to October 4, 1979, (44 FR 34103), and alters several airways and a reporting point caused by the relocation of the Riverhead, N.Y., VORTAC to Calverton, N.Y. Technical problems arising from this relocation will not be resolved in time to flight check and commission the navigation aid prior to October 4, 1979. For this reason the effective date of this action is changed to November 29, 1979.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Federal Register Document 79-17237 as published on June 4, 1979, page 31944, and amended June 14, 1979, page 34103, is further amended effective August 9, 1979 as follows: In the "EFFECTIVE DATE" and in the "ADOPTION OF THE AMENDMENT" "October 4, 1979." is deleted and "November 29, 1979." is substituted therefor.

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

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 a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24291 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-AL-6]

Alteration of Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the FRIED and MOCHA reporting points to be based on radio signals from nondirectional beacons (NDB) rather than very high frequency omnirange stations (VOR) at Nichols, Alaska and Sandspit, British Columbia, Canada. Use of the NDBs rather than the VORs permit lower flight altitudes because better radio signal is received from the NDBs at these locations.

EFFECTIVE DATE: October 4, 1979.

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

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 71 is to redesignate the FRIED and MOCHA reporting points using radio signals that will permit flight operations at lower altitudes at these locations. FRIED will move slightly to the center of the route. Because this action merely moves one reporting point slightly and defines it and another by the use of different radio signals without altering any route structure or airspace, it is a minor matter on which the public would have no particular desire to comment. Therefore, I find that notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, §§ 71.211 and 71.213 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 650 and 652) are amended, effective 0901 G.m.t., October 4, 1979, as follows:

Under § 71.211

"FRIED" title and text are deleted and "FRIED: Lat. 54°13'20" N., Long. 133°37'51" W. (INT Nichols, Alaska, NDB 235°, Sandspit, British Columbia, Canada, NDB 314° bearings)." are substituted therefor.

In MOCHA: "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials.)" is deleted and "(INT Nichols, Alaska, NDB 236°, Sandspit, British Columbia, Canada, NDB 331° bearings)." is substituted therefor.

Under § 71.213

"FRIED" title and text are deleted and "FRIED: Lat. 54°13'20" N., Long. 133°37'51" W. (INT Nichols, Alaska, NDB 235°, Sandspit, British Columbia, Canada, NDB 314° bearings)." are substituted therefor.

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

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 a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24316 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-AL-15]

Revocation of Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes Cape Sarichef and MORDI, Alaska compulsory reporting points located on Airway Green 8 between Cold Bay, Alaska, and Dutch Harbor, Alaska. The U.S. Coast Guard decommissioned the Cape Sarichef navigation aid, which supports those compulsory reporting points. This action revokes Cape Sarichef and MORDI reporting points.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke compulsory reporting points Cape Sarichef and MORDI, Alaska, on Airway Green 8 between Cold Bay, Alaska, and Dutch Harbor, Alaska. The U.S. Coast Guard has decommissioned the Cape Sarichef Nondirectional Radio Beacon (NDB) which provides the radio signal for those reporting points and action is taken herein to revoke Cape Sarichef and MORDI compulsory reporting points. Subpart I of Part 71 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1979 (44 FR 650). Since this amendment is a minor matter on which the public would have no particular desire to comment, I find that notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 650) is amended, effective 0901 G.m.t., October 4, 1979 as follows:

Under § 71.211 Alaska Low Altitude reporting points.

1. "Cape Sarichef, Alaska, NDB" is deleted.

2. "MORDI: Lat. 54°52'29" N., Long. 165°03'54" W. (INT Cold Bay, Alaska, LOM 253°, Cape Sarichef, Alaska, NDB 344° bearings)." is deleted.

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

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 a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24314 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 78-EA-73]

Alteration of Federal Airways and Restricted Area, Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the **Federal Register** of June 14, 1979, Volume 44, page 34112, the amendment to the segment of V-44 airway inadvertently used the word south rather than east in defining the alternate airway portion. This action corrects that error.

EFFECTIVE DATE: August 9, 1979.

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

SUPPLEMENTARY INFORMATION: FR Doc. 79-18514 was published on June 14, 1979, with an effective date of August 9, 1979, and altered V-44 airway as one of the actions.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 79-18514 as published on June 14, 1979 page 34112 is amended by deleting the eighth line from the last in the right column, which reads, "including a south alternate via INT" and substituting, "including an east alternate via INT" therefor.

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958, (49 U.S.C. 1348(a) and 1354(a) and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

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 operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24294 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 75

[Airspace Docket No. 79-SW-9]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Establishment of Jet Routes and Area High Routes; Extension of Airway and Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments extend V-81 airway from Midland, Tex., via Fort Stockton, Tex., and Marfa, Tex., to the United States/Mexican Border and extend J-42 from Dallas-Fort Worth, Tex., via Abilene, Tex., and Fort Stockton, Tex., to the United States/Mexican Border. This action complys with the request by the Government of Mexico to join their airway from Chihuahua and jet route from Delicias in Mexico. Flight planning and communication time is reduced by designating the routes as an airway and jet route.

EFFECTIVE DATE: October 4, 1979.

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

SUPPLEMENTARY INFORMATION:

History

On May 24, 1979, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to extend V-81 and J-42 from their present points of origin, southwestward to the United States/Mexican Border (44 FR 30101). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection to the proposal. Subsequent to publication of the notice, the Government of Mexico requested that V-81 be directed from the Marfa VOR to the Chihuahau VOR rather than the Chihuahua NDB. Because this is a change from the notice of only 2° in the route centerline from Marfa it is a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary. Except for this change that is adopted herein, this action is the same as proposed in the notice. Section 71.123 of Part 71 and § 75.100 of Part 75 were republished in the **Federal Register** on January 2, 1979 (44 FR 307 and 722).

Adoption Of The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (44 FR 307 and 722) are amended, effective 0901 GMT, October 4, 1979 as follows:

In § 71.123, under V-81 "From Midland, Tex., via" is deleted and "From the Chihuahau, Mexico, via Marfa, Tex.; Fort Stockton, Tex.; Midland, Tex.;" is substituted therefor. Also, "The airspace outside the United States is excluded." is added.

In § 75.100, under Jet Route No. 42 "From Dallas-Fort Worth, Tex., via" is deleted and "From Delicias, Mexico, via Fort Stockton, Tex.; Abilene, Tex.; Dallas-Fort Worth, Tex.;" is substituted therefor. Also, "The portion of this route outside of the United States is excluded." is added.

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

The FAA has determined that this document involves a regulation which is not significant under 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.

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

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24540 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 79-CE-9]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area, New Madrid, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at New Madrid, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the County Memorial Airport, New Madrid, Missouri, which is based on a non-directional radio beacon, a navigational aid, being installed on the airport. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the County Memorial Airport, New Madrid, Missouri, has been established utilizing a nondirectional radio beacon being installed on the airport as a navigational aid. The establishment of a new instrument approach procedure based on this approach aid entails the alteration of the transition area at New Madrid, Missouri, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

DISCUSSION OF COMMENTS: On pages 34150 and 34151 of the **Federal Register** dated June 14, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at New Madrid, Missouri. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making. Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442), is amended effective 0901 GMT October 4, 1979, by altering the following transition area:

New Madrid, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of County Memorial Airport (latitude 36°32'10"N, longitude 89°35'50"W); and within 2 miles each side of the Malden, MO, VOR 95° radial, extending from the 5-mile radius area to 8 miles east of the VOR, excluding the portion which overlies the Malden, MO, 700-foot floor transition area; and within 2.5 miles each side of the 360° bearing from the airport, extending from the 5-mile radius area to 6 miles north of the airport.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).

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 routing 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.

Issued in Kansas City, Missouri, on July 30, 1979.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 79-24548 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-35-M

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14 CFR Part 73

[Airspace Docket No. 79-AL-16]

Revocation of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes Restricted Area R-2204 in the vicinity of Shemya, Alaska. The Department of the Air Force has advised the FAA they no longer use the area. This action returns airspace for public use.

EFFECTIVE DATE: October 4, 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) 426-8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to revoke Restricted Area R-2204 in the Shemya, Alaska area. The Department of the Air Force has requested Restricted Area R-2204 be rescinded because they no longer utilize the area, and the FAA concurs with this action since the restricted airspace will be released for public use. Section 73.22 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1979 (44 FR 671). Since this amendment is a minor matter on which the public would have no particular desire to comment and since the FAA concludes there are immediate benefits to be derived by the aviation community in the affected area, I find that notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 671) is amended, effective 0901 GMT, October 4, 1979 as follows:

Under Section 73.22 "R-2204 Shemya, Alaska title and text" are deleted.

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

The FAA had 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 a regulatory evaluation.

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

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24542 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 79-SO-24]

Special Use Airspace; Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the time of designation of the Macon, Miss., restricted area R-4404 to seven days instead of six days a week. Increase in the pilot training requirements at this location, for the foreseeable future, requires that additional time be made available for the use of R-4404.

EFFECTIVE DATE: October 4, 1979.

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

SUPPLEMENTARY INFORMATION:

History

On June 4, 1979, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to increase the time of designation of the Macon, Miss., Restricted Area R-4404 to permit additional time for military training at this location, (44 FR 32003). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. Section 73.44 was republished in the **Federal Register** on January 2, 1979, (44 FR 698). This amendment is the same as proposed in the notice.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) extends the time of designation of R-4404 to sunrise to sunset daily, thereby permitting its use seven days a week rather than the present six days a week. The Naval Air Training Command student pilot training load at Training Air Wing One (TRAWING ONE), has increased to the point that it has become necessary to have special use airspace available for flight training purposes seven days a week. This requirement is expected to continue for the foreseeable future. The Department of Navy has stated that the requirements of the National Environmental Policy Act have been met.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.44 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 698) is amended, effective 0901 GMT, October 4, 1979, as follows:

In R-4404 Macon, Miss., under time of designation: "Sunrise to Sunset, Monday through Saturday." is deleted and "Sunrise to Sunset." is substituted therefor.

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

The FAA has determined that this document involves a regulation which is not significant under 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.

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

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24541 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-16077]

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is amending its Rules of Organization to delegate to the Director of the Division of Market Regulation authority to exempt broker-dealers from the Commission's regulations concerning customer confirmations.

In view of the increasing number of exemptive requests, the Commission believes that it would facilitate the processing of those requests under the rule if authority to grant exemptions were delegated to the Director of the Division of Market Regulation.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: Susan P. Davis, Esq., Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 755-7610.

SUPPLEMENTARY INFORMATION: Securities Exchange Act Rule 10b-10 (17 CFR 240.10b-10) requires that a broker or dealer deliver to a customer, at or before the completion of a transaction in securities (other than U.S. Savings Bonds or municipal securities), a confirmation disclosing various facts concerning such transaction. Paragraph (e) of that rule allows the Commission to exempt any broker or dealer from the confirmation delivery and disclosure requirements with regard to specific transactions or specific classes of transactions. The Commission believes that it would facilitate the processing of exemptive requests under Rule 10b-10 if authority to grant exemptions were delegated to the Director of the Division of Market Regulation. Accordingly, the Commission, acting pursuant to the Act of August 20, 1962, Pub. L. No. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2), hereby amends Section 200.30-3 (17 CFR 200.30-3) of the Commission's rules relating to general organization by adding a new paragraph (a)(32) to delegate to the Director of the Division of Market Regulation authority to grant exemptions from Rule 10b-10.

The Commisison finds, in accordance with 5 U.S.C. 553(b)(A) and 5 U.S.C. 553(d) of the Administrative Procedure Act, that the foregoing action relates solely to agency organization, procedure, or practice and that notice and public procedures in accordance with 5 U.S.C. 553 are not necessary, pursuant to subsection (b) thereof and that, in view of the foregoing, good cause exists for dispensing with the normal 30-day delay in effectiveness. In addition, the Commission finds that the foregoing action does not impose any burden on competition.

Part 200 of Title 17 of the Code of Federal Regulations is amended by adding paragraph (a)(32) to § 200.30-3, as follows:

§ 200.30-3 Delegation of Authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(32) Pursuant to paragraph (e) of Rule 10b-10 (240.10b-10(e) of this chapter), to grant exemptions from Rule 10b-10.

By the Commission.

Dated: August 2, 1979.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-24605 Filed 8-8-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 79-220]

Foreign Discriminating Duties of Tonnage and Impost With Respect to Vessels of and Certain Imports From Bermuda Suspended and Discontinued

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

ACTION: Final rule.

SUMMARY: This rule adds Bermuda to the list of nations whose vessels are exempted from the payment of higher tonnage duties than are applicable to vessels of the United 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 ports of Bermuda upon vessels belonging to citizens of the United States or on their cargoes.

EFFECTIVE DATE: The exemption became effective January 12, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick J. Casey, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., 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 March 12, 1979, the Department of State advised Customs that no discriminating duties of tonnage or imposts are imposed or levied in the ports of Bermuda upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported from the United States or from any foreign country in vessels of the United States. Consequently, there is satisfactory evidence which would permit the Secretary of the Treasury to find that vessels of Bermuda 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. 101-5 (44 FR 31057), I declare that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, in respect to vessels of Bermuda and the produce, manufactures, or merchandise imported into the United States in such vessels from Bermuda or from any other foreign country.

This suspension and discontinuance shall take effect from January 12, 1979, in respect to vessels of Bermuda 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

In accordance with this declaration, section 4.22, Customs Regulations (19 CFR 4.22), is amended by adding "Bermuda" 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))

Inapplicability 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 Shannon McCarthy, 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: July 16, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-24559 Filed 8-8-79; 8:45 am]

BILLING CODE 4810-22-M

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19 CFR Parts 10, 11, 24, 127, 132, 141, 142, 143, 144, 151, 158, 159, 172, and 173

[T.D. 79-221]

Customs Regulations, Relating to the Entry of Merchandise, Liquidation of Entries, Warehousing Periods, and Marking of Bulk Containers of Alcoholic Beverages, Amended

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

ACTION: Final rule.

SUMMARY: Pub. L. 95-410, the "Custom Procedural Reform and Simplification Act of 1978", made numerous changes in laws administered by the Customs Service relating to the entry of imported merchandise, the liquidation of entries, warehousing periods, and the marking of bulk containers of alcoholic beverages. This document amends the Customs Regulations to establish new procedures needed to reflect these changes.

Some of the more significant changes to the regulations are:

1. To provide for a revised entry concept under which documentation necessary to obtain the release of merchandise is the "entry". Additional documentation necessary to appraise and classify the merchandise and to collect accurate statistics, designated as the "entry summary", with estimated duties attached, ordinarily will continue to be required within 10 working days after the time of entry.

2. To provide that the applicable rate of duty on merchandise is the rate in effect at the time of entry.

3. To ensure the collection of accurate and timely statistics on imported merchandise.

4. To provide time limitations for the liquidation of entries.

5. To set forth a uniform time period of 1 year after the date of liquidation for reliquidating an entry to correct a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of law if the error is adverse to the importer.

6. To provide for preliminary review of entry summary documentation by import specialists before the arrival of the merchandise within the port limits to expedite processing.

7. To extend the Customs bonded warehousing period from 3 to 5 years.

8. To provide for the marking of bulk containers of distilled spirits, wines, and malt liquors at the discretion of the district director.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Legal aspects: Benjamin H. Mahoney, Entry Procedures and Penalties Division (202-566-5778); operational aspects—entry and liquidation: Herbert Geller, Duty Assessment Division (202-566-5307); operational aspects—warehousing: Alice Rigdon, Inspection and Control Division (202-566-5354).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 95-410 (92 Stat. 888), the "Customs Procedural Reform and Simplification Act of 1978", approved October 3, 1978 (the "Act"), made significant changes in the Customs laws relating to the entry of imported merchandise, the liquidation of entries, warehousing periods, and the marking of bulk containers of alcoholic beverages.

A notice of proposed rulemaking to give effect to these changes was published in the **Federal Register** on November 29, 1978 (43 FR 55774). A notice was published subsequently in the **Federal Register** to correct errors in the printing of that document (43 FR 60291, December 27, 1978).

The preamble of the document published on November 29, 1978, provided a detailed discussion of the specific changes in the Customs laws and related proposed amendments to the regulations and should be read in conjunction with this document. However, Customs believes it appropriate to highlight certain fundamental aspects of that discussion below.

Changes in Concept

Before enactment of Pub. L. 95-410, most merchandise was released under the immediate delivery procedure before entry was made. The immediate delivery procedure in fact was an "exception" to the general requirement that entry shall be made and estimated duties deposited *before* release of merchandise. The Act eliminated the general requirement and provided that the filing of documents necessary to obtain the release of merchandise under 19 U.S.C. 1484(a) is the "entry".

The entry of merchandise is a two-part process consisting of (1) filing the documents necessary to determine whether merchandise may be released from Customs custody and (2) filing the documents which contain information

for duty assessment and statistical purposes.

The notice of November 29, 1978, proposed that, with certain limited exceptions, the documentation formerly filed with an application for immediate delivery will continue to be required to obtain the release of merchandise, but now will be characterized as the "entry". The act of filing that documentation similarly will be considered "entering" the merchandise.

That notice also proposed that the documentation formerly characterized as the "entry" and required to be filed, with estimated duties attached, within 10 working days after release of merchandise under the immediate delivery procedure, will be required within 10 working days after the "time of entry", as defined in proposed § 141.68, but will be designated as the "entry summary".

Specific Changes to Law and Regulations

Rate of Duty

Section 101 of the Act amended section 315(a), Tariff Act of 1930, as amended (19 U.S.C. 1315(a)), by establishing the date for determining the rate of duty in those cases in which duty may be paid after filing the documents necessary to secure release of imported merchandise from Customs custody. The rate of duty is that rate in effect at the "time of entry".

Filing Entry Documents

Section 102 of the Act amended section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), by providing that entry shall be made by filing that documentation necessary to enable Customs to determine whether the merchandise may be released from Customs custody. Section 102 also provided that documentation necessary to classify and appraise merchandise and to verify statistical information shall be filed at the time prescribed by regulation, either when entry is made, or at any time within 10 working days thereafter. Either class of documentation may be filed at any place prescribed by regulation within the Customs district where the merchandise is released. Furthermore, section 102 provided for the issuance of regulations to ensure the accuracy and timeliness of statistics under the new entry procedures, particularly statistics with regard to the classification and value of imports.

The proposed notice stated that because Customs "Automated Merchandise Processing System" ("AMPS") has not been implemented fully and because of limited resources, Customs was unable to provide for entry documentation to be filed at any place in the Customs district other than where now required. Therefore, the notice stated:

1. Documents necessary to obtain release of the merchandise shall continue to be filed at the customhouse or at the Customs location, approved by the district director, where the merchandise is to be released, and

2. Documents needed to enable Customs to classify and appraise the merchandise and to collect statistics shall continue to be filed either at the customhouse at the port where the merchandise is released or, with the approval of the district director, at a Customs station.

Deposit of Estimated Duties

Section 103 of the Act amended section 505(a), Tariff Act of 1930, as amended (19 U.S.C. 1505(a)), to permit the payment of estimated duties either at the time of making entry or at a time prescribed by regulation, not later than 30 days after making entry.

For most entries, estimated duties now must be deposited within 10 days after release of the merchandise. Because the Act equates the filing of documents necessary to obtain release of the merchandise with "entry", the notice stated Customs will continue to permit the deposit of estimated duties within 10 working days after the "time of entry".

Proposed Amendments to Part 142

The notice stated that Part 142 would be revised completely and divided into 3 subparts entitled "Entry Documentation", "Entry Summary Documentation", and "Special Permit for Immediate Delivery". The first 2 subparts would contain provisions relating to the release of merchandise under 19 U.S.C. 1484(a), and the third would contain provisions relating to the release of merchandise under a special permit for immediate delivery under 19 U.S.C. 1448(b).

Proposed Subpart A, relating to entry documentation, specified the entry documentation required to secure release of merchandise. The importer would be required to file the following:

(1) Customs Form 3461, appropriately modified, or Customs Form 7533, in duplicate, appropriately modified,

(2) Evidence of the right to make entry,

(3) A commercial invoice or a substitute as authorized under proposed § 141.83(d),

(4) A packing list, where appropriate, and

(5) Other documents required by Federal, state, or local agencies on particular shipments.

It also was proposed that when the entry summary is filed at time of entry, that document would serve as both the entry and the entry summary, and Customs Form 3461 or Customs Form 7533 would not be required.

Proposed Subpart B, relating to entry summary documentation, prescribed the use of Customs Form 7501 as the "entry summary" unless a different form is prescribed elsewhere in the regulations. The notifce stated that in most instances, the importer would have the option to file the entry summary at the "time of entry" or within 10 working days after the "time of entry". Estimated duties ordinarily would be requird to be deposited when the entry summary is filed and would be separated from the entry summary immediately after filing and deposited in the appropriate depository by Customs no later than the following business day.

However, the importer could submit the entry summary for preliminary review before arrival of the merchandise, or could be required to file the entry summary and deposit any estimated duties before release of the merchandise in certain specified circumstances.

If the entry documentation were filed before the entry summary, one copy of the entry document and the commercial invoice or its substitute would be returned to the importer after Customs authorizes release of the merchandise and would be required to be filed with the entry summary. In addition, Customs Form 5101, the Entry Record, and any documents required for the particular shipment also would be filed with the entry summary. If the entry summary were filed at time of entry, Customs Form 5101 and any documents required for the particular shipment would be required to accompany the entry summary, which would serve as both the entry and the entry summary.

Proposed Subpart C provided for the following circumstances in which a special permit for immediate delivery may be used:

1. An application for a special permit for immediate delivery may be filed for merchandise arriving from Canada or Mexico.

2. An application for a special permit also may be filed for the transportation of fresh fruits and vegetables for human consumption arriving from Canada or Mexico to the importer's premises within the port of importation, but

removed from the area immediately contiguous to the border.

3. The only other merchandise eligible for release under the immediate delivery procedure would be (1) merchandise released from warehouse to be followed by a warehouse withdrawal for consumption, and (2) merchandise for which Customs Headquarters specifically gives its approval.

It was proposed to eliminate the use of the immediate delivery procedure for merchandise subject to a tariff-rate quota.

Proposed Amendments to Part 141

Proposed Part 141 defined "entry" "entry summary", "submission", "filing", and "presentation".

"Entry" would mean the documentation required to secure release of merchandise from Customs custody, or the act of filing that documentation.

"Entry summary" would mean the documentation needed by Customs to assess duties and collect statistics on merchandise and to determine whether other requirements of law and regulation are met.

"Submission" would mean the voluntary delivery to the appropriate Customs officer of entry summary documentation for preliminary review, or of entry documentation for other purposes, including the scheduling of examination of the merchandise to secure expeditious release.

"Filing" would mean:

(1) The delivery to Customs of the entry documentation required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to obtain release of the merchandise, or

(2) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation required to assess duties, collect statistics, and determine whether other requirements of law and regulation are met, or

(3) The delivery to Customs of the entry summary which would serve as both the entry and the entry summary, together with the deposit of estimated duties.

"Presentation" would be used only in connection with quota-class merchandise and was defined in proposed § 132.1(d), Customs Regulations.

The "Time of Entry"

Paragraph (a) of proposed § 141.68 set forth the circumstances when the entry documentation is filed without an entry summary. In that case, the time of entry would be:

(1) The time the appropriate Customs officer authorizes release of merchandise covered by the entry documentation filed in proper form;

(2) The time the entry documentation is filed in proper form, if requested by the importer on the entry documentation at the time of filing, and if the merchandise already has arrived within the port limits, or

(3) The time the merchandise arrives within the port limits, if the entry documentation is submitted before arrival, and if requested by the importer on the entry documentation at the time of submission.

Paragraph (b) set forth the time of entry when the entry summary serves as both entry and entry summary. In that case, the time of entry would be the time the entry summary is filed in proper form, with estimated duties attached. Paragraph (c) set forth the time of entry for quota-class merchandise as the time of presentation of the entry summary in proper form, together with the deposit of estimated duties. Paragraph (d) provided that merchandise shall not be released, and the entry documentation or entry summary shall not be considered filed or presented, until the merchandise has arrived within the port limits with the intent to unlade. Paragraphs (e) through (g) continued the present rules as time of entry for these special categories of entries: informal mail entry, withdrawal from warehouse for consumption, appraisement entry, informal entry, combined entry for rewarehouse and withdrawal for consumption, and entry under carnet.

Proposed Amendments to Part 132

The notice of November 29, 1978, proposed in part to revise Part 132, relating to import quotas. It was proposed to eliminate the use of the immediate delivery procedure for merchandise subject to tariff-rate quota by requiring (1) the presentation of the entry summary documentation and (2) the deposit of estimated duties, before the merchandise may be released. Similarly, it was proposed that quota-class merchandise would not be released under an entry before the presentation of an entry summary, with estimated duties attached.

Warehouse and General Order Merchandise

Section 491, Tariff Act of 1930, as amended (19 U.S.C. 1491), provides a time limitation of 1 year from the date of importation for merchandise in "general order" before it is considered as unclaimed and abandoned to the Government.

Sections 557 and 559, Tariff Act of 1930, as amended (19 U.S.C. 1557, 1559), formerly permitted merchandise to be kept in a Customs bonded warehouse at the owner's expense for a period up to 3 years after arrival of the merchandise in the United States.

Presidential Proclamation No. 2948, 64 Stat. c41 (1951), which declared a national emergency because of the Korean War and authorized the 1-year general order period and the 3-year warehouse period to be extended for an unlimited number of successive 1-year periods was terminated as of September 14, 1978, by the National Emergencies Act (90 Stat. 1255).

Section 108 of the Act amended 19 U.S.C. 1557 and 1559 to permit merchandise to remain in a Customs bonded warehouse at the owner's expense for a period up to 5 years. There is no provision for an extension of this period. Merchandise in a bonded warehouse on October 3, 1978, the date of enactment of Pub. L. 95–410, may remain in the warehouse for up to 5 years from that date.

To conform the Customs Regualtions to the Act in this respect, it was proposed to delete the references to extensions of the general order and warehousing periods which appear in Parts 127 and 144 and to change the reference to a 3-year warehousing period in Part 127 to 5 years.

Under 19 U.S.C. 1557, it formerly was provided that estimated duties shall be deposited before merchandise could be withdrawn from warehouse for consumption. Section 108 amended 19 U.S.C 1557 to authorize the withdrawal for consumption, without the payment of duties, of merchandise entered for warehouse, if the consignee or transferee is permitted to pay duties at a later time under the regulations to be prescribed pursuant to section 505, Tariff Act of 1930 (19 U.S.C. 1505), as amended by section 103 of the Act. However, until AMPS is fully operational, Customs will continue to require that estimated duties be deposited at the time of filing the warehouse withdrawal when merchandise is withdrawn for consumption. Therefore, no amendment to the Customs Regulations was proposed regarding this provision.

Marking of Bulk Containers of Distilled Spirits, Wines, and Malt Liquors

Section 201 of the Act eliminated the mandatory inspection, marking, and stamping requirements of section 11 of the Act of March 1, 1897 (19 U.S.C. 467). The Act permits the Secretary to require by regulation any marks, brands, and

stamps, or devices to be placed on any bulk container of imported distilled spirits, wines, and malt liquors as he determines to be necessary in the administration of the Federal laws applicable to those products.

It was proposed to amend § 11.6, Customs Regulations, to provide that the district director, in his discretion, (1) may require that bulk containers be marked or stamped in accordance with 19 U.S.C. 1467, and (2) shall determine the acceptability of any marks, brands, and stamps, or devices he requires, based on the nature, surface, and composition of the container.

Time for Liquidation

Prior to enactment of Pub. L. 95–410, there was no requirement that liquidation be completed within a specific time period.

Section 209 of the Act adds a new section 504 to the Tariff Act of 1930. Subsection (a) of section 504 provides that an entry is deemed to be liquidated (i.e., liquidated by operation of law) if not actually liquidated within 1 year from:

1. The date of entry of the merchandise,

2. The date of final withdrawal of all the merchandise covered by a warehouse entry, or

3. The date of withdrawal from warehouse of merchandise for consumption if duties may be deposited after the filing of an entry or withdrawal from warehouse.

An entry deemed liquidated by operation of law is liquidated at the rate of duty, value, quantity, and amount of duties asserted by the importer, his consignee, or agent at the time of entry.

Subsection (b) permits extensions of the 1-year period for liquidation if Customs needs further information or at the request of the importer for good cause shown. Customs is required to give notice of the extension to the importer, his consignee, or agent.

Subsection (b) also provides for extensions if liquidation is suspended as required by statute or court order. Subsection (c) requires Customs to give notice of any suspension of liquidation required by statute or court order to the importer or consignee and to his authorized agent and surety.

Subsection (d) provides that an entry not liquidated at the expiration of 4 years from the applicable date set forth in subsection (a) shall be deemed liquidated unless the liquidation continues to be suspended as required by statute or court order. When the suspension is removed, the entry shall be liquidated within 90 days.

These amendments are limited to entries or withdrawals of merchandise for consumption made on or after April 1, 1979, 180 days after enactment, and do not include vessel repair entries or drawback entries.

The notice stated that the proposed regulations set forth 2 of the 3 circumstances the Act specifies for entries deemed liquidated—1 year from date of entry or 1 year from the date of final withdrawal of all merchandise covered by a warehouse entry.

Comment Period

Pursuant to the notice of proposed rulemaking published in the **Federal Register** on November 29, 1978, interested parties were given until December 29, 1978, to submit relevant data, views, or arguments.

Discussion of Major Comments

The following is a section-by-section analysis to the major comments received, presented in ascending numerical order:

1. *Section 10.1(d).* Two commenters object to the deletion of the word "reasonably" before "satisfied" from the proposed amendment on the basis that this would change the standard of the district director's discretion in determining whether to waive certain documentation establishing that merchandise is American goods returned.

No change in meaning was intended. However, to avoid any confusion, the word "reasonably" is being retained.

2. *Section 10.31.* One commenter suggests that a new § 10.31(a)(3)(iv) be added to require that an importer declare the approximate length of time, up to the 1-year limit, that an article imported under a temporary importation bond is to remain in the United States.

Customs does not believe such a requirement is necessary to reflect the importer's understanding of the time period during which the merchandise may remain in the United States, as suggested. Schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202; footnote 34 to section 10.31, Customs Regulations), and § 10.37, Customs Regulations, set forth the time limitations.

3. *Section 10.91(b).* One commenter notes that the last sentence of proposed § 10.91(b) should not be in the same typeface as the endorsement.

Customs agrees and has changed the typeface for the last sentence, so that it differs from the endorsement.

4. *Parts 132 and 142 (in general).* Many commenters object to the proposal to eliminate the use of the immediate delivery procedure for merchandise subject to a tariff-rate quota. Commenters object to the proposed requirements that the "consumption entry" (now the "entry summary") be presented before the merchandise is released and that estimated duties be deposited when this documentation is presented. It is claimed that adoption of the proposal would result in delays in transporting the merchandise, increased transportation expenses, spoilage, demurrage charges, and increased inflation.

Under the notice, the procedures for the release of both absolute and tariff-rate quota merchandise were the same. However, based upon the comments received and Customs internal review, it was determined to provide for the use of the immediate delivery procedure for merchandise subject to absolute and tariff-rate quota in specified circumstances.

Accordingly, a new § 142.21(e)(1) has been added to provide that merchandise subject to a tariff-rate quota may be released under a special permit for immediate delivery at the discretion of the district director, provided the importer has on file one of the types of bonds described in § 142.4. An entry summary, with estimated duties attached, shall be presented within the time specified in section 142.23, or within the quota period, whichever expires first. If the entry summary, with estimated duties attached, is presented after the tariff-rate quota is filled, the merchandise shall not be entitled to the quota rate of duty, and the importer shall deposit duty at the over-quota rate.

A new § 142.21(e)(2) has been added to provide that at the discretion of the district director, perishable merchandise of a class approved by Headquarters which is subject to an absolute quota may be released under a special permit for immediate delivery for removal to the importer's premises, to any other location approved by the district director, until an entry summary, with estimated duties attached, is presented. An entry summary, with estimated duties attached, shall be presented for merchandise so released within the time specified in § 142.23, or within the quota period, whichever expires first. If the absolute quota is filled before the importer has presented the entry summary, with estimated duties attached, he either may present an entry summary for warehouse, or under Customs supervision, export or destroy the merchandise.

Part 132 has been revised to reflect these changes. The last sentence of

proposed § 132.12(c)(2)(ii) (stating that the importer shall not take delivery before he deposits estimated duties) has been deleted.

Proposed § 132.13(a)(1) has been separated into 2 paragraphs. Paragraph (a)(1)(i), relating to tariff-rate quota merchandise when the quota is nearing fulfullment, provides that when instructed by Headquarters, the district director shall require an importer to present an entry summary for consumption, with estimated duties attached, at the over-quota rate until Headquarters has determined the quantity, if any, of the merchandise entitled to the quota rate of duty. The paragraph also provides that the importer may request his merchandise not be released until Headquarters has determined the quantity entitled to the quota rate of duty. It further provides for a refund in the case of merchandise entitled to a quota rate of duty which was entered at the over-quota rate.

Paragraph (a)(1)(ii), relating to absolute quota merchandise when the quota is nearing fulfillment, provides that except in emergency cases, absolute quota merchandise shall not be released under the immediate delivery procedure. The importer shall present the entry summary, with estimated duties attached, and await Customs determination of the quantity of merchandise entitled to absolute quota status and priority.

Section 132.14(a)(1) has been revised to state that quota-class merchandise shall not be released upon filing entry documentation before presentation of an entry summary for consumption, or a warehouse withdrawal for consumption, with estimated duties attached. However, quota-class merchandise may be released under a special permit for immediate delivery in accordance with § 142.21(e). A new § 132.14(a)(2) has been added to state that release under the immediate delivery procedure before presentation of an entry summary for consumption, with estimated duties attached, shall not accord the merchandise any quota priority or status or entitle it to any other quota benefit.

Additional Specific Comments Relating to Part 132

5. *Section 132.3.* One commenter notes that although the proposal provides for the presentation of an entry summary for consumption and warehouse withdrawal for consumption for quota-class merchandise during official office hours of 8:30 a.m. to 5:00 p.m. in all time zones, many Customs districts observe an 8:00 a.m. to 4:30 p.m. day. He notes that the establishment of official office hours for quota purposes outside the normal working day would require customhouses at those locations to remain open an extra half an hour per day solely to administer quotas. The commenter suggests the official office hours for quota purposes be from 8:30 a.m. to 4:30 p.m.

Customs agrees with this suggestion and has changed the official office hours for quota purposes. Although official working hours are generally from 8:30 a.m. to 5:00 p.m., local conditions may dictate that different but equivalent hours be established (See 19 CFR 101.6(b)). In this regard, certain districts have established the hours of 8:00 a.m. to 4:30 p.m. as their official office hours. Therefore, (1) so that ports normally opening at 8:30 a.m. will not be required to open one-half hour earlier, and ports normally closing at 4:30 p.m. will not be required to remain open one-half hour later merely to receive entry summaries or warehouse withdrawals for quota-class merchandise, and (2) to prevent any importer from achieving an unfair advantage over another importer by filing the entry summary at a port which remains open for administering quotas while others are closed, official office hours for quota purposes are from 8:30 a.m. to 4:30 p.m. in all time zones. Section 132.3 reflects this change. These restrictions on office hours are applicable to the time when the entry summary shall be presented for purposes of determining priority and status and not necessarily when quota-class merchandise may be released from Customs custody.

6. *Section 132.11(a).* Two commenters, in addition to urging the use of the immediate delivery procedure for release of quota-class merchandise, suggest that the time of release of the merchandise serve as the time of entry.

Customs is not adopting this suggestion. Under the immediate delivery procedure as provided for in 19 U.S.C. 1448(b), the special permit for immediate delivery is issued before entry. Additional classification and appraisement information provided by the entry summary documentation is essential for determining quota priority and status.

7. *Section 132.11(b).* Two commenters believe that when an entry summary is not presented in proper form, the merchandise should be regarded as not entered only when there are material errors rather than clerical and *de minimis* errors.

Customs disagrees and believes the present and proposed rule should be retained. A "clerical" error such as understating the quantity of merchandise could cause inequitable treatment in administering quotas if Customs accepted the time of first presentation while allowing the entry summary to be corrected and subsequently presented.

8. *Section 132.12(c).* One commenter objects to the provision that if a quota is prorated, entry summaries shall be returned to the importer for adjustment. The commenter believes that this will require the retyping of each entry summary.

Customs believes it is necessary that the entry summary be returned to the importer so that it can be adjusted to reflect the amount the importer may bring in under the quota. This could be accomplished by making pen and ink changes. The importer may designate the quantity to be entered under the quota and the respective duty determination, as well as the remaining quantity to be entered and the respective over-quota duty rate (for tariff-rate quota merchandise).

9. *Section 132.13(a)(1).* One commenter objects to this provision requiring Headquarters to authorize release of quota-class merchandise on the basis that it would not permit the release of tariff-rate quota merchandise unless the over-quota duty deposit were made. He believes that this requirement would result in additional work for Customs and the importer necessitated by changing the documentation.

The requirement to deposit estimated duties at the over-quota rate in the case of tariff-rate quota merchandise is applicable only when the quota is nearing fulfillment. When the quota is not nearing fulfillment, this procedure would not apply. Accordingly, the provision is retained.

10. *Section 132.14(a)(2).* One commenter objects to providing that an inadvertent release before presentation of an entry summary, with estimated duties attached, shall not accord the merchandise any quota priority, status, or other benefit. He believes this provision could be read as denying merchandise quota status and priority under any circumstances and, therefore, penalize importers unfairly. The commenter suggests that the provision be redrafted to state that "an inadvertent release shall not affect quota status or priority".

The purpose of this section is to deny any importer an unfair advantage over another as a result of an inadvertent release. Customs believes the language as expressed in the proposed notice is clear on this point and should not be revised.

11. *Section 132.14(a)(3).* Several commenters object to providing for the assessment of liquidated damages of at least $25 when, in a given situation, the Customs officer makes the inadvertent release and the importer has no responsibility. They believe the importer should not be subject to a penalty unless he has contributed directly to the inadvertent release.

Another commenter believes that if the district director demands the return to Customs custody of the merchandise inadvertently released, a notice of redelivery should be issued no later than 30 days after release. One commenter believes that the term "near fulfillment" used in this section is too vague and should be defined and that there should be a reference to the availablity of the specific "near fulfillment" level for each type of quota merchandise.

Customs has reconsidered its position and has revised this section to designate the circumstances under which the district director may cancel the claim for liquidated damages. The provision for the payment of a minimum of $25 has been deleted.

The requirement that the notice of redelivery be issued no later than 30 days after release is referenced in § 132.14(a)(3)(i)(A) by a cross-reference to § 141.113 of this chapter. The term "near fulfillment" as used in proposed Part 132 is intended to have the same meaning as the term "prior to fulfillment" in § 132.13(a) of the present regulations and proposed notice. The section heading of proposed § 132.13(a) is being changed to "Procedure when nearing fulfillment" and the word "nearing" is being substituted for "near" wherever it appears in this context, for editorial clarity only.

12. *Part 141.* Two commenters suggest that proposed Parts 141 and 142 be consolidated.

Although this suggestion may have some merit, Customs does not believe it appropriate to undertake such a project within the scope of this document, the primary purpose of which is to implement the entry and liquidation procedures necessitated by Pub. L. 95–410.

13. *Section 141.0a(b).* Five commenters object to the definition of "entry summary" in this section on the basis that it may be misunderstood and that different ports may require different documents. Two of these commenters suggest that the definition be amended to the effect that the entry summary documents not include purchase orders and resale invoices which generally are requested by Customs Form 28, "Requests for Information", unless specifically required by regulation. One commenter suggests that the words "required by the regulations" be inserted between the words "documentation" and "necessary" in the definition of "entry summary".

Customs believes that the proposed definition of "entry summary" is clear and should remain unchanged. Section 102(a) of the Act provides that the consignee shall file with the Customs officer "such other documentation as is necessary to enable such officer to assess properly the duties * * *, collect accurate statistics * * *, and determine whether any other applicable requirement of law * * * is met". To administer these other requirements of law, Customs believes that it should not be limited only to that documentation required by the Customs regulations. Also, proposed § 141.0a(b) should be read together with proposed § 142.16, which discusses the entry summary documentation. Furthermore, in some cases, a purchase order or a resale invoice may be needed when filing the entry summary documentation for classification, appraisement or statistical purposes.

14. *Section 141.19.* One commenter raises the question whether there has been any change in that part of § 141.19 relating to a nominal consignee. It appears the commenter is referring to § 141.19(b)(3) of the present regulations and the paragraph designated as "(3) * * *" under proposed § 141.19 in the notice of November 29, 1978. There is no change in the present section.

15. *Sections 141.19, 141.20, 142.4.* One commenter notes that proposed § 142.4 provides a general requirement for filing a bond at the time of entry, and proposed § 142.19 provides for filing a bond when an entry summary which serves as both an entry and entry summary is filed. However, there is no explicit provision for requiring a bond at the time of filing an entry summary after entry and release. He also notes that § 141.20 as drafted is limited to a consignee in whose name an entry is made.

Additionally, this commenter and others believe that proposed §§ 141.19 and 141.20 could be interpreted to deny the general practice authorized by Customs which permits a broker to file an application for immediate delivery in his own name under his bond and the importer to file the entry summary in his own name under his bond without the necessity of a superseding bond or actual owner's declaration.

Customs believes that these objections have merit and has revised proposed §§ 141.20 and 142.4 to take account of these objections.

Proposed § 141.20(a) has been clarified to state that a superseding bond and actual owner's declaration is needed upon filing an entry summary for consumption, warehouse, or temporary importation under bond, or upon filing a rewarehouse, entry or manufacturing warehouse entry.

A new paragraph (b)(1) has been added to proposed § 142.4 to provide that if the entry summary is filed after entry, the bond filed at the time of entry shall continue to be obligated unless a superseding bond is filed or a bond described in proposed § 142.4(a) is filed under the circumstances described in the new paragraph (b)(2). That paragraph provides for the practice which permits an agent to file an entry in his own name under his bond, and the importer to file the entry summary in his name under his bond without the importer's filing the superseding bond and actual owner's declaration otherwise required by § 141.20. This is because the entry declaration is not made until the entry summary is filed.

16. *Section 141.61(a).* One commenter objects to the requirement that all copies of Customs Form 3461 be legible and suggests it be revised. He believes that the form should have only 3 copies (one for the broker or importer, one for Customs, and one for filing with the entry); that the original be returned to the importer for filing with the entry summary; and that the form be free to the public.

The five copies of Customs Form 3461 are used as follows: The green card (the original copy) serves as the releasing document when signed by the Customs inspector. One tissue copy is retained by the inspector and serves to clear the manifest. Two tissue copies are provided for the convenience of the importer or broker. The first ordinarily is removed by the importer or broker for his record prior to filing the form; the second ordinarily is retained by the importer or broker after signature by the Customs inspector and is substituted for the first tissue copy. The yellow card copy is returned to the importer or broker to be submitted with the entry summary.

Customs recognizes that the yellow card copy may not be legible if not prepared with care; however, it is the responsibility of the preparer to ensure that all copies of the form are legible. The form has been designated as a saleable form in accordance with § 24.14, Customs Regulations (19 CFR 24.14).

Customs is considering a proposal (see T.D. 79-144, published in the Federal Register on May 23, 1979; 44 FR 29916) to revise Customs Form 7501, the "Consumption Entry" (to be redesignated the "Entry/Entry Summary") which, if adopted, would simplify the paperwork involved because the form then would be used both at the time of filing entry documentation and entry summary documentation and would reduce substantially the use of Customs Form 3461. Customs, therefore, does not believe it appropriate to revise Customs Form 3461 at this time.

One commenter suggests that the requirement in § 141.61(a)(1) that the entry summary be signed by the "importer" should be changed to "importer of record".

Customs disagrees because the definition of the term "importer" in § 101.1(k) includes "importer of record".

One commenter wishes verification that the marks and numbers on the forms specified in proposed § 141.61(a)(2) will be required on the "entry release document".

Under § 141.86(a)(3), Customs requires each invoice for merchandise imported into the United States to set forth the marks and numbers of packages in which the merchandise is packed. In this circumstance, it is unnecessary for this data to appear on the forms specified in proposed § 141.61(a)(2) at the time of filing entry or entry summary documentation. If the invoice is not produced at the time of entry, however, the marks and numbers shall be given on the releasing document, an attachment thereto, or on an accompanying document.

Proposed § 141.61(a)(2) is being revised to clarify that if the marks and numbers have been provided previously, the data need not appear on the forms specified therein for packages released or withdrawn.

17. *Section 141.61(b).* One commenter, although not objecting to the signing of the entry summary, which would be considered as the "signing of the entry" required by 19 U.S.C. 1484(d), would object to this requirement if he also had to sign Customs Form 3461.

"Signing of the entry" occurs when the entry summary is filed. However, it is necessary for the importer or agent also to sign the releasing document so as to establish liability under the appropriate bond.

18. *Section 141.61(d).* One commenter believes there is a contradiction between proposed § 141.61(d)(2), relating to a consolidated entry summary covering merchandise of more than 1 ultimate consignee, and proposed section 142.17, which permits the filing of 1 entry summary for merchandise the subject of separate entries if, among other circumstances, the merchandise is consigned to the same consignee.

Customs believes the comment has merit. Proposed § 141.61(d) permits a broker as nominal consignee to enter merchandise in his own name under his own bond for various ultimate consignees under certain circumstances. Accordingly, Customs has added a new § 142.17a (discussed below) which sets forth this procedure.

19. *Section 141.61(d)(3).* One commenter suggests that if Customs Form 4811, which authorizes the mailing of refunds, bills, or notices of liquidation by Customs to an agent of the importer, were used, Customs should provide the importer or broker with a receipt for this form. It is contended that the receipt will serve as proof that the form has been filed because the present system has no control.

Customs believes that a receipt for filing Customs Form 4811 would increase paperwork unnecessarily and, therefore, is not adopting this suggestion.

20. *Section 141.61(e)(1).* One commenter notes that this section should include a statement that Customs import specialists should submit statistical changes regularly to the Department of Commerce to assist in ensuring the integrity of Generalized System of Preferences (GSP) and other trade statistics.

Guidelines and instructions were issued to Customs field officers in Customs Statistical Circular No. 135, dated February 24, 1978. Customs believes it is desirable to issue these guidelines and instructions by statistical circulars instead of incorporating them into the regulations.

One commenter suggests that the regulations provide detailed instructions for completing Customs Form 7501 so that it would be unnecessary to maintain separate computer programs at each port.

The revised Customs Form 7501 now under consideration would have an instruction sheet to provide the necessary explanatory material to ensure uniformity at all ports. Customs, therefore, believes it is unnecessary to incorporate detailed instructions in the regulations.

21. *Sections 141.61(e)(1) and 141.61(f)(2).* Several commenters complain that the proposed regulations make statistical reporting paramount throughout all phases of the entry process and place statistical reporting responsibility on the importer rather than Customs. The commenters note that brokers may not be able to make necessary changes in programming their automatic data processing equipment. Many commenters object to the requirements of this section and proposed § 141.61(f)(2) that (1) if multiple invoices are involved, the total quantities and total entered values of like merchandise appearing on each of the multiple invoices shall be shown on the entry summary and other documents, and (2) the computations necessary to arrive at the final figures appearing on the entry summary shall be shown on an attached worksheet. Several of these commenters state that to summarize like tariff item numbers from all invoices covered by a mulitple invoice entry summary would pose a tremendous burden on brokers. Others state that preparation of the worksheet should be Customs responsibility. Some commenters believe that adoption of these requirements would result in an increase in the number of entries because importers would find it too expensive to file multiple invoice entries. They state that preparation of a worksheet is too costly and duplicative, and that the requirement should be deleted. One commenter suggests that the information needed should be placed on the entry summary.

One of the main objectives of the Act is to ensure collection of accurate and timely statistics on imported merchandise.

For many years, statistical users, such as the Commerce Department's Office of Textiles and the U.S. International Trade Commission, have complained of the loss of statistical data caused by § 141.61(e)(1), Customs Regulations, which requires that each class of merchandise within each invoice subject to a separate statistical reporting number be listed separately on the entry or warehouse withdrawal. They cite as an example the case of an entry of 5 invoices, each covering identical merchandise valued at $225. The regulations now require 5 separate line items on the entry. Although the entire shipment totals $1,125, none of the data would be included in the trade statistics under the applicable TSUSA reporting number because only line items valued over $250 are verified by Customs and included in the detailed Census statistics.

To minimize this loss of detail, Customs has determined to require one posting of a TSUSA number for each formal entry or withdrawal. In this way, many line items valued under $250 will be combined with other line items using

the same TSUSA number and included in the detailed data instead of in the one percent sample of line items valued under $250 published by total values by country of origin.

A Census Bureau study disclosed that consolidation can reduce the number of reported line items by 16 percent annually. This means that for fiscal year 1978, the line count of 7,625,000 could have been reduced by some 1,220,000 lines. For both Customs and the Census Bureau, this change would reduce significantly the data required to be computerized.

In addition, consolidation would eliminate the laborious and time consuming manual task of annually underlining in red ink some 7,930,000 separate items (country of origin, quantity, values, etc.) which Customs officers must verify, and it should reduce the number of statistical errors and rejects by Census. To the extent practicable, Customs will assist anyone who may have difficulty in programming the changes because of technical problems. Accordingly, Customs believes the sections relating to multiple invoices should remain unchanged.

22. *Sections 141.61(e)(2) and 141.91(d).* Sixteen commenters object to the proposal to reduce from 2 months to 1 month after the date of withdrawal from warehouse, or to 20 days after the date the entry summary is required to be filed, the time within which to produce required statistical documents for which a bond has been given. They also object to the requirement that if an invoice is needed for statistical purposes, it shall be produced within 20 days after the date the entry summary documentation is filed. It is claimed that some district directors would require that all missing documents be supplied earlier, that this time frame is inadequate to produce a missing document; and that as a result, numerous requests for extensions of time would be made. Several of these commenters suggest alternative approaches, such as 2 months from the date of withdrawal from warehouse, or 50 days after the entry summary is filed. Others suggest 45 or 90 days after the date of the entry summary. Some suggest that the 6-month requirement of present § 141.91 be retained.

Based upon the comments, Customs has reconsidered its position. Proposed § 141.61(e)(2) has been revised to require the additional documentation described in that section to be produced within 2 months after the date of withdrawal, or within 50 days after the date the entry summary (or the entry, if there is no entry summary) is required. Proposed § 141.91(d) has been revised to require an invoice needed for statistical purposes to be produced within 50 days after the date the entry summary (or the entry, if there is no entry summary) is required, instead of the 6-month period otherwise allowed for producing the invoice. In either case, the time for filing may be extended by the district director for a reasonable period upon good cause shown.

23. *Section 141.61(e)(2).* One commenter objects that the reference to the requirement to provide additional documentation is too vague. Another objects on the basis that the person filing the form is responsible for providing the necessary information and suggests the responsible party should be the importer or importer of record.

This section specifically provides that additional documentation may be requested to substantiate the statistical information required by § 141.61(e)(1), which requires the reporting of information required by the TSUSA general statistical headnotes. The headnotes enumerate the information the importer must provide.

All documents are not needed for the reporting of statistics. Many are needed to satisfy other agency requirements; others must be furnished to prove use of the merchandise in the United States. Customs envisions that the bond given for statistical information is to be used primarily to obtain missing or incomplete data or to substantiate ocean freight charges. In any case, these are documents which should be in the importer or broker's files or readily available to them.

Customs considers the person in whose name and under whose bond the entry summary is filed to be the person filing the form and thus responsible for providing the necessary information. If an agent files the entry summary on behalf of an importer under the importer's bond, it is the importer who is the responsible person.

24. *Section 141.61(e)(3).* One commenter notes that because all freight charges at the Canadian border are estimated, it would be cumbersome to use the designation "est". He suggests using the letter "E" to designate estimated values or the letter "A" to designate actual values.

Customs agrees and has revised this section to exempt Canadian rail and truck charges from the requirement that estimated charges be designated as such. However, if the transaction value were estimated, a notation to this effect would be required on the entry. Customs also has revised this section to permit the use of the letter "(E)" in addition to "(estimate)" and "(est)". Customs does not believe it necessary to adopt use of the letter "A" to designate actual values.

25. *Section 141.61(e)(4).* One commenter objects to authorizing a Customs officer to reject a form required as part of entry summary documentation for failure to provide the necessary information because the rejection would jeopardize the importer's right to declare the entry date.

When the entry summary is filed after the entry and release of the merchandise, statistical information is received at the time of filing the entry summary and time of entry already has been established. However, in accordance with proposed § 141.64, Customs may reject entry and entry summary documentation if not filed in proper form. Rejection at the time of filing entry documentation, or entry summary documentation which serves as both entry and entry summary, would preclude a determination of the time of entry because Customs would not have the necessary documentation to authorize release of the merchandise.

26. *Section 141.61(e)(5).* One commenter indicates that this section should be revised to provide some guidance as to the circumstances under which a penalty procedure might be involved if erroneous statistical data is submitted.

This provision has been a part of Customs procedures since December 7, 1973, when Customs Statistical Circular No. 41 was issued to implement an agreement reached with the American Importers Association by several Government agencies (Treasury, Commerce, and International Trade Commission) on implementing the FOE/CIF program for reporting statistical data. Because Customs is aware of no problems with this provision, no additional guidance is needed. Further, Customs believes that district directors should have discretion to decide the merits of each case.

27. *Section 141.61(f).* One commenter notes that in addition to being rated, an invoice filed at time of entry must be completed by deducting non-dutiable charges and adding dutiable charges such as assists. He mentions that this would be very difficult to accomplish on the night shifts on the Canadian border.

Proposed § 141.61(f) must be read in conjunction with proposed § 141.61(e). A rated invoice for which an entry summary is required by proposed § 141.61(e) need not contain, at the time of entry, the various charges mentioned in proposed § 141.61(f). Therefore, in these cases, the importer has 10 days from the time of entry to provide the value information. However, the rated

invoice for which an entry summary is not required by proposed § 141.61(e) (appraisement entry, manufacturing warehouse entry, and rewarehouse entry) shall include the information required by proposed § 141.61(f). In these circumstances, Customs believes there is no alternative for providing the information at the time of entry.

28. *Section 141.62(a).* Several commenters note that since Customs Form 3461 is a serially pre-numbered, multi-part form, it provides the medium for immediate implementation of that portion of AMPS which would allow for filing of entries and entry summaries at different ports within a district. Another commenter notes that this section would preclude the district director from approving the filing of entry summaries at outports such as Gloucester and New Bedford, Massachusetts. He suggests that the regulation be revised to permit the documents to be filed at the Customs station, customhouse at the port of entry, or at the headquarters port of the region in which the port of entry is located.

Customs has reviewed its position on the place of filing the entry-related documents. Because of different physical and geographical locations and the variety and volume of importations, some Customs districts have the capability to permit merchandise to be released at one port and an entry summary to be filed at another port in the same district. However, other ports do not have this capability. Therefore, proposed § 141.62(a) has been revised to provide that entry, entry summary, or warehouse withdrawal documentation may be filed at the customhouse or at any other Customs location approved by the district director in the district where the merchandise is to be or has been released.

One commenter requests implementation of a procedure for advising the Customs officer at the cargo location that an entry has been filed, to avoid placing the cargo in general order when an entry summary which serves as both an entry and entry summary has been filed at the customhouse.

Customs believes the suggestion has merit and will undertake a study to develop a procedure to solve this problem.

29. *Sections 141.62(b) and 142.6.* Many commenters object to the "inflexible" office hours when the customhouse is open for the general transaction of business, especially with regard to the immediate delivery procedure. They claim that these hours would restrict importations and create a backlog at some ports. Commenters also object to the restriction on release and entry of quota-class merchandise to the official office hours.

Customs believes these objections have merit. Proposed § 142.6, relating to the entry of merchandise from Mexico and Canada when the customhouse is closed, has been deleted because that section, when read with § 141.62(b), is unclear.

To state more clearly the times when entry, entry summary, and withdrawal documentation, and applications for immediate delivery shall be filed, proposed § 141.62(b) has been revised as follows:

(1) Except for overtime service, applications for immediate delivery and entry documentation shall be filed when the customhouse is open for the general transaction of business, or when Customs has established a regular tour of duty.

(2) Except for overtime service, entry summary and withdrawal documentation shall be filed when the customhouse is open for the general transaction of business.

(3) Except as provided for quota-class merchandise, (a) entry summary and withdrawal documentation, and (b) applications for immediate delivery and entry documentation (when no regular tour of duty has been established), may be filed when overtime has been authorized even though the customhouse is not open for the general transaction of business.

(4) Overtime shall not be authorized for the *presentation* of entry summary documentation for quota-class merchandise without Headquarters authorization.

Under the discussion of comments submitted on proposed § 132.3, relating to quotas, it was noted that restrictions on official office hours are applicable to when the entry summary shall be presented for purposes of determining quota priority and status. Similarly, proposed § 141.62(b)(2)(ii) is concerned with overtime for the presentation of entry summary documentation. Office hours and overtime are relevant to presentation of entry summary documentation for purposes of determining quota priority and status and not necessarily to when quota-class merchandise may be released from Customs custody. As noted in the discussion of comments relating to Parts 132 and 142, the immediate delivery procedure may be used for merchandise subject to absolute and tariff-rate quota in specified circumstances. Accordingly, the reference in proposed § 141.62(b)(2) to § 142.6 has been deleted.

30. *Section 141.63(b).* Three commenters request clarification of whether entry summary documentation may be submitted for preliminary review without deposit of estimated duties during the 10-day period after time of entry and release of the merchandise.

Except for quota-class merchandise, the proposed section does not provide for the submission, after the merchandise has arrived, of entry summary documentation for preliminary review without estimated duties attached and thus, in effect, would eliminate "pre-entry review".

It is necessary that duty be deposited as early as possible; therefore, the duty shall be attached to the entry summary when the entry summary is filed. Eliminating pre-entry review would reduce the amount of time involved in double processing the entry summary. Of course, if an importer or broker has any questions concerning completion of his entry or entry summary, he may discuss the matter with the appropriate Customs official.

31. *Section 141.64.* Several commenters object to the requirement that entry and entry summary documentation shall be returned to the importer if errors are found. One notes that because statistical information is filed generally at the time of filing the entry summary, it would not be useful to review the entry documentation when filed without the entry summary documentation. It also is contended that the entry summary should be rejected only when "clearly erroneous", or when errors are "substantial" or "material". Another commenter requests a provision be added that Customs would not reject an entry if there is a dispute as to the classification which ordinarily must be shown on a rated invoice. A commenter suggests that a provision be added for an additional 10-day period after an entry summary is rejected to resubmit the entry summary.

The notice of November 29, 1978, proposed to amend present § 141.64 to provide for the review of statistical requirements as well as entry requirements (as provided in present § 141.64).

Present § 141.64 requires Customs officers to review the documentation to ensure that the indicated values and rates of duty "are correct". The proposed section reads "appear to be correct" and, therefore, is a relaxation of the existing requirement. To provide accurate statistics to the Bureau of the Census, the import specialist must have full authority to reject for correction entry summaries he believes have

incorrect, insufficient, or missing information. If there is a dispute as to the classification or value, those rates and values the import specialist believes are correct must be used because he is responsible for the accuracy of the data. Of course, the importer may protest the decision of the import specialist.

To ensure that trivial errors are not cause for rejection, guidelines were issued to field officers in Customs Statistical Circular No. 146, on September 20, 1978, and again in a letter to each Regional Commissioner on February 16, 1979.

The 10-day time limit for filing an acceptable entry summary must be adhered to so that the statistical information may be forwarded to Census on a timely basis.

32. *Section 141.68.* One commenter suggests that a paragraph be added to this section to define the time of entry for merchandise released under the immediate delivery procedure.

Customs agrees and has added a new paragraph to provide that the time of entry of merchandise entered under the immediate delivery procedure shall be the time the entry summary is filed in proper form, with estimated duties attached.

Another commenter suggests that a mechanism be developed to provide for the importer to declare the date of entry if he wishes it to be other than the date of release.

Customs believes proposed §§ 141.68 (a)(2) and (a)(3) are dispositive. The request must be made on the entry documentation.

Another commenter urges that § 141.68(a)(2) be revised to provide that if the importer requests the time of entry to be the time when the entry documentation is filed, Customs should permit the payment of duties within 10 days after the date of release of the merchandise.

After consideration of this request, Customs has determined that no change is needed. Accordingly, estimated duties shall be deposited at the time the entry summary is filed; that is, 10 days after the entry documentation is filed.

33. *Section 141.69.* One commenter raises a question concerning the date of the effective rate of duty when an immediate transportation entry is filed.

Customs made no change in present §§ 141.69 (b) and (c) and, therefore, did not include these sections in the November 29, 1978, notice. Section 141.69(b) provides that the specific rate of duty shall be determined as of the date Customs accepts the immediate transportation entry at the port of original importation.

34. *Section 141.83(c).* One commenter interprets this section to prohibit acceptance by the district director of a "photostatic" copy of a required commercial invoice.

A copy of a required commercial invoice, including a photostatic or other photographic copy, is acceptable. The only qualification is that if the importer submits a copy which is not a photostatic or other photographic copy, the copy shall contain a declaration that it is a true copy. A photostatic or other photographic copy needs no such declaration. The proposed section is being revised to include a reference to a photographic copy.

35. *Section 141.83(d).* Under the present regulations, neither a Special Customs Invoice ("SCI") nor a commercial invoice is required, and a pro forma invoice may be submitted, for merchandise unconditionally free of duty or subject only to a specific rate of duty (paragraph (d)(3)), or merchandise subject to a rate of duty dependent on value but entered under a conditionally free provision if all free entry documents and evidence required to establish the exemption from duty are produced at the time of entry (paragraph (d)(4)). The notice of November 29, 1978, proposed to delete these paragraphs. Many commenters object to the proposed deletion, claiming that it establishes a new requirement which imposes an unnecessary burden on importers and foreign suppliers to produce the SCI and will hinder the flow of merchandise. Several state the adoption of the proposal virtually would eliminate the availability of pro-forma invoices for all fish products and perishables in general. Others note that the only way a pro-forma invoice could be used is to rely on the waiver provisions of § 141.92. One commenter wants the regulation to state clearly that the SCI is not required when a commercial invoice is filed.

Customs believes there is no inherent reason why merchandise subject to free or specific rates of duty should be exempt from the requirements to furnish a commercial invoice. Some of the most strategic and sensitive commodities, such as petroleum and sugar, fall into this category. In addition, dumping complaints often are brought against merchandise which is free of duty or carries a specific rate, and the petitioners look to the official trade statistics to alert them to the problem and to provide them with the initial basis to file a complaint.

A pro forma invoice filed in lieu of a commercial invoice or a SCI may have data sufficient for duty purposes, but it seldom entirely satisfies the statistical requirements. Customs believes that commercial invoices are available for most of this merchandise but are not submitted simply because Customs does not require it. Customs doubts that the rate of duty involved determines whether or not a commercial invoice is prepared.

As a result of this amendment, only a commercial invoice will be required and a SCI will not be required. Accordingly, Customs is amending the first sentence of present § 141.83(a) to clarify that even though § 141.83(d)(4) is being deleted, only a commercial invoice will be required for merchandise subject to a rate of duty dependent on value which is entered under a conditionally free provision if all free entry documents and evidence required to establish the exemption from duty are produced at the time of filing the entry summary.

Also, notwithstanding the deletion of § 141.83(d)(3), the criteria set forth in present § 141.83(a) eliminate the requirement for an SCI for merchandise unconditionally free or subject only to a specific rate of duty.

In those cases where a commercial invoice is not available at the time of filing the entry summary for free and specific rate goods (e.g. some perishables), a pro forma invoice may be presented and bond taken for production of the commercial invoice under proposed § 141.91.

36. *Section 141.86(a)(8).* Several commenters object to the deletion of the phrase "when known to the seller or shipper" from this section on the basis that invoice information not available to its author would be required. One commenter claims that the proposed regulation would require the separate itemization of unnecessary FOB information and suggests that selling commissions not be itemized if included in the invoice price and so identified.

Customs does not believe that any change to proposed § 141.86(a)(8) is necessary. If the seller or shipper has the required information, he must itemize it on the invoice. If the seller or shipper does not have the information, the importer then must provide it on an attachment to the invoice. This information is necessary to collect accurate FOB/CIF data. The proposed regulation will ease the burden somewhat by not requiring the itemization of packing and inland freight charges to the port of exportation if they are included in the invoice price and are so identified.

Selling or buying commissions affect the unit value of the imported merchandise for purposes of sections 402 and 402a, Tariff Act of 1930, as

amended (19 U.S.C. 1401a, 1402), and antidumping determinations and, therefore, should be itemized separately.

37. *Section 141.86(c).* One commenter objects to the requirement to produce a resale invoice, in addition to the original invoice, on the basis that a statement of sale to the importer showing ownership and the right to make entry should be sufficient.

Customs believes the comment has merit and has revised this proposed section to provide that, in addition to the original invoice, a resale invoice *or* a statement of sale showing the price paid for each item by the purchaser shall be filed as part of the entry, entry summary, or withdrawal documentation.

38. *Section 141.89(b).* One commenter notes that before enactment of Pub. L. 95–410, the Special Summary Steel Invoice ("SSSI") was required to be filed at the time of entry (now the "entry summary"). However, he contends that the introductory language of present § 141.89(b)(1) and present § 141.89(b)(1)(E) indicate that when merchandise is released under an entry before the filing of the entry summary, the SSSI would be required with the entry (i.e., the release).

This is not the intention of the regulations. Accordingly, these provisions are being amended to permit the filing of the SSSI at the time the entry summary is filed. If the SSSI is not filed with the entry summary, Customs will reject the entry and order redelivery of the merchandise in accordance with § 141.113(d). If the demand for redelivery is not complied with, liquidated damages will be assessed in accordance with § 141.113(g).

39. *Sections 141.101 and 142.12(c).* Numerous commenters object to the requirement that estimated duties be deposited at the time the entry summary documentation is filed. One commenter suggests the language be revised to provide for the deposit of estimated duties at the time the entry summary is reviewed and approved by Customs. It is claimed this method would allow for a more accurate entry summary, thereby decreasing corrections on liquidation. Another commenter objects to the requirement to deposit estimated duties at the time of entry rather than at the time the entry summary is filed, in certain circumstances. Others express concern about requiring deposit of estimated duties earlier than the 10-day period.

Section 505(a), Tariff Act of 1930, as amended (19 U.S.C. 1505(a)), sets forth the general requirement that estimated duties be deposited at the time of entry. Section 103 of Pub. L. 95–410 did not change this general requirement but merely created another exception to it. The general requirement is applicable to entries such as informal and appraisement entries which require no entry summaries but require deposit of estimated duties with the entry. The exception provides for the deposit of estimated duties at the time of entry or at a later time prescribed by regulation, not to exceed 30 days after making entry.

Proposed § 141.101(a) provides that if merchandise is released under the entry documentation before filing of the entry summary, deposit of estimated duties generally shall be made at the time the entry summary is filed (i.e., within 10 working days after the "time of entry").

Customs believes that for the present, there should be no change in the language of the proposed section. It is necessary to maintain the Government's cash flow by collecting duties as early as practicable to maximize the use of Customs collections and to preclude unnecessary borrowing and associated interest costs. Accordingly, the 10-day period to deposit estimated duties at the time the entry summary documentation is filed will remain as drafted.

40. *Part 142.* Numerous commenters object to the provisions of the proposed notice that would restrict the use of the immediate delivery procedure. Objections relating to its use in connection with quota-class merchandise are addressed in the discussion under Part 132. Other objections are discussed in Customs comments relating to specific sections of Part 142, which follow, and also under the heading "Other Changes".

One commenter requests the elimination of the immediate delivery procedure. However, Pub. L. 95–410 did not repeal section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), the statutory authority for the immediate delivery procedure. The language of this provision providing "permits for delivery, prior to formal entry" precludes Customs from defining "time of entry" as time of release. Under new § 141.68(c), the time of entry shall be the time the entry summary is filed in proper form, with estimated duties attached.

41. *Section 142.2.* One commenter suggests that the section be revised to provide for the automatic extension of the 5-day lay order period for certain specified reasons.

Customs disagrees and believes the question of granting extensions should be left to the discretion of the district director without specifying reasons in the regulations. Customs also believes there should be no change in the basic 5-day period without further study.

42. *Section 142.3.* One commenter objects to the requirement in proposed § 142.3(a)(1) that Customs Form 7533 be filed in duplicate under the new entry procedure.

Customs wishes to note that this form is necessary for control purposes. Generally, one copy remains with Customs as the entry, and the other is returned to the importer to be filed with the entry summary.

One commenter appears to object to the use of Customs Form 7533 as a release document under this section while favoring its use as a releasing document under the immediate delivery procedure.

Customs believes that it is proper for Customs Form 7533 to serve as a releasing document in either circumstance and, therefore, is retaining the proposed language.

One commenter questions whether it is appropriate for Customs to require the filing of other documents which may be required by Federal, state, or local agencies under § 142.3(a)(5).

Because Customs enforces the laws of other Federal, state and local agencies, it may be necessary to require other documentation for a particular shipment in order that Customs may carry out its enforcement responsibilities.

43. *Section 142.3a.* One commenter suggests that the prenumbering system not be limited to formal consumption entries but should apply to all other types of entries (informal, T.I.B., drawback). This commenter also suggests that entry numbers be obtained on the basis of the calendar year rather than the fiscal year. Several commenters express the opinion that the prenumbering system would be very beneficial.

The prenumbering system would apply to entry summaries for consumption, warehouse, and temporary importation under bond. It would not apply to any other entries. However, it is Customs policy to develop and utilize this procedure as extensively as possible. Customs anticipates expanding it to include other types of entries in the future.

Customs is unable at the present time to assign numbers other than on a fiscal year basis.

One commenter expresses concern that proposed § 142.3a(e), as well as proposed §§ 142.13 (a) and (b), and 142.24 (a) and (b) (discussed below), may hamper severly the operations of a broker or importer. He suggests that the regulations provide a procedure to ensure due process before the district

director invokes the sanctions of proposed § 142.3a(e).

Customs disagrees and notes that the assignment of entry numbers is a procedure which is being established to provide a privilege and benefit to the importer. This privilege does not give rise to Fifth Amendment considerations.

Another commenter objects that the assignment of entry numbers other than during the hours of 8:00 a.m. to 5:00 p.m., Monday to Friday, would result in high overtime.

Customs believes that the importer is responsible for ensuring that he has sufficient entry numbers for his use, and notes that numbers ordinarily will be assigned in blocks of not less than 100. Also, this section has been revised to provide that the district director may assign numbers in blocks of less than 100, if warranted.

44. *Section 142.5.* Two commenters question the necessity for a bond rider to the entry bonds. The current editions of the entry bonds (Customs Forms 7551, 7553, and 7595) provide, in pertinent part, that if merchandise is released under section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), the immediate delivery procedure, the principal on the bond is liable for liquidated damages if he fails to make entry and deposit estimated duties within the allowable period. Although 19 U.S.C. 1448(b) continues to provide a valid method for securing release of merchandise, Pub. L. 95–410 amended section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to provide an alternative means for securing release.

Because 19 U.S.C. 1448(b) limits the types of merchandise entitled to be released under the immediate delivery procedure, and 19 U.S.C. 1484(a) is not so limited, Customs intends that most releases take place under 19 U.S.C. 1484(a). Therefore, the bond rider, which is conditioned on release under 19 U.S.C. 1484(a), is necessary to guarantee performance of the importer's obligation to file an entry summary timely. Otherwise, without the rider, if a release were made under 19 U.S.C. 1484(a), the entry bonds would not be obligated because the current editions are conditioned strictly upon releases of merchandise under 19 U.S.C. 1448(b).

One commenter states that if Customs intends to require the rider only to implement the terminology relating to the new entry procedure, Customs should revise the bond rider to repeat precisely the language of existing bonds except to alter the terminology to comply with the new procedure. Customs believes that the language of the bond rider should not be changed, as suggested, because merchandise now may be released under 2 statutes instead of 1. However, because merchandise will be released under 19 U.S.C. 1484(a), in most instances, instead of 19 U.S.C. 1448(b), and the 2 procedures for securing release are mutually exclusive, the bond rider must cover release under 19 U.S.C. 1484(a) as well as 19 U.S.C. 1448(b).

The same commenter believes that the rider and new bond editions should be revised to conform to Condition (2) of the current general term bond, Customs Form 7595: (The principal) "* * * shall pay to the said district director such amounts as liquidated damages as may be demanded by him in accordance with the law and regulations". He believes that this language would protect the revenue without the threat of initial demands for the value of the merchandise plus duty and taxes if the principal fails to conform to the conditions of the bond.

Customs believes that because the new entry procedure supplements but does not replace the existing immediate delivery procedure, as noted previously, a provision is necessary to cover explicitly the new entry procedure, instead of relying on what is at best a general condition, such as Condition (2) of Customs Form 7595. Condition (1) of Customs Form 7595 relates to the timely filing of entry documentation after merchandise is released under the immediate delivery procedure, and Customs believes similar language is necessary in connection with the new entry procedure. Even if Condition (2) were considered sufficiently broad to cover submission of documents under the new entry procedure, that provision does not provide for the timely deposit of estimated duties following the release of merchandise. For all of these reasons, Customs does not agree with this commenter.

Another commenter believes that a bond rider must be attached to each term bond at the time of execution. He appears to believe that the rider may not be attached after execution because § 113.23(d), Customs Regulations, provides that except in cases in which a change in a bond is authorized by regulation or instruction of the Commissioner, no change shall be made in the bond after execution.

It is Customs position that the rider incorporated in proposed § 142.5 effects a change expressly authorized by regulations, and that the rider established by Headquarters telex BON–3–0:D:E AO of November 20, 1978, which is substantially similar to that incorporated in proposed § 142.5 (except that the telex refers to modifications required by provisions of law and Customs instructions, instead of by provisions of regulations), effects a change expressly authorized by instruction of the Commissioner, within the meaning of § 113.23(d). Therefore, the rider may be attached to a bond after, as well as at the time of, execution.

This commenter notes that the minimum 60-day time delay provided by § 113.26(a), Customs Regulations, before a bond rider may become effective precludes its immediate use.

Customs agrees. The procedure provided in § 113.26(a) also may be used by a principal who desires to amend an existing bond with an approved rider. The principal is required to submit the rider and the bond transcript, Customs Form 53, at the appropriate port. The rider would take effect a minimum of 60 days after submission and would terminate with the underlying bond. Customs has provided by Headquarters instruction for a waiver of the 60-day effective requirement of § 113.26(a), for the bond rider set forth in proposed § 142.5 and for the bond rider established by Headquarters telex of November 20, 1978, previously referred to, until the normal termination date of the underlying bond. When the bond is renewed, the rider set forth in § 142.5 shall be required.

The same commenter also notes that the rider in proposed § 142.5 should have a letter identification similar to other bond riders. Customs agrees and has revised proposed § 142.5 to identify the bond rider as "RIDER R".

Another commenter states that the proposed bond rider was implemented by Headquarters telex dated November 20, 1978, without the benefit of public comment, and therefore violates the notice requirements of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). In Customs Service Decision ("C.S.D.") 79–217, Customs ruled that a Customs bond is neither a rule of general applicability nor a rule of procedure as referred to in the Administrative Procedure Act, but that it is a contract and, consequently, there is no legal requirement to follow the rulemaking procedure of 5 U.S.C. 553 in promulgating the format for a Customs bond. In addition, section 623(b)(1), Tariff Act of 1930, as amended (19 U.S.C. 1623(b)(1)), gives the Secretary of the Treasury or Customs broad discretionary power to prescribe the conditions and forms of bonds.

This commenter states that the procedures for obtaining release by

filing entry documents should be eliminated from the rider. Customs disagrees because 19 U.S.C. 1484(a) requires a consignee of imported merchandise to make entry by filing documentation which will enable a Customs officer to determine whether the merchandise is eligible for release.

The commenter apparently believes that if the importer fails to make entry timely, as provided for by § 141.5, and the merchandise is sent to general order, the importer's entry bond will be obligated. Customs does not agree because the bond is not obligated until an entry is filed by the importer.

The same commenter states that the provision of the rider relating to filing documents is not clear as to whether an importer may be "charged" (and the surety thereby be obligated) for failure to "file" the documents required by Customs to assess duties and to determine that applicable requirements of law or regulation are met in the following situations:

(1) In response to a Request for Information, Customs Form 28;

(2) For a failure to produce and "file" documents in response to a summons issued under section 509, Tariff Act of 1930, as amended (19 U.S.C. 1509); and

(3) For a failure to "file" documents which, as to the importer, may constitute a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

In C.S.D. 79–217, Customs ruled that:

1. For the purpose of satisfying the conditions of the bond rider, the rider refers to documentation required by a law or regulation to be filed at the time entry summary documentation is filed. The requirement of § 141.66 for a bond to guarantee production of a missing document assumes that the document is known to be missing at the time entry summary documentation is filed. If the entry summary documentation were filed without any required document, failure to furnish the missing document timely subjects the importer as principal and the surety to liquidated damages for breach of the condition of the bond which requires the missing document to be filed timely. Assuming the entry summary documentation is filed timely in proper form, there is no breach of condition as to the filing of the documentation. The bond is not designed to guarantee production of documents or information determined to be necessary only after Customs reviews the entry summary documentation and makes a request for additional information or documents on Customs Form 28. Of course, failure to file a necessary document or to provide information when requested may cause Customs to extend the 1-year period for liquidation of an entry or result in the assessment of increased duties at the time of liquidation on the basis of the best information available to Customs.

2. An importer's failure to comply with a summons issued under 19 U.S.C. 1509 does not subject the surety to liability under an entry bond.

3. An importer's failure to file a document does not subject the surety to liability under 19 U.S.C. 1592.

The same commenter notes that the statement in the first whereas clause of the bond rider—"Whereas certain merchandise which is described in a bond * * * "—is misleading because no existing Customs bond provides for a description of the merchandise, and recommends that this clause be deleted.

Customs agrees that use of the word "described" in the context may be misleading. However, rather than eliminate the clause, the phrase "referred to" has been substituted for the word "described" in the bond rider set out in proposed § 142.5.

45. *Section 142.6.* Two commenters raise questions relating to this section.

As noted under the discussion of comments relating to proposed § 141.62(b), proposed § 142.6 has been deleted. Accordingly, proposed §§ 142.7, 142.8, and 142.9 have been renumbered as §§142.6, 142.7, and 142.8, respectively.

46. *Section 142.7* (now 142.6). Many commenters object to the requirement of this section that the invoices be rated by showing the appropriate 5-digit item number from the Tariff Schedules of the United States ("TSUS"). They contend that on numerous occasions, the information may not be available and thus cause delays in release of the merchandise, or there may be a dispute as to the proper rate. Another question why this information is needed at the time of entry and notes that under T.D. 78–174, an importer may subject himself to penalty liability by providing the information. One commenter notes that the proposed section does not provide for a change without prejudice from an incorrect 5-digit classification in documents supporting the entry to a corrected 7-digit classification in documents supporting the entry summary. Several commenters note that this information should be required only at the time of filing the entry summary. Several commenters suggest that this proposed section be amended to provide that (1) entries shall not be rejected because of any questions as to proper rating when the invoice descriptions are complete and accurate, (2) importers may make rating changes between entry and entry summary, and (3) rating errors should not be the basis for penatly proceedings. One commenter suggests that the section provide that the district director may waive the rated invoice requirement. Other commenters suggest proposed § 142.7(a)(4) be deleted.

In light of the comments, Customs has reconsidered its position. A sentence has been added to this proposed section to provide that the district director may waive the requirement to provide the 5-digit TSUS item number from the invoice when the information is not available at the time release of the merchandise is authorized. Additionally, when required, it is within the discretion of the district director to permit an importer to change the TSUS number at time of filing the entry summary. Whether or not a penalty would be imposed depends upon the facts and circumstances surrounding the filing of the documentation, which would determine whether there is a falsity without reasonable cause to believe the truth of the rating shown on invoice.

47. *Section 142.11(a).* Several commenters suggest this section be revised to permit Customs Form 5119–A or 7501 to serve as follow-up documentation for merchandise entered under an informal entry and released under the entry documentation set forth in §142.3(a).

Customs agrees that Customs Form 5119–A or 7501 should serve as follow-up documentation for merchandise entered under an informal entry and released under the entry documentation, and accordingly, has revised proposed §§ 141.68, 142.11, and present § 143.23. A sentence has been added to proposed § 142.11(a) referring the reader to present § 143.23 in situations relating to merchandise entitled to be entered under an informal entry.

Present § 143.23(f) is being amended to provide that for merchandise entitled to be entered under an informal entry and released under the immediate delivery or entry documentation, Customs Form 5119–A or 7501 (annotated "Informal Entry" in the upper right hand corner) may be used as the follow-up documentation.

Proposed § 141.68(h) is being revised to state the time of entry for informal entries. If merchandise eligible for informal entry is released under immediate delivery and then Customs Form 5119–A or 7501 is filed, the time of entry shall be the time the Customs Form 5119–A or 7501 is filed in proper form, with any related documents and estimated duties attached. However, if merchandise eligible for informal entry is released under the entry documentation set forth in § 142.3(a)

and then Customs Form 5119–A or 7501 is filed, the time of entry shall be in accordance with proposed § 141.68(a).

One commenter questions whether Customs Form 3311 would serve as entry and entry summary regardless of value.

Proposed §§ 10.1 (g) and (h) permit Customs Form 3311 to be used as an entry summary for consumption for certain aircraft and aircraft parts and equipment and for nonconsumable vessel stores and equipment regardless of value. If the value of other merchandise is over $250 for American goods returned, an entry summary for consumption on Customs Form 7501 is required.

Another commenter suggests that the provisions for filing entry summary documentation 10 days after release of merchandise be limited to merchandise entered for consumption or under informal entries, and that merchandise not be released under TIB entries or entries for warehouse unless the documentation otherwise required as part of the entry summary is furnished before release.

Customs is of the opinion that the Act does not limit the filing of an entry summary to situations where the merchandise is entered for consumption or under an informal entry. Accordingly, no change is being made in this proposed section.

48. *Section 142.12.* Many commenters object to any action on the part of Customs to require deposit of estimated duties earlier than 10 working days after the time of entry. It is claimed that requiring estimated duties earlier would create undue burdens for many importers because 10 days is the minimum time in which customhouse brokers can calculate duty, obtain deposits from the importer, prepare the entry summary, and locate and file documents with Customs.

As noted in the discussion under proposed § 141.101, Customs is retaining the 10-day period for the present.

Several commenters request clarification as to the timing and count of the 10-day period, noting that this proposed section does not mention Customs position regarding the length of time documents are in Customs possession in determining the 10-day period, and suggest this position be incorporated in the regulations.

One commenter suggests that the phrase "unless otherwise provided in [section] 141.64" be added to proposed § 142.12(b). It appears that the commenter is suggesting that if the entry summary is returned to the importer because it is not filed in proper form, the time it was under review by Customs shall not be included in the 10 working days during which the entry summary, with estimated duties attached, ordinarily must be filed.

Customs position on this matter is set forth in instructions to its field offices. Basically, the period of time Customs holds the entry summary is included within the 10-working day period. However, if it is necessary to return the entry summary for correction, the importer is allowed at least 2 working days to make the necessary corrections, provided the entry summary was filed initially within the 10-working day period.

One commenter suggests that the regulations provide that Saturdays and Sundays not be included in the 10-day count. It is unnecessary to refer to Saturdays and Sundays in determining the 10-day count, because proposed section 142.12(b) explicitly mentions "working days".

49. *Section 142.13.* One commenter notes that in light of proposed § 141.64 (which provides that if errors are found, the entry and entry summary documentation shall not be considered "filed" and be returned to the importer), proposed § 142.13(a)(3) is contradictory and superfluous. The basis for this reasoning is that because "filing" does not occur until the entry summary is correct and complete, an importer cannot repeatedly "file" incomplete or erroneous entry summaries.

Because Customs agrees with this comment, the non-technical term "delivered" has been substituted for the technical term "filed" in this section. Customs is concerned about the repetitious delivery to Customs of entry summaries which are incomplete or which contain erroneous information.

Several commenters request that the term "repeatedly", as used in proposed §§ 142.13(a)(1) and (3), and the phrase "substantially or habitually delinquent", as used in proposed § 142.13(b), be defined.

Customs believes that the term "repeatedly" need not be defined. This term will be given its normal dictionary meaning. Similarly, Customs believes the phrase "substantially or habitually delinquent", used in present § 142.7 for suspension of immediate delivery privileges (proposed § 142.26), need not be defined in the regulation.

The term "habitually deliquent" means to fail repeatedly to pay Customs bills within 30 days. The term "substantially delinquent" means to fail to pay a large amount of money due to the United States within 30 days.

One commenter believes that due process requires a hearing with a right of appeal to Customs Headquarters before the regional commissioner may act under § 142.13(b).

Customs disagrees. There is no due process issue involved. Section 102 of Pub. L. 95–410 provides that the entry summary shall be filed at the time of entry of the merchandise or within 10 working days after time of entry. Section 103 provides that the importer shall deposit estimated duties at the time of entry or by regulation at a later time, not to exceed 30 days. Customs has interpreted this to permit deposit of estimated duties within 10 working days after the time of entry. If the importer is habitually or substantially delinquent in the payment of Customs bills, then Customs has the right to require filing of the entry summary, with estimated duties attached, before the merchandise may be released. Customs believes that this does not generate a due process claim. Similarly, Customs considers the use of the immediate delivery procedure a privilege rather than a right. Suspension of the privilege would require an importer to deposit estimated duties at the time of release, which is consistent with 19 U.S.C. 1505(a).

Two commenters suggest that when a regional commissioner requires the entry summary to be filed and estimated duties deposited before release of the merchandise, as provided in proposed § 142.13(b), the sanction (as set forth in proposed § 142.14) should be restricted to the particular port or ports where the entry requirements are being violated.

Customs disagrees. The immediate delivery procedure previously provided for the suspension of the immediate delivery privilege for the particular region involved. However, based upon Customs experience, it is necessary to amend present § 142.7 to provide for suspension in any Customs region (see T.D. 76–78). Proposed § 142.26 contains provisions similar to those in proposed § 142.14.

50. *Section 142.17.* Several commenters are concerned that adoption of a weekly consolidated entry for merchandise consigned to the same consignee would eliminate the daily consolidated entry of "like" merchandise for ultimate consignees by a customhouse broker under his own name and bond.

Customs did not intend to eliminate this practice. A new § 142.17a is being added to Part 142 to permit a customhouse broker as nominal consignee to file a daily consolidated entry summary in his own name under his own bond to cover shipments of like

or similar merchandise consigned to multiple ultimate consignees provided the merchandise is imported on the same day, itemized as to each category of merchandise by statistical reporting number, and released on the same day. This practice, which has been in effect since 1954, is merely being made a part of the regulations.

One commenter objects that proposed § 142.17(b)(5) would prohibit the filing of one entry summary of multiple entries of merchandise subject to internal revenue tax.

Customs has reconsidered its position and because this prohibition has been found to be unnecessary, has revised proposed § 142.17(b) by deleting subparagraph (5), relating to merchandise subject to internal revenue tax.

51. *Section 142.21(a).* Several commenters suggest that the proposed section should permit the use of the immediate delivery procedure for other than land shipments from Canada or Mexico.

Customs believes that the immediate delivery procedure is an exception to the general rule that under Pub. L. 95–410, the "entry" is the releasing document and, therefore, should be used only in special circumstances. The use of the immediate delivery procedure in connection with merchandise from contiguous countries is limited to land shipments to avoid congestion at the border ports. The same circumstances do not apply to shipments arriving by air and sea, because there is time to prepare the necessary entry documentation in connection with such shipments. Accordingly, proposed § 142.21(a) is being revised to make clear that the immediate delivery procedure applicable to shipments from contiguous countries is limited to land shipments.

52. *Section 142.21(b).* One commenter questions why the procedure set forth in this proposed section includes only certain merchandise transported to an importer's premises within the port of importation but removed from the area immediately contiguous to the border.

Other commenters suggest that the provision apply to fresh cut flowers, livestock, frozen strawberries, tropical fish, and other merchandise.

Customs believes this section cannot be expanded to cover the transportation of merchandise to an importer's premises outside the port limits because it is necessary to maintain strict control and accountability of the merchandise released under this liberalized procedure.

It also is Customs position that this procedure should include only fresh fruits and vegetables and should not be expanded.

53. *Section 142.21(d)* (now § 142.21(g)). One commenter asks what type of merchandise would fall within the context of this proposed section which provides that Headquarters may authorize release of merchandise under the immediate delivery procedure.

This proposed section was added to provide for the immediate release of merchandise on a case-by-case basis in situations which may arise in the future.

54. *Section 142.22(a).* Although one commenter notes that this section provides that an importer may deliver to Customs a pro forma invoice, he questions whether the other invoice requirements would apply at time of filing the entry summary.

The invoice requirements in proposed § 142.16(a) would apply when an entry summary is filed as a follow-up document after the release of merchandise under the immediate delivery procedure.

55. *Section 142.22(b).* One commenter notes that it would be more accurate to state that the document filed under § 142.22(b)(1) is actually a combined entry/entry summary.

An entry summary may be filed (1) after the merchandise is released under an entry, (2) at the time of entry, in which case the entry summary shall serve as an entry and entry summary, or (3) after the merchandise is released under the immediate delivery procedure. As previously noted, a separate proposal is under consideration to revise Customs Form 7501, to be entitled the "Entry/Entry Summary".

One commenter questions whether under this section, an importer could have merchandise released under a special permit for immediate delivery, return the merchandise to Customs custody several days later, and file an exportation entry, thereby negating the need to file an entry summary.

The filing of an exportation entry after release under an application for immediate delivery is permitted only under proposed §§ 142.21(b), relating to fresh fruits and vegetables, and 142.21(e)(2), relating to absolute quota merchandise.

56. *Section 142.23.* Two commenters note that although the proposed section continues to provide for the 10-working-day period for filing documentation after release, longer periods have been allowed for monthly consolidated entries. One of these commenters suggests that § 142.23 be revised to provide for periods longer than 10 working days when authorized by Customs Headquarters.

The monthly consolidated entry procedure presently is under review. It is not intended that proposed § 142.23 make any change in the procedure. Customs believes the language should remain as proposed.

57. *Sections 158.21a and 158.43(c)(2).* One commenter believes there is no reason why an abatement or a refund should not be permissible throughout the full 5-year term authorized for warehouse entries.

Customs believes this matter was explained satisfactorily in the proposed notice of November 29, 1978 (43 FR 55780).

58. *Section 159.9(c).* Several commenters object to Customs considering the legal notice of liquidation to be the bulletin notice posted in the customhouse. One commenter suggests that Customs eliminate the practice of considering the bulletin posting of liquidation as the official notice and instead consider the mailed "courtesy" notice as the official notice.

Section 500 of the Tariff Act of 1930, as amended (19 U.S.C. 1500), authorizes the Secretary of the Treasury to prescribe regulations for the liquidation of entries of imported merchandise. Under this authority, present § 159.9(a) provides that a notice of liquidation of formal entries shall be made on a bulletin notice of liquidation, Customs form 4333 or 4335. The Customs Court in *Reliable Chemical Company* v. *United States*, C.R.D. 78–111 (1978), held that the notice of liquidation must be given in the form and manner prescribed by the Secretary of the Treasury and the regulations so prescribed have the force of law.

One commenter questions whether the bulletin notice would serve as the only legal evidence of liquidation and refers to the above-cited case, wherein the Customs Court held that Customs Form 4333–A constituted a direct, formal, and decisive notice of liquidation. Two commenters recommend that Customs continue to provide a courtesy notice in addition to the bulletin notice. Other commenters question whether importers would receive a notice of liquidation for entries that are liquidated before the 1-year period and for entries deemed liquidated by operation of law.

Customs has determined that the bulletin notice shall serve as the only legal evidence of liquidation. However, Customs will review the procedure to provide alternate means of providing legal evidence of liquidation when AMPS is developed further.

Also, Customs will implement the suggestion of the Customs Court in *Reliable Chemical Company* v. *United States, supra.* In this regard, a new paragraph (d) has been added to present § 159.9 to provide that Customs will endeavor to provide a Customs form 4333–A, the "Courtesy Notice", for all entries specified in § 159.9(a)(1) which are scheduled to be liquidated. Customs also will provide the courtesy notice, in addition to the bulletin notice specified in proposed § 159.9(c)(2)(iii), for all entries which are deemed liquidated by operation of law. Customs Form 4333–A is being revised to provide (and § 159.9(d) specifically states) that the form shall serve only as an informal courtesy notice and not as a direct, formal, and decisive notice of liquidation. However, a courtesy notice will not be provided for informal entries liquidated under present § 159.10(c)(3).

A new sentence has been added to §§ 159.11(a), 159.12(f), and 159.12(g) to state that Customs will endeavor to provide a Customs Form 4333–A pursuant to § 159.9(d).

Several commenters raise questions about the period of time for filing protests after liquidation. Proposed § 159.9(c)(2)(iii) provides that for entries liquidated by operation of law, a protest shall be filed within 90 days from the date the bulletin notice of liquidation is posted or lodged in the customhouse. The commenter requests this section be revised to provide that the 90-day protest period should begin to run on the date of liquidation by operation of law. Another commenter suggests that Customs provide 2 applicable 90-day periods: 90 days from (1) the date of bulletin notice, as provided in proposed § 159.11, or (2) the date of expiration of the appropriate statutory period, whichever occurs first.

Customs has reviewed this matter and has determined that no change is necessary. The protest must be filed within 90 days from the date the bulletin notice of liquidation of an entry liquidated by operation of law is posted or lodged in the customhouse. However, it is proper for a protest to be filed on the date of liquidation of an entry deemed liquidated by operation of law, or within 90 days thereafter, even though the importer has not as yet received the bulletin notice of liquidation. The importer will have, in effect, 2 time frames within which to file a protest. Proposed section 159.9 specifies the longer period of time.

59. *Section 159.11(a).* One commenter objects to the language that an entry not liquidated within the 1-year period shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted by the importer at time of entry. He believes these factors should be fixed as of the date the entry summary is filed.

Customs believes this comment has merit. "Time of entry" is used in section 209 of Pub. L. 95–410 (19 U.S.C. 1504) to refer to the time the merchandise enters the commerce of the United States. Therefore, for purposes of liquidation, Customs believes this term has a different meaning than that set forth in proposed § 141.68.

Customs believes that for purposes of liquidation, "time of entry" occurs when an entry summary in proper form, with estimated duties attached, is filed, or in the case of merchandise entered for warehouse, when the merchandise is withdrawn from warehouse for consumption and estimated duties are deposited. Therefore, proposed §§ 159.11(a) and 159.12(f) have been revised to reflect that an entry deemed liquidated by operation of law shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of filing the entry summary for consumption in proper form, with estimated duties attached, or at the time of filing a warehouse withdrawal for consumption in proper form, with estimated duties attached.

The same commenter believes Customs also should take into consideration any tender of duties submitted by the importer after the entry summary is filed. A definitive answer to this comment would depend on the facts and circumstances surrounding the tender. For example, a tender of additional duties may be required as liquidated damages for failure to produce a missing document timely, in accordance with § 141.66, Customs Regulations, or for failure to meet a conditionally free entry requirement. Generally, however, Customs believes that the action contemplated by 19 U.S.C. 1504 is fixed at the time of filing the entry summary and would not be applicable to any voluntary tender of duties made after the filing of the entry summary, with estimated duties attached.

One commenter requests clarification of the meaning of the terms "asserted" and "amount of duties asserted by the importer". He wishes to know whether the term "asserted" implies any TSUS rate the importer states and how this rate would be documented in reject situations.

The statute requires that an entry deemed liquidated by operation of law shall be liquidated at the TSUS rate of duty, value, quantity, and amount of duties which is "asserted". In this context, "asserted" means that which is claimed and indicated by the importer, his consignee or agent on the entry summary or warehouse withdrawal.

60. *Section 159.11(b).* Several commenters object that this proposed section and proposed § 159.12 shall apply to entries or withdrawal of merchandise for consumption made after March 31, 1979. They believe that the procedure should apply to all unliquidated entries.

Section 209(b) of Pub. L. 95–410 states:

> The amendment made by this section applies to the entry or withdrawal of merchandise for consumption on or after 180 days after the enactment of this Act.

Therefore, proposed §§ 159.11(b) and 159.12 apply only to entries or withdrawals of merchandise for consumption made after March 31, 1979, and cannot be applied to unliquidated entries made before that date. This delayed effective date was incorporated into the statute to enable Customs to program the automated systems required to administer the new provision.

61. *Section 159.12(a).* One commenter questions the meaning of the phrase "not available" in paragraph (a)(1) in the context of American Selling Price (ASP) appraisement. He believes that the phrase "not available" would preclude postponement or extension of time for an ASP determination because the information on domestically-produced shoes is "available" in the market place at the time of importation.

Customs believes that the statutory authority to extend the period for liquidation to develop additional information relating to the appraisement of merchandise extends to situations in which the information is not before Customs for any reason. Accordingly, the time for liquidation of ASP entries may be extended if the information is not before Customs, notwithstanding its availability in the market place.

62. *Section 159.12(g).* One commenter suggests that Customs Form 4333 be used as the means of notification of liquidation, and that Customs supply a print-out of entries liquidated for each customhouse broker having an interest.

As indicated above, Customs will endeavor to provide a courtesy notice as well as the bulletin notice. Customs is considering the request to supply a print-out of liquidation for the individual customhouse broker having an interest.

63. *Section 172.22.* Although the notice of November 29, 1978, contained no reference to amending Part 172, one commenter notes that because Part 142

has been rewritten, the reference to § 142.15 in § 172.22(d) is incorrect. Customs agrees.

Therefore, § 172.22 is amended to reflect appropriate cross-references to the immediate delivery procedure and to release under an entry.

64. *Other comments.* One commenter suggests that the terms "importer", "importer of record", and "consignee" be defined.

The term "importer" is defined in § 101.1(k) and includes within its meaning a "consignee" and "importer of record".

Two commenters object because only 30 days was given for the public to provide written comments on the proposed notice of November 29, 1978.

As stated in the notice, the comment period was 30 days rather than 60 days because it was necessary to expedite implementation of the legislative changes made by Pub. L. 95–410 which became effective either upon enactment, or 60 to 180 days thereafter.

Other Changes

Upon its own review, Customs has made additional changes in the amendments proposed in the notice published in the **Federal Register** on November 29, 1978. Customs also is amending certain sections of the Customs Regulations which were not referred to in the notice. Because these amendments merely liberalize existing requirements, or represent conforming and editorial changes, notice and public procedure thereon are found to be unnecessary.

1. *Section 24.3.* Section 24.3(b), relating to bills and accounts and receipts, not discussed in the November 29, 1978, notice, is amended to provide that a payer shall be furnished a receipt for estimated duties at the time of payment, rather than the time of entry, if he furnishes with his payment an additional copy of the documentation submitted in support of the payment. The reference to furnishing an additional copy of Customs Form 5101 has been deleted because this form is not used for this purpose. Additionally, minor editorial changes have been made.

2. *Section 132.14.* Proposed § 141.0a(e) provides that the term "presentation" is to be used only in connection with quota-class merchandise. However, the term "filing", defined in proposed § 141.0a(d), was used inadvertently in two sections in Part 132. Therefore, the term "presentation" has been substituted for the term "filing" in proposed § 132.14(a)(3)(i)(B) (renumbered § 132.14(a)(4)(i)(B)).

The term "presentation" also has been substituted for the term "filing" in proposed § 132.14(a)(3)(ii) (now § 132.14(a)(4)(ii)).

3. *Section 141.0(a).* This proposed section defines terms used in connection with the entry of merchandise. Three additional definitions have been added to this section.

The term "entered for consumption" means that an entry summary for consumption has been filed with Customs in proper form, with estimated duties attached.

The term "entered for warehouse" means that an entry summary for warehouse has been filed with Customs in proper form.

The term "entered under a temporary importation bond" means that an entry summary supporting a temporary importation under bond has been filed with Customs in proper form.

These terms are being added because the type of entry is not determined until the information set forth on the entry summary is provided.

4. *Section 141.55.* Section 141.55, relating to a single entry summary for shipments arriving under one transportation entry, not discussed in the November 29, 1978 notice, is being amended to reflect the use of the term "entry summary". As amended, this section provides that an entry summary ordinarily may be filed for the entire quantity of merchandise transported under one immediate transportation entry from the port of origin to the port of final destination in installments. Minor editorial changes also have been made.

5. *Section 141.56.* A new § 141.56, relating to a single entry summary for multiple transportation entries consigned to the same consignee, is added. This section provides that a district director may accept an entry summary for merchandise covered by multiple entries for immediate transportation. However, a single entry summary shall not be accepted for any merchandise listed in proposed § 142.17(d).

6. *Section 141.61(d)(1).* Proposed § 141.61(d)(1) provides that except in the case of a consolidated entry summary covering merchandise of more than 1 ultimate consignee, the importer number of the importer of record and of the ultimate consignee shall be reported for each consumption or warehouse entry summary and for each appraisement, vessel/aircraft repair, or drawback entry. The proposed section also provides that if the importer of record and the ultimate consignee are the same, the importer number shall be entered in both spaces provided on Customs Form 5101.

If the importer of record and ultimate consignee are the same, it is unnecessary to require the importer number to be entered in both spaces. Therefore, the second sentence of proposed § 141.61(d)(1) has been revised to provide that in this circumstance, the importer number may be entered in both spaces, or the importer number may be entered in the space provided for the importer of record, and the word "same" may be entered in space provided for the ultimate consignee. This change should reduce the number of errors which result from improper data transcription.

7. *Section 141.61(e)(1).* This section sets forth various Customs forms upon which the applicable statistical information is required to be shown. Several technical changes in citing the forms have been made. References have been added to:

(1) Customs Form 7500, "Appraisement Entry",

(2) Customs Form 7512, "Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit", when used to document an incoming vessel shipment proceeding to a third country by means of transportation and exportation, or immediate exportation, and

(3) Customs Form 226, "Record of Vessel/Aircraft Foreign Repair or Equipment Purchase".

The reference to Customs Form 7502, when used as a rewarehouse entry, has been deleted.

8. *Section 141.62(b)(1) (now 141.62(b)(1)(ii).* The phrase "special permit for", in describing the immediate delivery application, may be confusing and, therefore, is deleted.

9. *Section 141.68(a).* Proposed § 141.68(a)(1) provides that if entry documentation is filed in proper form without the entry summary, the time of entry is the time authorized for release of the merchandise. However, merchandise may take several to unlade. The counting, for purposes of filing the entry summary, with estimated duties attached, begins when the Customs officer authorizes release of any part of the merchandise covered by the entry. This section has been revised to reflect this point.

10. *Section 141.86.* A Special Customs Invoice ("SCI"), Customs Form 5515, is required for each shipment of merchandise imported into the United States when the purchase price exceeds $500 and the rate of duty is dependent in any manner upon the value of the merchandise. This invoice also is

required for merchandise not imported pursuant to a purchase or agreement to purchase when the value is over $500.

The general information required by section 481(a), Tariff Act of 1930 (19 U.S.C. 1481(a)), to be shown on all invoices, including the SCI, for merchandise imported into the United States, is set forth in § 141.86(a).

Pursuant to section 481(d), Tariff Act of 1930 (19 U.S.C. 1481(d)), exemptions from the requirements of 19 U.S.C. 1481(a) may be made by the Secretary as he deems advisable. An exemption has been found advisable in the case of the SCI.

In cooperation with the National Committee on International Trade Documentation, Customs has revised the SCI to align it with the United States Standard Master for International Trade. The United States Standard Master for International Trade was designed to facilitate the use of forms in international trade by creating uniform specifications for form, size, and content, and to allow importers to use automatic data processing equipment in completing trade forms.

As a result, certain information required by § 141.86(a) to be included on all invoices no longer need appear on the SCI, and the requirement for furnishing the information has been deleted from this form.

Accordingly, the SCI is excepted from the general informational requirements of § 141.86(a), and a new § 141.86(j) has been added to reflect the specific informational requirements of this form.

11. *Section 141.91.* The phrase "other than a special summary invoice" was omitted inadvertently from the introductory language of this section in the November 29, 1978, notice, and is being inserted by this document.

12. *Section 141.92(b).* The introductory language of this section is being amended to reflect the new entry/entry summary terminology.

13. *Section 142.3a.* This paragraph has been revised to define the first fiscal year as beginning on October 1, 1979, and ending on September 30, 1980.

Customs plans to begin to initiate assigning entry numbers nationwide on October 1, 1979. Although pilot tests are being conducted and others will be initiated prior to October 1, 1979, the national capability for implementing this procedure will not occur until that date.

14. *Section 142.17(a)(2). Proposed § 142.17(a)(2)* provides that a district director generally may permit the filing of 1 entry summary for merchandise the subject of separate entries if the merchandise arrives by the same air carrier or the same mode of land transportation. However, upon review, it has been determined that this procedure may be used for merchandise arriving by the same vessel, and that there is no need to restrict this procedure to the same mode of land transportation. Therefore, this section is being revised to provide that the procedure may be used when the merchandise arrives by land, by the same vessel, or by the same air carrier.

15. *Section 142.17(b).* Proposed § 142.17(b) sets forth 5 situations in which 1 entry summary may not be used for multiple entries. As previously noted, reference to the fifth situation has been deleted. Customs has added a new fifth limitation to cover the situation when the rate of duty on merchandise covered by the same TSUS item number changes during the period of consolidation. This limitation would apply to entries and immediate transportation entries so that only those filed before the change in the rate of duty could be consolidated into 1 entry summary and those filed on or after the change could be consolidated into another entry summary. Customs believes that the procedure otherwise would be too burdensome to use.

16. *Section 142.21.* Proposed § 142.21 sets forth the circumstances under which merchandise may be released under the immediate delivery procedure. However, the November 29, 1978, notice inadvertently omitted the use of the immediate delivery procedure for merchandise consigned to or for the account of any agency or office of the United States Government, or to an officer or official of the agency in his official capacity. Therefore, a new § 142,21(c) has been added to provide for this use of the immediate delivery procedure.

The notice also inadvertently omitted the use of the immediate delivery procedure for articles entered for a trade fair, as provided for in § 147.13 of this chapter. Therefore, a new § 142.21(d) has been added to provide for this use of the immediate delivery procedure.

17. *Section 142.21(a).* The second sentence of this section has been revised to provide a cross-reference to § 142.21(b)(1) to reflect the type of entry summary documentation which shall be filed.

18. *Section 142.22(b)(1).* This section has been revised to include a reference to an "entry summary for warehouse and entry summary for entry under temporary importation bond". This change is being made to conform to the current practice.

19. *Section 142.25.* Proposed § 142.13(a) sets forth 3 circumstances in which the district director may require that the entry summary documentation by filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released. However, proposed § 142.25(a) (the title of § 142.25 inadvertently was omitted from the November 29, 1978, notice) sets forth only 2 provisions for which the district director may discontinue the immediate delivery procedure. A third circumstance, similar to that in proposed § 142.13(a)(3), has been added to § 142.25 as paragraph (a)(3). Customs considers the comments made on proposed § 142.13(a)(3) to apply to the new § 142.25(a)(3).

20. *Part 151.* The following sections of this part are being amended to reflect the new entry/entry summary terminology:

1. The first and last sentences of § 151.47,

2. The section heading and first sentence of § 151.63,

3. Paragraph (a) and (b) of § 151.64, and

4. The first, third, and fourth sentences of § 151.64.

21. *Part 158.* The following sections of this part are being amended to reflect the new entry/entry summary terminology:

1. The section heading and first sentence of § 158.2, and

2. The section heading and first sentence of § 158.3.

22. *Section 159.11(b).* The notice stated that the amendments relating to the time limits for liquidation did not include vessel repair entries or drawback entries. This limitation has been incorporated in proposed § 159.11(b).

For editorial clarity, this proposed section also has been revised by referring to the effective date as "on or after April 1, 1979" rather than "after March 31, 1979".

23. *Sections 159.12 (b) and (c).* Proposed §§ 159.12 (b) and (c) provide the district director shall notify the importer or appropriate party in writing of an extension or suspension of liquidation. These sections have been revised to provide that notification shall be on "Customs Form 4333–A, appropriately modified".

24. *Section 159.12(f)(1).* The phrase "for consumption" has been deleted

from this paragraph. This phrase may be confusing because final withdrawals may not always be withdrawals for consumption.

25. *Section 172.22(b).* This section is being amended to (1) reflect the new entry/entry summary terminology, and (2) provide for the production of a required invoice within 50 days after the date the entry or entry summary is filed. The second change is being made to conform this section with proposed §§ 141.61(e)(2) and 141.91(d).

26. *Section 173.1.* Section 173.1 provides that district directors have broad responsibility and authority to review transactions to ensure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is in accordance with law. However, this section makes no reference to the Regional Commissioner of Customs, New York, and is being amended to refer to that official.

27. *Section 173.4(c).* Proposed § 173.4(c) provides that a clerical error, mistake of fact, or other inadvertence meeting the requirements of § 173.4(b) shall be brought to the attention of the district director at the port of entry within 1 year after the date of liquidation or exaction. However, proposed § 173.4(c) makes no reference to the Regional Commissioner of Customs, New York, and is being amended to refer to that official.

After consideration of the comments received and upon Customs internal review, it has been decided to adopt the regulations as proposed with the changes set forth in this document.

Inapplicability of Executive Order 12044

This document is not subject to the provisions of the Treasury Department directive (43 FR 52120) implementing EO 12044, "Improving Government Regulations", because the subject matter was in an advanced state of preparation before May 22, 1978.

Drafting Information

The principal authors of this document were Charles D. Ressin and Benjamin H. Mahoney, Regulations and Legal Publications Division, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendments to the Regulations

Parts 10, 11, 24, 127, 132, 141, 142, 143, 144, 151, 158, 159, 172, and 173, Customs Regulations (19 CFR Parts 10, 11, 24, 127, 132, 141, 142, 143, 144, 151, 158, 159, 172, and 173), are amended as set forth below.

William T. Archey,

Acting Commissioner of Customs.

Approved: July 17, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. §§ 10.1 (d), (g) and (h) are amended to read as follows:

§ 10.1 Domestic products; requirements on entry.

* * * * *

(d) If the district director is reasonably satisfied, because of the nature of the articles, or production or other evidence, that the articles are imported in circumstances meeting the requirements of item 800.00 or 805.00, Tariff Schedules of the United States, and the related headnotes, he may waive the requirements for producing the documents specified in paragraphs (a) and (b) of this section except when Customs Form 3311 is used as an entry summary (as defined in § 141.0a(b) of this chapter) under paragraphs (g) or (h), or as an informal entry under paragraph (i).

* * * * *

(g) *Aircraft and aircraft parts and equipment.* (1) In the case of aircraft and aircraft parts and equipment returned to the United States under item 800.00, Tariff Schedules of the United States, by or for the account of an aircraft owner or operator and intended for use in his own aircraft operations, within or outside the United States, the entry summary may be made on Customs Form 3311. The entry summary on Customs Form 3311 shall be executed by the entrant and supported by the entry documentation required by § 142.3 of this chapter. If the Customs officer is satisfied that the articles are products of the United States, that they have not been improved in condition or advanced in value while abroad, and that no drawback has been or will be paid, the other documents described in this section shall not be required, and no bond need be filed for their production.

(2) The entrant shall show on Customs Form 3311:

(i) The name and address of the aircraft owner or operator by whom or for whose account the articles are returned to the United States, in the block headed "Articles Returned To (Name and Address)",

(ii) The name of the importing vessel or conveyance,

(iii) The date of its arrival,

(iv) A description of the articles,

(v) The value of the articles, and

(VI) That the articles are intended for use by the aircraft owner or operator in his own aircraft operations.

(3) If Customs Form 3311 is filed at time of entry, it shall serve as both the entry and the entry summary.

(h) *Nonconsumable vessel stores and equipment.* (1) In the case of nonconsumable vessel stores and equipment returned to the United States under item 800.00, Tariff Schedules of the United States, the entry summary may be made on Customs Form 3311. The entry summary on Customs Form 3311 shall be executed in duplicate by the entrant and supported by the entry documentation required by § 142.3 of this chapter. Before an entry summary on Customs Form 3311 may be accepted for nonconsumable vessel stores and equipment, the Customs officer shall be satisfied that:

(i) The articles are products of the United States.

(ii) The articles have not been improved in condition or advanced in value while abroad.

(iii) No drawback has been or will be paid, and

(iv) No duty equal to an internal revenue tax is payable under item 804.20, Tariff Schedules of the United States.

(2) The declaration of the foreign shipper described in paragraph (a)(1) of this section and the certificate of exportation described in paragraph (a)(3) of this section shall not be required in connection with an entry for nonconsumable vessel stores and equipment on Customs Form 3311.

(3) To satisfy the Customs officer that no drawback has been or will be paid on the articles in connection with their removal from the United States, the master of the vessel or other person having knowledge of the facts shall furnish a written declaration which may be made on the reverse side of Customs Form 3311 showing that the articles were:

(i) Exported as stores or equipment on a United States vessel or a vessel operated by the United States Government,

(ii) Not landed in a foreign country, except for any needed repairs, adjustments, or refilling and return to the vessel from which landed or,

(iii) For transshipment as stores or equipment to another vessel.

(4) The entrant also shall show:

(i) The name of the importing vessel,

(ii) The date of its arrival,

(iii) A description of the articles, and

(iv) The value of the articles.

(5) If Customs Form 3311 is filed at time of entry, it shall serve as both the entry and the entry summary.

2. § 10.31(a) is amended to read as follows:

§ 10.31 Entry; bond.

(a)(1) Entry of articles brought into the United States temporarily and claimed to be exempt from duty under Schedule 8, Part 5C, Tariff Schedules of the United States (TSUS),[34] unless covered by an A.T.A. carnet as provided in Part 114 of this chapter, shall be made on Customs Form 3461 or 7533, supported by the documentation required by § 142.3 of this chapter. However, when § 10.35 or § 10.36a is applicable, or the aggregate value of the article is not over $250, the form prescribed for the informal entry of importations by mail, in baggage, or by other means, may be used. When entry is made on Customs Form 3461 or 7533, an entry summary, Customs Form 7501, shall be filed within 10 days after time of entry, in accordance with Subpart B, Part 142 of this chapter.

(2) If Customs Form 7501 is filed at time of entry, it shall serve as both the entry and entry summary, and Customs Form 3461 or 7533 shall not be required. Customs Form 7501 shall be in original only, except for entries under item 864.05, TSUS, which require a duplicate copy for statistical purposes. When articles are entered under an A.T.A. carnet, the importation voucher of the carnet shall serve as the entry.

(3) In addition to the data usually shown on a regular consumption entry summary, each temporary importation bond entry summary shall include:

(i) The TSUS item number under which entry is claimed.

(ii) A statement of the use to be made of the articles in sufficient detail to enable the district director to determine whether they are entitled to entry as claimed, and

(iii) A declaration that the articles are not to be put to any other use and that they are imported for sale or sale on approval.

* * * * *

3. § 10.91 is amended to read as follows:

§ 10.91 Importation under item 306.00; entry or withdrawal under bond.

(a) The entry summary for wool or hair of the camel [82] imported for use in the manufacture of any of the articles enumerated in item 306.00, Tariff Schedules of the United States (TSUS),[83] shall be made on Customs Form 7501 and filed with the entry documentation listed in § 142.3(b) of this chapter before the merchandise shall be released, unless the merchandise is to be entered for warehouse. If the merchandise is to be entered for warehouse, the entry summary shall be made on Customs Form 7502 and filed with the entry documentation listed in § 142.3(b) of this chapter in either case, Customs Form 7501 or 7502, as appropriate, shall serve as both the entry and the entry summary.

(b) When the entry summary is made on Customs Form 7501, it shall contain the following endorsement:

Above merchandise entered under bond for use in the manufacture of _____ (camel hair belting, felt or knit boots, floor coverings, heavy fulled lumbermen's socks, press cloth, papermakers' felts, or pressed felt for polishing plat and mirror glass) under the provision of item 306.00, Tariff Schedules of the United States.

The endorsement shall be signed by the obligor on the bond.

(c) When the merchandise is entered for warehouse, withdrawals for use in the manufacture of the articles enumerated shall be made on Customs Form 7506 in the name of the obligor on the bond.

(d) Wool or hair of the camel which has been released from Customs custody shall not be restored to a Customs status from which it thereafter could be entered or withdrawn under the provisons of item 306.00, TSUS.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 11—PACKING AND STAMPING; MARKING [1]

1. Section 11.6 is amended to read as follows:

§ 11.6 Distilled spirits, wines, and malt liquors in bulk.

(a) The district director, in his discretion, may require marks, brands, stamps, labels, or similar devices to be placed on any bulk container used for holding, storing, transferring, or conveying imported distilled spirits, wines, and malt liquors, in accordance with 19 U.S.C. 467.[2]

(b) Marks, brands, stamps, labels, or similar devices required by Federal, state, or local statute or regulation may be affixed, and Customs inspection, gauging, marking, or measurement may be done, at the place of unlading or other suitable place, unless the district director determines that inspection, gauging, marking, or measurement shall be done at a public store, warehouse, or other appropriate facility.

(c) Marks, brands, stamps, labels, or similar devices shall be permanent in nature and not subject to obliteration or removal as a result of handling or other condtions. The district director shall determine whether a mark, brand, stamp, label, or similar device is acceptable, based on the nature, surface, and composition of the container.

2. Footnote 2 to Part 11 is amended to read as follows

[2] "The Secretary of the Treasury may by regulation require such marks, brands, and stamps or devices to be placed on any bulk container (including a pipeline) used for holding, storing, transferring or conveying imported distilled spirits, wines, or malt liquors as he deems necessary and proper in the administration of the Federal laws applicable to such imported distilled spirits, wines, or malt liquors and may specify those marks, brands, and stamps or devices which the importer or owner shall place or have placed on such containers. Any such container of imported distilled spirits, wines, or malt liquors withdrawn from customs custody purporting to contain imported distilled spirits, wines, or malt liquors found without having thereon any mark, brand, stamp, or device the Secretary of the Treasury may require, shall be with its contents, forfeited to the United States of America." (19 U.S.C. 467)

"Beverages in this subpart, containing over 24 percent of ethyl alcohol by volume when imported are classed as spirits under item 168.52." (Schedule 1, part 12C, headnote I. Tariff Schedules of the United States.)

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Section 24.3(b), Customs Regulations, is amended to read as follows:

§ 24.3 Bills and accounts; receipts.

(a) * * *

(b) A receipt for the payment of estimated Customs duties shall be provided a payer at the time of payment if he furnishes with his payment an additional copy of the documentation submitted in support of the payment. The appropriate Customs official shall validate the additional copy as paid and return it to the payer. Otherwise, a copy of the document filed by the payer and the payer's cancelled check shall constitute evidence of payment.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 127—GENERAL ORDER, UNCLAIMED AND ABANDONED MERCHANDISE

§ 127.3 [Deleted]

1. Part 127 is amended by deleting § 127.3.

2. Section 127.4 is amended to read as follows:

§ 127.4 General order period defined.

The general order period is that period of time during which general order merchandise, as defined in § 127.1, is not subject to sale. The general order period expires 1 year from the date of importation.

3. Section 127.11 is amended to read as follows:

§ 127.11 Unclaimed merchandise.

Any entered or unentered merchandise (except merchandise under section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), but including merchandise entered for transportation in bond or for exportation) which remains in Customs custody for 1 year from the date of importation, or a lesser period for special merchandise as provide by §§ 127.28 (c), (d), and (h), and without all estimated duties and storage and other charges having been paid, shall be considered unclaimed and abandoned.

(Sec. 491, 46 Stat. 726 as amended (19 U.S.C. 1491).)

4. Section 127.12(a)(2) is amended to read as follows:

§ 127.12 Abandoned merchandise.

(a) * * *

(1) * * *

(2) Any imported merchandise upon which any duties or charges are unpaid; remaining in a bonded warehouse beyond the 5-year warehouse period.

5. Section 127.14(c)(1) is amended to read as follows:

§ 127.14 Disposition of merchandise in Customs custody beyond time fixed by law.

* * * * *

(c) * * *

(1) Merchandise upon which all duties and charges have been paid which remains in a bonded warehouse beyond the 5-year warehouse period.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 132—QUOTAS

1. Section 132.1 is amended by deleting paragraph (c) and by revising paragraph (d) to read as follows:

§ 132.1 Definitions.

* * * * *

(d) *Presentation.* "Presentation" is the delivery in proper form to the appropriate Customs officer of:

(1) An entry summary for consumption, which shall serve as both the entry and the entry summary, with estimated duties attached (see § 141.0a(b)), or

(2) A withdrawal for consumption, with estimated duties attached.

* * * * *

2. Section 132.3 is amended to read as follows:

§ 132.3 Observation of official hours.

An entry summary for consumption or a withdrawal for consumption for quota-class merchandise shall be presented only during official office hours, except as provided in §§ 132.12 and 141.62(b) of this chapter. For purposes of administering quotas, "official office hours" shall mean 8:30 a.m. to 4:30 p.m. in all time zones.

3. Section 132.11 (a) and (b) are amended to read as follows:

§ 132.11 Quota priority and status.

(a) *Determination of quota priority and status.* Quota priority and status are determined as of the time of presentation of the entry summary for consumption, or withdrawal for consumption, in proper form in accordance with § 132.1(d).

(b) *Documentation and deposit of duties in proper form required.* Merchandise covered by an entry summary for consumption which serves as both the entry and the entry summary, or by a withdrawal for consumption, which is not in proper form, or for which duties have not been attached or deposited in proper form, shall not be regarded as entered for purposes of quota priority and shall not acquire quota status.

See §§ 141.4, 141.63, 141.68, 141.69, and 141.101 of this chapter.

4. Part 132 is amended by adding new § 132.11a to read as follows:

§ 132.11a Time of presentation.

(a) *General Rule.* Except as provided in paragraph (b) of this section, the time of presentation of an entry for quota purposes shall be the time of delivery in proper form of:

(1) An entry summary for consumption, which serves as both the entry and the entry summary, with estimated duties attached, or

(2) A withdrawal for consumption, with estimated duties attached.

(b) *Before arrival of merchandise.* The entry summary for consumption, without estimated duties attached, may be submitted for preliminary review before the merchandise arrives within the limits of the port where entry is to be made. In that case, the time of presentation of the entry summary for consumption shall be the time estimated duties are deposited after the importing carrier arrives within the port limits.

5. Section 132.12 is amended to read as follows:

§ 132.12 Procedure on opening of potentially filled quotas.

(a) *Preliminary review before opening.* When it is anticipated that a quota will be filled at the opening of the quota period, entry summaries for consumption, or withdrawals for consumption, with estimated duties attached, shall not be presented before 12 noon Eastern Standard Time in all time zones. However, an entry summary for consumption, or withdrawal for consumption, for merchandise which has arrived within the Customs territory of the United States may be submitted for preliminary review without deposit of estimated duties within a time period before the opening approved by the district director. Submission of these documents before opening will not accord the merchandise quota priority or status.

(b) *Simultaneous presentation.* Special arrangements shall be made so that all entry summaries for consumption, or withdrawals for consumption, for quota merchandise may be presented at the exact moment of the opening of the quota in all time zones. All importers prepared to present entry summaries for consumption, or withdrawals for consumption, when the quota opens shall be given equal opportunity to do so. All entry summaries for consumption, or withdrawals for consumption, presented in proper form (including those submitted for review before opening of the quota period if accompanied by the deposit of estimated duties) shall be considered to have been presented simultaneously.

(c) *Proration of quantities.* (1) The quantities on all entry summaries for consumption, or withdrawals for consumption, submitted simultaneously shall be prorated by Headquarters against the quota quantity admissible to determine the percentage to be allocated to each importer under the quota. Merchandise in excess of the quota shall be disposed of in accordance with § 132.5.

(2) In the event a quota is prorated, entry summaries for consumption, or withdrawals for consumption, with estimated duties attached, shall be returned to the importer for adjustment. The time of presentation for quota purposes, in that event, shall be the exact moment of the opening of the quota provided—

(i) An adjusted entry summary for consumption, or withdrawal for consumption, with estimated duties

attached, is deposited within 5 working days after Headquarters authorizes release of the merchandise, and

(ii) The importer takes delivery of the merchandise within 15 working days after release is authorized.

6. Section 132.13(a) is amended to read as follows:

§ 132.13 Quotas after opening.

(a) *Procedure when nearing fulfillment.* To secure for each importer the rightful quota priority and status for his quota-class merchandise, and to close the quota simultaneously at all ports of entry—

(1) *For release of merchandise.*—(i) *Tariff-rate.* When instructed by Headquarters, the district director shall require an importer to present an entry summary for consumption, with estimated duties attached, at the over-quota rate of duty until Headquarters has determined the quantity, if any of the merchandise entitled to the quota rate. If any of the merchandise entered at the over-quota rate is entitled to the quota rate, Customs shall amend the entry summary and refund to the importer any excess duties paid. This section does not prohibit an importer from obtaining release of the merchandise under the immediate delivery procedure. If an importer desires to enter only that quantity entitled to the quota rate, he may request that the merchandise not be released from Customs custody until Headquarters has determined the quantity entitled to the quota rate.

(ii) *Absolute.* Except in emergency cases, as provided for in § 142.21(e)(2) of this chapter, absolute quota merchandise shall not be released under the immediate delivery procedure if the quota is nearing fulfillment. An entry summary for consumption, with estimated duties attached, setting forth the quantity desired to be entered, shall be presented. However, the merchandise shall not be released until Customs has determined the quantity entitled to absolute quota status and priority. After this determination, the importer shall amend his entry summary and deposit estimated duties to reflect the quantity Customs has determined is entitled to absolute quota status and priority.

(2) *Notation on entry papers.* The appropriate Customs officer shall note the exact date, hour, and minute of presentation on each entry summary for consumption, or withdrawal for consumption, and shall report these facts to Headquarters.

7. Section 132.13(b) is amended by deleting "or of official acceptance" in the first sentence.

8. The section heading and § 132.14 are amended to read as follows:

§ 132.14 Special permits for immediate delivery; entry of merchandise before presenting entry summary for consumption; permits of delivery.

(a) *Effect of issuance of special permit for immediate delivery or filing entry documentation before presentation of entry summary*—(1) *Requirements for release.* Quota-class merchandise shall not be released upon filing entry documentation before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached. However, quota-class merchandise may be released under a special permit for immediate delivery in accordance with § 142.21(e) of this chapter.

(2) *Effect of release under immediate delivery.* Release of quota-class merchandise under a special permit for immediate delivery before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, shall not accord merchandise any quota priority or status or entitle it to any other quota benefit.

(3) *Effect of inadvertent release.* Inadvertent release under a special permit for immediate delivery, or upon filing entry documentation, before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, shall not accord the merchandise any quota priority or status or entitle it to any other quota benefit.

(4) Procedures following inadvertent release.

(i) *Quota nearing fulfillment.* If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and the quota is nearing fulfillment, the district director—

(A) May demand the return to Customs custody of the released merchandise in accordance with § 141.113 of this chapter,

(B) Shall require the timely presentation of the entry summary for consumption, or a withdrawal for consumption, with the estimated duties attached, and

(C) May assess liquidated damages under the entry bond in an amount equal to the value of the merchandise, plus estimated duties (computed at the over-quota rate for tariff-rate quota merchandise), if the merchandise is (*1*) released before presentation of an entry summary for consumption or a withdrawal for consumption, with estimated duties attached; (*2*) the merchandise is not returned to Customs custody within 30 days from the date of demand for redelivery; or (*3*) the entry summary for consumption, or the withdrawal for consumption, with estimated duties attached, is not presented timely.

(D) The district director may cancel the claim for liquidated damages if he is satisfied by the evidence that release was due to causes wholly beyond the control of the importer, that no act or omission on the part of the importer formed the basis for the release, and that there was no intent on the part of the importer to evade any law or regulation. The district director also may cancel the claim for liquidated damages if the merchandise is redelivered to Customs custody within 30 days from the date of the demand, or if the entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is presented timely.

(ii) *Quota not nearing fulfillment.* If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and the quota is not nearing fulfillment, the district director—

(A) Shall require the timely presentation of the entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and

(B) May assess liquidated damages under the entry bond in an amount equal to the value of the merchandise, plus estimated duties (computed at the over quota-rate for tariff-rate quota merchandise), if the merchandise is (*1*) released before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached; or (*2*) if the entry summary for consumption, or the withdrawal for consumption with estimated duties attached, is not presented timely.

(C) The district director may cancel the claim for liquidated damages if he is satisfied by the evidence that the release was due to causes wholly beyond the control of the importer, that no act or omission on the part of the importer formed the basis for release, and that there was no intent on the part of the importer to evade any law or regulation. The district director also may

cancel the claim for liquidated damages if the entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is presented timely.

(b) *Permit of delivery.*—(1) *Effect of filing.* The issuance of a permit of delivery shall not accord the merchandise any quota priority or status nor entitle it to any other quota benefit.

(2) *Time of issuance.*—(i) *Absolute quota merchandise.* A permit of delivery for merchandise subject to an absolute quota shall not be issued before a determination of the quota status of the merchandise.

(ii) *Tariff-rate, quota merchandise.* A permit delivery for merchandise subject to a tariff-rate quota shall not be issued before a determination of the quota status of the merchandise unless estimated duties are deposited at the over-quota rate of duty.

§ 132.15 [Amended]

9. § 132.15 is amended by substituting "141.68(c)" for "141.68(d)", and "presentation" for "acceptance".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 141—ENTRY OF MERCHANDISE

1. Part 141 is amended by adding a new § 1241.0a, to read as follows:

§ 141.0a Definitions.

Unless the context requires otherwise or a different definition is prescribed, the following terms shall have the meanings indicated when used in connection with the entry of merchandise:

(a) *Entry.* "Entry" means that documentation required by § 142.3 of this chapter to be filed with the appropriate Customs officer to secure the release of imported merchandise from Customs custody, or the act of filing that documentation.

(b) *Entry summary.* "Entry summary" means any other documentation necessary to enable Customs to assess duties, and collect statistics on imported merchandise, and determine whether other requirements of law or regulation are met.

(c) *Submission.* "Submission" means the voluntary delivery to the appropriate Customs officer of the entry summary documentation for preliminary review or of entry documentation for other purposes.

(d) *Filing.* "Filing" means:

(1) The delivery to Customs of the entry documentation required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to obtain the release of merchandise, or

(2) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation required to assess duties, collect statistics, and determine whether other requirements of law and regulation are met, or

(3) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation which shall serve as both the entry and the entry summary.

(e) *Presentation.* "Presentation" is used only in connection with quota-class merchandise and is defined in § 132.1(d) of this chapter.

(f) *Entered for consumption.* "Entered for consumption" means that an entry summary for consumption has been filed with Customs in proper form, with estimated duties attached.

(g) *Entered for warehouse.* "Entered for warehouse" means that an entry summary for warehouse has been filed with Customs in proper form.

(h) *Entered under a temporary importation bond.* "Entered under a temporary importation bond" means that an entry summary supporting a temporary importation under bond has been filed with Customs in proper form.

§ 141.5 [Amended]

2. The first sentence of § 141.5 is amended by inserting "or aircraft," after "vessel".

3. The first sentence of § 141.19(a), § 141.19(b)(1), and the first sentence of § 141.19(b)(2) are amended to read as follows:

§ 141.19 Declaration of entry.

(a) *Declaration by consignee.* The consignee in whose name an entry is made under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), shall execute the declaration specified in section 485(a), Tariff Act of 1930, as amended (19 U.S.C. 1485(a)) on:

(1) The entry summary for merchandise entered for consumption, for warehouse, or for temporary importation under bond, or

(2) The rewarehouse or the bonded manufacturing warehouse entry.

The declaration need not be under oath. * * *

(b) *Declaration by agent of consignee*—(1) *Authorized agent with knowledge of the facts.* When entry is made in a consignee's name by an agent who has knowledge of the facts and who is authorized under a proper power of attorney by that consignee to make declarations in accordance with section 485(f), Tariff Act of 1930, as amended (19 U.S.C. 1485(f)), a declaration on the entry or entry summary executed by that agent is sufficient and no bond to produce a declaration of the consignee is required.

(2) *Other agents.* When entry is made in a consignee's name by an agent who does not meet the qualifications in paragraph (b)(1) of this section either:

(i) A declaration of the consignee on Customs Form 3347–A shall be filed with the entry documentation or entry summary or

(ii) A charge for the production of the declaration shall be made against the entry bond.

(3) * * *

* * * * *

4. Section 141.20(a) is amended to read as follows:

§ 141.20 Actual owner's declaration and superseding bond of actual owner.

(a) *Filing*—(1) *Declaration of owner.* A consignee in whose name an entry summary for consumption, warehouse, or temporary importation under bond is filed, or in whose name a rewarehouse entry or a manufacturing warehouse entry is made, and who desires, under the provisions of section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), to be relieved from statutory liability for the payment of increased and additional duties shall declare at the time of the filing of the entry summary or entry documentation, as provided in § 141.19(a), that he is not the actual owner of the merchandise, furnish the name and address of the owner, and file with the district director within 90 days from the time of entry (see § 141.68) a declaration of the actual owner of the merchandise acknowledging that the actual owner will pay all additional and increased duties. The declaration of owner shall be filed on Customs Form 3347.

(2) *Bond of actual owner.* If the consignee desires to be relieved from contractual liability for the payment of increased and additional duties voluntarily assumed by him under the single-entry bond which he filed in connection with the entry documentation and/or entry summary, or under his term bond against which the entry and/or entry summary is charged, he shall file a bond of the actual owner on Customs Form 7601 with the district director within 90 days from the time of entry.

* * * * *

5. Section 141.55 is amended to read as follows:

§ 141.55 Single entry summary for shipments arriving under one transportation entry.

Except for merchandise subject to a quantitative or tariff-rate quota, district directors are authorized to accept one entry summary for consumption or for warehouse for the entire quanity of merchandise covered by an entry for immediate transportation after the arrival of any part of the merchandise at the port of destination or at a place of deposit outside the port as may be authorized in accordance with § 18.11(c) of this chapter.

6. Part 141 is amended by adding a new § 141.56 to read as follows:

§ 141.56 Single entry summary for multiple transportation entries consigned to the same consignee.

(a) *Requirement.* District directors may accept one entry summary for consumption or for warehouse for merchandise covered by multiple entries for immediate transportation, subject to the requirements of § 142.17(a) of this chapter, provided the merchandise covered by each immediate transportation entry is released at the port of destination under a separate entry, in accordance with § 142.3 of this chapter.

(b) *Limitation.* A single entry summary for multiple transportation entries shall not be accepted for any merchandise listed in § 142.17(b) of this chapter.

(c) *Information on the entry summary.* Each entry for immediate transportation shall be identified separately on the entry summary by the immediate transportation entry number and the corresponding entry number.

7. Section 141.61 is amended to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

(a) *Preparation.* (1) Entry and entry summary documentation shall be prepared on a typewriter, or with ink, indelible pencil, or other permanent medium. The entry summary shall be signed by the importer (see § 101.1(k)). Entries, entry summaries, and accompanying documentation shall be on the appropriate forms specified by the regulations and shall set forth clearly all required information. All copies shall be legible.

(2) An importer may omit from the entry summary for consumption, Customs Form 7501, the warehouse entry summary, Customs Form 7502, or the warehouse withdrawal for consumption, Customs Form 7505 or 7519, the marks and number previously provided for packages released or withdrawn.

(b) *"Signing of the entry".* the signing of the consignee's declaration on the entry summary for merchandise entered for consumption, for warehouse, or for temporary importation under bond, in accordance with § 141.19, shall be regarded as the "signing of the entry" required by section 484(d), Tariff Act of 1930, as amended (19 U.S.C. 1484(d)). For a rewarehouse or a bonded manufacturing warehouse entry, the signing of the consignee's declaration on the entry documentation shall satisfy 19 U.S.C. 1484(d).

(c) [Reserved]

(d) *Customs Form 5101.* An Entry Record, Customs Form 5101, shall be prepared by the importer, in triplicate, with carbon paper left in, and shall be filed with each consumption or warehouse entry summary and with each appraisement, vessel/aircraft repair, or drawback entry. The importer number shall be reported as follows:

(1) *Generally.* Except as provided in paragraph (d)(2) of this section, the importer number of the importer of record and of the ultimate consignee shall be reported for each consumption or warehouse entry summary and for each appraisement, vessel/aircraft repair, or drawback entry. When the importer of record and the ultimate consignee are the same, the importer number may be entered in both spaces provided on Customs Form 5101, or the importer number may be entered in the space provided for the importer and the word "same" may be entered in the space provided for the ultimate consignee.

(2) *Exception.* In the case of a consolidated entry summary covering the merchandise of more than one ultimate consignee, the importer number shall be reported on Customs Form 5101, and the notation "consolidated" shall be made in the space provided for the importer number of the ultimate consignee.

(3) *When refunds, bills, or notices of liquidation are to be mailed to agent.* If an importer of record desires to have refunds, bills, or notices of liquidation mailed in care of his agent, the agent's importer number also shall be reported on Customs Form 5101. In this case, the importer of record shall file, or shall have filed previously, a Customs Form 4811 authorizing the mailing of refunds, bills, or notices of liquidation to the agent.

(e) *Statistical information*—(1) *Information required on entry summary or withdrawal form.*—(i) *Where form provides space.* For each class or kind of merchandise subject to a separate statistical reporting number, the applicable information required by the General Statistical Headnotes, Tariff Schedules of the United States Annotated ("TSUSA"), shall be shown on the appraisement entry, Customs Form 7500; the entry summary, Customs Form 7501 or 7502; the transportation entry and manifest of goods, Customs Form 7512, when used to document an incoming vessel shipment proceeding to a third country by means of an entry for transportation and exportation, or immediate exportation; the rewarehouse entry, Customs Form 7519; the manufacturing warehouse entry, Customs Form 7521; the withdrawal form, Customs Form 7505 or 7506; or the record of vessel/aircraft foreign repair or equipment purchase, Customs Form 226, in the space provided. If a class or kind of merchandise from the same country of origin subject to the same statistical reporting number is included in more than one invoice, the information shall be combined and reported under one statistical reporting number. When consolidating information from several invoices under one reporting number, a work sheet itemizing the entered value of the merchandise from each invoice in the manner prescribed in paragraph (f)(1) of this section shall be attached to the appropriate form.

(ii) *Where form does not provide space.* In addition to the information required by paragraph (e)(1)(i) of this section, statistical information for which spaces are not provided on the appropriate form, shall be shown as follows:

(A) The name, the abbreviated designation or 4 digit code of the country of registry (flag) of the vessel expressed in terms of Annex 8, TSUSA, shall be placed in the block on the entry document for the name of the importing vessel or carrier.

(B) The notation "related" or "not related," as appropriate, shall be placed at the top of columns 3, 4, and 5 of Customs Forms 7501, 7502, 7505, 7506, and 7521, and in the top right hand portion of Customs Form 7519, to identify the transaction as one between a buyer and a seller who are related in any manner specified in section 402(g)(2), Tariff Act of 1930, as amended (19 U.S.C. 1401a(g)(2)), or as one between a buyer and a seller who are not so related.

(C)(1) The transaction value, charges, and equivalent value shall be listed on Customs Forms 7501, 7502, 7505, 7506, and 7521 in column 4 immediately below the TSUSA reporting number. These

amounts shall be identified by placing (in the following order) PEXT (port of exportation transaction value), CHGS (aggregate cost of freight, insurance and all other charges), and EPEX (equivalent port of exportation value) in column 3 immediately below the entered value and to the left of each statistical value and charge.

(2) The transaction value, charges, and equivalent value shall be listed on Customs Form 7519 in the rate column with the descriptions (PEXT, CHGS, EPEX) immediately to the left of each statistical value and charge.

(3) In the case of related parties, if the district director is satisfied that the person filing the form cannot reasonably ascertain or estimate the equivalent port of exportation value (EPEX) that would exist had the transaction occurred between parties who were not related, he may permit that person to use the entered value adjusted, if necessary, to the port of exportation value, as provided for in subparagraph (xv), General Statistical Headnote 1(a), TSUSA, or any other value the district director considers appropriate. However, if the transaction value between related parties is higher than the entered value, the transaction value shall be used.

(2) *Responsibility.* The person filing the form is responsible for providing the information required by paragraph (e)(1) of this section. If the information required by subparagraph (xiv), (xv) and (xvi) General Statistical Headnote 1(a), TSUSA, cannot be obtained readily, the person filing the form shall provide reasonable estimates of the required information. The acceptance of an estimate for a particular transaction does not relieve the person filing the form from obtaining the necessary information for similar future transactions. The district director may require additional documentation to substantiate the statistical information required by paragraph (e)(1) of this section. The importer shall give an appropriate bond for the production of the required documentation, as follows:

(i) Except for merchandise entered for warehouse, the documentation shall be produced within 50 days after the entry summary (or the entry, if there is no entry summary) is required to be filed.

(ii) If merchandise is entered for warehouse, the documentation shall be produced within 2 months after the date of withdrawal, except that if an invoice is part of the documentation, the invoice shall be produced within 50 days after the entry summary for warehouse is required to be filed.

The district director may grant a reasonable extension of time to produce the required documentation for good cause shown. (See § 141.91(d) for bond requirements relating to failure to produce an invoice.)

(3) *Estimates of statistical information.* When the person filing the form estimates any of the values or charges, as provided for in subparagraph (v), General Statistical Headnote 1(b), TSUSA, except Canadian rail and truck charges, he shall place either "(estimate)", "(est)", or ("E") after the amount of each value or charge.

(4) *Rejection of form.* The district director shall reject a form for failure to provide required statistical information if the information is omitted or if the information provided clearly appears on its face, or is known to the Customs officer, to be erroneous.

(5) *Penalty procedures; when not invoked.* Penalty procedures relating to erroneous statistical information shall not be invoked against any person who in good faith attempts to comply with the statistical requirements of the General Statistical Headnotes, TSUSA.

(f) *Value of each invoice.*—(1) *Single invoice.* If the entry, entry summary, or withdrawal documentation, as specified in paragraph (e)(1)(i) of this section, covers a single invoice, the invoice information shall be restated to show:

(i) Gross amount of the invoice;

(ii) Deduction of the aggregate amount of any non-dutiable charges involved in the amount;

(iii) Further deduction of the aggregate of any deductions from the invoice values to make entered values; and

(iv) Addition of the aggregate of any dutiable charges not included in the gross amount of the invoice and of any other additions to the invoice values to make entered values. The final amount in the summary computations shall represent the aggregate of the entered values of all the merchandise covered by the invoice. The required information shall be shown on a worksheet attached to the form or placed across columns (2a) or (2b) on Customs Form 7501 and 7502, and in the same general location on Customs Forms 7505, 7506, 7519, and 7521.

(2) *Multiple invoices.* If the entry, entry summary, or withdrawal documentation, as specified in paragraph (e)(1)(i) of this section, covers mulitple invoices, the information required to be restated by paragraph (f)(i) of this section for a single invoice shall be restated for each invoice. The final amount in the summary computation shall represent the aggregate of the entered values of all the merchandise on each of the multiple invoices. The required information shall be shown on an attached worksheet.

(ii) The worksheet also shall contain:

(A) A statistical reporting number restatement for the merchandise from each invoice subject to the same statistical reporting number from the same country of origin, and

(B) An aggregate total value which represents the entered values.

(iii) To permit the identification of the merchandise entered under each reporting number, each class or kind of merchandise from one country reported under a single statistical reporting number shall be coded identically on each invoice and on the worksheet.

8. Section 141.62 is amended to read as follows:

§ 141.62 Place and time of filing.

(a) *Place.* An application for immediate delivery and entry, entry summary, or withdrawal documentation shall be filed at the customhouse or at any other Customs location approved by the district director in the district where the merchandise is to be or has been released.

(b) *Time.*—(1) *Normal business hours.* (i) Except as provided in paragraph (b)(2) of this section, an application for immediate delivery or entry documentation shall be filed when the customhouse is open for the general transaction of business, or when Customs has established a regular tour of duty in accordance with § 101.6(f) of this chapter.

(ii) Except as provided in paragraph (b)(2) of this section, entry summary or withdrawal documentation shall be filed when the customhouse is open for the general transaction of business, as provided in § 101.6 of this chapter.

(2) *Overtime services.*— (i) *Generally.* Except as provided in paragraph (b)(2)(ii) of this section, an application for immediate delivery or entry documentation may be filed when the customhouse is not open for the general transaction of Customs business and no regular tour of duty has been established; and entry summary or withdrawal documentation may be filed when the customhouse is not open for the general transaction of business, if—

(A) The person desiring to transact business has applied for and received authorization for overtime services on a reimbursable basis, as provided for in § 24.16 of this chapter, and

(B) Overtime services of Customs officers are available.

(ii) *Quota-class merchandise.* Overtime shall not be authorized for the

presentation of entry summary documentation which serves as both the entry and entry summary or withdrawal documentation, for quota-class merchandise without Headquarters authorization. If Headquarters authorization is granted, the time of delivery of the entry summary or withdrawal documentation, with the estimated duties attached, shall be the time of presentation for quota purposes. However, if an entry summary or withdrawal for quota-class merchandise is delivered inadvertently during overtime hours without Headquarters authorization, the time of presentation for quota purposes shall be the opening of business on the next business day.

9. Section 141.63 is amended to read as follows:

§ 141.63 Submission of entry summary documentation for preliminary review.

(a) *Before arrival of merchandise.* Entry summary documentation may be submitted at the customhouse for preliminary review, without estimated duties attached, within such time before arrival of the merchandise as may be fixed by the district director—

(1) If the entry summary documentation will be filed at time of entry to serve as both the entry and the entry summary, as provided in § 142.3(b) of this chapter, or

(2) In the case of quota-class merchandise, if the entry summary for consumption will be presented at time of entry, as provided in § 132.11a of this chapter.

Estimated duties shall not be accepted before arrival of the merchandise within the port limits.

(b) *After arrival of merchandise.* Entry summary documentation may be submitted at the customhouse for preliminary review, without estimated duties attached, within such time after arrival of quota-class merchandise as may be fixed by the district director, if the entry summary for consumption will be presented at the opening of the quota period, as provided in § 132.12(a) of this chapter. Estimated duties shall not be accepted before the opening of the quota period.

10. Section 141.64 is amended to read as follows:

§ 141.64 Review and correction of entry and entry summary documentation.

Entry and entry summary documentation shall be reviewed before acceptance to ensure that all entry and statistical requirements are complied with and that the indicated values and rates of duty appear to be correct. If any errors are found, the entry and the entry summary documentation shall not be considered to have been filed in proper form and shall be returned to the importer for correction.

§ 141.65 [Deleted]

11. Part 141 is amended by deleting § 141.65.

12. Section 141.67 is amended to read as follows:

§ 141.67 Recall of documentation.

The importer may recall the entry and entry summary documentation at any time before the effective time of entry set forth in § 141.68. The entry shall be considered canceled, and documents shall be returned to the importer.

13. Section 141.68 is amended to read as follows:

§ 141.68 Time of entry.

(a) *When entry documentation is filed without entry summary.* When the entry documentation is filed in proper form without an entry summary, the "time of entry" shall be:

(1) The time the appropriate Customs officer authorizes the release of the merchandise or any part of the merchandise covered by the entry documentation, or

(2) The time the entry documentation is filed, if requested by the importer on the entry documentation at the time of filing, and the merchandise already has arrived within the port limits; or

(3) The time the merchandise arrives within the port limits, if the entry documentation is submitted before arrival, and if requested by the importer on the entry documentation at the time of submission.

(b) *When entry summary serves as entry and entry summary.* When an entry summary serves as both the entry documentation and entry summary, in accordance with § 142.3(b) of this chapter, the time of entry shall be the time the entry summary is filed in proper form with estimated duties attached.

(c) *When merchandise is released under the immediate delivery procedure.* The time of entry of merchandise released under the immediate delivery procedure shall be the time the entry summary is filed in proper form, with estimated duties attached.

(d) *Quota-class merchandise.* The time of entry for quota-class merchandise shall be the time of presentation of the entry summary or withdrawal for consumption in proper form, with estimated duties attached, as provided in § 132.11a of this chapter.

(e) *When merchandise has not arrived.* Merchandise shall not be authorized for release, nor shall an entry or an entry summary which serves as both the entry and entry summary be considered filed or presented, until the merchandise has arrived within the port limits with the intent to unlade.

(f) *Informal mail entry.* The time of entry of merchandise under an informal mail entry, Customs Form 3419 or 5110–A, is the time the preparation of the entry documentation by a Customs employee is completed.

(g) *Withdrawal from warehouse for consumption.* The time of entry of merchandise withdrawn from warehouse for consumption (the process preparatory to the issuance of a permit for the release of the merchandise to or upon the order of the warehouse proprietor) is when:

(1) Customs Form 7505 is executed in proper form and filed together with any related documentation required by these regulations to be filed at the time of withdrawal, and

(2) Estimated duties, if any, required to be paid at the time of withdrawal have been deposited.

Unless the requirements of this paragraph and section 315(a), Tariff Act of 1930, as amended (19 U.S.C. 1315(a)), including the deposit of estimated duties, if any, are completed within 60 days from the date of presentation of Customs Form 7505, the request for withdrawal shall be considered abandoned.

(h) *Appraisement entry, informal entry, combined entry for rewarehouse and withdrawal for consumption, and entry under carnet.* The time of entry of merchandise under an appraisement entry, Customs Form 7500, an informal entry, Customs Form 5119–A (or other form prescribed in § 143.23 or elsewhere in the chapter for use as an informal entry), a combined entry for rewarehouse and withdrawal for consumption, Customs Form 7519, or an A.T.A. carnet issued under Part 114 of this chapter, shall be the time the specified form is executed in proper form and filed, together with any related documents required by these regulations, and estimated duties, if any, have been deposited. If merchandise eligible for informal entry is released under a special permit for immediate delivery and Customs Form 5119–A or 7501 is filed in accordance with § 142.23 of this chapter, the time of entry shall be the time Customs Form 5119–A or 7501 is filed in proper form, together with any related documents required by this chapter, and estimated duties, if any, have been deposited. However, if merchandise eligible for informal entry is released under the entry

documentation set forth in § 142.3(a) of this chapter and Customs Form 5119–A or 7501 is filed in accordance with § 142.23, the time of entry shall be in accordance with paragraph (a) of this section.

14. The introductory text and paragraph (a) of § 141.69 are amended to read as follows:

§ 141.69 Applicable rates of duty.

The rates of duty applicable to merchandise shall be the rates in effect at time of entry, as specified in § 141.68, except as otherwise specifically provided for by Executive Order, and in the following cases:

(a) *Warehouse entries.* Merchandise entered for warehouse is dutiable at the rates in effect at the time withdrawal from warehouse for consumption is made in accordance with § 141.68(f).

* * * * *

15. The first sentence of § 141.81 is amended to read as follows:

§ 141.81 Invoice for each shipment.

A special Customs invoice, a special summary invoice, or a commercial invoice shall be presented for each shipment of merchandise at the time the entry summary is filed, subject to the conditions set forth in these regulations. * * *

16. The first sentence of § 141.83(a) and § 141.83(c) are amended to read as follows:

§ 141.83 Type of invoice required.

(a) *Special Customs Invoice.* A Special Customs Invoice, (Customs Form 5515) shall be filed for each shipment of merchandise (1) which is subject to a rate of duty dependent in any manner on value (including such merchandise entered under a conditionally free provision when all free entry documents and evidence required to establish the exemption from duty are not produced at the time of filing the entry summary), and (2) which is determined by the district director to have an aggregate purchase price over $500, including all expenses incident to placing the merchandise in condition packed ready for shipment to the United States, or in the case of merchandise not imported in pursuance of a purchase or agreement to purchase, an aggregate value over $500 as determined in accordance with § 152.21 of this chapter. * * *

* * * * *

(c) *Commercial invoice.* (1) A commercial invoice shall be filed for each shipment of imported merchandise not required by paragraph (a) to have a Special Customs Invoice and and not exempted by paragraph (d) from both a Special Customs Invoice and a commercial invoice. The commercial invoice shall be prepared in the manner customary in the trade, contain the information required by §§ 141.86 through 141.89, and substantiate the statistical information required by § 141.61(e) to be given on the entry, entry summary, or withdrawal documentation.

(2) The district director may accept a copy of a required commercial invoice in place of the original. A copy, other than a photostatic or photographic copy, shall contain a declaration by the foreign seller, the shipper, or the importer that it is a true copy.

17. Subparagraphs (3) and (4) of § 141.83(d) are deleted and the introductory language is amended to read as follows:

(d) *Special Customs or commercial invoice not required.* A Special Customs Invoice or a commercial invoice shall not be required in connection with the filing of the entry, entry summary, or withdrawal documentation for merchandise listed in this paragraph. The importer, however, shall present any invoice, memorandum invoice, or bill pertaining to the merchandise which may be in his possession or available to him. If no invoice or bill is available, a pro forma (or substitute) invoice, as provided for in § 141.85, shall be filed, and shall contain information adequate for the examination of merchandise and the determination of duties, and information and documentation which verify the information required for statistical purposes by § 141.61(e). The merchandise subject to the foregoing requirements is as follows:

* * * * *

18. The introductory language of paragraph (a), paragraph (a)(8), and paragraph (c) of § 141.86 are amended, and a new paragraph (j) is added to read as follows:

§ 141.86 Contents of invoices and general requirements.

(a) *General information required on the invoice.* Each invoice of imported merchandise, except the Special Customs Invoice (Customs Form 5515) (see paragraph (j) of this section), shall set forth the following information:

* * * * *

(8) All charges upon the merchandise itemized by name and amount, including freight, insurance, commission, cases, containers, coverings, and cost of packing; and if not included above, all charges, costs, and expenses incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first United States port of entry. The cost of packing, cases, containers, and inland freight to the port of exportation need not be itemized by amount if included in the invoice price, and so identified. Where the required information does not appear on the invoice as originally prepared, it shall be shown on an attachment to the invoice; and

* * * * *

(c) *Merchandise sold in transit.* If the merchandise is sold on the documents while in transit from the port of exportation to the port of entry, the original invoice reflecting the transaction under which the merchandise actually began its journey to the United States, and the resale invoice or a statement of sale showing the price paid for each item by the purchaser, shall be filed as part of the entry, entry summary, or withdrawal documentation. If the original invoice cannot be obtained, a pro forma invoice showing the values and transaction reflected by the original invoice shall be filed together with the resale invoice or statement.

* * * * *

(j) *Special Customs Invoice.* Each Special Customs Invoice, Customs Form 5515, required by § 141.83(a) shall set forth the following information:

(1) Names and addresses of seller, consignee, and buyer (if other than consignee);

(2) Origin of goods;

(3) Terms and conditions of sale, payment, and discount;

(4) Currency used, and exchange rate (whether fixed or agreed);

(5) Date order was accepted for purchased goods;

(6) Marks and numbers on shipping packages, number of packages; full description of goods, and quantity;

(7) Home market unit price, invoice unit price, and invoice totals;

(8) An explanation if the production of the goods involved furnishing goods or services to the seller and the value is not included in the invoice price, if previously requested by the district director as provided for in § 141.88;

(9) Packing costs, ocean or international freight charges, domestic freight charges, insurance costs, and other costs;

(10) Declaration of seller/shipper (or agent).

19. The introductory paragraph to § 141.89(b)(1) and § 141.89(b)(1)(E) are amended to read as follows:

§ 141.89 Additional information for certain classes of merchandise.

* * * * *

(b) *Special Summary Steel Invoice.* (1) A Special Summary Steel Invoice (Customs Form 5520) shall be filed in duplicate at the time of filing the entry summary for each shipment which is determined by the district director to have an aggregate purchase price of $10,000 or over or, if from a contiguous country, of $5,000 or over, including all expenses incident to placing the merchandise in condition packed ready for shipment to the United States, and which contains any of the articles of steel listed in paragraph (b)(2) of this section. In addition to the information required by § 141.86, the Special Summary Steel Invoice shall set forth the following:

* * * * *

(E) The name of the producer, the importer, and the price paid by the first unrelated purchaser in the United States, if that price is available at the time of filing the entry summary. One or more continuation sheets may be used to supply this information, if necessary.

* * * * *

20. The introductory language and paragraphs (c) and (d) of § 141.91 are amended to read as follows:

§ 141.91 Entry without required invoice.

If a required invoice, other than a special summary invoice, is not available in proper form at the time the entry or entry summary documentation is filed and a waiver is not granted in accordance with § 141.92, the entry or entry summary documentation shall be accepted only under the following conditions:

* * * * *

(c) The invoices and other documents contain information adequate for the examination of merchandise, the determination of estimated duties, if any, and statistical purposes; and

(d) The importer gives an appropriate bond for the production of the required invoice, which must be produced within 6 months after the date of the filing of the entry summary (or the entry, if there is no entry summary) documentation, unless the invoice is needed for statistical purposes. If needed for statistical purposes, the invoice shall be produced within 50 days after the date of the entry summary (or the entry, if there is no entry summary) is required to be filed, unless a reasonable extension of time is granted by the district director for good cause shown.

21. Sections 141.92(a)(2) and (b)(4) are amended to read as follows:

§ 141.92 Waiver of invoice requirements.

(a) *When waiver may be granted.* The district director may waive production of a required invoice, except a special summary invoice required by § 141.83(b), when he is satisfied that either: * * *

(2) The examination of merchandise, final determination of duties, and collection of statistics can be effected properly without the production of the required invoice.

(b) *Documents to be filed by importer.* As a condition to the granting of a waiver, the importer shall file the following documents with the entry or entry summary: * * *

(4) Any other information required by the district director for either appraisement or classification of the merchandise, or for statistical purposes.

22. Section 141.101 is amended by redesignating paragraphs (a), (b), (c), and (d) as paragraphs (b), (c), (d), and (e), respectively, by amending the introductory language, and by adding a new paragraph (a) to read as follows:

§ 141.101 Time of deposit.

Estimated duties shall be deposited with the Customs officer designated to receive the duties at the time of the filing of the entry documentation or the entry summary documentation when it serves as both the entry and entry summary, except in the following cases:

(a) *Merchandise released under entry documentation.* In the case of merchandise released under the entry documentation listed in § 142.3 of this chapter before filing of the entry summary, deposit of estimated duties shall be made at the time the entry summary is filed unless the merchandise is entered for warehouse. If the merchandise is entered for warehouse, estimated duties shall be deposited in accordance with paragraph (b) of this section.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 142—ENTRY PROCESS

It is proposed to revise Part 142 to read as follows:

Sec.

142.0 Scope.

Subpart A—Entry Documentation

142.1 Definitions.
142.2 Time for filing entry.
142.3 Entry documentation required.
142.3a Assigned entry numbers.
142.4 Bond requirements.
142.5 Bond Rider.
142.6 Invoice requirements.
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Subpart B—Entry Summary Documentation

142.11 Entry summary form.
142.12 Time for filing or submission for preliminary review.
142.13 When entry summary must be filed at time of entry.
142.14 Delinquent payment of Customs bills.
142.15 Failure to file entry summary timely.
142.16 Entry summary documentation.
142.17 One entry summary for multiple entries.
142.17a One consolidated entry summary for multiple ultimate consignees.
142.18 Entry summary not required for prohibited merchandise.
142.19 Release of merchandise under the entry summary.

Subpart C—Special Permit for Immediate Delivery

142.21 Merchandise eligible for special permit for immediate delivery.
142.22 Application for special permit for immediate delivery.
142.23 Time limit for filing documentation after release.
142.24 Term special permit.
142.25 Discontinuance of immediate delivery privileges.
142.26 Delinquent payment of Customs bills.
142.27 Failure to file documentation timely.
142.28 Withdrawl or entry summary not required for prohibited merchandise.
142.29 Other procedures applicable.

Authority: R.S. 251, as amended, secs. 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759; 19 U.S.C. 66, 1448, 1484, 1624, Pub. L. 95-410 (92 Stat. 888). Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 142.0 Scope.

This part sets forth requirements and procedures relating to (a) the entry of merchandise, as authorized by section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), and (b) special permits for immediate delivery of merchandise, as authorized by section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)).

Subpart A—Entry Documentation

§ 142.1 Definitions.

For definitions of "entry", "entry summary", "submission", "filing", "presentation", "entered for consumption", "entered for warehouse", and "entered under a temporary importation bond", as these terms relate to the entry of merchandise, see § 141.0a of this chapter.

§ 142.2 Time for filing entry.

(a) *General rule: After arrival of merchandise.* Merchandise for which entry is required shall be entered by the consignee within 5 working days after the entry of the importing vessel or aircraft, report of the vehicle, or arrival

at the port of destination in the case of merchandise transported in bond, unless a longer time is authorized by law or regulation, or by the district director in writing.

(b) *Before arrival of merchandise*—(1) *Entry.* The entry documentation required by § 142.3(a) may be submitted before the merchandise arrives within the limits of the port where entry is to be made, in which case the time of entry shall be the time specified in § 141.68(a).

(2) *When entry summary serves as entry.* The entry summary when it will be filed at time of entry to serve as both the entry and the entry summary, as provided in § 142.3(b), may be submitted for preliminary review in accordance with §§ 141.63(a) and 142.12(a)(2).

§ 142.3 Entry documentation required.

(a) *Contents.* Except as provided in paragraph (b) of this section, the entry documentation required to secure the release of merchandise shall consist of the following:

(1) *Entry.* Customs Form 3461 (appropriately modified), except that Customs Form 7533 (appropriately modified), in duplicate, may be used in place of Customs Form 3461 for merchandise imported from a contiguous country. The form used shall be prepared in accordance with § 141.61(a)(1) of this chapter.

(2) *Evidence of the right to make entry.* Evidence of the right to make entry, as set forth in § 141.11 of this chapter.

(3) *Commercial invoice.* A commercial invoice, except that in those instances listed in § 141.83(d) of this chapter where a commercial invoice is not required, a pro forma invoice or other acceptable documentation listed in that section may be submitted in place of a commercial invoice.

(4) *Packing list.* A packing list, where appropriate.

(5) *Other documentation.* Other documents which may be required by Customs or other Federal, State, or local agencies for a particular shipment.

(b) *Entry summary filed at time of entry.* When the entry summary is filed at time of entry, in accordance with § 142.12(a)(1) or § 142.13.

() Customs Form 3461 or 7533 shall not be required, and

(2) Customs Form 7501, 7502, or 3311, as appropriate (see § 142.11), shall serve as both the entry and the entry summary documentation if the additional documentation set out in paragraphs (a)(2), (3), (4), and (5) of this section and § 142.16(b) is filed.

(c) *Extra copies.* The district director may require additional copies of the documentation.

§ 142.3a Assigned entry numbers.

(a) *Request and authorization.* Upon the written request of an importer or broker, the district director shall assign sufficient entry numbers for use by the importer or broker at any port within the district during the fiscal year. Numbers shall be assigned in blocks of not less than 100, unless the district director determines that an assignment of a block of less than 100 is warranted. Additional requests and assignments may be made during the fiscal year if additional numbers are needed.

(b) *"Fiscal year" defined.* For purposes of this section, the initial "fiscal year" shall begin on October 1, 1979, and end on September 30, 1980. Thereafter, each fiscal year shall begin on October 1 and end on September 30.

(c) *Assigned entry number and its use.* The assigned entry number shall be a six-digit number preceded by the last two digits of the fiscal year and a space: for example, 79 100001. The importer or broker shall place the assigned entry number on the entry and the corresponding entry summary documentation. The number shall be preprinted, stamped, typed or written legibly. Each number shall be used only once.

(d) *Report.* Within 30 days after the end of the fiscal year, each importer or broker to whom entry numbers have been assigned shall account in writing to the district director for each entry number which has not been used. Entry numbers assigned but not used during the fiscal year shall be cancelled.

(e) *Refusal to assign entry numbers; cancellation.* The district director may refuse to assign entry numbers to an importer or broker, or may cancel entry numbers previously assigned and remaining unused, if the importer or broker:

(1) Fails to account satisfactorily to the district director for any numbers assigned but not used, or

(2) Misuses numbers which have been assigned to him.

(f) *Alternative procedure.* If an importer or broker does not request assignment of entry numbers, or if the district director, in accordance with paragraph (e) of this section, refuses to assign entry numbers, or cancels entry numbers, previously assigned, the importer or broker shall obtain an entry number at the customhouse before his merchandise may be released. The entry number so obtained shall be placed on the entry and the corresponding entry summary documentation.

§ 142.4 Bond requirements.

(a) *At time of entry.* Except as provided in § 10.101(d) of this chapter, merchandise shall not be released from Customs custody at the time Customs receives the entry documentation or the entry summary documentation which serves as both the entry and the entry summary, as required by § 142.3, unless one of the following types of bonds, executed by an approved corporate surety, or secured by cash deposits or obligations of the United States, as provided for in § 113.39(a) of this chapter, has been filed.

(1) *Single entry bond.* A single entry bond on Customs Form 7551, with the amount of the bond determined in accordance with § 113.14(g)(1) of this chapter. When any of the imported merchandise is subject to a tariff-rate quota and is to be released at a time when the applicable quota is filled, the full rates shall be used in computing the estimated duties to determine the amount of the bond.

(2) *Term bond.* A term bond on Customs Form 7553, with the amount of the bond determined in accordance with § 113.14(g)(2) of this chapter.

(3) *General term bond.* A general term bond on Customs Form 7595, with the amount of the bond determined in accordance with §§ 113.14(s) and 113.62 of this chapter.

(b) *If entry summary is filed after entry.* (1) Except as provided in § 141.102(d) of this chapter, if the entry summary is filed after the entry, the bond filed at the time of entry, as required by paragraph (a) of this section or by § 142.19, shall continue to be obligated unless a superseding bond is filed, as provided in § 141.20 of this chapter, or unless a bond of the type described in paragraph (a) of this section is filed under the circumstances described in paragraph (b)(2) of this section. If a superseding bond is filed, or if a bond is filed under the circumstances described in paragraph (b)(2) of this section, the obligations of the initial bond shall be terminated as to any liability which may accrue after the superseding or other bond becomes effective.

(2) If entry is made in the name of an agent, supported by the agent's bond, or in the name of a principal, supported by the principal's bond, and the entry summary thereafter is filed in the name of the other party, the party named in the entry summary shall file one of the bonds enumerated in paragraph (a) of this section. In this circumstance, the

bond obligation of the party in whose name entry was made shall be terminated, as to liability which may accrue after the bond filed by the party named in the entry summary becomes effective, and the party filing the entry summary need not file the separate declaration of the actual owner and the superseding bond otherwise required under § 141.20 of this chapter.

§ 142.5 Bond rider.

A bond rider in the following form shall be executed and attached to any entry bond provided for in § 142.4, utilized by an importer who makes entry under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484):

Rider "R"

(To be attached to all entry bonds)

Whereas certain merchandise which is referred to in a bond-dated————, in the amount of ———, executed by ————, as principal, and————, as surety, to which this rider relates has been imported at the port of————, and entered at said port on entry No. ——, dated———19—, or the principal expects to enter merchandise during the period covered by a term bond to which this rider relates dated———19—, in the amount of———, executed by————, as principal, and————, as surety.

Whereas the merchandise, in whole or in part, may be entered under the provisions of section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), and duties deposited under the provisions of section 505(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1505(a)).

It is hereby expressly agreed by the prinicpal and surety on the bond referenced above that the following condition, in addition to the conditions appearing in the bond, shall apply: And if where entry is made pursuant to section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the bounden principal, within the time prescribed in the Customs Regulations, shall file with the appropriate Customs officer the documentation required by the Customs Regulations to enable Customs to (1) determine whether the merchandise may be released from Customs custody, (2) properly assess duties on the merchandise, (3) collect accurate statistics with respect to the merchandise, and (4) determine whether applicable requirements of law or regulation are met; and if the bounden principal, within the time prescribed in the Customs Regulations, shall deposit the duties and taxes imposed upon or by reason of importation estimated to be due thereon; or if, in the event of failure to file the documentation or to deposit duties and taxes, he shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise as to which there shall have been default, plus the duties and taxes thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of the merchandise as determined by the district director, and that the decision of the district director as to the status of the merchandise, whether free or dutiable, together with the rate and amount of duties and taxes, also shall be binding on all parties to this obligation).

Witness our hands and seals this —— day of ——— 19—.

(Seal)

Principal ————————————

(Seal)

Surety————————————

Certificate as to Corporate Principal

I, ———— certify that I am the [1]——— of the corporation named as principal in the rider; that————, who signed the said rider on behalf of the principal was then ———— of said corporation, that I know this signature, and his signature thereto is genuine; and that said rider was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

(Corporate Seal)

(To be used when no power of attorney has been filed with the district director of Customs)

§ 142.6 Invoice requirements.

(a) *Contents.* The commercial invoice, or the documentation acceptable in place of a commerical invoice in those instances listed in § 141.83(d) of this chapter, shall be furnished with the entry and before release of the merchandise is authorized. The commercial invoice or other acceptable documentation shall contain:

(1) An adequate description of the merchandise.

(2) The quantities of the merchandise.

(3) The values or approximate values of the merchandise.

(4) The appropriate five-digit item number from the Tariff Schedules of the United States. If the importer is uncertain of the appropriate tariff item number, Customs shall assist him at his request. The district director may waive this requirement if he is satisfied that the information is not available at the time release of the merchandise is authorized.

(b) *Information not required when filing entry.* In addition to the information specified in paragraph (a) of this section, the commercial invoice or substitute document filed with the entry documentation also may include any other invoice information required by §§ 141.86 through 141.89 of this chapter. However, if this information does not appear on the invoice or substitute document filed with the entry documentation, it shall be included in the invoice or substitute document presented at the time the entry summary documentation is filed.

[1] May be executed by the secretary, assistant secretary, or other officer of the corporation.

§ 142.7 Examination of merchandise.

No merchandise for which the entry documentation required by § 142.3 has been filed shall be released until it has been examined, or until adequate samples have been taken in the case of merchandise which is to be classified and appraised by means of samples, unless this requirement is waived by the district director in accordance with section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499).

§ 142.8 Failure to file entry timely.

Merchandise for which timely entry is not filed as required by § 142.2 shall be treated in accordance with § 4.37 and Part 127 of this chapter.

Subpart B—Entry Summary Documentation

§ 142.11 Entry summary form.

(a) *Customs Form 7501.* The entry summary shall be on Customs Form 7501 unless a different form is prescribed elsewhere in this chapter. Customs Form 7501 shall be used for both merchandise formally entered for consumption, and formally entered under a temporary importation bond under § 10.31. The entry summary for merchandise which may be entered free of duty in accordance with § 10.1(g) or (h) of this chapter may be on Customs Form 3311 instead of on Customs Form 7501, and the entry summary for warehouse entries shall be on Customs Form 7502. For merchandise entitled to be entered under an informal entry, see § 143.23 of this chapter.

(b) *Extra copies.* The district director may require additional copies of the entry summary.

§ 142.12 Time for filing or submission for preliminary review.

(a) *At option of importer*—(1) *Filing.* Except as provided in § 142.13, the importer may file the entry summary documentation at the time of entry in which case the entry summary, with estimated duties attached, shall serve as both the entry and the entry summary.

(2) *Submission for preliminary review.* If the importer intends to file the entry summary documentation at the time of entry, he may submit the entry summary documentation for preliminary review before arrival of the merchandise, in accordance with § 141.63(a) of this chapter. After preliminary review is completed, the entry summary shall be returned to the importer for filing in accordance with paragraph (a)(1) of this section.

(b) *When required.* If the importer is not required to file the entry summary documentation at the time of entry under the provisions of § 142.13, or if he does not elect to do so, the entry summary documentation shall be filed, with estimated duties attached, within 10 working days after the time of entry.

(c) *Estimated duties.* Estimated duties, if any, shall be deposited in accordance with the provisions of Subpart G of Part 141 of this chapter.

§ 142.13 When entry summary must be filed at time of entry.

(a) *Authority of district director.* The district director may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer:

(1) Has failed repeatedly to file timely entry summary documentation without justification,

(2) Has not taken prompt action to settle a claim for liquidated damages issued under § 142.15 for failure to file entry summary documentation timely. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages, shall petition for relief or pay the amount claimed and, in appropriate cases, file the entry summary documentation and deposit estimated duties, if any, or

(3) Has repeatedly delivered entry summary documentation, which is incomplete or which contains erroneous information.

(b) *Authority of regional commissioner.* The regional commissioner may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer is substantially or habitually delinquent in the payment of Customs bills. See § 142.14.

(c) *Special classes of merchandise.*—(1) *Quota-class merchandise.* Quota-class merchandise shall not be released upon delivery of entry documentation before presentation of an entry summary for consumption, with estimated duties attached, or a withdrawal for consumption, with estimated duties attached. (See Part 132 of this chapter.)

(2) *Other classes of merchandise.* Entry summary documentation, with estimated duties attached, or a withdrawal for consumption with estimated duties attached, shall be filed at the time of entry before release of any other merchandise of a class designated by Headquarters.

(d) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for release of the importer's merchandise in the broker's name and under the broker's bond.

§ 142.14 Delinquent payment of Customs bills.

The following procedure shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills:

(a) *Notice.* The importer shall be advised in writing by the regional commissioner of Customs for the region in which he is substantially or habitually delinquent that he shall file the entry summary documentation with estimated duties attached, before his merchandise may be released from Customs custody in that region. The notice shall state the reason for the action and advise the importer that if payment of all his delinquent Customs bills is not made within 10 working days from the date of the notice, he shall be required to file the entry summary document with estimated duties attached, before his merchandise may be released in any Customs region. In either case, the entry summary shall serve as both the entry and the entry summary.

(b) *Removal or requirement by region.* If the importer pays all his delinquent Customs bills within 10 working days after the date of the notice, the requirement shall be removed, and the importer need file only the entry documentation specified in § 142.3 to secure release of his merchandise.

(c) *Removal of requirement by Headquarters.* If the importer has not paid all his delinquent Customs bills within 10 working days after the date of the notice, he also shall be required to file the entry summary documentation, with estimated duties attached, in each Customs region. In this case, the entry summary shall serve as both the entry and the entry summary. This requirement shall remain in effect in each port of entry until notification is received from Headquarters that the requirement is removed and that the importer need submit only the entry documentation listed in § 142.3 to secure release of his merchandise.

§ 142.15 Failure to file entry summary timely.

If the entry summary documentation is not filed timely, the district director shall make an immediate demand for liquidated damages in the entire amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application to cancel liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.16 Entry summary documentation.

(a) *Entry summary not filed at time of entry.* When the entry documentation is filed before the entry summary documentation, one copy of the entry document and the commercial invoice, or the documentation filed in place of a commercial invoice in the instances listed in § 141.83(d) of this chapter, shall be returned to the importer after Customs authorizes release of the Merchandise. The importer may use these documents in preparing the entry summary. Customs Form 7501, and shall file them with the entry summary documentation within the time period stated in § 142.3. The entry summary documentation also shall include Customs Form 5101 and any other documents required for a particular shipment, such as a Special Customs Invoice, Customs Form 5515, unless a bond for missing documents is on file, as provided in § 141.66 of this chapter.

(b) *Entry summary filed at time of entry.* When the entry summary documentation is filed at time of entry, the documentation listed in § 142.3 shall be filed at the same time, except that Customs Form 3461 or 7533 shall not be required. The importer also shall file Customs Form 5101 and any additional invoice required for a particular shipment, such as a Special Customs Invoice, Customs Form 5515.

§ 142.17 One entry summary for multiple entries.

(a) *Requirements.* Except as provided in paragraph (b) of this section, the district director may permit the filing of one entry summary for merchandise the subject of separate entries if:

(1) The merchandise has the same country of exportation, and the same country of origin,

(2) The merchandise arrives by land, by the same vessel or by the same air carrier,

(3) The merchandise is consigned to the same consignee,

(4) The time between the date of the first entry and the date of the last entry does not exceed 1 week,

(5) The entry summary document is filed within 10 working days from the date of the first entry, and

(6) Each entry is identified separately by entry number on the entry summary.

(b) *Merchandise not eligible.* One entry summary shall not be used for multiple entries of the following:

(1) Quota-class merchandise,

(2) Prohibited merchandise,

(3) Merchandise subject to restrictions which require processing and documentation more frequently than on a weekly basis,

(4) Merchandise for which liquidation has been withheld, and

(5) Merchandise classifiable under the same Tariff Schedules of the United States item number having different rates of duty for which entries or immediate transportation entries have been filed. However, this provision is not applicable in the following circumstances:

(i) *Entries.* Entries may be consolidated if the time of entry is—

(A) Before the date of change in rate of duty, or

(B) On or after the date of change in rate of duty.

(ii) *Immediate transportation entries.* Immediate transportation entries may be consolidated if the date of acceptance is—

(A) Before the date of change in the rate of duty, or

(B) On or after the date of change in rate of duty.

(c) *Entry documentation not in proper form.* If an entry summary covering multiple entries refers to entry documentation which is not in proper form, the entry summary and the entry documentation shall be returned for correction.

§ 142.17a One consolidated entry summary for multiple ultimate consignees.

(a) *Applicability.* The district director may permit a broker as nominal consignee to file a consolidated entry summary in his own name under his own bond covering shipments of like or similar merchandise consigned to various ultimate consignees provided that all the merchandise is—

(1) Imported on the same day,

(2) Itemized as to each category of merchandise by Tariff Schedules of the United States Annotated statistical reporting number, and

(3) Released on the same day, either under the entry documentation specified in § 142.3, or under a special permit for immediate delivery. A consolidated entry summary may be filed for merchandise arriving by land, by the same vessel, or by the same air carrier.

(b) *Information required on the entry summary—(1) Separate listing according to ultimate consignee.* The broker shall list separately on the face of the consolidated entry summary the merchandise for each ultimate consignee, together with the appropriate entry or special permit numbers.

(2) *If different land carriers are involved.* If merchandise arriving by different land carriers is included on one entry summary, necessary information pertaining to each carrier shall be shown on the face of the entry summary, related to the applicable shipment.

§ 142.18 Entry summary not required for prohibited merchandise.

(a) *Exportation or destruction of prohibited merchandise.* If merchandise released at time of entry is later found to be prohibited, the district director shall demand its return to Customs custody in accordance with § 141.113 of this chapter, and an entry summary and the deposit of estimated duties, if any, shall not be required provided:

(1) An entry for exportation, Customs Form 7512, or an application to destroy the merchandise under Customs supervision is made within 10 days after the time of entry, and the exportation or destruction is accomplished promptly, or

(2) An entry for transportation and exportation, Customs Form 7512, is made within 10 days after the time of entry and domestic carriage of the merchandise does not conflict with the requirements of another Federal agency.

(b) *Procedures for exportation or destruction.* The exportation or destruction of prohibited merchandise as required by paragraph (a) shall be in accordance with §§ 158.41 and 158.45(c) of this chapter.

§ 142.19 Release of merchandise under the entry summary.

Merchandise, for which an entry summary serves as both an entry and an entry summary, shall not be released from Customs custody until an appropriate bond has been filed, or the entry has been liquidated, as follows:

(a) *Bond.* Merchandise not designated for examination may be released to, or upon the order of, the carrier if an entry bond is filed on Customs Form 7551, 7555, or 7595, in an amount determined in accordance with Part 113 of this chapter. Merchandise designated for examination may be released under the entry bond after examination has been completed if:

(1) It has been found to be truly and correctly invoiced,

(2) It is entitled to admission into the commerce of the United States, and

(3) Its release is not precluded by any law or regulation. If merchandise is entered by or on behalf of a United States Government department or agency, the stipulation prescribed in § 141.102(d) of this chapter shall be accepted in place of a bond.

(b) *After liquidation.* If a bond has not been filed in accordance with paragraph (a) of this section, the merchandise shall not be released before:

(1) The entry has been liquidated and the full amount of all duties and taxes due, including dumping or other special duties and charges, has been paid, or the right to free entry established.

(2) The district director determines that the merchandise may be admitted into the commerce of the United States, and

(3) All documents relating to the merchandise which are required by law or regulation have been filed.

Subpart C—Special Permit for Immediate Delivery

§ 142.21 Merchandise eligible for special permit for immediate delivery.

Merchandise may be released under a special permit for immediate delivery, in accordance with section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), in the following circumstances:

(a) *Contiguous countries.* At the discretion of the district director, merchandise arriving by land from Canada or Mexico may be released under a special permit for immediate delivery provided the importer has on file one of the types of Customs bonds described in § 142.4. An entry summary shall be filed in accordance with § 142.22(b)(1), and estimated duties, if any, shall be deposited, within the time period specified in § 142.23 for all merchandise from contiguous countries released under a special permit except for fresh fruits and vegetables for human consumption released under the provisions of paragraph (b) of this section.

(b) *Fresh fruits and vegetables.* (1) An application for a special permit for immediate delivery may be made for the transportation of fresh fruits and vegetables for human consumption arriving from Canada or Mexico to the importer's premises within the port of importation, but removed from the area immediately contiguous to the border.

(2) The application shall be supported by a term bond on Customs Form 7553, or a general term bond on Customs Form 7595 as prescribed in § 142.4, to which a rider in the following format has been added:

Immediate Delivery of Fresh Fruits and Vegetables Arriving from Canada or Mexico—to be added to Customs Forms 7553 and 7595.

In addition to the conditions appearing in the bond dated ————, in the amount of

———, executed by ————, as principal and ————, as surety, to which this stipulation relates. It is hereby expressly agreed by the principal and surety thereon that the following additional condition shall apply:

If, pursuant to section 448(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), and § 142.21(a) of the Customs Regulations, fresh fruits and vegetables have been released for immediate delivery from ———— to the importer's premises at ————, the produce shall be transported and stored in accordance with the regulations, and may be examined and disposed of according to § 158.11(b) of the Customs Regulations; the balance of the produce shall be entered for consumption, entered for transportation and exportation, or transported in bond under an entry for immediate transportation without appraisement. In the event of failure to make an appropriate entry or deposit the estimated duties due, when so required, the above-bounden principal shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise plus the charges and duties thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of such merchandise as determined by the district director of Customs, and that the decision of the district director of Customs as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties, also shall be binding on all parties to this obligation).

Witness our hands and seals this —— day of ———, 19—.

(Seal)

Principal ————————————

(Seal)

Surety————————————

Certificate as to Corporate Principal

I, ————, certify that I am the[1] ———— of the corporation named as principal in the rider; that ————, who signed the said rider on behalf of the principal, was then ———— of said corporation; that I know his signature, and his signature thereto is genuine; and that said rider was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

(Corporate Seal)

(To be used when no power of attorney has been filed with the district director of Customs)

(3) The fresh fruits and vegetables shall be transported to the importer's premises in the vehicles in which they crossed the border or, if transshipment is necessary in vehicles provided by the importer. The fresh fruits and vegetables may be examined at the importer's premises. Those portions without commercial value may be disposed of in accordance with the provisions of § 158.11(b) of this chapter, and the balance shall be entered for consumption or transported in bond under an entry for immediate transportation without appraisement or under an entry for transportation and exportation.

(c) *Agency of U.S. Government.* Merchandise may be released under the immediate delivery procedure if the shipment is consigned to or for the account of any agency or office of the United States Government, or to an officer or official of any such agency in his official capacity, as provided in § 10.101 of this chapter.

(d) *Articles of a trade fair.* Articles for a trade fair may be released under the immediate delivery procedure, as provided in § 147.13 of this chapter.

(e) *Quota-class merchandise.*—(1) *Tariff-rate.* At the discretion of the district director, merchandise subject to a tariff-rate quota may be released under a special permit for immediate delivery provided the importer has on file one of the type of bonds enumerated in § 142.4. An entry summary, with estimated duties attached, shall be presented within the time specified in § 142.23, or within the quota period, whichever expires first. If the entry summary, with estimated duties attached, is presented after the tariff-rate quota is filled, the merchandise shall not be entitled to the quota rate of duty, and the importer shall deposit duties at the over-quota rate.

(2) *Absolute.* At the discretion of the district director, perishable merchandise of a class approved by Headquarters which is subject to an absolute quota may be released under a special permit for immediate delivery for removal to the importer's premises, or to any other location approved by the district director, until an entry summary, with estimated duties attached, is presented. An entry summary, with estimated duties attached, shall be presented for merchandise so released within the time specified in § 142.23, or within the quota period, whichever expires first. If the absolute quota is filled before the importer has presented an entry summary, with estimated duties attached, he either may present an entry summary for warehouse or, under Customs supervision, export or destroy the merchandise.

(f) *Release from warehouse followed by warehouse withdrawal for consumption.* At the discretion of the district director, merchandise may be released from warehouse under a special permit provided the importer has on file one of the types of Customs bonds provided for in § 142.4. The immediate delivery permit shall be annotated to state that a warehouse withdrawal for consumption will be filed for this merchandise.

(g) *When authorized by Headquarters.* Headquarters may authorize the release of merchandise under the immediate delivery procedure in circumstances other than those described in paragraphs (a), (b), (c), (d), (e), and (f) of this section provided an appropriate bond is on file.

§ 142.22 Application for special permit for immediate delivery.

(a) *Form.* An application for a special permit for immediate delivery shall be made on Customs Form 3461 supported by the documentation provided for in § 142.3, except that a commercial invoice shall not be required. Instead of a commercial invoice, the importer may deliver to Customs a pro forma invoice, waybill, or other document setting forth an adequate description of the merchandise and the quantities, together with the values or approximate values when values are needed for the purpose of examination. If the merchandise is to be released under a term special permit, the documentation also shall show the term special permit number, as provided for in § 142.24.

(b) *Customs custody.* Merchandise for which a special permit for immediate delivery has been issued under § 142.21 shall be considered to remain in Customs custody until the filing of one of the following:

(1) An entry summary for consumption, with estimated duties attached, an entry summary for warehouse, or an entry summary for entry under a temporary importaton bond;

(2) A withdrawal for consumption, with estimated duties attached;

(3) An entry for transportation and exportation, immediate transportation without appraisement, or direct exportation; or

(4) An application to destroy.

§ 142.23 Time limit for filing documentation after release.

The applicable documentation described in § 142.22(b) shall be filed, and estimated duties, if any, shall be deposited, within 10 working days after the merchandise or any part of the merchandise is authorized for release under a special permit for immediate delivery.

§ 142.24 Term special permit.

(a) *Conditions for issuance.* At the discretion of the district director, a term special permit for immediate delivery

[1] May be executed by the secretary, assistant secretary, or other officer of the corporation.

may be issued on Customs Form 3461, appropriately modified, for a class or classes of merchandise particularly described in the application for the permit, to be imported during a period not to exceed 1 year from the date of the permit.

(b) *Notation of value for each shipment.* When applying for the release of a shipment of merchandise under a term special permit for immediate delivery, the importer shall note a value for the shipment on the documentation presented. The value so noted shall not be less than the invoice value.

§ 142.25 Discontinuance of immediate delivery privileges.

(a) *Authority of district director.* The district director may discontinue immediate delivery privileges if the importer:

(1) Has failed repeatedly to file the applicable Customs documentation set forth in § 142.22(b) timely without justification, or

(2) Has not taken prompt action to settle a claim for liquidation damages issued under § 142.27 for failure to file the application Customs documentation set forth in § 142.22(b) timely. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages shall petition for relief or pay the amount claimed and, file the applicable documentation and deposit estimated duties, if any.

(3) Has repeatedly delivered documentation required by § 142.22(b) which is incomplete or which contains erroneous information.

(b) *Authority of regional commissioner.* The regional commissioner may discontinue immediate delivery privileges if the importer is substantially delinquent in the payment of Customs bills. See § 142.26.

(c) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for the immediate release of the importer's merchandise in the broker's name and under the broker's bond.

§ 142.26 Delinquent payment of Customs bills.

The following procedures shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills:

(a) *Notice.* The importer shall be advised in writing by the regional commissioner of Customs for the region in which he is substantially or habitually delinquent that his immediate delivery privileges have been suspended in that region. The notice shall state the reason for the action and advise the importer that if payment of all his delinquent Customs bills is not made within 10 working days from the date of the notice, the importer's immediate delivery privileges also shall be suspended in all Customs regions.

(b) *Reinstatement of privileges by region.* If the importer pays all his delinquent Customs bills within 10 working days after the date of the notice, the suspension shall be removed, and the importer's immediate delivery privileges shall be reinstated.

(c) *Reinstatement of privileges by Headquarters.* If the importer has not paid all his delinquent Customs bills within 10 working days after the date of the notice, his immediate delivery privileges shall be suspended in all Customs regions. This suspension shall remain in effect in each port of entry until notification is received from Headquarters that the suspension is removed and that the importer's immediate delivery privileges have been reinstated.

§ 142.27 Failure to file documentation timely.

If the applicable Customs documentation set forth in § 142.22(b) is not filed within the time provided in § 142.23, the district director shall make an immediate demand for liquidated damages in the amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application for cancellation of liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.28 Withdrawal or entry summary not required for prohibited merchandise.

(a) *Exportation or destruction of prohibited merchandise.* If merchandise released under a special permit for immediate delivery later is found to be prohibited, the district director shall demand its recall in accordance with § 141.113 of this chapter (applicable to the recall of merchandise released from Customs custody), and withdrawal or entry summary documentation and the deposit of estimated duties, if any, shall not be required provided:

(1) the merchandise is exported or destroyed under Customs supervision within the time limit for entry specified in § 142.23, or

(2) An entry for exportation or for transportation and exportation on Customs form 7512, or an application to destroy the merchandise, is made within the specified time limit, and the exportation or destruction is accomplished promptly.

(b) *Procedures for exportation or destruction.* The exportation or destruction of prohibited merchandise required by paragraph (a) of this section shall be under the same procedures as exportation or destruction of prohibited merchandise covered by a consumption entry with remission or refund of duties. See §§ 158.41 and 158.45(c) of this chapter.

(c) *Notation on exportation entry.* An entry for exportation or for transportation and exportation of prohibited merchandise for which no entry summary for consumption has been filed shall be stamped or imprinted conspicuously with the legend:

Prohibited Merchandise, No Other Entry Filed

§ 142.29 Other procedures applicable.

Merchandise released under a special permit for immediate delivery shall be subject to the same procedures applicable to all other imported merchandise, unless specific procedures are set forth in this subpart.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 143—APPRAISEMENT AND INFORMAL ENTRIES

§ 143.1 [Deleted]

§ 143.2 [Deleted]

§ 143.3 [Deleted]

1. Sections 143.1, 143.2, and 143.3 are deleted.

2. Section 143.23(f) is amended to read as follows:

§ 143.23 Form of entry.

* * * * *

(f) Merchandise released under the immediate delivery procedure or the entry documentaton required by section 142.3(a), and entry is made on Customs Form 7501, annotated "Informal Entry" in the upper right hand corner.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. Section 144.5 is amended to read as follows:

§ 144.5 Period of warehousing.

(a) *Generally.* Except as provided in paragraph (b) of this section, merchandise shall not remain in a bonded warehouse beyond 5 years from the date of importation.

(b) *Exception.* For merchandise remaining in a bonded warehouse on October 3, 1978, the date of enactment of Pub. L. 95–410 (92 Stat. 888), any period of time the merchandise was in a bonded warehouse before that date shall be disregarded and the 5-year period shall commence on that date.

§ 144.6 [Deleted]

2. Section 144.6 is deleted.

3. Section 144.7 is amended to read as follows:

§ 144.7 Disposition of merchandise after expiration of warehousing period.

Merchandise remaining in a bonded warehouse after the expiration of the warehousing period shall be disposed of in accordance with § 127.14 of this chapter.

4. Section 144.11 is amended to read as follows:

§ 144.11 Form of entry.

(a) *Entry.* The documentation required by § 142.3 of this chapter shall be filed at the time of entry. If the warehouse entry summary, Customs Form 7502, is filed at time of entry, it shall serve as both the entry and the entry summary, and Customs Forms 3461 or 7533 shall not be required. If the warehouse entry summary is not filed at the time of entry, it shall be filed within the time limit prescribed by § 142.12 of this chapter. If merchandise is released before the filing of the warehouse entry summary, the importer shall have a bond on file, as prescribed by § 142.4 of this chapter.

(b) *Customs Form 7502.* The entry summary for merchandise entered for warehouse shall be executed in triplicate on the Warehouse or Rewarehouse Entry, Customs Form 7502, appropriately modified, and shall include all of the statistical information required by § 141.61(e) of this chapter. The district director may require an extra copy or copies of the Warehouse or Rewarehouse Permit, Customs Form 7502–A, for use in connection with delivery of the merchandise to the bonded warehouse.

(c) *Designation of warehouse.* The importer shall designate on the warehouse entry summary, Customs Form 7502, the bonded warehouse in which he desires his merchandise deposited and the bonded cartman or lighterman by whom he wishes the goods transferred.

(d) *Specification list.* When packages which are not uniform in contents, quantities, values, or rates of duties are grouped together as one item on an entry summary, a specification list (original only) shall be furnished with the entry summary, showing separately opposite the marks or numbers of each package, the quantity of each class of merchandise, the entered value of each class, and the rates of duty claimed for each. However, a specification list is not needed if one withdrawal is to be filed for all the merchandise covered by the entry summary.

5. Section 144.12 is amended to read as follows:

§ 144.12 Contents of entry summary; estimated duties.

The entry summary, Customs Form 7502, shall show the value, classification, and rate of duty as approved by the district director at the time the entry summary is filed. However, no deposit of estimated duties shall be required until the merchandise is withdrawn for consumption.

6. Section 144.13 is amended to read as follows:

§ 144.13 Bond requirements.

(a) *Entry summary not filed at time of entry.* A bond on Customs Form 7551, 7553, or 7595 shall be required when the entry documentation is filed if the entry summary documentation is not filed at that time. When the entry summary is filed thereafter, as prescribed in § 142.13 of this chapter, a bond on Customs Form 7555 or 7595 shall be required if a bond on Customs Form 7551 or 7553 is on file in support of the entry documentation. If a bond on Customs Form 7595 is on file in support of the entry documentation, that bond shall be sufficient to support the entry summary.

(b) *Entry summary filed at time of entry.* If the entry summary is filed at time of entry, the entry summary shall serve as both the entry and the entry summary, and a bond on Customs Form 7555 or 7595 shall be required.

7. Section 144.14 is amended to read as follows:

§ 144.14 Removal to warehouse.

When the entry summary, Customs Form 7502, and the appropriate bond have been filed, the merchandise shall be sent to the bonded warehouse, except for:

(a) Merchandise for which an immediate dock withdrawal if filed, or

(b) Packages designated for examination elsewhere than at the warehouse, which shall be sent to the warehouse after examination.

8. The first sentence of § 144.36(b) is amended by substituting "entry summary, Customs Form 7502" for "warehouse entry".

9. Section 144.36(d) is amended to read as follows:

§ 144.36 Withdrawal for transportation.

* * * * *

(d) *Information required.* In addition to the statement of quantity required by § 144.32, Customs Form 7512 shall show the following information for the merchandise being withdrawn:

(1) The original entry number, date of entry, date of entry summary, and port at which filed;

(2) The name of the consignee at the port of destination;

(3) Any ascertained weight, gauge, or measure;

(4) The entered value of the merchandise;

(5) Estimated duties, if any;

(6) A statement that the merchandise is or is not admissible for consumption and the reason for non-admissibility, if applicable; and

(7) The statistical information required by § 141.61(e) of this chapter.

When the withdrawal is made after the merchandise has been rewarehoused, the rewarehouse entry number, date, and port at which filed also shall be shown.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624)

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. The first and last sentences of § 151.47 are amended to read as follows:

§ 151.47 Entered quantities of crude petroleum released under entry or immediate delivery.

(a) *Optional entry of net quantity.* As an alternative to stating on the entry summary the total quantity of crude petroleum released under the immediate delivery procedure in § 142.21 of this chapter, or under the entry documentation in § 142.3(a), the importer may file an entry summary for the net quantity of crude petroleum landed. * * *

The commercial laboratory report shall be filed with the entry summary.

2. The section heading and first sentence of § 151.63 are amended by inserting the word "summary" after the word "entry".

3. Section 151.64(a) is amended by inserting the word "summary" after the word "entry".

4. Section 151.64(b) is amended to read as follows:

§ 151.64 Additional documents.

* * * * *

(b) *Extra copy of entry summary.* One extra copy of the entry summary covering wool or hair subject to duty at

a rate per clean pound shall be filed in addition to the copies otherwise required.

5. The first sentence of § 151.65 is amended to read as follows:

§ 151.65 Duties.

Duties on wool or hair subject to duty at a rate per clean pound may be estimated at the time of filing the entry summary on the basis of the clean yield shown on the entry summary if the district director is satisfied that the revenue will be properly protected.

6. The third and fourth sentences of § 151.65 are amended by inserting the word "summary" after the word "entry" each time it appears.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

1. The section heading and first sentence of § 158.2 are amended to read as follows:

§ 158.2 Shortages in packages released under immediate delivery or entry.

An importer may file an entry summary for consumption or an entry summary for warehouse for less than the invoiced and manifested number of packages in a shipment "permitted" and delivered to him or deposited in a bonded warehouse under the immediate delivery procedure in § 142.21 of this chapter, or under the entry documentation in § 142.3(a), if he files with the entry summary a Customs Form 5931 in triplicate.

* * * * *

§ 158.3 [Amended]

2. The section heading and first sentence of § 158.3 are amended by inserting the word "summary" after the word "entry".

3. Part 158 is amended by adding a new § 158.21a to read as follows:

§ 158.21a Time period.

An abatement or refund of duties shall be made in the case of injury to, or destruction of, merchandise in a bonded warehouse as a result of accidental fire or other casualty only if the fire or casualty occurs within 3 years from the date of importation.

§ 158.27 [Amended]

4. Section 158.27(b) is amended by inserting "the entry summary (where appropriate)," after "entry".

5. Section 158.43 is amended by changing the heading of paragraph (c) to *"Abandonment."*, by adding a new subheading entitled *"Costs."* to the existing paragraph, by redesignating the existing paragraph as "(c)(1)", and by adding a new paragraph (c)(2) to read as follows:

§ 158.43 Abandonment or destruction of merchandise in bond.

* * * * *

(c) *Abandonment.*—(1) *Costs.* * * *

(2) *Time period.* The importer may abandon his warehoused merchandise voluntarily to the Government within 3 years from the date of importation.

6. Section 158.43 is amended by changing the heading of paragraph (d) to "Destruction", by adding a new subheading entitled "Costs." to the existing paragraph, by redesignating the existing paragraph as "(d)(1)", and by adding a new paragraph (d)(2) to read as follows:

§ 158.43 Abandonment of destruction of merchandise in bond.

* * * * *

(d) *Destruction*—(1) *Costs.* * * *

(2) *Time period.* The importer may request destruction of his warehoused merchandise within 5 years from the date of importation.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 159—LIQUIDATION OF DUTIES

1. Section 159.9(c) is amended to read as follows:

§ 159.9 Notice of liquidation and date of liquidation for formal entries.

* * * * *

(c) *Date of liquidation*—(1) *Generally.* The bulletin notice of liquidation shall be dated with the date it is posted or lodged in the customhouse for the information of importers. The entries for which the bulletin notice of liquidation has been prepared shall be stamped "Liquidated", with the date of liquidation, which shall be the same as the date of the bulletin notice of liquidation. This stamping shall be deemed the legal evidence of liquidation.

(2) *Exception: Entries liquidated by operation of law.* (i) Entries liquidated by operation of law at the expiration of the time limitations prescribed in section 504, Tariff Act of 1930, as amended (19 U.S.C. 1504), and set out in §§ 159.11 and 159.12, shall be deemed liquidated as of the date of expiration of the appropriate statutory period.

(ii) The bulletin notice of liquidation shall be posted or lodged in the customhouse within a reasonable period after each liquidation by operation of law and shall be dated as of the date of expiration of the statutory period.

(iii) A protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and Part 174 of this chapter shall be filed within 90 days from the date the bulletin notice of liquidation of an entry by operation of law is posted or lodged in the customhouse.

2. Section 159.9 is amended by adding a new paragraph (d) to read as follows:

* * * * *

(d) *Courtesy notice of liquidation.* Customs will endeavor to provide importers or their agents with Customs Form 4333–A, "Courtesy Notice", for entries specified in § 159.9(a)(1), scheduled to be liquidated or deemed liquidated by operation of law. This notice shall serve as an informal, courtesy notice and not as a direct, formal, and decisive notice of liquidation.

3. Part 159 is amended by adding new §§ 159.11 and 159.12 to read as follows:

§ 159.11 Entries liquidated by operation of law.

(a) *Time limit generally.* Except as provided in section 159.12, an entry not liquidated within 1 year from the date of entry of the merchandise, or the date of final withdrawal of all merchandise covered by a warehouse entry, shall be deemed liquidated by operation of law at the rate of duty, value, quantity, and amount of duties asserted by the importer at the time of filing an entry summary for consumption in proper form, with estimated duties attached, or a withdrawal for consumption in proper form, with estimated duties attached. Notice of liquidation shall be given on the bulletin notice of liquidation, Customs Form 4333 or 4335, as provided in §§ 159.9 and 159.10(c)(3). Customs will endeavor to provide a courtesy notice of liquidation on Customs Form 4333–A in accordance with § 159.9(d).

(b) *Applicability.* The provisions of this section and § 159.12 shall apply to entries of merchandise for consumption or withdrawals of merchandise for consumption made on or after April 1, 1979, but shall not apply to vessel repair entries or drawback entries.

§ 159.12 Extension of time for liquidation.

(a) *Reasons*—(1) *Extension.* The district director may extend the 1-year statutory period for liquidation for an additional period not to exceed 1 year if:

(i) *Information needed by Customs.* Information needed by Customs for the proper appraisement or classification of the merchandise is not available, or

(ii) *Importer's request.* The importer requests an extension in writing before

the statutory period expires and shows good cause why the extension should be granted. "Good cause" is demonstrated when the importer satisfies the district director that more time is needed to present to Customs information which will affect the pending action, or there is a similar question under review by Customs.

(2) *Suspension.* The 1-year liquidation period may be suspended as required by statute or court order.

(b) *Notice of extension.* If the district director extends the time for liquidation, as provided in paragraph (a)(1) of this section, he promptly shall notify the importer or the consignee and his agent and surety on Customs Form 4333–A, appropriately modified, that the time has been extended and the reasons for doing so.

(c) *Notice of suspension.* If the liquidation of an entry is suspended as required by statute or court order, as provided in paragraph (a)(2) of this section, the district director promptly shall notify the importer or the consignee and his agent and surety on Customs Form 4333–A, appropriately modified, of the suspension.

(d) *Additional extensions*—(1) *Information needed by Customs.* If an extension has been granted because Customs needs more information and the district director thereafter determines that more time is needed, he may extend the time for liquidation for an additional period not to exceed 1 year provided he issues the notice required by paragraph (b) of this section before termination of the prior extension period.

(2) *At importer's request.* If the statutory period has been extended for 1 year at the importer's request, and the importer thereafter determines that additional time is necessary, he may request another extension in writing before the original extension expires, giving reasons for his request. If the district director finds that good cause (as defined in paragraph (a)(1)(ii) of this section) exists, he shall issue a notice extending the time for liquidation for an additional period not to exceed 1 year.

(e) *Limitation on extensions.* The total time for which extensions may be granted by the district director may not exceed 3 years.

(f) *Time limitation*—(1) *Generally.* An entry not liquidated within 4 years from either the date of entry, or the date of final withdrawal of all the merchandise covered by a warehouse entry, shall be deemed liquidated by operation of law at the rate of duty, value, quantity, and amount of duty asserted by the importer at the time of filing the entry summary for consumption in proper form, with estimated duties attached, or the withdrawal for consumption in proper form, with estimated duties attached, unless liquidation continues to be suspended by statute or court order. Customs will endeavor to provide a courtesy notice of liquidation on Customs Form 4333–A, in accordance with § 159.9(d), in addition to the bulletin notice specified § 159.9(c)(2)(ii).

(2) *Suspension of liquidation by statute or court order.* When liquidation of an entry continues to be suspended beyond the 4-year period specified in paragraph (f)(1) of this section due to a statute or court order, the entry shall be liquidated within 90 days after removal of the suspension.

(g) *Notice of liquidation.* If an entry is liquidated after an extension expires or a suspension is removed, notice of liquidation shall be given on the bulletin notice of liquidation, Customs Form 4333 or 4335, as provided in §§ 159.9 and 159.10(c)(3). Customs will endeavor to provide a courtesy notice of liquidation on Customs Form 4333–A in accordance with § 159.9(d)

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 172—LIQUIDATED DAMAGES

1. The introductory paragraph of § 172.22(b) is amended to read as follows:

§ 172.22 Special cases acted on by district director of Customs.

* * * * *

(b) *Nonproduction of Special Customs Invoices or commercial invoices.* If a required Special Customs Invoice, Customs Form 5515, or a commercial invoice is not produced (1) on the date the entry or entry summary is filed, (2) within 6 months after the date the entry or entry summary is required to be filed, or (3) if the invoice is needed for statistical purposes, within 50 days after the date the entry or entry summary is required to be filed, then unless the production is waived under the provisions of § 141.92 of this chapter, the bond charge for the production thereof may be canceled by the district director upon the payment of $25 as liquidated damages, if: * * *

2. The introductory language of § 172.22(d) is amended to read as follows:

* * * * *

(d) *Failure to file timely entry summary after release under entry or immediate delivery permit.* If a timely entry summary for merchandise not subject to quota has not been filed after release under an entry or a special permit for immediate delivery, the district director may act upon an application for relief from liquidated damages assessed in accordance with § 142.15 or 142.27, respectively, of this chapter as follows: * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

1. The first sentence of § 173.1 is amended to read as follows:

§ 173.1 Authority to review for error.

District directors, or in the New York Customs Region, the Regional Commissioner of Customs, have broad responsibility and authority to review transactions to ensure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with the law. * * *

2. The introductory language to § 173.4(b) is amended, § 173.4(c) is amended, and a new § 173.4(d) is added, to read as follows:

§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.

* * * * *

(b) *Transactions which may be corrected.* Correction pursuant to section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), may be made in any entry, liquidation, or other Customs transaction if the clerical error, mistake of fact, or other inadvertence:

* * * * *

(c) *Limitation on time for application.* A clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section shall be brought to the attention of the district director at the port of entry, or in the New York Customs Region, the Regional Commissioner of Customs, within 1 year after the date of liquidation or exaction.

(d) *"Liquidation" includes reliquidation.* "Liquidation" when used in section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), and in this section, includes reliquidation of an entry.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[FR Doc. 79-24494 Filed 8-8-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 230

[FHWA Docket No. 79-30]

Equal Employment Opportunity Reports

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

SUMMARY: This amendment revises FHWA regulations to substitute Form PR 1391 (Rev. 3–79), Federal-Aid Highway Contractors Annual EEO Report, and Form PR 1392 (Rev. 3–79), Federal-Aid Highway Construction Summary of Employment Data (Including Minority Breakdown) For all Federal-Aid Highway Projects for Month Ending July 31, 19—, for Form PR 1391 (Rev. 9–77) and Form PR 1392 (Rev. 11–74). The revised, substituted forms are necessary to provide the racial and ethnic data required by U.S. Department of Commerce, Directive 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting, 43 FR 19269, May 4, 1978.

DATES: Comments must be received on or before October 9, 1979. The effective date of this amendment is July 31, 1979.

ADDRESS: Anyone wishing to submit written comments may do so. Comments should be sent, preferably in triplicate, to FHWA Docket No. 79–30, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday. Comments may be considered as a request for rule revision and will be utilized in processing future amendments to this regulation. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: K. L. Ziems, Chief, Contract Administration Branch, Construction and Maintenance Division, Office of Highway Operations, 202–426–4847; or S. James Wiese, Attorney, Office of the Chief Counsel 202–426–0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Part 230 of 23 CFR codifies material contained in Volume 6, Chapter 4, Section 1, of the Federal-Aid Highway Program Manual. (The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.) 23 CFR 230.121 requires the use of FHWA Form PR 1391 and FHWA Form PR 1392. Forms PR 1391 and PR 1392 appear in 23 CFR Part 230, Subpart B as Appendices C and D, respectively.

In consideration of the foregoing, Part 230, Subpart B of Chapter I, Title 23, Code of Federal Regulations is amended as follows:

Appendix C [Amended]

1. Form PR 1391 (Rev. 9–77) in Appendix C is replaced by Form PR 1391 (Rev. 3–79) [see attached form].

Appendix D [Amended]

2. Form PR 1392 (Rev. 11–74) in Appendix D is replaced by Form PR 1392 (Rev. 3–79) [see attached form].

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044. This rule is being issued as final rule and a full regulatory evaluation has not been prepared as this rule has minimal impact and merely implements U.S. Department of Commerce requirements.

(23 U.S.C. sec. 140(a), 315; 49 CFR 1.48(b))

Issued on: August 1, 1979.

Karl S. Bowers,

Federal Highway Administrator.

BILLING CODE 4910-22-M

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

OMB NO. 04-R2427

REPORT FOR

JULY_____ 19__

FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTORS ANNUAL EEO REPORT

1. CHECK APPROPRIATE BLOCK ☐ CONTRACTOR ☐ SUBCONTRACTOR	2. NAME AND ADDRESS OF FIRM	3. FEDERAL-AID PROJECT NUMBER	4. TYPE OF CONSTRUCTION

5. COUNTY AND STATE	6. PERCENT COMPLETE	7. BEGINNING CONSTR. DATE	8. DOLLAR AMOUNT OF CONTRACT	9. ESTIMATED PEAK EMPLOYMENT	
				MONTH AND YEAR (a)	NUMBER OF EMPLOYEES (b)

10. EMPLOYMENT DATA

Table A

JOB CATEGORIES	TOTAL EMPLOYEES		TOTAL MINORITIES		BLACK *Not of Hispanic Origin*		HISPANIC		AMERICAN INDIAN OR ALASKAN NATIVE		ASIAN OR PACIFIC ISLANDER		WHITE *Not of Hispanic Origin*	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
OFFICIALS *(Managers)*														
SUPERVISORS														
FOREMEN/WOMEN														
CLERICAL														
EQUIPMENT OPERATORS														
MECHANICS														
TRUCK DRIVERS														
IRONWORKERS														
CARPENTERS														
CEMENT MASONS														
ELECTRICIANS														
PIPEFITTERS, PLUMBERS														
PAINTERS														
LABORERS, SEMI-SKILLED														
LABORERS, UNSKILLED														
TOTAL														

Table B

APPRENTICES		ON THE JOB TRAINEES	
M	F	M	F

Table C

APPRENTICES																			
ON THE JOB TRAINEES																			

11. PREPARED BY: *(Signature and Title of Contractors Representative)* DATE

12. REVIEWED BY: *(Signature and Title of State Highway Official)* DATE

This report is required by law and regulation (23 U.S.C. 140(b) and 23 CFR Part 230). Failure to report will result in noncompliance with this regulation.

Form PR-1391

PREVIOUS EDITIONS ARE OBSOLETE

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

OMB NO. 04-R2427

FEDERAL-AID HIGHWAY CONSTRUCTION

SUMMARY OF EMPLOYMENT DATA (INCLUDING MINORITY BREAKDOWN) FOR ALL FEDERAL-AID HIGHWAY PROJECTS FOR MONTH ENDING JULY 31st, 19____

NOTE: See Instructions on REVERSE

STATE-REGION (5-8)	NUMBER OF PROJECTS (9-12)	TOTAL DOLLAR VALUE (13-23)
01		

EMPLOYMENT DATA

Table A

JOB CATEGORIES	TOTAL EMPLOYEES 9-13 M	TOTAL EMPLOYEES 14-18 F	TOTAL MINORITIES 19-23 M	TOTAL MINORITIES 24-28 F	BLACK *Not of Hispanic Origin* 29-33 M	BLACK *Not of Hispanic Origin* 34-38 F	HISPANIC 39-43 M	HISPANIC 44-48 F	AMERICAN INDIAN OR ALASKAN NATIVE 49-53 M	AMERICAN INDIAN OR ALASKAN NATIVE 54-58 F	ASIAN OR PACIFIC ISLANDER 59-63 M	ASIAN OR PACIFIC ISLANDER 64-68 F	WHITE *Not of Hispanic Origin* 69-73 M	WHITE *Not of Hispanic Origin* 74-78 F	APPRENTICES 79-83 M	APPRENTICES 84-88 F	ON THE JOB TRAINEES 89-93 M	ON THE JOB TRAINEES 94-98 F
02 OFFICIALS (MANAGERS)																		
03 SUPERVISORS																		
04 FOREMEN/WOMEN																		
05 CLERICAL																		
06 EQUIPMENT OPERATORS																		
07 MECHANICS																		
08 TRUCK DRIVERS																		
09 IRONWORKERS																		
10 CARPENTERS																		
11 CEMENT MASONS																		
12 ELECTRICIANS																		
13 PIPEFITTERS, PLUMBERS																		
14 PAINTERS																		
15 LABORERS, SEMI-SKILLED																		
16 LABORERS, UNSKILLED																		
17 TOTAL																		

Table B

18 APPRENTICES																		
19 ON THE JOB TRAINEES																		

PREPARED BY *(Signature & Title)*	DATE	REVIEWED BY *(Signature & Title of State Hwy. Official)*	DATE

This report is required by law and regulation (23 U.S.C. 140(a) and 23 CFR Part 230). Failure to report will result in noncompliance with this regulation.

Form PR-1392
(Rev. 3-79)

PREVIOUS EDITIONS ARE OBSOLETE

General Information and Instructions

This form is to be developed from the "Contractor's Annual EEO Report." This data is to be compiled by the State and submitted annually. It should reflect the total employment on all Federal-Aid Highway Projects in the State as of July 31st. The staffing figures to be reported should represent the project work force on board in all or any part of the last payroll period preceding the end of July. The staffing figures to be reported in Table A should include journey-level men and women, apprentices, and on-the-job trainees. Staffing figures to be reported in Table B should include only apprentices and on-the-job trainees as indicated.

Entries made for "Job Categories" are to be confined to the listing shown. Miscellaneous job classifications are to be incorporated in the most appropriate category listed on the form. All employees on projects should thus be accounted for.

This information will be useful in complying with the U.S. Senate Committee on Public Works request that the Federal Highway Administration submit a report annually on the status of the Equal Employment Opportunity Program, its effectiveness, and progress made by the States and the Administration in carrying out Section 22 (A) of the Federal-Aid Highway Act of 1968. In addition, the form should be used as a valuable tool for States to evaluate their own programs for ensuring equal opportunity.

It is requested that States submit this information annually to the FHWA Divisions no later than August 25.

Line 01. – State & Region Code. Enter the 4-digit code from the list below.

Alabama	01-04	Montana	30-08
Alaska	02-10	Nebraska	31-07
Arizona	04-09	Nevada	32-09
Arkansas	05-06	New Hampshire	33-01
California	06-09	New Jersey	34-01
Colorado	08-08	New Mexico	35-06
Connecticut	09-01	New York	36-01
Delaware	10-03	North Carolina	37-04
Dist. of Col	11-03	North Dakota	38-08
Florida	12-04	Ohio	39-05
Georgia	13-04	Oklahoma	40-06
Hawaii	15-09	Oregon	41-10
Idaho	16-10	Pennsylvania	42-03
Illinois	17-05	Puerto Rico	43-01
Indiana	18-05	Rhode Island	44-01
Iowa	19-07	South Carolina	45-04
Kansas	20-07	South Dakota	46-08
Kentucky	21-04	Tennessee	47-04
Louisiana	22-06	Texas	48-06
Maine	23-01	Utah	49-08
Maryland	24-03	Vermont	50-01
Massachusetts	25-01	Virginia	51-03
Michigan	26-05	Washington	53-10
Minnesota	27-05	West Virginia	54-03
Mississippi	28-04	Wisconsin	55-05
Missouri	29-07	Wyoming	56-08

[FR Doc. 79-24469 Filed 8-8-79; 8:45 am]
BILLING CODE 4910-22-C

23 CFR Part 630

Federal-Aid Programs Approval and Authorization; Amendment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

SUMMARY: This amendment revises current Federal-aid programs approval and project authorization procedures. The amendment is designed to focus attention on the standards provisions of 23 U.S.C. 109 which apply to project authorization and, in particular, on a new provision added by section 141(g) of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599, 92 Stat. 2689). The new provision prevents FHWA from approving any project that would sever a non-motorized transportation route unless there is a reasonably alternate route (23 U.S.C. 109(n)).

EFFECTIVE DATE: August 13, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas Jennings, Highway Design Division, Office of Engineering (202–426–0314) or Reid Alsop, Office of the Chief Counsel (202–426–0800); Federal Highway Administration, 400 Seventh Street SW, Washington, DC 20590.

In consideration of the foregoing, The Federal Highway Administration is amending Part 630, Subpart A of Chapter I, Title 23, Code of Federal Regulations, as follows:

PART 630—PRECONSTRUCTION PROCEDURES

1. In the authority statement add "23 U.S.C. 109."

2. In § 630.114 the second sentence of paragraph (a) is amended and paragraph (h) is added as follows:

§ 630.114 Authorization to proceed.

(a) * * * Authorization can be given only after applicable prerequisite requirements of Federal laws, and implementing regulations and directives have been satisfied, e.g., A–95 clearinghouse review and standards as prescribed by 23 U.S.C. 109.

* * * * *

(h) No project shall be authorized that will result in the severance or destruction of an existing major route for non-motorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044. Because this amendment merely references existing statutory provisions, its impact is so minimal that neither public comment nor a full regulatory evaluation is required.

(23 U.S.C. sections 109 and 315; 49 CFR 1.48(b).)

Issued on: July 31, 1979.

Karl S. Bowers,

Federal Highway Administrator.

[FR Doc. 79–24470 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 220, 221, 222, 226, 235

[Docket No. R–79–693]

Mutual Mortgage Insurance and Improvement Loans; Dollar Limitation Increase for Solar Energy Systems

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

ACTION: Interim rule and request for comments.

SUMMARY: The interim rule provides for an increase in the dollar limitations by up to 20 percent if such increase is necessary to account for the increased cost of a residence due to the installation of a solar energy system.

EFFECTIVE DATE: September 26, 1979.

COMMENTS DUE: October 9, 1979.

ADDRESS: Interested persons are invited to submit written comments, suggestions or data regarding the interim rule to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. All relevant material received on or before October 9, 1979, will be considered before adoption of a final rule. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: William L. Halpern, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street S.W., Washington, D.C. 20410, (202) 755–6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 248(a) of the National Energy Conservation Policy Act amended section 203(b)(2) of the National Housing Act to permit an increase in dollar limitation of up to 20 percent in the amount which can be insured if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system. For purposes of clarity and incorporation by reference in the programs, a new section (§ 203.18a) was considered appropriate in implementing the statutory change. In addition to the solar energy system changes, the maximum mortgate amounts in Part 226 have been amended bringing the section 809 maximum mortgage amount limitations in line with section 203(b) as required by statute. The Department has determined that the increase in dollar limitations should be made available to the public as soon as possible and that it is, therefore, impractical and contrary to the public interest to provide for comment and public participation before making these provisions effective.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of Rules Docket Clerk at the address set forth above.

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Accordingly, 24 CFR, Part 203, is amended as follows:

1. After § 203.18, add a new § 203.18a as follows:

§ 203.18a Solar energy system.

(a) The dollar limitation provided in § 203.18(a) may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system.

(b) "Solar energy system" is defined as any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources and which is in conformity with such criteria and standards as shall be prescribed by the

Secretary in consultation with the Secretary of Energy.

2. Amend paragraph (d)(1) of § 203.18 by adding the following sentence at the end thereof:

§ 203.18 Maximum mortgage amounts.

* * * * *

(d)(1) * * *

Such limits may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system as defined in § 203.18a(b).

* * * * *

§ 203.43c [Amended]

3. Amend § 203.43c(g) by adding the phrase, "and § 203.18a", after the phrase "under § 203.18(a)."

4. Amend § 203.45 as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) * * *

(1) The limits prescribed by §§ 203.18(a), 203.18(b) and 203.18a or,

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

§ 220.1 [Amended]

5. Part 220 is amended by adding, in § 220.1, "203.18a Solar energy systems" after "203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

§ 221.1 [Amended]

6. Part 221 is amended by adding, in § 221.1, "203.18a Solar energy systems" after "203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

§ 222.1 [Amended]

7. Part 222 is amended by adding, in § 222.1, "203.18a Solar energy systems" after "203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

PART 226—ARMED SERVICES HOUSING—CIVILIAN EMPLOYEES [SEC. 809]

8. Part 226 is amended by revising § 226.4, revising paragraph (a) of § 226.5 and reserving § 226.6.

§ 226.4 Maximum mortgage amount; dollar limitation.

The mortgage shall involve a principal obligation in a dollar amount not in excess of:

(a) 60,000 in the case of a dwelling designed principally for a one-family residence.

(b) 65,000 in the case of a two-family residence.

(c) 65,000 in the case of a three-family residence.

(d) 75,000 in the case of a four-family residence.

§ 226.5 Maximum mortgage amount; loan-to-value limitation.

(a) In addition to meeting the dollar limitation set forth in § 226.4, the mortgage shall be in an amount not exceeding the following:

(1) Approval prior to construction. If the mortgage covers a dwelling approved for mortgage insurance (or for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs) prior to the beginning of construction or a dwelling which was completed more than one year preceding the date of the application for mortgage insurance, the sum of the following percentages of the Commissioner's appraised value of the property, as of the date the mortgage is accepted for insurance:

(i) 97 percent of the first $25,000 of such value (100 percent of $25,000 of such value or the sum of such value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner minus $200, whichever appraisal amount or sum is the lesser, in the case of a mortgagor meeting the veteran's qualifications of Section 203.18(b)).

(ii) 95 percent of such value in excess of $25,000. (2) No prior approval. A loan-to-value limitation of 90 percent of the entire appraised value of the property, as of the date the mortgage is accepted for insurance if the dwelling does not meet the requirements in the introductory text of subparagraph (1) of this paragraph.

* * * * *

§ 226.6 [Reserved]

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

§ 235.1 [Amended]

9. Part 235 is amended by adding, in § 235.1, "203.18a Solar energy systems" after "203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

(Sec. 3, Pub. L. 75-424, 52 Stat. 9 (12 U.S.C. 1715b); Sec. 7(d) Pub. L. 89-174, 79 Stat. 670 (42 U.S.C. 3535 (d)).)

Issued at Washington, D.C., July 19, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-24526 Filed 8-8-79; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-79-685]

Community Development Block Grants; Households Who Could Reasonably Be Expected to Reside; Interim Rule

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

ACTION: Interim rule and request for comments.

SUMMARY: This rule amends paragraph (b)(2)(ii) of § 570.306 of Subpart D governing the rules to be followed by applicants for entitlement grants and small cities grants with respect to lower-income households who could reasonably be expected to reside in an applicant's jurisdiction. These changes are being made to conform to the Housing and Community Development Amendments of 1978.

EFFECTIVE DATE: September 26, 1979.

COMMENT DUE DATE: October 9, 1979.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: James Broughman or Don Darling, Entitlement Cities Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, S.W, Washington, D.C. 20410, or telephone (202) 755-9267 (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Housing and Community Development Amendments of 1978 necessitate a change in the current rules governing the development of the estimated number of lower-income households who could reasonably be expected to reside in an applicant's community. Such estimates form a necessary component of the Housing Assistance Plan (HAP) required to be submitted as part of a Community Development Block Grant (CDBG) application.

Until March 1, 1978, the regulations required the use of an employment based formula in establishing the number of low- and moderate-income households which could be expected to reside. The March 1, 1978, regulations substituted a fair share formula. Congress, in the 1978 Amendments to the Housing and Community Development Act of 1974, required that we return to an employment based formula including existing and planned employment and added elderly households as a separate factor. The Department is therefore returning to the basic approach contained in the regulations prior to March 1, 1978, to comply with Congressional instructions and because most CDBG grantees are already familiar with it. However, that portion of those prior regulations, which allowed adjustments to the estimates made by those applicants who already have a high proportion of lower/income households relative to their surrounding area, is being modified to more effectively adjust for undue concentrations of lower-income households.

In addition to the considerations for those lower-income households expected to reside because of projected employment in a community and those lower-income households already employed but not currently residing in a community, a rule has been included to govern the estimating of elderly households who, because of established waiting lists for assisted housing or use of health facilities, could reasonably be expected to reside in the community. Provision has also been made for applicants, who may have more recent data and/or alternative estimating methodologies, to propose the usage of such data and/or methodologies.

Because this amendment is necessary to conform current regulations to the Housing and Community Development Amendments of 1978, and involves reverting to the use of procedures formerly in effect, the Secretary has determined that it is unnecessary to invite public comment on this amendment before its effective date. However, interested persons are invited to participate in this rulemaking by filing data, comments and suggestions with the Rules Docket Clerk at the above address, on or before the comment due date. Each comment should include the commentor's name and address, and must refer to the docket number indicated in the heading of this document. All relevant comments will be considered before adoption of a final rule and copies of all written comments will be available for copying and inspection in the Office of the Rules Docket Clerk at the above address.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection in the Office of the Rules Docket Clerk at the above address.

Accordingly, the Department amends Chapter V of Title 24 of the Code of Federal Regulations by revising paragraph (b)(2)(ii) of § 570.306, *Housing Assistance Plan,* to read as follows:

§ 570.306 Housing Assistance Plan.

* * * * *

(b) * * *

(2) * * *

(ii) The applicant shall assess the housing assistance needs of lower-income households, by household type, who could reasonably be expected to reside in the community, based on existing or projected employment. The applicant shall also assess the housing assistance needs of elderly households who could reasonably be expected to reside in the community because they are seeking housing in the community or use services, such as health facilities, in the community. The following rules shall be followed in developing estimates of needs for households who could be expected to reside.

(A) If the applicant is a participant in a State or Areawide Housing Opportunity Plan approved by the Secretary, the expected to reside estimates in the applicant's Housing Assistance Plan and those in the approved Housing Opportunity Plan shall be consistent.

(B) For all other applicants, the expected to reside estimates should be based on the following:

(*1*) *Expected to reside as a result of planned employment:* Estimate the total number of lower-income families with workers expected to be employed in the community in the next three years as a result of known commercial, industrial, governmental, or service employment to be generated by new or expanded development. Such estimates shall be derived from generally available data. Sources of information may include approved development plans, building permits, and awards of significant contracts. Of this total, estimate the number of these jobs which will likely be filled by persons not currently residing within the applicant's jurisdiction, but who would move into the jurisdiction as a result of the planned employment.

(*2*) *Expected to reside who are currently working, but not residing in the applicant's jurisdiction:* An applicant community should utilize the following methodology to derive the minimum estimate of the number of lower-income families with workers employed in the community, but living elsewhere, who can be expected to reside in the applicant community: First, estimate the number of lower-income families with workers employed in the applicant community, but living elsewhere. Second, estimate the number of lower-income families with workers employed in the community who also live in the community. The sum of these two figures is the estimated total number of lower-income families with workers employed in the applicant community. Third, for applicants in a metropolitan area, determine an overall metropolitan area percentage of lower-income families with workers who live in the same community in which they work, based on those communities in the metropolitan area for which data are available. This percentage is calculated by dividing the total number of lower-income families with workers who work and live in all such communities, by the total number of lower-income families with workers employed in all such communities. Nonmetropolitan applicants located in a county which is contiguous to a metropolitan area should use the metropolitan area percentage described above. Other nonmetropolitan applicants should use the statewide nonmetropolitan area average. (These figures will be made available by HUD.) Fourth, multiply the overall applicable percentage by the following percentage: the number of lower-income families with workers employed in the applicant community,

but living elsewhere, divided by the total number of lower-income families, both resident and non-resident, with workers employed in the applicant community. Fifth, multiply the resulting percentage by the number of lower-income families with workers employed in the applicant community, but living elsewhere, to produce the estimate of the number of such families which may be expected to reside in the applicant community.

Example. As an example, an applicant who estimates that it has 1,000 lower-income families with workers employed in the applicant community but living elsewhere, estimates that it has 2,200 lower-income families, both resident and non-resident, with workers employed in the community, and estimates the overall metropolitan percentage to be forty percent, would compute the number of families expected to reside based on workers already employed as follows:

40% × (1,000 divided by 2,200) × 1,000 = 182

Note.—For most applicants who had a 1970 population in excess of 25,000, the HUD Area Office has data for this computation. For all other communities, estimates should be developed based on the most recent applicable data available from such other sources as State Employment Services, local planning departments, major employers in the area, or local surveys. (Documentation of any such data and the basis for estimate must be submitted to HUD.)

(*3*) *Expected to reside elderly households:* Where the community has assisted housing already available for the elderly, the estimate for the elderly expected to reside may be obtained from the number of qualified non-resident elderly households on the most current waiting lists for such assisted housing. Where there is either no elderly assisted housing in the community or if there is insufficient data on non-resident elderly households on waiting lists for assisted housing that is available, the estimate for this paragraph may be based on the following: Of the total number of non-resident, elderly, lower-income households known to currently use health facilities within the applicant's jurisdiction, the number which the applicant believes would move into the community if adequate housing were available at a reasonable cost.

(C)(*1*) Applicants shall not be required to include an estimated number of lower-income households who could be expected to reside in the community to the extent that such estimated number, together with lower-income households already residing in the community, would result in a ratio of lower-income households to total households in the community which is greater than the applicable area percentage of lower-income households to total households. In such case, applicants may reduce their estimated number of households expected to reside in the community, proportionately by household type, to the point where the resultant ratio of lower-income households to total households in the community is equal to, but not less than, the applicable area percentage.

(*2*) Applicants in a metropolitan area or in counties contiguous to a metropolitan area shall use data for that metropolitan area. Applicants in a county which is neither within nor contiguous to a metropolitan area shall use data for the statewide nonmetropolitan area. (These figures will be supplied by HUD.)

(D) Applicants who wish to use an alternative methodology for developing estimates of the current employment portion of the expected to reside component (§ 570.306(b)(2)(ii)(B)(*2*)) should contact the HUD Area Office in advance of preparing such estimates to discuss such methodologies and secure HUD approval of their usage for this purpose. Alternative methodologies must address the following statutory requirements: (*1*) Estimate the number of lower-income households with workers currently employed but not residing in the jurisdiction; (*2*) estimate the number of these who could reasonably be expected to reside; and (*3*) adjust estimates to avoid impactions of lower-income households.

(E) The requirements of paragraph (b)(2)(ii) of this section are not intended to preempt a State or judicial requirement that a community undertake a greater share of the responsibility in meeting the housing needs of lower-income families.

Authority.—Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95–128); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); and Title I, Housing and Community Development Amendments of 1978 (Pub. L. 95–557; 42 U.S.C. 1452b).

The legislative review provisions of Section 7(o) of the Department of Housing and Urban Development Act have been complied with.

Issued at Washington, D.C., July 17, 1979.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 79–24557 Filed 8–8–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7637; LR–2086]

Income Tax; Taxable Years Beginning After December 31, 1953: Consolidated Return Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to consolidated returns. Changes to the applicable tax law were made by the Tax Reform Act of 1969. The regulations provide the public with guidance needed to comply with that Act and affect corporations that file consolidated returns.

DATE: Generally, the regulations are effective for taxable years for which the due date of the return is after August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Lawrence M. Axelrod, the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention CC:LR:T (202–566–3458 not a toll-free call).

SUPPLEMENTAL INFORMATION:

Background

On January 4, 1973, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1502 of the Internal Revenue Code of 1954, 38 FR 774. The amendments were proposed to conform the regulations to section 512 of the Tax Reform Act of 1969 (83 Stat. 638) and to make certain other changes. A public hearing was held on March 15, 1973. After consideration of all comments regarding the proposed amendments, some of those amendments are adopted as revised by this Treasury decision.

General Statement of Purpose

The purpose of the amendments is to make certain changes in the consolidated return regulations to reflect section 512 (relating to capital loss carrybacks) of the Tax Reform Act of 1969 (83 Stat. 638) and to make other miscellaneous changes. The amendments revise § 1.1502–22 (relating to computation of consolidated net capital gain), § 1.1502–41 (relating to consolidated net long-term gain and net short-term loss), and § 1.1502–79 (relating to the carryover and carryback of a consolidated net capital loss to

separate return years) to take into account the capital loss carryback permitted by section 512 of the Tax Reform Act of 1969. In addition, other sections of the consolidated return regulations requiring the computation, for a specified purpose, of consolidated taxable income or the income of a member are revised to reflect the capital loss carryback, including § 1.1502–4 (relating to the foreign tax credit), § 1.1502–24 (relating to charitable contributions), § 1.1502–25 (relating to the Western Hemisphere trade corporation deduction), and § 1.1502–27 (relating to the section 247 deduction).

The amendments, as proposed, also change the consolidated return regulations regarding the negative adjustment under § 1.1502–32 (b) and (c) for distributions out of earnings and profits accumulated in a separate return limitation year of a member. In effect the amendments would provide for a negative adjustment to the basis of the stock of such a member under § 1.1502–32 (b) and (c). The amendments also would have the effect of eliminating the exception in § 1.1502–32(d)(6) to the negative adjustment rules for distributions out of earnings and profits carried over in certain transactions to which section 381(a) applied. Comments received opposed adoption of the changes in the negative basis adjustment rules, but the rules are adopted essentially as proposed. In addition, paragraph (d)(6) has been revised to clarify the relationship between that provision and the new negative adjustment rules. No inference as to existing law is to be drawn from this revision.

The notice of proposed rulemaking in § 1.1502–5 would have reversed the Service's position in Rev. Rul. 69–622, 1969–2, C.B. 169, which permitted a group filing a consolidated return to pay estimated tax, for the first 2 years, on a separate or consolidated basis. The notice would have required payments to be made on a separate basis only. After reconsidering the issue, it was decided that the existing policy allowing groups an option does not present any significant abuse potential and alleviates possible inconvenience to taxpayers. However, changes are made in § 1.1502–5 to conform to the elimination of the estimated tax exemption and the declaration of estimated tax by corporations.

The Treasury decision adopts § 1.1502–42 of the notice without substantive change. That section uses a thrift institution-member's portion of consolidated taxable income to compute the bad debt deduction pursuant to the percentage of taxable income method under section 593(b)(2). However, changes in the language of the notice have been made for technical reasons. Under existing regulations, a thrift institution that is a member of an affiliated group that files a consolidated return computes the bad debt reduction using its separate taxable income. The effect of the new rule is illustrated by the following example.

An affiliated group consists of corporations X, Y, and Z. X is a thrift institution that computes a bad debt deduction under section 593(b)(2). The total income of the group without the bad debt deduction is $500, made up of separate taxable income (or loss) of $1,000 for X, ($1,500) for Y, and $1,000 for Z. Under the old rule, using an applicable percentage of 40 percent computed on X's separate taxable income, the bad debt deduction is $400 (*i.e.*, 40 percent of $1,000). Accordingly, the consolidated taxable income is $100 (*i.e.*, $500−$400), resulting in a tax of $46 which is 9.2 percent (*i.e.*, $46÷$500) of the total income of the group. Under the rule adopted by the Treasury decision, the bad debt deduction is $100, that is, 40 percent of $250 (X's allocable share of consolidated taxable income, *i.e.*, $500×$1,000/$2,000). The consolidated taxable income is $400 (*i.e.*, $500−$100), resulting in a tax of $184, which is 36.8 percent of the consolidated taxable income before the bad debt deduction ($184÷$500). Therefore, the new rule achieves the appropriate compromise between the 46 percent rate generally imposed on corporations, and the lower effective rate accorded thrift institutions. However, if the new rule has a substantial adverse effect on the group, the group may apply to the Commissioner, under § 1.1502–75(c), for permission to discontinue filing consolidated returns.

In adopting the "portion of consolidated taxable income" approach to compute the bad debt deduction, the Treasury Department considered various sources and comments. Among them was the report of June 14, 1978, by the General Accounting Office regarding savings and loan associations and the regulation of their service corporations. The report described a scheme by which thrift institutions could manipulate income and expenses between a savings and loan association and a service corporation. By legally shifting income to the association and expenses to its service corporation, the association can qualify for a higher bad debt deduction since the deduction is computed as a percentage of taxable income. In the absence of a consolidated return, the shifting of income and expenses would create a larger bad debt deduction, but might also generate a net operating loss for the service corporation which it may not be able to use. By filing a consolidated return, expenses that are shifted to the service corporation may be used to offset the taxable income of the association as already reduced by the higher bad debt deduction. The rule adopted by the Treasury decision reduces the incentive for such manipulation.

Other alternatives for computing "taxable income" for purposes of the bad debt deduction were considered, but rejected as inappropriate. For example, under § 1.1502–27(a)(ii), the taxable income of public utilities, for purposes of the limitation on the consolidated section 247 deduction, is the aggregate of the taxable income (or loss) of each member of the group that is a public utility. That aggregate, however, is merely a limitation. For any consolidated section 247 deduction to be allowed, the public utilities must actually pay dividends on preferred stock. By contrast, the deduction under section 593 is artificial in the sense that it does not reflect actual expenses and is largely equivalent to a preferential rate of tax. Moreover, the opportunity for abuse or artificial inflation of the bad debt deduction is much greater.

Based on the foregoing considerations, it has been determined that the rule provided in the notice of proposed rulemaking, using the portion of consolidated taxable income attributable to the thrift institution, not only reaches the correct result in normal situations, but also is necessary to prevent tax avoidance. Accordingly, this rule has been adopted without substantive change.

The proposed amendments to § 1.1502–3 which were designed to reflect section 106 of the Revenue Act of 1971 (85 Stat. 506) (relating to the investment credit) have been withdrawn because they have become largely obsolete.

Drafting Information

The principal author of these regulations is Lawrence M. Axelrod of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the amendments published with notice of proposed rulemaking in the Federal Register for January 4, 1973 (38 FR 774) are adopted, subject to the following changes:

Paragraph 1. The amendments to § 1.1502–3, as set out in paragraph 1 of the notice of proposed rulemaking, are withdrawn.

Par. 2. Paragraph 3 of the notice of proposed rulemaking is revised to read as follows:

Par. 3. Section 1.1502–5 is amended by revising paragraphs (a), (b)(1), and (b)(2); by redesignating paragraph (b)(3) as paragraph (b)(5) and substituting for the period at the end of the paragraph "and § 1.1502–33 (d)(2)."; by adding new paragraphs (b)(3) and (b)(4); and by revising paragraph (c). These new and revised provisions read as follows:

§ 1.1502–5 Estimated tax.

(a) *General rule*—(1) *Consolidated estimated tax.* If a group files a consolidated return for two consecutive taxable years, it must make payments of estimated tax on a consolidated basis for each subsequent taxable year, until such time as separate returns are properly filed. Until such time, the group is treated as a single corporation for purposes of section 6154 (relating to payment of estimated tax by corporations). If separate returns are filed by the members for a taxable year, the amount of any estimated tax payments made with respect to a consolidated payment of estimated tax for such year shall be credited against the separate tax liabilities of the members in any manner designated by the common parent which is satisfactory to the Commissioner. The consolidated payments of estimated tax shall be deposited with the authorized commercial dispositary or Federal Reserve Bank with which the common parent deposits its estimated tax payments. A statement should be attached to the payment setting forth the name, address, employer identification number, and internal revenue service center of each member.

(2) *First two consolidated return years.* For the first 2 years for which a group files a consolidated return, it may make payments of estimated tax on either a consolidated or separate basis. If a consolidated return is filed for such year, the amount of any estimated tax payments made for such year by any member shall be credited against the tax liability of the group.

(3) *Effective date.* This section applies to taxable years for which the due date (without extensions) for filing returns is after August 6, 1979. For prior taxable years see 26 CFR 1.1502–5 (Revised as of April 1, 1978).

(b) *Addition to tax for failure to pay estimated tax under section 6655*—(1) *Consolidated return filed.* For the first two taxable years for which a group files a consolidated return, the group may compute the amount of the penalty (if any) under section 6655 on a consolidated basis or separate member basis, regardless of the method of payment. Thereafter, for a taxable year for which the group files a consolidated return, the group must compute the penalty on a consolidated basis.

(2) *Computation of penalty on consolidated basis.* (i) This paragraph (b)(2) gives the rules for computing the penalty under section 6655 on a consolidated basis.

(ii) The tax and facts shown on the return for the preceding taxable year referred to in section 6655(d) (1) and (2) are, if a consolidated return was filed for that preceding year, such items shown on the consolidated return for that preceding year or, if one was not filed for that preceding year, the aggregate taxes and the facts shown on the separate returns of the common parent and any other corporation that was a member of the same affiliated group as the common parent for that preceding year.

(iii) If estimated tax was not paid on a consolidated basis, then the amount of the group's payments of estimated tax for the taxable year is the aggregate of the payments made by all members for the year.

(iv) Section 6655(d)(1) applies only if the common parent's consolidated return, or each member's separate return, for the preceding taxable year (as the case may be) was a taxable year of 12 months.

(3) *Computation of penalty on separate member basis.* To compute any penalty under section 6655 on a separate member basis, for purposes of section 6655(b)(1), the "tax shown on the return for the taxable year" is the portion of the tax shown on the consolidated return allocable to the member under paragraph (b)(5) of this section. If the member was included in the consolidated return filed by the group for the preceding taxable year then—

(i) For purposes of section 6655(d)(1), the "tax shown on the return" for any member shall be the portion of the tax shown on the consolidated return for the preceding year allocable to the member under paragraph (b)(5) of this section.

(ii) For purposes of section 6655(d)(2), the "facts shown on the return" shall be the facts shown on the consolidated return for the preceding year and the tax computed under that section shall be allocated under the rules of paragraph (b)(5) of this section.

(4) *Consolidated payments if separate returns filed.* If the group does not file a consolidated return for the taxable year, but makes payments of estimated tax on a consolidated basis, for purposes of section 6655(b)(2), the "amount, if any of the installment paid" by any member is an amount apportioned to the member in a manner designated by the common parent that is satisfactory to the Commissioner. If the member was included in the consolidated return filed by the group for the preceding taxable year, the amount of a member's penalty under section 6655 is computed on the separate member basis described in paragraph (b)(3) (i) and (ii) of this section.

* * * * *

(c) *Examples.* * * *

Example (1). Corporations P and S–1 file a consolidated return for the first time for calendar year 1978. P and S–1 also file consolidated returns for 1979 and 1980. For 1978 and 1979, P and S–1 may make payments of estimated tax on either a separate or consolidated basis. For 1980, however, the group must pay its estimated tax on a consolidated basis. In determining whether P and S–1 come within the exception provided in section 6655(d)(1) for 1980, the "tax shown on the return" is the tax shown on the consolidated return for 1979.

Example (2). Assume the same facts as in example (1). Assume further that corporation S–2 is a member of the group during 1979, and joins in the filing of the consolidated return for such year but ceases to be a member of the group on September 15, 1980. In determining whether the group (which no longer includes S–2) comes within the exception provided in section 6655(d)(1) for 1980, the "tax shown on the return" is the tax shown on the consolidated return for 1979.

Example (3). Assume the same facts as in example (1). Assume further that corporation S–2 becomes a member of the group on July 1, 1980, and joins in the filing of the consolidated return for 1980. In determining whether the group (which now includes S–2) comes within the exception provided in section 6655(d)(1) for 1980, the "tax shown on the return" is the tax shown on the consolidated return for 1979. Any tax of S–2 for any separate return year is not included as a part of the "tax shown on the return" for purposes of applying section 6655(d)(1).

Example (4). Corporations X and Y filed consolidated returns for the calendar years 1977 and 1978 and separate returns for 1979. In determining whether X or Y comes within the exception provided in section 6655(d)(1) for 1979, the "tax shown on the return" is the amount of tax shown on the consolidated return for 1978 allocable to X and to Y in

accordance with paragraph (b)(5) of this section.

* * * * *

Par. 3. Section 1.1502–32 as amended by paragraph 8 of the notice of proposed rulemaking is further amended, by deleting "or" at the end of paragraph (b)(2)(iii)(*a*), by revising paragraph (d)(6), and by adding a new paragraph (d)(11). The new and revised provisions read as follows:

§ 1.1502–32 Investment adjustment.

* * * * *

(d) *Operating rules.* * * *

(6) *Acquisition of nonmembers.* If a subsidiary acquires the assets of a nonmember, a negative adjustment is not required under paragraphs (b)(2)(iii) and (c)(2) of this section to the extent a distribution is made out of the earnings and profits carried over from the nonmember to the subsidiary under section 381(c)(2). However, if such a distribution occurs after August 6, 1979, since the distribution is made out of earnings and profits accumulated in a separate return limitation year of the subsidiary, a negative adjustment is required under paragraphs (b)(2)(iii)(*c*) and (c)(2)(iii) of this section.

* * * * *

(11) *Separate return limitation year.* Solely for purposes of this section, all taxable years of a subsidiary that precede a separate return limitation year of the subsidiary shall be treated as separate return limitation years.

* * * * *

Par. 4. Paragraph 10 of the notice of proposed rulemaking is revised to read as follows:

Par. 10. Section 1.1502–42 is revised to read as follows:

§ 1.1502–42 Mutual savings banks, etc.

(a) *In general.* This section applies to mutual savings banks and other institutions described in section 593(a).

(b) *Total deposits.* In computing for purposes of section 593(b)(1)(B)(ii) total deposits or withdrawable accounts at the close of the taxable year, the total deposits or withdrawable accounts of other members shall be excluded.

(c) *Taxable income; taxable years beginning before January 1, 1981.* For taxable years beginning before January 1, 1981, a member's taxable income for purposes of section 593(b)(2) is determined under § 1.1502–27(b) (computed without regard to any deduction under section 593(b)(2)). In addition, for taxable years beginning after July 11, 1969, taxable income as computed under the preceding sentence is subject to the adjustments provided in section 593(b)(2)(E). See § 1.593–6A(b)(5).

(d) *Taxable income; taxable years beginning after December 31, 1980*—(1) *In general.* For a taxable year beginning after December 31, 1980, a member's taxable income for purposes of section 593(b)(2) is the portion of consolidated taxable income attributable to the member. For purposes of this subparagraph, this portion is consolidated taxable income, multiplied by a fraction. For this purpose, consolidated taxable income is computed under § 1.1502–11, subject to the adjustments provided in section 593(b)(2)(E) for members that compute a deduction under section 593(b)(2). The numerator of the fraction is the member's tentative taxable income. The denominator is the sum of the tentative taxable income of all members of the group.

(2) *Tentative taxable income.* For purposes of this paragraph, a member's tentative taxable income is its separate taxable income determined under § 1502–12, subject to certain adjustments. For a member that computes a deduction under section 593(b)(2), separate taxable income is adjusted as provided in section 593(b)(2)(E). In addition, for all members, separate taxable income is adjusted for the following items taken into account in the computation of consolidated taxable income:

(i) The portions of the consolidated net operating loss deduction, the consolidated charitable contributions deduction, and the consolidated dividends received deduction attributable to the member;

(ii) The member's capital gain net income (determined without regard to any net capital loss carryover or carryback attributable to the member);

(iii) The member's net capital loss and section 1231 net loss, reduced by the portion of the consolidated net capital loss attributable to the member; and

(iv) The portion of any consolidated net capital loss carryover or carryback attributable to the member which is absorbed in the taxable year.

(3) *Special rule.* A member's tentative taxable income may not be less than zero.

(This Treasury decision is issued under the authority contained in sections 1502 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 637, 917; 26 U.S.C. 1502, 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: July 26, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 79–24578 Filed 8–6–79; 4:18 pm]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 214

[DoD Directive 6050.1] [1]

Environmental Effects in the United States of DOD Actions

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes Department of Defense (DoD) policies and procedures to supplement the Council on Environmental Quality (CEQ) Regulations For Implementing the Procedural Provisions of the National Environmental Policy Act, November 29, 1978 (40 CFR Parts 1500–1508). The CEQ regulations provide that Federal agencies shall adopt implementing procedures by July 30, 1979. This rule provides implementing procedures and guidance to the DoD components and assigns responsibilities as required by the CEQ regulation.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Colonel C. D. Sadler, USA, Office of the Deputy Assistant Secretary of Defense, (Energy, Environment, and Safety), OASD(MRA&L), The Pentagon, Room 3D 833, Washington, D.C. 20301, Telephone: 202–695–7820.

SUPPLEMENTARY INFORMATION: In FR 79–15089 appearing in the **Federal Register** on May 15, 1979 (44 FR 28388), the Department of Defense published a notice of proposed rulemaking concerning the reissuance of revised DoD Directive 6050.1.

Comments Received

In response to the notice of proposed rulemaking, DoD received comments from three organizations. Full and careful consideration was given to all written comments received and all substantive recommendations have been accommodated in the final rule.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

Major changes from the proposed rulemaking are discussed below. In addition, alterations were made to promote clarity in grammar, vocabulary, and style and to ensure consistency with the CEQ regulations.

1. Enclosure 1, paragraph B.5., *Actions That Normally Require an Environmental Impact Statement,* has been revised to delete the listing of categories of actions that normally require an environmental impact statement. The DoD components are directed to identify those categories in their procedures implementing this Directive.

2. Enclosure 1, paragraph B.7., *Actions That Normally Require an Environmental Assessment,* has been revised in that DoD Components shall prepare an environmental assessment when a proposal is not one that normally requires an environmental impact statement and does not qualify for a categorical exclusion. This final rule deletes the list of categories of actions that normally require an environmental assessment.

3. Annex A, *DoD List of Categorical Exclusions,* has been reduced in length. Those categories that were objected to by public comment have been deleted.

Accordingly, 32 CFR Chapter I is amended by a revision of Part 214 reading as follows:

PART 214—ENVIRONMENTAL EFFECTS IN THE UNITED STATES OF DOD ACTIONS

Sec.

214.1 Reissuance and purpose.
214.2 Applicability and scope.
214.3 Definitions.
214.4 Policy.
214.5 Responsibilities.
214.6 Information requirements.

Enclosure 1—DoD Implementing Procedures.

Annex A—DoD List of Categorical Exclusions.

Authority: Pub. L. No. 91–190 (1970) 42 U.S.C. 4321, 4331–4335, 4341–4347, and E.O. 11514, as amended.

§ 214.1 Reissuance and purpose.

This part implements the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508), and provides policy and procedures to enable DoD officials to be informed of and take into account environmental considerations when considering the authorization or approval of major DoD actions in the United States. The CEQ regulations implement section 102(2) of the National Environmental Policy Act (NEPA) of 1969, Pub. L. No. 91–190 (1970), 42 U.S.C. 4321, 4331–4335, 4341–4347 (1976) (and Executive Order 11514, as amended.

§ 214.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components").

(b) This part is limited to DoD actions with environmental effects in the United States.

(c) The civil works activities under the jurisdiction of the Secretary of the Army and the Chief of Engineers are excluded from this Part.

§ 214.3 Definitions.

(a) *United States* means all states, the District of Columbia, territories and possessions of the United States, and all waters and airspace subject to the territorial jurisdiction of the United States. The territories and possessions of the United States include the Virgin Islands, American Samoa, Wake Island, Midway Island, Guam, Palmyra Island, Johnston Atoll, Navassa Island, and Kingman Reef. For the purpose of this Directive, United States also includes the commonwealth of Puerto Rico and the Commonwealth of the Northern Marianas.

(b) Other terms used in this part are defined in 40 CFR Part 1508 of the CEQ regulations.

§ 214.4 Policy.

(a) The Department of Defense must act with care to ensure to the maximum extent possible that, in carrying out its mission of providing for the national defense, it does so in a manner consistent with national environmental policies. Care must be taken to ensure that, consistent with other considerations of national policy and with national security requirements, practical means and measures are used to protect, restore, and enhance the quality of the environment, to avoid or minimize adverse environmental consequences, and to attain the objectives of:

(1) Achieving the widest range of beneficial uses of the environment without degradation, risk to health and safety, or other consequences that are undesirable and unintended;

(2) Preserving important historic, cultural, and natural aspects of our national heritage, and maintaining, where possible, an environment that supports diversity and variety of individual choice;

(3) Achieving a balance between resource use and development within the sustained carrying capacity of the ecosystem involved; and

(4) Enhancing the quality of renewable resources and working toward the maximum attainable recycling of depletable resources.

(b) The Department of Defense shall:

(1) Assess environmental consequences of proposed DoD actions that could affect the quality of the environment in the United States in accordance with enclosure 1 and 40 CFR Parts 1500–1508.

(2) Use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and environmental considerations in planning and decisionmaking where there may be an impact on man's environment.

(3) Ensure that presently unmeasured environmental amenities are considered in the decisionmaking process;

(4) Consider reasonable alternatives to recommended actions in any proposal that would involve unresolved conflicts concerning alternative uses of available resources;

(5) Make available to states, counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment; and

(6) Utilize ecological information in planning and developing resource-oriented projects.

§ 214.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall:

(1) Serve as the responsible official for all DoD environmental matters;

(2) Modify or supplement enclosure 1 of this Part, when required, in a manner consistent with the policies set forth here;

(3) Provide assistance in the preparation of environmental assessments and statements, and assign, in consultation with appropriate Assistant Secretaries of Defense and heads of DoD Components, lead agency responsibility to prepare environmental documentation when more than one DoD Component is involved and agreement among the Components cannot be reached;

(4) Direct the preparation of environmental documents for specific proposed actions, when required;

(5) Provide, when appropriate, consolidated Department of Defense comments requested by other Federal

agencies on draft and final environmental impact statements;

(6) Review proposed issuances of the Office of the Secretary of Defense that may have environmental implications; and

(7) Maintain liaison with the Council on Environmental Quality, the Environmental Protection Agency, the Office of Management and Budget, other Federal agencies, and state and local groups with respect to environmental analyses for proposed DoD actions affecting the quality of the environment in the United States.

(b) The *General Counsel, DoD,* shall provide advice and assistance concerning the requirements of this Part.

(c) The *Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, Directors of Defense Agencies,* and *Commanders of the Unified and Specified Commands,* for operations under their jurisdiction, shall:

(1) Assess environmental consequences of proposed programs and actions within their respective DoD Component;

(2) Prepare and process environmental documents as required by this Part;

(3) Integrate environmental considerations into their decisionmaking processes;

(4) Ensure that regulations and other major policy issuances are reviewed for consistency with the requirements of this Part;

(5) Provide comments on environmental impact statements for actions within their area of expertness of concern; and

(6) Designate a single point of contact for matters pertaining to this Part.

§ 214.6 Information requirements.

The environmental documents to be prepared under § 214.5, enclosure 1, and 40 CFR Parts 1500–1508 are assigned Report Control Symbol DD–M(AR)1327 (formerly DD–H&E(AR)1327).

Enclosure 1—DoD Implementing Procedures

A. General

1. Section 1507.3, Council on Environmental Quality regulations directs that Federal agencies shall as necessary adopt procedures to supplement the CEQ regulations. This enclosure provides those DoD implementing procedures.

2. This enclosure must be read together with the CEQ regulations and the Act when applying the NEPA process.

3. This enclosure is organized sequentially from early planning to final implementation of an action. Throughout this enclosure, references to the CEQ regulations identify the applicable section of those regulations; e.g., CEQ 1501.2.

B. Planning Consideration

1. *Early Planning.* DoD Components shall integrate the NEPA process during the initial planning stages of proposed DoD actions to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to preclude potential conflicts.

2. *Lead Agency.* a. To determine the lead agency for preparing environmental documentation for proposed actions in which more than one DoD Component is involved, and in which no other Federal agency is involved, DoD Components shall apply the criteria in CEQ 1501.5. The ASD(MRA&L) shall resolve disagreements.

b. When another Federal agency is involved and there is disagreement in lead agency determination, the ASD(MRA&L) shall attempt to resolve the differences. If unsuccessful, the ASD(MRA&L) shall file a request with CEQ for lead agency determination.

3. *Advising Applicants.* CEQ 1501.2(d) provides for advising private applicants or other non-Federal entities when DoD involvement is reasonably foreseeable. Actions involving applications by private applicants or other non-Federal entities are limited within the Department of Defense and pertain primarily to permits, leases, and related actions concerning the use of DoD lands and property.

a. The following are types of actions initiated by private persons, state or local agencies, and other non-Federal entities for which DoD involvement may be reasonably foreseeable:

(1) Requests for easements and rights-of-way on DoD lands,

(2) Grazing and agricultural leases, and

(3) Requests for permits, licenses, or other agreements for use of DoD real property by non-DoD entities.

b. When DoD involvement is reasonably foreseeable, DoD Components shall consult early with appropriate state and local agencies and Indian tribes and with interested private persons and organizations.

c. Public notices or other means used to inform or solicit applicants for permits, leases, or related actions shall describe the studies or information foreseeably required for later DoD Component action.

d. When considering leasing or otherwise providing real property to non-DoD entities, DoD Components shall initiate the NEPA process, when required, as early as possible.

4. *Determination of Requirement for an Environmental Impact Statement.* DoD Components shall determine as early as possible whether to prepare an environmental impact statement. Early determination ensures that necessary environmental documentation is prepared and integrated with the decisionmaking process. To determine whether to prepare an environmental impact statement, DoD Components shall determine whether the proposal is one that:

a. Normally requires an environmental impact statement,

b. Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion), or

c. Normally requires an environmental assessment but not necessarily an environmental impact statement.

5. *Actions That Normally Require an Environmental Impact Statement.* a. DoD Components shall determine if a proposal is one that normally requires an environmental impact statement. In some cases, it is readily apparent that a proposed action would have a significant impact on the environment. In that event, an environmental assessment is not required, and the DoD Component may begin the environmental impact statement phase. To determine those actions that normally do require the preparation of an environmental impact statement, the following considerations, which DoD Components may supplement, are provided:

(1) Potential for significant degradation of environmental quality,

(2) Potential for threat or hazard to the public,

(3) Potential for significant impact on protected natural or historic resources.

b. DoD component procedures will identify those typical classes of actions that normally require the preparation of environmental impact statements.

c. In any case involving a proposed action of the sort that normally does require an environmental impact statement, a DoD Component may still prepare an environmental assessment to determine if an environmental impact statement is required based on the particular facts. If a determination is made based on the assessment that no environmental impact statement is required on the particular facts, a finding of no significant impact will be prepared and made available to the public in accordance with paragraph C.4. of this enclosure.

6. *Categorical Exclusion.* The CEQ regulations provide for the establishment of categorical exclusions (CEQ 1507.3(b)) for those actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. Categorical exclusions will help DoD Components avoid unnecessary effort and concentrate resources on significant environmental issues.

a. *Criteria.* Considerations to assist in identifying categories of actions that normally do not require either an environmental impact statement or an environmental assessment include:

(1) Minimal or no significant effect on environmental quality,

(2) No significant change to existing environmental conditions,

(3) No significant cumulative environmental impact,

(4) Social and economic effects only,

(5) Similarly to actions previously assessed and found to have no significant environmental impact.

b. *List of Categorical Exclusions.* Categories of actions that the Department of Defense has determined to have no significant effect on the quality of the human

environment and for which environmental impact statements and environmental assessments are not required are identified in Annex A to this enclosure.

c. *Changes to the List of Categorical Exclusions.* (1) The DoD list of categorical exclusions is reviewed and refined as additional categories are identified. DoD Components may recommend additions or changes to this list. Recommendations shall be submitted to the ASD (MRA&L).

(2) DOD Components are encouraged to include in their regulations to implement this Directive addition categorical exclusions that they identify. Categorical exclusions that one DOD Component idetifies that may be applicable to other DOD Coponents should be brought to the attention of the ASD(MRA&L).

d. *Extraordinary Circumstances.* If extraordinary circumstances exist indicating that a normally excluded action may have a significant environmental effect, an environmental assessment will be prepared for such otherwise categorically excluded action. Factors to consider in determining whether extraordinary circumstances exist include:

(1) Greater scope or size than normally experienced for a particular category of action.

(2) Potential for degradation, even though slight, of already existing poor environmental conditions.

(3) Presence of endangered species, archeological remains, or other cultural, historic, or protected resources, and

(4) Use of hazardous or toxic substances.

7. *Actions That Normally Require an Environmental Assessment.* When a proposal is not one that normally requires an environmental impact statement and does not qualify for categorical exclusion, the DoD Component shall prepare an environmental assessment.

C. Environmental Assessment Phase

1. *When to Prepare.* DoD Components shall begin preparation of an environmental assessment as early as possible after the determination that an assessment is to be prepared.

2. *Content and Format.* The environmental assessment is a concise public document to determine whether to prepare an environmental impact statement or whether to prepare a finding of no significant impact, to aid in compliance with NEPA when no environmental impact statement is necessary, and to facilitate preparation of a statement when one is necessary. Preparation of an environmental assessment generally does not require extensive research or lengthy documentation. The environmental assessment shall contain brief discussions of the following:

a. Need for the proposed action,

b. Alternatives considered when the proposed action involves unresolved conflicts concerning alternative uses of available resources,

c. Environmental impacts of the proposed action and alternatives,

d. Listing of agencies and persons consulted, and

e. Conclusion of whether to prepare an environmental impact statement or a finding of no significant impact.

3. *Public Participation.* DoD Components shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing environmental assessments. In determining "to the extent practicable," factors that may be considered include:

a. Magnitude of the proposal,

b. Likelihood of public interest,

c. Need to act quickly, and

d. National security classification issues.

4. *Finding of No Significant Impact.* If a DoD Component determines on the basis of the environmental assessment not to prepare an environmental impact statement, the DoD Component shall prepare a finding of no significant impact in accordance with CEQ 1501.4(e) and make the finding of no significant impact available to the affected public as specified in CEQ 1501.4(e) and CEQ 1506.6. A finding of no significant impact is not required when the decision not to prepare an environmental impact statement is based on a categorical exclusion.

D. Environmental Impact Statement Phase

1. *Notice of Intent.* When a DoD Component decides to prepare an environmental impact statement, it shall publish a notice of intent in the **Federal Register.** The notice of intent shall be published before initiation of the scoping process.

2. *Scoping.* After determinination that an environmental impact statement should be prepared and publication of the notice of intent, the DoD Component shall initiate the scoping process in accordance with CEQ 1501.7.

3. *Preparation* Detailed procedures for preparation of the environmental impact statement are provided in CEQ 1502. The recommended format provided in CEQ 1502.10 is the standard format for DoD environmental impact statements. Requests for exception will be submitted to the ASD(MRA&L) for approval on a case-by-case basis.

4. *Supplemental Environmental Impact Statements.* DoD Components may at any time supplement a draft or final environmental impact statement. DoD Components shall prepare a supplement to either the draft or final environmental impact statement in accordance with CEQ 1502.9(c). DoD Components normally will prepare, circulate, and file a supplement to a statement in the same manner (exclusive of scoping) as a draft or final statement. The supplement shall be included as part of the formal administrative record to be considered in the decisionmaking process. Exceptions to these procedures shall be requested from the ASD(MRA&L), who may undertake the discussions with the CEQ.

5. *Tiering.* DoD Components should emphasize the use of tiering (CEQ 1502.20) of environmental impact statements to eliminate repetitive discussions of the same issues and to focus the issues.

6. *Combining Documents.* Any environmental document prepared in the NEPA process may be combined with any other agency document to reduce duplication (CEQ 1506.4). If an environmental impact statement for a particular action already exists, regardless of what Federal agency prepared it, no new statement is required by this Directive (CEQ 1506.3).

7. *Incorporation by Reference.* DoD Components shall incorporate material into the environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action (CEQ 1502.21).

8. *Information on the NEPA Process.* Information or status reports on environmental impact statements and other elements of the NEPA process shall be provided to interested persons upon request. This does not, however, encompass standing or blanket requests.

a. Each DoD Component shall designate in its regulation implementing this part where interested persons can obtain information.

b. For those actions relating to the Office of the Secretary of Defense, information is available by writing the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), Washington, D.C. 20301.

9. *Circulation of Environmental Impact Statements.* DoD Components shall circulate draft and final environmental impact statements as prescribed in CEQ 1502.19. In addition, DoD Components shall provide one copy of each draft and each final statement to the ASD(MRA&L).

10. *Classified Material.* It may be necessary for DoD Components to include classified material in environmental documentation. Classified information in environmental documents shall be safeguarded in accordance with Executive Order 12065 implemented by DoD 5200.1–R (32 CFR Part 159). The requirements for circulation (CEQ 1502.19) and public involvement (CEQ 1506.6) do not apply to classified environmental documents except where segregation of material and circulation and involvement can be accomplished consistently with the provisions of DoD 5200.1–R. When feasible, environmental documents may be organized in such a manner that classified portions can be included as annexes so that unclassified portions can be made available to the public in the normal manner. This normally will not be possible when the proposal itself is classified.

E. Preimplementation Actions

1. *Decisionmaking.* DoD Components shall ensure that the NEPA process is integrated into the decisionmaking process. Because of the size and diversity of the Department of Defense, it is not feasible to describe in this part the decisionmaking process for each of the various DoD programs. Proposals and actions may be initiated at any level. Similarly, review and approval authority may be exercised at various levels depending on the nature of the action, funding, and authority. It is necessary, therefore, that DoD Components provide further guidance, commensurate with their programs and organization, for integration of environmental considerations into the decisionmaking

process. That guidance should include procedures to ensure that:

a. Major decision points are designated for principal programs and proposals likely to have a significant effect on the quality of the human environment, and steps are taken to ensure that the NEPA process coincides with these decision points.

b. Relevant environmental documents, comments, and responses accompany a proposal through existing DoD Component review processes so that they can be considered by DoD Component decisionmakers.

c. The alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in relevant environmental documents, and the decisionmaker considers all the alternatives described in the environmental impact statement.

2. *Record of Decision.* In those cases requiring environmental impact statements, DoD Components, at the time of the decision or, if appropriate, the proposal to Congress, shall prepare a concise public record of agency decision. The record of decision is not intended to be an extensive, detailed document. Rather, it is a concise document that sets forth the decision, identifies the alternatives considered in reaching the decision, specifies the environmentally preferable alternative or alternatives, indicates other factors that were balanced in the decisionmaking process, and states whether all practicable means to avoid or minimize environmental harm have been adopted, and if not, why not (CEQ 1505.2).

3. *Mitigation.* Throughout the NEPA process, DoD Components shall, where possible, give consideration to mitigation measures to avoid or minimize environmental harm. Mitigation measures or programs shall be identified, when appropriate, in the environmental documents and made available to decisionmakers. Mitigation and other conditions that have been established in the environmental impact statement or during its review, and that have been committed as part of the decision, shall be implemented.

4. *Monitoring.* If a DoD Component determines that monitoring is necessary to ensure that mitigation measures, to which a commitment has been made, are carried out, it shall adopt a monitoring program. DoD Components shall, upon request, provide monitoring information to the public and to cooperating and commenting agencies, as specified in CEQ 1505.3. This does not, however, include standing or blanket requests for periodic reporting.

5. *Emergencies.* In the event of an emergency, DoD Components may be required to take immediate action with significant environmental impact. This includes actions that must be taken to promote the national defense or security and that cannot be delayed, and actions necessary for the protection of life or property. DoD Components shall notify the ASD(MRA&L) of the emergency, who shall undertake the required consultation with the CEQ. In no event shall DoD Components delay an emergency action necessary to the national security, or for preservation of human life, for the purpose of complying with the provisions of this Directive or the CEQ regulations. If an emergency requires that an action be taken without delay, the ASD(MRA&L) shall be notified as promptly as is possible. The requirement for notification where action must be taken without delay is not a requirement for prior notification.

Annex A—DOD List of Categorical Exclusions

1. Preparation of regulations, directives, manuals, or other guidance documents that implement, without substantial change, the regulations, directives, manuals, or other guidance documents from higher headquarters or another Federal agency.

2. Preparation of regulations, directives, manuals, and other guidance documents related to actions that qualify for categorical exclusion.

3. Routine installation maintenance and grounds-keeping activities.

4. Minor construction conducted in accordance with an approved installation master plan that does not significantly alter land use, provided that the operation of the completed project would not of itself have a significant environmental impact.

5. Studies that involve no commitment of resources other than manpower and funding.

6. Proposed actions that, based on sound judgment, are of such an environmentally insignificant nature as clearly not to meet the threshold for requiring an environmental assessment or environmental impact statement.

7. Other categories as identified by DoD Components in their regulations implementing this Part.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

August 6, 1979.

[FR Doc. 79-24543 Filed 8-8-79; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1291-1A]

Approval of the Plan Revisions for South Dakota

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: The purpose of this action is to approve a revision to the South Dakota State Implementation Plan (SIP) submitted by the Governor of South Dakota and received by EPA on April 16, 1979. The revision grants a variance to the existing coal-fired steam-heat generating facility located on the South Dakota State University (SDSU) campus. This variance is not expected to have any severe impacts on the ambient air based on the report by Briant L. Davis, et al., from the Institute of Atmospheric Sciences, South Dakota School of Mines and Technology in Rapid City, South Dakota. On June 8, 1979 (44 FR 33116), EPA published a notice of proposed rulemaking which described the nature of the SIP revision and requested public comment. No comments were received.

ADDRESSES: Copies of the SIP revision and an EPA evaluation of the revision will be available at the offices of the EPA listed below.

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. David S. Kircher, Chief, Planning & Operations Section, Air Programs Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

SUPPLEMENTARY INFORMATION: The State of South Dakota is required by Section 110 of the Federal Clean Air Act (CAA), to have a SIP for the control of air pollution within its boundaries. At present the city of Brookings does not violate the National Ambient Air Quality Standards and the report by Briant L. Davis, et al., entitled "Air Quality Measurements and Diffusion Modeling of the Heating Plan Plume at South Dakota State University, Brookings, South Dakota," concludes that the area will not be in violation in the future. As a result of this determination, the State granted to the South Dakota State University heating plant a variance to regulations ARSD 34:10:05:05, 34:10:03:01, and successor provisions setting a new emission limit at .8 lbs particulate/MBTU.

On June 8, 1979 (44 FR 33116), EPA published a notice of proposed rulemaking which described the nature of the SIP revision and requested public comment. No comments were received and no new issues were raised. Therefore, EPA approves the SIP revision concerning the variance for the heating plant at the South Dakota State University in Brookings, South Dakota.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I

have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110 of the Clean Air Act, as amended (42 U.S.C. 1857c-5))

Dated: August 3, 1979.

Douglas Costle,

Administrator.

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

1. In § 52.2170, paragraph (c)(6) is added as follows:

§ 52.2170 Identification of plan.

* * * * *

(c) * * *

(6) A new control strategy for Brookings, South Dakota was submitted on April 16, 1979.

[FR Doc. 79-24612 Filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 600

[FRL 1277-1]

Fuel Economy of Motor Vehicles; Technical Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this technical amendment is to delete from 40 CFR Part 600 four provisions on fuel economy of motor vehicles which are no longer applicable.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Andrew M. Wartenberg, Office of Mobile Source Air Pollution Control (ANR-455), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone: 202/755-0596.

SUPPLEMENTARY INFORMATION: In compliance with Executive Order 12044, EPA has been reviewing its existing regulations. As part of this review, the Office of Mobile Source Air Pollution Control has found the following provisions of 40 CFR 600 no longer to be applicable, and which may, therefore, be deleted from the Code of Federal Regulations:

(1) 40 CFR 600.207-77; Calculation and use of fuel economy values for a model type;

(2) 40 CFR 600.313-77; Timetable for data and information submittal and review;

(3) 40 CFR 600.315-77; Classes of comparable automobiles;

(4) 40 CFR Part 600 Subpart G; Fuel Economy Regulations for 1977 Model Year Automobiles—Test Procedures.

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

By issuing the following amendment directly as a final rule, EPA is foregoing the prior issuance of a notice of proposed rulemaking (NPRM) and the opportunity for public comment on the proposal provided by the NPRM. Such a curtailed procedure is permitted by 5 U.S.C. § 553(b) when the issuance of a proposal and public comment on it would be unnecessary. EPA finds good cause to dispense with notice and public comment proceedings in this case because this amendment merely deletes obsolete provisions of the regulations in a manner that does not adversely affect any interested party. Because this amendment is to take effect in the 1979 model year, EPA has determined that the amendment should become effective upon publication.

Accordingly, Sections 207-77, 313-77, 315-77, and Subpart G (consisting of Sections 600.601-77 through 600.613-77) are removed from Title 40, Part 600, Chapter 1 of the Code of Federal Regulations.

Authority.—Title V of the Motor Vehicle Information and Cost Savings Act [15 U.S.C. 2001, et seq.].

Dated: August 3, 1979.

Douglas Costle,

Administrator.

[FR Doc. 79-24558 Filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 21

Commissioned Officers; Deletion of Obsolete Regulations

AGENCY: Public Health Service (PHS), HEW.

ACTION: Final Rule.

SUMMARY: This rule deletes certain regulations relating to officers in the Commissioned Corps of PHS, including those made obsolete by enactment of Pub. L. 94-412 which terminated certain national emergency authorities effective September 14, 1978. Regulations relating to PHS commissioned officers will henceforth be published in Part 4, "Regulations," of the Commissioned Corps Personnel Manual and will be distributed to each officer on active duty.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Winston Dean, Room 4A-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3067.

SUPPLEMENTARY INFORMATION: Regulations deleted by this Final Rule relate solely to the internal administration of the PHS Commissioned Corps personnel system. For this reason, it has been determined that it is not necessary for such regulations and future revisions thereto to be published in the **Federal Register.** Regulations deleted by this Final Rule will be published in Part 4, "Regulations," of the Commissioned Corps Personnel Manual and shall remain in full force and effect until revised or revoked. Since this regulation deals with matters relating to personnel, notice of proposed rule making is not required and the regulation is therefore issued as a Final Rule.

Dated: April 3, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 26, 1979.

Joseph A. Califano, Jr.,

Secretary.

Part 21—Commissioned Officers is amended by deleting the following Subparts:

Subpart B—Titles (21.11 through 21.13)
Subpart D—Increased Pay and Allowances (21.61)
Subpart E—Allotments (21.71 through 21.72)
Subpart F—Leave (21.81 through 21.95)
Subpart G—Promotion (21.101 through 21.142)
Subpart H—Separation of Certain Officers (21.151 through 21.155)
Subpart I—Medical Review Board (21.161 through 21.163)
Subpart J—Retirement (21.165 through 21.192)
Subpart K—Training (21.201 through 21.204)
Subpart L—Uniforms (21.211 through 21.242)
Subpart M—Decorations (21.251 through 21.253)
Subpart N—Discipline (21.261 through 21.322)
Subpart O—Burial Payments (21.331 through 21.333)
Subpart P—Quarters
Subpart Q—Travel and Transportation Allowances (21.351 through 21.352)
Subpart R—Determinations of Status of Dependent Parents for Purposes of Basic Allowance for Quarters (21.381 through 21.387)

Subpart S—Claims for Compensation Availability of Clinical Information (21.401)
Subpart T—Inactive Duty Training (21.451 through 21.452)

Part 21—Commissioned Officers is further amended by redesignating Subpart C—Appointment (21.21 through 21.58) as Subpart B.

[FR Doc. 79-24554 Filed 8-8-79; 8:45 am]
BILLING CODE 4110-85-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte MC-96 (Sub-1)]

Passenger Broker Practices

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement.

SUMMARY: (1) The Commission reaffirms the policy stated in Ex Parte No. MC-93, *Passenger Brokers Affiliated with Motor Carriers*, 1128 M.C.C. 354 (1977), to allow the dual holding of passenger broker licenses and certificates of public convenience and necessity to transport passengers. No problems have occurred because of dual holdings, and the Commission's enforcement powers are sufficient to handle any problems.

(2) The Commission will allow passenger broker license holders the flexibility of arranging intermodal tours whereby the bus may be used for any portion of the tour, as long as the tour starts and ends in the prescribed territories in the license.

(3) The Commission expressly overrules *Trails West, Inc.*, v. *Continental Trailways, Inc.*, 115 M.C.C. 269 (1972), to the extent that decision stated that parties must mutually sign the tour contract at the authorized place of business.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7292. Peter Metrinko, (202) 275-7885.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission, by notice published in the **Federal Register** March 27, 1979, at 44 FR 18458 and 44 FR 18459 reinstituted the rulemaking proceeding in Ex Parte No. MC-96, *Entry Control of Brokers.*

The Commission will separate Ex Parte No. MC-96 into four separate proceedings to handle the following subject matter: (1) Ex Parte No. MC-96 (Sub-No. 1), *Passenger Broker Practices*, (2) Ex Parte No. MC-96 (Sub-No. 2) *Passenger Broker Entry Control*, (3) Ex Parte No. MC-96 (Sub-No. 3), *Property Broker Practices*, and, (4) Ex Parte No. MC-96 (Sub-No. 4), *Property Broker Entry Control.* This has been done to facilitate handling of the complex subject matter.

This notice deals with Ex Parte No. MC-96 (Sub-No. 1), *Passenger Broker Practices.*

There were three areas raised in the March 27, 1979, notice concerning certain operational practices of tour brokers. The present notice announces Commission policy in those three areas.

I. Passenger Broker-Motor Carrier Affiliations

In Ex Parte No. MC-93, *Passenger Brokers Affiliated with Motor Carriers*, 128 M.C.C. 354 (1977), the Commission declined to adopt certain regulations which would have restricted the dual holding by the same person of a broker license and a certificate of public convenience and necesssity to transport passengers. The Commission there determined that the dual holdings had not caused problems in the past. The proceeding was discontinued, but this was conditioned upon the effectiveness of the vacated rules adopted in Ex Parte No. MC-96 at 126 M.C.C. 476. Since that time the Commission has continued to grant authority which would result in these dual holdings. We asked the public if any problems resulted because the same or affiliated persons held both common carrier passenger authority and passenger broker authority.

There have been no specific instances cited in the public comments that problems have arisen because of the affiliation of passenger brokers and passenger carriers. The National Tour Brokers Association (NTBA) supports the position that the affiliated broker and carrier have provided beneficial tour services in the past to the public. If violations of common carrier obligations or the duties of a broker as an independent purveryor of transportation occur, there are persons with economic incentives (independent brokers and carriers) to bring this to the Commission's attention.

Policy Summary

Therefore, the proceeding in Ex Parte No. MC-93 will be discontinued. Restrictions in existing licenses that refer to the pendency of this proceeding will no longer have any effect, and it is the policy of this Commission not to restrict grants of passenger broker or motor carrier passenger authority merely on the basis that affiliations exist.

II. Intermodal Tours

The Commission asked in the March 27 notice whether license holders should be allowed the flexibility of using a bus for any portion of a tour, as long as the tour starts and ends in the prescribed origin and destination territory. We now adopt that policy.

In No. MC-C-7499, *Manhattan Transit Co., et al—Petition for Declaratory Order* (not printed), decided April 19, 1973, affirmed by the Commission, Division 1, by decision and order entered February 1, 1974, a restrictive interpretation was placed upon broker licenses. The decision stated that a passenger broker holding a license authorizing it to arrange for transportation by motor vehicle, for tours beginning and ending at points in a described origin territory, and extending to points in the United States, is not authorized to conduct tours which begin or end in the prescribed territory by another mode of transportation. The bus portion of the trip was required to begin and end in the authorized origin and destination territory.

Here is a hypothetical example. Under the *Manhattan* decision, if a passener (tour) broker holds a license which authorizes operations "beginning and ending at New York, N.Y., and extending to points in the United States", current interpretation would forbid having the tour passengers flown to Denver, CO, from which point the bus portion of the tour would commence. We believe that this unnecessarily restricts the broker from offering flexible tours, combining differing modes of travel to provide the most attractive tour packages.

Persons joining and leaving a tour must still do so within the prescribed territorial scope of the license. In our example, the tour passenger must be initially picked up and finally discharged at New York, NY. It makes no difference to other marketing areas whether the New York originating tour passenger is passing through it while on tour.

We have observed may instances where brokers wish to arrange innovative tour operations, such as starting one tour group by bus, and returning them by plane. A second tour group could begin the same tour by plane, and meet the hired motorcoach where it dropped off the first tour. In this example, the motorcoach is used to fullest capacity. The possibilities of these combination are endless. Our policy will foster coordinated trips of this type.

However, all stated restrictions in a broker's license must continue to be given effect. For example, if a license limits the tours to be offered to ski tours, then only ski tours may be offered. If round-trip service is the stated limitation, the passengers must be discharged where they were picked up. Restrictions requiring that there be a prior movement by another mode must still be observed. Some licenses contain prior and subsequent air movement requirements, since the license holder planned to offer bus tours in conjunction with foreign travel.

The NTBA supports this policy, believing it will stimulate intermodalism.

Policy Summary

We find, then, that existing passenger broker licenses should be interpreted to authorize the arranging of motor vehicle transportation in combination with any other mode, in any sequence, as long as the tour passenger is picked up and discharged within the defined territiorial scope of the license. All stated restrictions in the broker's license must be observed.

III. Interpretation of Operating Authorities—Authorized Place of Business

In Ex Parte No. MC–87, *Interpretation of Operating Authorities—Passenger Brokers*, the Commission began a rulemaking proceeding to examine the issue of whether, effectively to execute a contract for a tour, the passenger broker must sell and arrange for transportation only at the point which it is authorized to serve and whether the parties must mutually sign the contract at that point. Later, the Commission dismissed the rulemaking proceeding. However, dismissal was conditioned upon the effectiveness of the now vacated rules in Ex Parte No. MC–96. Parties were asked to comment on this issue, which arose out of the decision in *Trails West, Inc.*, v. *Continental Trailways, Inc.*, 115 M.C.C. 269 (1972).

In *Trails West*, the Commission, Appellate Division 1, had held that in order effectively to execute a contract, the broker must sell and arrange for transportation only at the point which it is authorized to serve, and the parties must mutually sign the contract at that point. It affirmed earlier cases that stated that such matters as the handling of communications, the use of solicitors to publicize tours, advertising, the distribution of publications, and the handling of preliminary details, may be performed at other than authorized business points.

Passenger broker licenses issued by the Commission commonly have two territorial features. A typical issuance is as follows:

> To engage in operation, in interstate or foreign commerce, as a broker at *Pittsburgh, PA*, to sell or offer to sell the transportation, by motor vehicle, of passengers and their baggage, *beginning and ending at points in Pennsylvania, and extending to points in the United States.*

This license authorizes the broker to arrange tours whereby the passengers are picked up and discharged in Pennsylvania.

The point it is authorized to serve is Pittsburgh, PA.

Trails West seemed to indicate that a tour patron must appear in person at a broker's authorized place of business and mutually sign the contract with the broker at that point.

We are of the opinion that the *Trails West* decision was incorrect. Prior case law explicitly allowed the handling of business by mail. Participants in the Ex Parte No. MC–87 proceeding pointed out that the broker industry had conformed its business practices to the widespread use of agents, and the handling of contracts by mail.

Here is a typical example of how a broker does business with a person who is not located in the authorized place-of-business city. A prospective client, after reviewing a broker's brochure, will either personally or through a travel agent telephone or write to the broker requesting a reservation on a particular tour. If space is available, the customer will be told to send in a deposit, and will be advised that final payment is due by a certain date. Upon receipt by the broker of final payment, a notification of tour participation is forwarded to the customer, either directly or through the travel agent. This entire transaction is handled by telephone or mail. The contract is considered final upon receipt of final payment.

Prior to *Trails West*, the law in this area was well established as to what the broker could do if it wished to employ agents to sell tours at points other than at the authorized place of business. Brokers may appoint agents to assist them in performing the operations authorized in the license. The agent may be a general travel agent with a place of business outside of the broker's authorized place-of-business area.

The broker must dominate, direct, and control the business. It must itself establish and develop tours, arrange and sell transportation, establish charges and collect and disburse them, keep the required records, and take the risk of profit or loss. A broker may not delegate these basic functions to an agent. *Manhattan Transit Co.* v. *Staats Herold Corp.*, 108 M.C.C. 168, 172 (1968).

An agent's advertising or representations must not give the impression that the agent is staging the trip rather than the broker. It must remain obvious that the agent is acting on behalf of the broker. Where an agent fails to reveal its true capacity, it is in violation of the Interstate Commerce Act. *Passenger Transportation in Special Operations*, 112 M.C.C. 160, 191 (1970). Advertising materials which imply that the agent has authority, and setting up the agent exclusively as the person with whom the customer should deal, are not permissible. Failure to state the name, license number, and place of business of the broker are indications that the agent is usurping the broker's position.

A broker may not set up branch offices where it is not authorized to do business, however. *Paragon Travel Agency, Inc., Ext.—Mass. and R.I.*, 100 M.C.C. 641, 643 (1966). This is because there is a distinct difference between the impact made upon the public and existing broker service by an agent, as opposed to a fully staffed broker's office.

This does not preclude the handling of business by mail or telephone, the sending of solicitors outside the authorized service points for the purpose of bringing the tours to the attention of the public, the advertising of service, the distribution of brochures, or the handling of details preliminary to the concluding of arrangements. *Kirkland Broker Application*, 61 M.C.C. 691 (1953).

The tour industry has established practices which would be seriously disrupted if we were to adopt the *Trails West* contract rationale. The policy of the Commission in the past as to the proper division between broker and agent has been sufficient to safeguard local marketing efforts by existing brokers and, most importantly, ensure that the traveling public would be protected by informing the public as to the actual identity of the arranging party.

Policy Summary

Therefore, we overrule the *Trails West* decision to the extent that it required the tour patron to physically appear at the broker's authorized place of operation to sign the contract.

None of these statements of policy in this notice is a major Federal action significantly affecting the quality of the human environment, nor a major

regulatory action under the Energy Policy and Conservation Act of 1975.

Oral Argument

Several parties requested oral argument. At this time we do not believe oral argument is necessary, and the requests are denied.

Authority

The above described actions are taken under the authority contained in 49 U.S.C. 10101, 10321, 10921, 10924, and 10925.

Dated: July 25, 1979.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24594 Filed 8-8-79; 8:45 a.m.]

BILLING CODE 7035-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 75-16; Notice 26]

Air Brake Systems; Interpretative Amendment

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends the language of Air Brake Standard 121 to reflect the U.S. Court of Appeals decision in *PACCAR* v. *National Highway Traffic Safety Administration and Department of Transportation.* This action is intended to clear up any confusion about the effect of the court's decision on portions of the standard.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Roger Tilton, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 202-426-9511.

SUPPLEMENTARY INFORMATION: Standard No. 121 (49 CFR 571.121) regulates the braking system performance of airbraked trucks, buses, and trailers. The standard has been in effect since January 1975 for trailers and March 1975 for trucks and buses. Petitions for judicial review of the standard were filed and resulted in invalidation of three aspects of the air brake regulation (see *PACCAR* v. *NHTSA and DOT*, 573 F.2d 632, Cir. 1978, cert denied, October 2, 1978). The agency explained its interpretation of the court's action in three **Federal Register** notices (43 FR 39390, September 5, 1978; 43 FR 48646, October 19, 1978; 43 FR 58820, December 18, 1978) and in several meetings held with equipment and vehicle manufacturers and air-braked vehicle users.

It has become apparent that some confusion exists with regard to the agency's interpretation of the combined effect of two aspects of the court's decision. The first is the agency's view that the court invalidated the "no lockup" portions of S5.3.1 and S5.3.2 insofar as they apply to trucks and trailers, along with the related stopping distances of 293 feet for service brake capability and 613 feet for emergency brake capability (720 for truck-tractors in the unloaded condition) established for 60-mph loaded and unloaded stopping tests under S5.3.1 and S5.7 for trucks. The second is the agency's view that the court invalidated the "skid number" measurement technique of test surface frictional characteristics for use in measuring whether trucks meet the strict stopping distance requirements of the standard. The Court found that while the "skid number" of a surface is an objective measurement, it is not a practicable test method for manufacturers since normal fluctuations for a given road surface would require manufacturers to overcompensate by testing their vehicles on road surfaces substantially slicker than the regulation requires. The agency acted to correct the skid number variability problem and measurement technique but subsequently withdrew the correction as it related to skid number variability because of disagreement both over the meaning of the court's opinion and the consequences of the modification adopted (43 FR 58820; December 18, 1978).

Several references by the agency to the fact that the court did not invalidate stopping distance requirements other than the 60-mph stops for trucks have apparently been taken to mean that the agency is in a position to enforce compliance with all remaining stopping distances. The fact that the standard's stopping distances remain completely valid for buses may contribute to this view. In fact, the court's remand to the agency of the skid number specification and duration of time interval between repetitive road tests effectively precludes the agency from enforcing compliance with any road test requirement for trucks and trailers at any speed on wet or dry surfaces. It is apparent that amendment of the language of the standard to reflect the court's actions would be beneficial to end any confusion that may exist. The purpose of this notice is to make that amendment.

It is noted that this action has no effect on the requirements for buses, or on the application and release timing, dynamometer, or parking brake requirements for all vehicles. For this reason, the NHTSA is not amending the test procedures which are applicable to vehicles or requirements other than those addressed by the court.

The agency is amending the application section of the standard to state that trucks and trailers need not comply with certain paragraphs of the regulation. The regulation is being amended in this manner rather than deleting or revising the wording of each of the affected sections in order to disturb the actual text of the standard as little as possible. In that way, the affected sections can most easily be reinstated when suitable solutions to the requirements laid down by the Court are found. In addition, by retaining the standard's language in its existing form, manufacturers are made aware of what the agency still considers to be reasonable standards for minimum acceptable performance, and those manufacturers that wish to construct their vehicles in accordance with the non-mandatory sections of the standard will have the necessary guidance to do so. The agency also has taken this opportunity to delete from S3 references to temporary exclusions which have expired.

Effective date finding: The agency is issuing an interpretative amendment that merely conforms the standard's language to its meaning following the remand by the Ninth Circuit, and therefore the amendment does not change the standard in any respect. Accordingly, it is found for good cause shown that notice and opportunity for comment are unnecessary and that an effective date for the amendments sooner than 30 days from the date of publication in the **Federal Register** is justified.

§ 571.121 [Amended]

In consideration of the foregoing, Standard No. 121 (49 CFR 571.121) is amended by replacing the last paragraph of S3 with the following paragraph:

Notwithstanding any language to the contrary, sections S5.3.1, S5.3.1.1, S5.3.2, S5.3.2.1, S5.3.2.2, S5.7.1 and S5.7.3 of this standard are not applicable to trucks and trailers.

The program official and lawyer principally responsible for the development of this document are Duane Perrin and Roger Tilton, respectively.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on August 3, 1979.

Joan Claybrook,

Administrator.

[FR Doc. 79-24577 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 75-16; Notice 27]

Air Brake Systems; Parking Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends the air brake standard to expand the latitude which a vehicle manufacturer has in selecting means to comply with the parking brake requirements. The amendment makes final one of several changes to the parking and emergency brake requirements that had been proposed previously. The other proposed changes have been reexamined in light of comments to the proposal and to a separate proposal outlining plans for replacement of FMVSS 121 by a new standard. The NHTSA has decided to suspend rulemaking action on those items until research results and other further information is available.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Duane Perrin, Office of Crash Avoidance, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2153).

SUPPLEMENTARY INFORMATION: Standard No. 121 (49 CFR 571.121) regulates the braking system performance of air-braked trucks, buses, and trailers. The standard has been in effect for trailers since January 1, 1975, and for trucks and buses since March 1, 1975. The standard contains requirements for service brake systems, emergency brake systems, and parking brake systems.

More than four years' experience with the standard on the part of manufacturers, users, the agency, and other interested parties indicate a possibility that some of the emergency and parking brake performance requirements could be more broadly stated to allow new design options that offer a level of safety equivalent to that offered by existing designs. On September 14, 1978, the NHTSA issued a notice of proposed rulemaking (43 FR 41056) that would have substantially revised the parking brake requirements for all vehicles and the emergency brake requirements for trailers. Subsequent to the issuance of that proposal, a mandate was issued by the U.S. Court of Appeals for the Ninth Circuit, invalidating certain aspects of FMVSS 121 (43 FR 48646, October 19, 1978). In light of the court decision, the NHTSA has tentatively decided to issue a new heavy duty vehicle brake standard, FMVSS 130, which will eventually replace FMVSS 121. An Advance Notice of Proposed Rulemaking (ANPRM) on Standard No. 130 was issued in February (44 FR 9783, February 15, 1979).

Responses to the ANPRM on Standard No. 130 underscored the need for stability in the industry. To achieve stability, commenters suggested avoiding unnecessary changes in Standard No. 121, which remains in effect until FMVSS 130 is issued. In addition, commenters on the September notice pointed out areas where some of the proposed changes need further research and consideration. For these reasons, most of the changes to the parking and emergency brake sections of Standard No. 121 that were proposed in September are being tentatively put aside. Some of the changes proposed in the September notice may be raised again in the new proposal for Standard No. 130, after further information is obtained by the agency.

The NHTSA has determined, however, that one of the proposed changes should not be delayed until rulemaking is completed on FMVSS 130. That change allows the application of parking brakes by means of service brake air, as long as the application can be made when a failure exists in the service brake system, and as long as the parking brake is held in the applied position by mechanical means. The standard previously required parking brakes to be applied by a separate energy source, and this change allows an alternative to the spring-applied parking brake systems now used. The alternative systems could be less costly and have essentially the same performance as current systems. In addition, the change allows more compact systems to be produced for vehicles such as auto transporters where space for mounting of components is at a premium.

The changes to the parking brake application requirements proposed in September (Docket No. 75-16; Notice 22) were opposed by the California Highway Patrol (CHP), on the assumption that a diaphragm inside a brake chamber is considered part of the brake chamber housing, and that the proposal would have allowed a reduction in safety over current systems. Previous interpretations, however, have clarified that a brake chamber housing is only the outer body of the chamber and does not include the diaphragm. Thus, the prescribed performance must be achieved with any type of failure in the service brake system, including a ruptured diaphragm. The NHTSA concludes, therefore, that this interpretation satisfies the concerns of the CHP. The CHP also suggested slight rewording to indicate that the required force is applied at the drawbar and not in the parking brake itself. The wording has been changed somewhat to clarify that point.

The American Trucking Associations (ATA) and Transquip Industries objected to the proposal because it would require a second reservoir on an air-applied parking brake system in order for the parking brakes to be applied in the event of a failure of the service reservoir. The NHTSA understands that the use of only one reservoir would reduce cost. However, it would also offer a significant reduction in performance as compared to present systems, because certain service brake system failures could occur for which there would be no secondary means of braking the vehicle. Accordingly, the NHTSA concludes the ATA and Transquip Industries' objections do not warrant any change in the amendment.

Traffic Transport Engineering, an auto transporter manufacturer, requested clarification of whether two relay valves would be required in an air-applied system, since the parking brakes would have to be capable of application with any single failure, and the relay valve could fail. Since relay valve failures are relatively common, the NHTSA considers it necessary to preserve the performance achieved by present systems. Currently, the failure of a relay valve would not prevent emergency application of the trailer brakes. Thus, if a manufacturer chooses to equip a trailer with air-applied parking brakes, he would have to devise a means of achieving a brake application in case of failure of the service brake relay valve. That could be accomplished by using a second relay valve and reservoir.

The Dolphin Brake Corporation asked for clarification of the proposed wording to determine whether or not their parking brake that applies by means of hydraulic fluid would meet the

requirements. The NHTSA believes that the wording is sufficiently clear to indicate that, like an air-applied system, such a brake would only meet the requirements if a mechanical means of holding the application in the event of loss of fluid pressure were incorporated.

In order to minimize changes to FMVSS 121, the amended wording for application and holding will remain in one paragraph, S5.6.3, as currently in the standard.

Since this amendment relieves a restriction it is being made effective immediately.

§ 571.121 [Amended]

In consideration of the foregoing, the first sentence of paragraph S5.6.3 of Standard No. 121 (49 CFR 571.121) is amended to read:

S5.6.3 *Application and holding.* The parking brake system shall be capable of achieving the minimum performance specified either in S5.6.1 or S5.6.2 with any single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (except failure of a component of a brake chamber housing). * * *

The principal authors of this notice are Duane Perrin of the Office of Crash Avoidance and Roger Tilton of the Office of Chief Counsel.

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

Issued on August 6, 1979.

Joan Claybrook,

Administrator.

[FR Doc. 79–24578 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 44, No. 155
Thursday, August 9, 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 Part 927]

Handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau Varieties of Pears Grown in Oregon, Washington, and California; Proposed Extension of Effective Period for Minimum Quality Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would continue through November 1, 1979, certain quality requirements applicable to fresh shipments of Beurre D'Anjou pears which are shipped from designated areas of Oregon and Washington. This action is necessary to assure that pears shipped will be of suitable quality in the interest of consumers and producers.

DATES: Comments must be received on or before September 7, 1979. Proposed effective dates: October 1, 1979 through November 1, 1979.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

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

SUPPLEMENTARY INFORMATION: *Findings.* Pear Regulation 18 (§ 927.318; 44 FR 44469) sets forth certain minimum quality requirements on the handling of Beurre D'Anjou variety of winter pears through September 30, 1979. This proposal would continue these requirements through November 1, 1979.

This proposed amendment is issued under the marketings agreement, as amended, and Order No. 927, as amended (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and 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 Control Committee, and upon other available information.

The committee estimates that about 6.3 million boxes of Beurre D'Anjou pears will be produced this year as compared with 6.7 million in 1978. The quality regulation is designed to prevent the handling of any Beurre D'Anjou pears of lower quality than specified so as to provide satisfactory quality fruit in the interest of producers and consumers consistent with the declared policy of the act.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information became available upon which this proposed amendment is based and the effective date necessary to effectuate the declared policy of the act. A determination has been made that this action should not be classified "significant." A Draft Impact Analysis is available from Malvin E. McGaha, 202–447–5975.

The proposal is that § 927.318 Pear Regulation 18 (44 FR 44469) be amended to read as follows:

§ 927.318 Pear Regulation 18.

During the period October 1, 1979, through November 1, 1979, no handler shall ship any Beurre D'Anjou variety of pears grown in Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts unless such pears have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35 degrees Fahrenheit or less, and any such pears for the domestic shipment shall have an average pressure test of 14 pounds or less.

Dated: August 6, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-24609 Filed 8-8-79; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

[7 CFR Ch. XVIII]

Proposed List of Existing Regulations for Review

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed List of existing regulations for review.

SUMMARY: As indicated in the May 15, 1979, issue of **Federal Register** the following Farmers Home Administration regulations are proposed for review under the procedures described in the report, "Improving USDA Regulations," 43 FR 50988 (November 1, 1978). They are listed with the appropriate citation, a brief description, and an agency contact person. Public comment is invited on whether these or other regulations should be reviewed at this time.

DATES: Comments are due on or before October 15, 1979. A list of regulations scheduled for review and reflective of public comment received will be published in the November issue of the USDA Decision Calendar.

FOR FURTHER INFORMATION CONTACT: For information on any of the regulations listed in the proposed list of existing regulations for review, contact the individual identified as the contact person in the list. Comments of inquiries of a general nature about the list should be directed to Mr. Joseph Linsley, Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346–s, Washington, D.C. 20250, Phone: (202) 447–4057.

Authority or CFR citation	Subject	Description	Contact
7 CFR 1805	Voluntary Debt Adjustment	Prescribes the policies, responsibilities, and procedures in the voluntary adjustment of debts of applicants for loans from the Farmers Home Administration, borrowers, and other persons who request such services.	Jim Lee, 202–447–4597.
Title V, Housing Act of 1949, As Amended.	Appraisal of Non-farm Tracts and Small Farms for Rural Housing.	Prescribes the Policies and procedures for the appraisal of real property serving as security for individual Rural Housing loans which are made on non-farm tracts and small farms and lease hold interests on non-farm tracts and small farms.	Wesley Harris, 202–447–3766.
7 CFR 1804	Planning and Performing Site Development Work	Prescribes the policies, methods and responsibilities with respect to planning and performing site development work in connection with all types of loans and grants authorized by Title V of the Housing Act of 1949.	Dan Ball, 202–447–3394.
7 CFR 1863	Real Estate Tax Servicing	Prescribes that each borrower with a Farm Ownership, Rural Housing, Rural Rental Housing, Rural Cooperative Housing, Labor Housing, Other Real Estate, Soil and Water, Recreation Loan or Operating Loan, Economic Opportunity, and Emergency Loan secured by real estate will be responsible for paying taxes on the real estate security to the proper taxing authorities.	Ronnie Tharrington, 202–447–3766.
7 CFR 1806	National Flood Insurance	Prescribes the policies and procedures to be followed in implementing the National Flood Insurance Act of 1968 as amended by the Flood Disaster Act of 1973.	Jennings Orr, 202–447–4295.
7 CFR 1807	Title Clearance and Loan Closing	Contains the real estate title clearance and loan, transfer, or credit sale, losing authorities, policies, and procedures for all Farm Ownership, Non-farm Enterprise, Recreation, Rural Housing, Labor Housing, Rural Rental Housing, Other Real Estate, Loan Conservation and Development, and Individual Soil and Water Loans.	Eugene Carnette, 202–447–4295.
7 CFR 1924–B	Management Assistance to Individual Borrowers and Applicants.	Sets forth policies for providing management assistance to individual applicants and borrowers. It pertains to all insured loans that depend on farm income for loan repayment, and also provides for the necessary supervision and appropriate credit counseling for Rural Housing loans not dependent on farm income for loan repayment.	Jim Lee, 202–447–4597.
7 CFR 1823	Association Loans for Shift-in-Land	Outlines the policies and authorizations for making insured and direct loans or Shift-in-land Use projects and for facilities and soil and water conservation related thereto.	Jim Lee, 202–447–4597.
7 CFR 1823	Loans to Timber Development Organizations	Prescribes the policies, authorizations, and procedures for making loans to timber development organizations which are permitted by the Appalachian Regional Development Act of 1965.	Jim Lee, 202–447–4597.
7 CFR 1823	Association Loans for Irrigation and Drainage and Other Soil and Water Conservation Measures.	Outlines the policies and authorizations for making insured and direct loans to associations for irrigation, drainage, and other soil and water conservation and use projects.	Jim Lee, 202–447–4597.
7 CFR 1823	Processing Loans to Associations (Except for Domestic Water and Waste Disposal).	Sets forth the procedures for processing insured and direct loans for Shift-in-Land Use and for facilities and soil and water conservation practices related thereto; and association loans for irrigation and drainage and other soil and water conservation measures.	Jim Lee, 202–447–4597.
7 CFR 1861	Servicing Accounts of Borrowers Entering the Armed Forces.	Prescribes the authorities, policies and routines for servicing borrowers who have entered or who are entering military service.	Jim Lee, 202–447–4597.
7 CFR 1861	Servicing of Community Program Loans and Grants	Prescribes the policies, authorization, and procedures for servicing the following: Community Water and Waste Disposal System loans and grants, comprehensive water and sewer planning grants, loans for grazing and other shift-in-land-use projects, community recreation facility loans, community irrigation and drainage loans, watershed loans and advances, resource construction and development loans, economic opportunity cooperative loans, loans to Indian Tribes and Tribal Corporations, and loans to Timber Development Organizations.	Dwight Calhoun, 202–447–7287.
Title V, Housing Act of 1949, As Amended.	Servicing Monthly Payment—Single Family Housing Borrowers.	Outlines policies, procedures and authorizations for servicing accounts of active Single Family Housing borrowers who (1) have signed notes, rescheduled payment agreements or assumption agreements which specify monthly payments or (2) have agreed to pay annual installments in equal monthly payments.	Ronnie Tharrington, 202–447–3766.
7 CFR 1872–A	Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases.	Delegates authority and prescribes policies and procedures for servicing and liquidation of real estate security for Farmers Home Administration loans to individuals including loans on leasehold interests, and certain note-only cases, except Rural Rental Housing and Labor Housing loans to individuals operating under a loan agreement, or to Business and Industry loans. It does not apply to loans subject to a Farmers Home Administration guarantee.	Jim Lee, 202–447–4597.
7 CFR 1980–A	Guaranteed loan Programs—General	Prescr ibes the forms that are applicable to the Farmers Home Administration guaranteed loan program.	Reed Peterson, 202–447–4295.
7 CFR 1980–D	Rural Housing Program Loans	Contains regulations for unsubsidized Single Family Rural Housing loans to above-moderate income families guaranteed by the Farmers Home Administration and applies to lenders, holders, borrowers, and other parties involved in making, guaranteeing, servicing, holding, or liquidating such loans.	Reed Peterson, 202–447–4295.

Dated: July 31, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 79-24551 Filed 8-8-79; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 214]

False Information and Criminal Activity by Nonimmigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: The Immigration and Natualization Service proposes new rules which would make obedience to United States laws prohibiting violent crimes which carry a potential sentence of more than one year, and the furnishing of complete and accurate information to the Service, conditions of a nonimmigrant alien's admission and continued stay in the United States. These proposed rules are needed and intended in order to insure that the public is protected from violent criminal acts committed by alien visitors to our country, and in order to insure that the Service is provided with the full and accurate disclosure of information required to perform its statutory function of regulating the admission and continued stay of nonimmigrants in the United States. These amendments are being proposed under authority given the Attorney General in the Immigration and Nationality Act to set conditions for admission for nonimmigrant aliens.

DATES: Representations must be received on or before October 9, 1979.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and

Naturalization, Room 7100, 425 Eye Street, NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633–3048 or Paul W. Schmidt, Deputy General Counsel, Immigration and Naturalization Service. Telephone: (202) 633–3195.

SUPPLEMENTARY INFORMATION: For the reasons indicated in the above summary, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as set forth below.

PART 214—NONIMMIGRANT CLASSES

In Part 214, it is proposed to amend § 214.1 by adding new paragraphs (f) and (g) to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

* * * * *

(f) *False information.* A condition of a nonimmigrants's admission and continued stay in the United States is the full and truthful disclosure of all information requested by the Service. Willful failure by a nonimmigrant to provide full and truthful information requested by the Service (regardless of whether or not the information requested was material) constitutes a failure to maintain nonimmigrant status under section 241(a)(9) of the Act.

(g) *Criminal activity.* A condition of a nonimmigrant's admission and continued stay in the United States is obedience to all laws of United States jurisdictions which prohibit the commission of crimes of violence and for which a sentence of more than one year imprisonment may be imposed. A nonimmigrant's conviction in a jurisdiction in the United States for a crime of violence for which a sentence of more than one year imprisonment may be imposed (regardless of whether such sentence is in fact imposed) constitutes a failure to maintain status under section 241(a)(9) of the Act.

(Sec. 103 and 214(a); (8 U.S.C. 1103 and 1184(a)))

Public Comments Invited

In accordance with 5 U.S.C. 553 the Service invites representations of interested parties on this proposed rule. All relevant data, views, or arguments submitted on or before October 9, 1979 will be considered. Representations should be submitted in writing, in duplicate, to the Commissioner of Immigration and Naturalization at the address shown at the beginning of this notice.

Dated: August 3, 1979.

Leonel J. Castillo,

Commissioner of Immigration and Naturalization.

[FR Doc. 79-24590 Filed 8-8-79; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 503 and 505]

[Docket No. ERA-R-78-19E]

Powerplant and Industrial Fuel Use Act of 1978: Summary of Costs of Capital and Rates of Return for Industrial Firms and Class A and B Electric Utilities

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Summary of "Costs of Capital and Rates of Return for Industrial Firms and Class A and B Electric Utility Firms" prepared for the Economic Regulatory Administration by Ernst & Ernst.

SUMMARY: The Economic Regulatory Administration (ERA) has issued interim rules to implement provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) which prohibit the use of petroleum and natural gas by certain electric powerplants and major fuel burning installations. These rules establish the criteria upon which owners and operators of new and existing powerplants and installations may petition for an exemption from the prohibitions of FUA. ERA has devised a cost test which includes the discount rate as one of its components. The cost test which was published in the **Federal Register** on May 17, 1979 for new facilities (44 FR 28979, and 28999), and July 23, 1979 for existing facilities (44 FR 43176), uses the costs of capital and rates of return study as a basis for setting the discount rates. ERA is now publishing a summary of the study as promised in the May 17, 1979 **Federal Register** notice (44 FR 28958).

Comments on this study are invited. In particular, we invite your comments on the methodology used to develop the cost of capital and the use of the cost of capital as the basis for setting the discount rate. Copies of the study are available for public inspection in the DOE Reading Room GS–152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., in the DOE Public Information Office, Rm. B–110, 2000 M Street, N.W., Washington, D.C., and in the DOE regional offices.

DATES: The interim rules for new facilities became effective on May 8, 1979, and will become effective August 20, 1979 for existing facilities. The written comment period for the regulations and this study closes September 15, 1979. No additional public hearings will be held. However, before finalizing the interim rules, ERA will consider all written comments submitted during the comment period.

ADDRESSES: All comments should be addressed to Public Hearing Management, Docket ERA–R–78–19E, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461 (202) 634–2170.

John Detweiler (Regulations and Emergency Planning), Donald E. Kreps, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 2130C, Washington, D.C. 20461 (202) 254–3987.

Robert L. Davies (Fuels Regulations—Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461 (202) 254–3910.

James Heffernan (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue, N.W., Room 7136, Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION:

I. Purpose
II. Approach
III. Procedures
IV. Results

I. Purpose

The purpose of this study was to provide ERA with a set of procedures to estimate the real costs of capital and historical rates of return for industrial and utility firms. These procedures were applied to groups of industrial and utility firms.

II. Approach

The cost of capital was assumed to be the weighted average cost of new financing. The nominal costs of debt and preferred stock were estimated from current security market yields. The nominal costs of equity capital and retained earnings were estimated using the Capital Asset Pricing Model. Nominal costs were converted to real costs based on the rate of inflation. Historical rates of return, as measured by a number of conventional financial ratios, were computed for each group of industrial and utility firms.

III. Procedures Used in the Study

Firm Selection—The group of industrial firms was comprised of 54 firms in ten energy-intensive manufacturing sectors that are included in Standard & Poor's 500 Stock Index. The sectors were identified on the basis of embodied BTU's per dollar of output.[1] The group of utility firms was comprised of 118 Class A and Class B electric utilities for which data were publicly available.

Data—The primary sources of data were DOE's copies of Compustat [2] tapes of market and financial statistics. Additional data were obtained from FERC Form I's and the *Survey of Current Business* and through consultation with investment banking firms and government agencies.

Computation of Costs of Capital—Debt and Preferred Stock. Each firm's securities were assigned to a risk class based on the published rating for its most recent issue. Within each class, the nominal costs of debt and preferred stock were estimated as the current average yield on newly issued comparable securities. For debt, the results were adjusted to account for the tax shield from interest payments.

Equity Capital and Retained Earnings. The nominal cost of equity capital for each firm was computed using a risk-premium form of the Capital Asset Pricing Model (CAPM)[3] on monthly data from 1973 and 1977. The monthly risk-premium on each firm's common stock was computed as the percent return from capital appreciation plus dividends, less the prevailing risk-free rate of interest, estimated as the yield on three-month U.S. Treasury bills. This was regressed against the risk-premium on the equity capital market as a whole, estimated as the return on Standard & Poor's 500 stock index, less the risk-free rate. Each regression yielded an estimate of the CAPM beta coefficient for the equity capital of a firm. In the case of the utility firms, the beta coefficients were adjusted using a procedure based on Bayesian decision theory.[4] The nominal cost of equity capital was computed as the product of each firm's beta coefficient and an estimate of the long-run risk premium on the equity capital market,[5] plus the most recent (March 1979) risk-free rate. The nominal cost of retained earnings was assumed to be the same as the nominal cost of externally generated equity capital.

Conversion from Nominal to Real Costs. Each of the nominal costs of capital was converted to a real cost by subtracting an estimate of the economy-wide rate of inflation, computed as the percent change in the Gross National Product Implicit Price Deflator from 1977 to 1978.

Weighted Average Cost of Capital. Weights for the components of each firm's capital structure were computed from book values as reported in 1977 position statements. These weights were applied to the real cost of each component to arrive at an estimate of the firm's overall weighted average cost of capital.

Rates of Return—Three measures of historical rate of return were included among the financial ratios computed for each firm. *Pretax rate of return* (or gross profit margin) and *after tax rate of return* were computed on the basis of net sales. The latter excludes the effect or extraordinary items. *After tax return on invested capital* was computed as the ratio of tax-adjusted net income before interest to total capitalization.

IV. Results of the Study

The table below shows selected results for groups of industrial and utility firms.

	54 industrial firms	118 utility firms
Real Weighted Average Cost of Capital	7.731%	2.869%
Pretax Rate of Return, 1977 (Gross Margin)	6.8	17.7
After Tax Rate of Return, 1977 (Net Margin)	4.2	11.5
After Tax Return on Invested Capital 1977 (Debt and Equity)	7.9	6.9

[1] Clark Bullard, III *et al.*, *Energy Flow Through the United States Economy* (table) (Washington, D.C.: U.S. Department of Commerce, 1975).

[2] A product of Standard & Poor's Compustat Services, Inc.

[3] France Modigliani and Gerald R. Pogue, "An Introduction to Risk and Return: Concepts and Evidence," *Financial Analysts Journal* 30 (May–June, 1974): 69–86.

[4] Oldrich A. Vasicek, "A Note on Using Cross-Sectional Information in Bayesian Estimation of Security Betas," *Journal of Finance* 28 (December 1973): 1233–1239.

[5] Roger G. Ibbotson and Rex A. Singuefield, *Stocks, Bonds, Bills, and Inflation: The Past (1926–1976) and the Future 1977–2000)* Chicago: Financial Analysts Research Foundation, 1977).

Authority: Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 et seq); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 et seq.); E.O. 12009, 42 FR 46267.

Issued in Washington, D.C., July 31, 1979.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 79-24513 Filed 8-8-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration
[14 CFR Part 39]
[Docket No. 79-NW-21-AD]
Airworthiness Directives; Boeing Model 727 and 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This proposed rulemaking would require that those operators of Boeing 727 and 737 series airplanes with the carry-all interior, replace all of the passenger service unit (PSU) manifold straight orifice fittings with redesigned barbed orifice fittings. This change will be necessary because some passenger oxygen mask supply tubes pull off the PSU valve and manifold assembly straight orifice fittings too easily, thereby creating the potential for loss of passenger oxygen when needed during an emergency.

DATES: Comments must be received on or before September 18, 1979.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 79–NW–21–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION, CONTACT: Mr. Mark I. Quam, Systems and Equipment Section, ANW–213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2500.

SUPPLEMENTARY INFORMATION: During a 727 acceptance inspection, one operator's inspector discovered that the oxygen mask supply hoses could be easily pulled from the latch valve and manifold assemblies of the passenger service units. Subsequent Boeing tests indicated that approximately 67% of the hoses could be disconnected by a force of less than the Boeing-specified 18 pounds pull, from the Puritan-Bennett latch valve and manifold assemblies. Boeing has established that these latch valve and manifold assemblies were only installed on those 727 and 737 airplanes with the carry-all interiors.

The manufacturers involved, recognized that oxygen may be required during decompression, have issued Boeing Alert Service Bulletin 727–35–A18, Boeing Alert Service Bulletin 737–35–A1014, and Puritan-Bennett Service Letter 210780–35–1. The Boeing alert service bulletins provide general

instructions to replace the oxygen manifold orifice and O-ring with a new barbed orifice and O-ring. These service bulletins contain airplane applicability, effected passenger service unit Boeing part numbers and they reference the Puritan-Bennett Aero System Company letter 210780–35–1 for specific replacement instructions and flow test procedures.

The Puritan-Bennett service letter provides specific orifice/O-ring replacement instructions, Puritan part numbers and flow test instructions. The procedures in both the Boeing alert service bulletins and the Puritan-Bennett service letter will be required by this proposed rule.

Installation of the new barbed orifice will reduce the possibility that a passenger might pull an oxygen mask supply tube off the manifold assembly of the passenger service unit.

For the reasons discussed above, the FAA is proposing to require, by Airworthiness Directive, that the old orifice and O-ring be replaced within the next 1,200 hours time-in-service or six (6) months after the effective date of the proposed AD, whichever comes first. In the event an operator wishes more compliance time, the airplane operational altitude can be limited to 25,000 feet. Final compliance will be required by one year after the effective date of this AD.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 79–NW–21–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

The Proposed Amendment

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

Boeing.—Applies to all Model 727 and 737 series airplane with the carry-all interior. Compliance required as indicated. Accomplish the following:

Withing the next 1,200 hours time-in-service or six (6) months after the effective date of this AD, whichever comes first, unless already accomplished, replace the straight orifice fittings on the Boeing part number 10–60513–18, –19 and –20 latch valves and manifold assemblies of the PSU with the redesigned barbed orifice fitting and O-ring in accordance with Boeing Service Bulletin 727–35–A18 dated July 6, 1979, or Boeing Service Bulletin 737–35–A1014 dated July 6, 1979, as applicable, and Puritan-Bennett Service Letter 210780–35–1 dated May 25, 1979, or later FAA-approved revisions. These passenger oxygen service units manifolds are to be renumbered and functionally tested in accordance with the applicable service bulletin after the new barbed orifice fittings and O-ring have been installed. The compliance time prescribed above may be extended to 2,400 hours-in-service or one (1) year after the effective date of this AD, whichever comes first, by limiting the operational altitude of the airplane to 25,000 feet.

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

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

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

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79–24320 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. 79–EA–87]

Proposed Designation of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: On December 28, 1978, the FAA proposed to designate an airway (V–373) from Gordonsville, Virginia, to IRONS intersection, south of Washington, D.C. via the SABBI intersection which is east of Brooke, Virginia (43 FR 60578). The electronic air navigation aids required for navigation on this route will not permit its use at the desired altitudes. For this reason the proposal to designate V–373 is hereby withdrawn.

EFFECTIVE DATE: August 9, 1979.

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

(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.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24277 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Part 73]

[Airspace Docket No. 79–EA–30]

Alteration of Restricted Areas Time of Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the time of designation of Warren Grove, N.J. restricted areas R–5002A, R–5002B, R–5002C, R–5002D and R–5002E to permit additional time for training Sunday, Monday and from sunset to sunrise provided advance Notices to Airmen (NOTAMs) are given.

DATES: Comments must be received on or before September 10, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 79–EA–30, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

The official docket may be examined at the following location: FAA Office of the Chief Council, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before September 10, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to change the time of designation of Warren Grove restricted areas R–5002A, R–5002B, R–5002C, R–5002D and R–5002E from their present designation of "Sunrise to sunset, Tuesday through Saturday; other days by NOTAM 48 hours in advance." to "Sunrise to sunset daily, other times by NOTAM 48 hours in advance." This action would permit use of the areas for military training at night and on Sunday and Monday when necessary. The United States Air Force is the lead agency for the purpose of compliance with the National Environmental Policy Act as it pertains to this proposed action. Comments on environmental aspects relating to the proposed action should be addressed to: Headquarters Tactical Air Command/DEEV, Langley AFB, Virginia 23665, ATTN: Mr. Gilbert Burnet, telephone: (804) 764–4430/764–7844.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to further amend § 73.50 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 702) and amended (44 FR 34112) as follows:

Under time of designation, In R–5002A Warren Grove, N.J.; In R–5002B Warren Grove, N.J.; In R–5002C Warren Grove, N.J.; In R–5002D Warren Grove, N.J.; In R–5002E Warren Grove, N.J. "Sunrise to sunset, Tuesday through Saturday; other days by NOTAM 48 hours in advance." is deleted and "Sunrise to sunset, other times as activated by NOTAM issued at least 48 hours in advance." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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 July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24278 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Part 71]

[Airspace Docket No. 79–SO–37]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Designation of Transition Area, Livingston, Tennessee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will designate the Livington, Tennessee, Transition Area and will lower the base of controlled airspace in the vicinity of the Livingston Municipal Airport from 1200 to 700 feet AGL. A public use standard instrument approach procedure has been developed to the airport and additional controlled airspace is required to protect aircraft Instrument Flight Rule operations.

DATES: Comments must be received on or before: September 13, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

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, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before September 13, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments

submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate the Livingston, Tennessee, 700-foot Transition Area. This action will provide controlled airspace protecton for IFR operations at the Livingston Municipal Airport. A standard instrument approach procedure, VOR/DME RWY 21, to the airport, utilizing the Livingston VORTAC, is proposed in conjunction with the designation of the Transition Area. If the proposed designation is acceptable, the airport operating status will be changed from VFR to IFR.

The Proposed Amendment

Accordingly, the Federal Aviation Administraton proposes to amend Subpart G, § 71.181 (44 FR 442), of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

Livingston, Tenn.

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of Livingston Municipal Airport (latitude 36°24'42"N., longitude 85°18'44"W.).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a 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.

Issued in East Point, Georgia, on August 1, 1979.

Lonnie D. Parrish,

Acting Director, Southern Region.

[FR Doc. 79-24553 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 152]

[Docket No. 19430; Notice No. 79–14]

Airport Aid Program; Revision of Part

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM). Withdrawal of Notice 74–4.

SUMMARY: This notice proposes revisions to the rules pertaining to the Airport Aid Program for airport development and planning grant projects. The proposed revisions would eliminate certain provisions that, based on the FAA's continuing review of the program, are considered unnecessary, and would update current requirements. This action is taken by the FAA in an effort to simplify the grant process.

DATE: Comments must be received on or before October 9, 1979.

ADDRESS: Send comments in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC–24), Docket No. 19430, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Paul Galis, Office of Airport Planning and Programing, (APP–2), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3050.

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested persons are invited to participate in the making of this proposed rule by submitting any written data, views, or arguments that they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, D.C. 20591. All Communications received on or before October 9, 1979, will be considered by the Administrator before taking action on the proposed rule. 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. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 19430". The postcard will be date/time stamped and returned to the commenter.

II. Availability of NPRMs

Any person may obtain a copy of this 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 notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

III. Background

A. Statutory Authority

On May 21, 1970, Congress enacted the Airport and Airway Development Act of 1970 (AADA; 49 U.S.C. 1701–1741). The AADA provided for Federal grants for airport planning and development. The AADA was amended by Pub. L. 92–174; the Airport Development Acceleration Act of 1973 (Acceleration Act; Pub. L. 93–44); and the Airport and Airway Development Act Amendments of 1976 (1976 Amendments; Pub. L. 94–353).

B. Regulations

Part 152 of the Federal Aviation Regulations was published in the **Federal Register** on June 1, 1972 (37 FR 11014), and became effective on July 1, 1972. The part prescribes the policies and procedures for administering the Airport Aid Program for airport development and planning grant projects under the AADA.

C. Withdrawal of Notice

The FAA issued Notice 74–4 on January 24, 1974 (39 FR 5784) for the purpose of amending Part 152 to reflect the provisions of the Acceleration Act. Interested persons were afforded an opportunity to comment on that notice.

However, because appropriate changes in Part 152 are being proposed in this notice, the FAA considers it appropriate to withdraw Notice 74–4. Accordingly, Notice 74–4 is hereby withdrawn. The comments received in response to that notice will be considered before adoption of an amendment based on this proposal.

IV. The Proposal

The purpose of this revision of Part 152 is to provide regulations that are easier to understand and less of a burden on the sponsor or planning agency seeking assistance. The FAA believes that the length and organization of the current part make comprehension and compliance difficult. Accordingly, this proposal would simplify requirements wherever possible, and delete redundant and unnecessary material. In addition it would revise Part 152 to reflect changes that have already been made in the Airport Aid Program as a result of the Acceleration Act and the 1976 Amendments.

This proposal would simplify and update Part 152 in the following ways:

1. *Policy and Procedures.* FAA policy and procedures that do not impose a requirement on the sponsor or planning agency, including those followed by the FAA in processing applications and preapplications, would be removed from Part 152 and published separately. Material in the following subject areas would be deleted: national defense needs (§ 152.5.(c)); stage development (§ 152.5(d)); remarking of runways and taxiways (§ 152.15); certain application procedures (§§ 152.25(a), and 152.29(a)); inadvertent or unknowing non-disclosure (§ 152.27(b)); postponement of submission of plans and specifications (§ 152.33(b)); appraisal of donated property interest (§ 152.33(c)); increase in the amount of an offer (§ 152.35(b)); application procedures for cosponsors (§§ 152.39 (a), (c), and (e) and 152.127 (a), (d), and (f)); project approval process (§ 152.45 (a) and (b)); partial grant payments (§ 152.69 (a) and (d)); review and evaluation of public hearings (§ 152.73(e)); and notice of completion (§ 152.145(a)).

2. *Explanatory Material.* Explanatory and descriptive material, including some definitions, would be omitted from revised Part 152. Where needed it will be made available in advisory publications. Material in the following subject areas would be deleted: meaning of land (§ 152.29(d)); grant agreement (§§ 152.37(a) and § 152.133(a)); contribution of funds to sponsors (§§ 152.39(b) and 152.127(b)); meaning of facilities (§ 152.41(b)); eligible kinds of airport development (§ 152.45(c)); donated land (§ 152.45(d)); project costs (§ 152.47); construction by sponsor force account (§ 152.57(a)); and eligible items for airport master planning and airport system planning (§§ 152.129(c) and 152.131(b)). Current Appendices A through G, containing typical eligible items for airport development, would also be eliminated.

3. *Technical Requirements.* Subpart C of Part 152 now contains standards related to project programming for airport development projects. It is proposed to publish these lengthy technical requirements separately. Since these standards impose requirements on the sponsor or planning agency, they would be incorporated by reference in Part 152 in accordance with proposed § 152.11.

Of concern to some sponsors has been the provision in § 152.101(b) that requires the sponsor of a project, which includes installing lighting facilities and related electrical work, to provide for installing an approved airport beacon and agree to operate the airport lighting installed throughout each night of the year or according to a satisfactory plan of operation. Under revised Part 152, while approved beacons would remain eligible for funding, they would no longer be required as a precondition for approval of a project involving lighting facilities. In addition, an agreement concerning the operation of airport lighting at night is no longer necessary in the light of the assurances made by the sponsor in the grant agreement.

4. *Outdated Provisions.* A number of sections in current Part 152 deal with compliance by the sponsor or planning agency with the requirements of statutes other than the AADA. In this proposal these provisions have been simplified to omit references to out-of-date provisions and revised to incorporate changed requirements. The current provisions that have been revised or deleted include: relocation expenses (§ 152.49(f)); requirements for grant payments for land acquisition (§ 152.67(b)); and mandatory amendment of the grant agreement (§ 152.37(d)).

5. *Reorganization.* Under current Part 152 the rules and procedures for airport development projects are set forth in Subpart B and those applicable to planning projects are contained in Subpart D. Under this proposal these subparts would be consolidated, and redundant provisions eliminated. In addition, it is proposed to reorganize the entire part on a chronological basis. The use of a chronological organization, (beginning with eligibility requirements and ending with the termination procedure) would enable sponsors and planning agencies to more readily locate pertinent requirements and procedures.

Some lengthy requirements in the body of the part would be placed in appendices. The labor requirements in current §§ 152.55 and 152.59 and the contract provisions required by the Secretary of Labor in current Appendix H would be included in new Appendix A. The contracting requirements now in §§ 152.51, 152.53, and 152.57 would be made a new Appendix C.

6. *Statutory Changes.* This proposal would revise Part 152 to reflect changes in the Airport Aid Program as a result of the Acceleration Act and the 1976 Amendments. Proposals are discussed in connection with the specific sections of the regulations which they affect.

7. *Sponsor Assurances.* A major addition to Part 152 would be the publication, in a new Appendix D, of the assurances made by the applicant for an airport development grant or an airport planning grant at the time of application. Since they are regulatory in nature, they should be published in Part 152, as are other requirements imposed on the sponsor.

The assurances contained in proposed Appendix D are those currently in use. Those assurances in sections I and III and paragraphs 1 through 16 of section II (including compliance with the Hatch Act) are required by Office of Management and Budget Circular (OMB) A–102, Uniform Administration Requirements for Grants in Aid to State and Local Governments (42 FR 45828). Comments are invited as to the form and content of the assurances in paragraphs 17 through 33 of section II, which specifically apply to airport development grants.

8. *Reduction in Requirements.* An effort has been made to relieve the sponsor or planning agency of the burden of the application process, to the extent that it is practicable and consistent with the FAA's responsibilities under the AADA. The changes include the elimination of these requirements: the submission of an agreement between cosponsors as to their obligations (§ 152.39(c)); the submission of an agency agreement (§ 152.39(d)); and prior FAA approval of each proposal for engineering and planning services of for force account work. Commenters on this notice are invited to submit specific suggestions on further reducing the burden of the application process.

9. *Deletion of Certain Appendices.* Current Appendix J sets out the requirements of Federal Management

Circular (FMC) 74–4, Cost Principles Applicable to Grants and Contracts with State and Local Governments (39 FR 27133; 43 FR 50977), formerly OMB Circular A–87. Appendices K (Standards for Grantee Financial Management Systems), L (Property Management Systems), and M (Procurement Standards) contain the requirements in Attachments G, N, and O of OMB Circular A–102.

Under this proposal these appendices would not be published in Part 152. Their requirements, as they set out in FMC 74–4 and OMB Circular A–102, are available to the public through the **Federal Register** system. The FAA will make these publications available to sponsors, planning agencies, and other interested persons through its Regional Offices and Airports District Offices.

V. General Requirements

A. Definitions

Proposed § 152.3 contains definitions of numerous terms used throughout Part 152. They have been placed in one section for convenient reference. Although many of these terms are defined in the AADA, they have also been included in § 152.3 because they are essential to the proper understanding of the part and its applicability. Some of these definitions have been updated. The words "supplemental air carrier" in the definition of air carrier airport would be replaced with "charter air carrier," in accordance with the name change made by the Airline Deregulation Act of 1978 (Pub. L. 95–504; 92 Stat. 1705). The Government of the Northern Marianas, which is now a separate entity from the Trust Territory of the Pacific Islands, would be inseparately referred to in the definition of public agency.

Some definitions such as "nonrevenue producing public-use areas" and "project formulation costs" have been derived from applicable provisions of the AADA. Other definitions have been added where clarification or economy of language is needed.

1. *"Airport Development"*. The proposed definition of airport development includes changes made by the Acceleration Act and the 1976 Amendments. The Acceleration Act amended the AADA to include, within the meaning of "airport development," security equipment which the airport sponsor is required by rule or regulation to provide for the safety and security of persons and property on the airport. In addition, under the 1976 Amendments the following are included for the first time in the definition of airport development: snow removal equipment; the purchase of noise suppressing equipment, the construction of physical barriers and, landscaped to diminish the effect of aircraft noise; and the purchase of land (or an interest therein) to maintain or achieve compatibility with noise levels.

2. *"Airport Layout Plan"*. The definition of airport layout plan in proposed § 152.3 does not include the minimum content requirements found in current § 152.5(a)(2) (i) and (iii). Of necessity, these would be included as elements of any plan that shows existing and proposed facilities, as required by § 152.5(a)(2)(ii). Discussion of the approval process for the plan has not been included in the revised part.

3. *"Satisfactory Property Interest"*. Current § 152.29(c) specifies what property interest a sponsor must hold in the lands to be developed or used as part of, or in connection with, the airport as it will be when the project is completed. Under the current rule, one of the ways in which a sponsor may hold the required property is to have a lease of not less than 20 years, granted to the sponsor by another public agency or the United States that has title to the property, on terms that the Administrator considers satisfactory. The FAA believes that provision should be made for a grant of aid to a sponsor who holds a lease of less than 20 years when the circumstances support a finding by the Administrator that the sponsor has a satisfactory property interest. Accordingly, the definition of "satisfactory property interest" in proposed § 152.3 would provide this flexibility.

4. *"National Airport System Plan"* New § 152.3 would include a definition of the National Airport System Plan (NASP). The discussion of the NASP in current § 152.3 would be eliminated. The requirement in current § 152.3(b) that an airport be included in the NASP in order for it to be eligible for an airport development grant would be set out in proposed § 152.107(d).

B. Exemptions

Current Part 152 does not provide for the granting of exemptions from its requirements. Since local conditions may vary, making it difficult for a sponsor to comply with specific requirements, the FAA believes that petitions for exemption should be considered under appropriate circumstances. Accordingly, § 152.5 of this proposal would authorize the filing of petitions for exemptions with the Regional Director concerned. However, a request for an exemption would not be granted if the requirement from which the exemption is sought restates a statutory provision or if the exemption requested would be inconsistent with the purposes of the AADA, as amended, or any other applicable statute.

C. Certifications

Under section 16(h) of the AADA, the Secretary is authorized to accept a certification from a sponsor or planning agency that it has complied, or will comply, with all of the statutory and administrative requirements imposed on it under the AADA. This statutory provision would be implemented by § 152.7 of this proposal. The new section would not exempt a sponsor or planning agency from complying with any requirement in Part 152, it would merely eliminate the current requirement to submit certain documentation. Under proposed § 152.7(d) the sponsor or planning agency could be required to show compliance with any requirement for which a certification is accepted, if the Administrator determines that it is necessary to do so.

Section 152.7 would also implement section 20(b)(1) of the AADA, which authorizes the Secretary to approve, as allowable project costs of a project for airport development, certain terminal development, if the sponsor certifies that its airport has, or will have, all of the safety and security equipment required for certification under section 612 of the Federal Aviation Act of 1958 (Part 139 of the Federal Aviation Regulations).

D. Forms

Specific references to form numbers now in § 152.75 and elsewhere in Part 152 would be removed. New § 152.9 would indicate that appropriated forms are available at any FAA Regional Office or Airports District Office.

E. Incorporation by Reference

Current Subpart C requires compliance with programming, design and construction standards for airport development projects. Some of those standards are set forth in Subpart C and others are in the advisory circulars listed in current Appendix I. Under current § 152.83 the technical guidelines listed in those advisory circulars are incorporation by reference into Subpart C of Part 152 and made mandatory.

The provisions pertaining to incorporate by reference would be included in a new § 152.11 under this proposal, and the advisory circulars would be listed in new Appendix B. In accordance with the requlations of the Office of the **Federal Register** (1 CFR

Part 51), Appendix B will be revised from time to time to reflect any subsequent revisions to advisory circulars incorporated by reference.

New § 152.11 would provide for the modification, for a particular project, of any standard set forth in Appendix B, when necessary to meet local conditions, and when the modification would provide an acceptable level of safety, economy, durability, and workmanship. The modification could be made by Director, Office of Airport Standards, or the Regional Director. In appropriate cases, the authority to make such a modification would be specifically reserved to the Director, Office of Airport Standards. They would include cases where there is a need to preserve uniformity in design or where comptability with FAA facilities is needed.

VI. Eligibility Requirements and Application Procedures

New subpart B of Part 152 would contain eligibility requirements and application procedures applicable to airport development and planning projects. It would combine material now contained in subparts B and D of current Part 152.

A. Eligibility: Sponsors and Planning Agencies

The eligibility requirements applicable to sponsors and planning agencies contained in proposed §§ 152.103 and 152.105 are derived from §§ 152.43 and 152.125.

1. *Agreements With United States.* Under current § 152.7(a) a sponsor or planning agency may not receive a grant unless it has met, or will meet, the requirements established by existing and proposed agreements with the United States with respect to any airport that it owns or controls. This requirement would be continued in proposed § 152.103(a). As in the present regulation, the proposal would provide for the making of a grant when a sponsor cannot comply with an agreement; however, the discussion of the procedures applicable to non-compliance in current § 152.7(a) (2) and (3) would not be included.

The reference to compliance determinations under Part 21 of the Regulations of the Secretary of Transportation now in § 152.7(a)(1) would also be eliminated as unnecessary.

2. *Sponsor's Ability To Perform.* Current §§ 152.43(b) and 152.125(b) impose certain general requirements as to the sponsor's legal, financial, and other ability to perform its obligations as an applicant and a grantee. It is unnecessary to include these broad requirements in the regulations because they are implied in numerous other requirements in the part, and the sponsor's ability will be demonstrated to the Administrator through the application process.

3. *Agency.* Current §§ 152.39(d) and 152.127(e) require a sponsor for whom a public agency or planning agency acts as an agent to submit a copy of an agency agreement with its project application. The FAA recognizes that the authority to act as agent may be established by a State or local law which does not require that an agreement be entered into. For this reason the requirement would be omitted.

B. Project Eligibility

The project eligibility requirements in proposed §§ 152.107 and 152.109 are derived from §§ 152.45, 152.129, and 152.131.

1. *Minimum Dollar Amount.* Under current § 152.7(b) an airport development project is not eligible for funding unless it involves more than $5,000 in United States funds. The purpose of such a minimum is to encourage sponsors to include all eligible airport development items within a single grant application, rather than filing separate applications for each eligible item. This is intended to reduce administrative costs which, could meet or exceed the amount of U.S. funds approved for a small project.

Increases over the years in the cost of administering grants have made it necessary to raise this minimum dollar amount. Accordingly, proposed § 152.107(b) would increase the minimum from $5,000 to $25,000, unless otherwise authorized by the Administrator. Almost all recent grant applications are for projects in excess of this amount. Smaller grants could be approved for such items as required safety and security equipment.

2. *Runway Clear Zones.* Sections 152.9 and 152.11 now require that the sponsor own, acquire, or agree to acquire runway clear zones whenever funds are allocated for: developing new runways or runway safety areas, improving or repairing existing runways, or making substantial airport improvements that do not benefit a specific runway or safety area. These requirements would be included as project eligibility requirements in new § 152.107(e). Paragraph (e) would require control over property interest in runway clear zones that the Administrator considers adequate.

The standards in current § 152.11 would be deleted. Standards for adequate clear zones and clearn zone interests would be published separately, and incorporated into Part 152 by reference in accordance with new § 152.11. Those standards would also specify the limits of the clear zone, and the definition of runway clear zone in proposed § 152.3 indicates this.

3. *Landing Aid Requirements.* Section 152.13 now requires each project to provide for certain landing aids which the Administrator determines are needed for safe and efficient use of the airport. This requirement will be included in proposed § 152.107(e). Standards and procedures for complying with it will be published separately and incorporated by reference into Part 152.

4. *Previously Obligated Work.* Current application and preapplication forms provide the FAA with information on previous, pending, or anticipated federal assistance related to the proposed project. This is sufficient to allow the FAA to discharge its responsibility, under paragraph (b)(2) of section 14 of the AADA, to not incur more than one obligation under that paragraph with respect to any single project for airport development. Accordingly, the requirement in current § 152.7(c) would be eliminated as unnecessary.

5. *Unified Work Program.* The DOT, through its operating administrations, is responsible for the management of three transportation planning programs established by three separate legislative acts: Title 23, U.S. Code (Highways); the Urban Mass Transportation Act of 1964, as amended; and the AADA. In accordance with these statutes, the planning programs for individual transportation modes are designed to be coordinated with planning for other transportation modes and with comprehensive planning for urban areas. To promote integration of transportation planning, unified work programs are required for all urbanized areas (as established by the U.S. Bureau of the Census) doing areawide urban transportation planning with the assistance of more than one DOT operating administration.

A unified work program, defined in proposed § 152.3, is a single document, prepared by the local areawide planning agency, which identifies all transportation and related planning activities that will be undertaken within the metropolitan area during a one- or two-year period. The program is a means of consolidating and formally coordinating all transportation planning activities at the metropolitan level whenever more than one modal

planning program is involved. It ensures that Federally supported local planning is not duplicative or at cross-purposes.

Currently, applications for certain master and system planning are not accepted unless the proposed project is included in a unified work program. Since this is an eligibility requirement imposed on the sponsor or planning agency, it is proposed to include it in new § 152.109.

Proposed § 152.109 would require that each project for airport system planning be included in a unified work program. Under proposed § 152.109, if a proposed project for airport master planning has been determined to have areawide significance by an appropriate areawide agency, the project must be included in an unified work program before FAA approval of the project. The appropriate areawide agency is the agency responsible for coordination of Federally assisted programs and projects in accordance with OMB circular A–95 (41 FR 2052).

C. Application Requirements

Proposed §§ 152.111 and 152.113 contain requirements for submitting preapplications and applications now found in §§ 152.23 through 152.33 and in § 152.123.

The proposed application requirements provide that the Administrator may authorize an applicant to not comply with certain provisions. This would provide for waiver of a requirement where an item to be submitted is already available to the Administrator or where a substitute should be accepted. A current example of the former is the property map requirement in current § 152.29(b), which allows incorporation by reference of a map submitted with a previous application; an example of the latter is in current § 152.31(b)(2) which authorizes substitution of a certification from the Administrator of the Environmental Protection Agency instead of the Governor of the state in which the project may be located, when state air and water quality standards have not been approved.

1. *OMB Circular A–95.* On November 17, 1977, the FAA published Special Federal Aviation Regulation No. 35 (42 FR 59476) which requires each applicant for Federal Assistance under Part 152 to comply with the FAA Notice of Policy, "FAA Interim Procedures Implementing OMB Circular A–95." Under those procedures each applicant is required to submit to the FAA certain comments and statements it obtains through the appropriate clearinghouse. Proposed § 152.111(c)(4) would require that these be submitted with the preapplication, together with a showing that they have been considered by the sponsor.

2. *New Provisions Required by Statute.* The 1976 Amendments, and other Congressional legislation, contain new requirements and provisions that are applicable to the airport development and planning grant programs. These requirements are set out in proposed § 152.111.

Under the Flood Disaster Protection Act of 1973, if certain proposed airport development is in an area of special flood hazard, the sponsor must participate in the National Flood Insurance Program. This requirement is reflected in § 152.111(c)(5) and (6) of this proposal.

In addition, section 18(b) of the AADA requires the sponsor to consult with air carriers, or fixed base operators, as appropriate, in making the decision to undertake a project for airport development. These requirements are reflected in § 152.111(c)(10) and (11) of this proposal.

New section 20(b)(1) of the AADA allows the funding of certain terminal development in nonrevenue public-use areas when the sponsor certifies that the air carrier airport involved has, on the date of submittal of the project application, all safety and security equipment required for airport certification under section 612 of the Federal Aviation Act of 1958. Proposed § 152.111(b)(12) would require submission of this certification.

3. *Displacement of Persons and Acquisition of Real Property.* The requirements of current § 152.23(a)(2), (3), and (4) relative to the displacement of persons and the acquisition of real property in connection with airport development would be simplified in this proposal by eliminating material that is repetitive of that contained in the referenced regulations of the Office of the Secretary of Transportation.

4. *Environmental Impact Assessment Report.* Incorporation by reference in current § 152.23(a)(6), of DOT Order 5610.1B and FAA Order 1050.1B into Part 152 is technically unnecessary since they are available in the Federal Register. Although the words of the incorporation would be removed, compliance will still be required and the orders will continue to be available at any FAA Regional Office and any Airports District Office.

5. *Information in Application.* A number of provisions in Part 152 prescribe information that the sponsor must include in its application, such as the source and nature of its funding and the property interests the sponsor holds in the lands to be developed. This information is necessary to determine that the sponsor meets the eligibility requirements of the part. However, it is not necessary to recite the information in the Part 152 and it has been omitted from the proposed revision. The application form indicates what information is necessary for the FAA to determine eligibility. Where amplification of the instructions in the application is needed, separate advisory material will be provided.

The provisions that have been deleted include: funding information (§ 162.25(b)); donated land, labor, materials, or equipment (§ 152.27(a)); statement of property interest (§ 152.29(a)); and statement on compatible land use (§ 152.31(a)).

6. *EPA List of Violating Facilities.* Part 15 of the Regulations of the Environmental Protection Agency (EPA; 40 CFR Part 15) provide for the establishment by the EPA of a List of Violating Facilities, which specifies those facilities which are quilty of continuing or recurring noncompliance with clear air and water standards. Under the authority of the Clean Air Act (42 U.S.C. 1857 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), and Executive Order 11738, the EPA prohibits any Federal agency from entering into a nonexempt grant where a facility listed would be utilized for the grant (40 CFR § 15.20(b)). To assist the FAA in complying with this EPA requirement, proposed § 152.111(f)(6) would require the sponsor to submit a statement with its application as to whether any building, installation, structure, location, or site of operations to be utilized in the performance of the grant or any contract made pursuant to the grant appears on this list of violating facilities.

7. *Sponsor Assurances.* New § 152.111(f)(9) would require that the sponsor submit with its application the assurances specified in proposed Appendix D. These assurances are now submitted as part of each application for airport development. Since these assurances impose numerous requirements on the sponsor they should be set out in the regulations. They would be published as an appendix, because of their length.

8. *Cosponsors.* Under current §§ 152.39(c) and 152.127(c), cosponsors who do not jointly and severally assume the obligations imposed on them by Part 152 must submit an agreement between them as to the responsibilities and obligations each assumes. The FAA believes that it is unnecessary to require cosponsors to enter into a formal

agreement. Proposed §§ 152.111(f)(10) and 152.113(b)(6) merely require a statement of responsibilities and obligations, which will be incorporated into the grant agreement.

D. Grant Agreement

The current requirements applicable to the offer, acceptance, and amendment of grant agreements now found in §§ 152.35, 152.37, 152.133, and 152.135 would be consolidated into proposed § 152.115.

Part 152 now provides that an official or agent of the sponsor accepting an offer made by the Administrator must be authorized to sign the acceptance by a resolution or ordinance adopted by the sponsor's governing body. The FAA believes that this provision is too restrictive in that it does not take into account varying local practices. Accordingly, this requirement would be deleted. Proposed § 152.115(b) would provide that the acceptance must be authorized by law and that the acceptance be accompanied by an appropriate certification from the sponsor's attorney. Accordingly, a resolution or ordinance authorizing the signing official to accept the offer would be necessary only if required by law.

E. Public Hearings

Current § 152.73 requires the sponsor to give notice announcing that opportunity is afforded for a public hearing to consider factors including the economic, social, and environmental effects of the proposed development. Under paragraph (b) of that section, the notice must state that a copy of the sponsor's environmental impact assessment report is and will be available at its place of business for examination by the public for a minimum of 30 days, from the date of the notice, before any hearing held pursuant to the notice.

Since the sponsor often issues more than one notice under § 152.73, paragraph (b) of that section is unclear as to which notice the 30-day period begins. The proposal would clarify this provision by providing that the 30-day period begins to run on the date the first notice is published. Making the sponsor's environmental impact assessment report available for inspection early in the review process would also help to avoid delays in completing the required procedures.

F. Contract Requirements and Procurement Standards

Proposed § 152.119 provides that all grant agreements, contracts, and subcontracts involving airport development projects or airport planning must comply to the contract requirements and procurement standards in proposed Appendices A and C, as applicable, and the procurement standards in Attachment O of Office Management and Budget Circular A–102. Appendix A is derived from current Appendix H and §§ 152.55 and 152.59, and Appendix C is derived from current §§ 152.51, 152.53, and 152.57.

Part 152 does not now provide for a determination by the Administrator that a contractor should be barred from participation in contracts under the Airport Aid Program or the Planning Grant Program because of an unsatisfactory record of responsibility. The FAA is planning to issue a supplemental NPRM in the near future that will provide for the establishment of a list of debarred bidders and administrative procedures for adding contractors to, and removing them from, that list. Before making a determination that a contractor should be barred from participation in work under the Airport Aid Program or the Planning Grant Program, the contractor would be provided with an opportunity to present facts and circumstances showing cause why debarment should not be instituted.

Although Part 152 does not now have debarment procedures, sponsors and planning agencies, in complying with the procurement standards in OMB Circulars A–102, are required to contract only with "responsible contractors who possess the potential ability to perform successfuly under the terms and conditions of a proposed procurement." They are required to give consideration "to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources." OMB Circular A–102, Attachment O, section 3(c)(7).

VII. Funding of Approved Projects

A. Allowable Project Costs.

Proposed § 152.203, Allowable project costs, is derived from current §§ 152.47 and 152.137. Current § 152.47 (c)(6) and Appendix J (paragraph A.1. of Part I) provide that to be an allowable project cost for the purpose of computing the amount of an airport development grant, an item that is paid or incurred must be a direct cost. However, this limitation would be omitted in proposed § 152.203, permitting indirect costs to be recognized as allowable project costs. This revision is consistent with Federal Management Circular 74–4 which authorizes payment for certain indirect costs.

B. United States Share of Allowable Project Costs

The 1976 Amendments revised the funding provisions contained in the AADA, as amended by the Acceleration Act. These revisions are reflected in proposed § 152.205, United States share of project costs, and replace those in current §§ 152.49 and 152.139. The proposed regulation would set out the United States' share for 1976, 1977, and 1978 since amendments to grants for those years must conform to the applicable requirement.

1. *1976, 1977, and 1978.* In the case of grants for airport development and airport master planning from funds for fiscal years 1976, 1977 and 1978, the United States' share has been 90 percent for: (1) Air carrier airports enplaning less than one-quarter of one percent of the total annual passengers enplaned, (2) commuter service airports, and (3) general aviation airports. For all other airports and for airport system planning, the United States' share has been 75 percent of allowable project costs.

2. *1979, and 1980.* With regard to grants from funds for fiscal years 1979 and 1980, the United States' share of allowable costs is the same as described in the preceding paragraph, except that the 90 percent ceiling for the first three categories of airports specified in that paragraph is reduced to 80 percent.

3. *Public Land States.* Before the 1976 Amendments, section 17(b) of the AADA provided that, in the case of certain Public Land States, the United States' share of project costs was to be increased by 25 percent or by a percentage equal to one-half of the percentage that the area of public lands in the State is of its total area, whichever is smaller. While this formula was retained by the 1976 Amendments, a limitation was added. Under the limitation, the United States' contribution may not exceed the greater of the percentage share set forth in the new funding schedule or the percentage share applying June 30, 1975, for Public Land States.

4. *Airport Lighting.* Before the 1976 Amendments, under section 17(d) of the AADA, the United States' share of allowable costs was set at a maximum of 82 percent for: (1) Land required for the installation of approach light systems, (2) touchdown zone and centerline runway lighting, and (3) high intensity runway lighting. The 1976 Amendments changed this by providing, in essence, that the United States' share of the project costs for these items is the

same percentage as is otherwise applicable to the project.

5. *Terminal Development.* If certain conditions are met, section 20(b) of the AADA permits the approval of terminal development in certain nonrevenue producing public-use areas. The U.S. share of project costs for approved terminal development is 50 percent.

6. *Donated Land.* Section 152.45(d) now provides a formula for ensuring that the United States does not pay more of the costs of a project than is authorized by the AADA when donated land is included in the project. Under the revised provisions of the AADA, this formula would have to be changed; however, it is not necessary to set out a formula in the regulations, since it would be derived from proposed § 152.205. Although it is proposed to eliminate § 152.45(d), donated land could still be applied toward the sponsor's share of project costs.

C. Proceeds from Disposition of Land

Proposed § 152.207, Proceeds from disposition of land, is derived from § 152.7(d), Limitation on participation.

D. Grant Payments

Proposed §§ 152.209 and 152.211 applicable to grant payments contain the provisions now in §§ 152.65, 152.67, 152.69, and 152.141.

1. *Advance Payments.* Under current Part 152, advance payments have not been made for land acquired as an item of airport development. However, proposed § 152.211 would authorize advance payments for land after acquisition is assured to the satisfaction of the Administrator.

2. *Letters of Credit.* Part 152 currently does not authorize payment by letter of credit for approved airport development. This method of distributing funds facilitates payment by eliminating payment applications. Accodingly, the FAA believes that payment by letter of credit for airport development should be authorized under appropriate circumstances. Proposed § 152.209 would authorize this method of payment.

3. *Contractor Certification.* The current provision in § 152.65(b) requiring contractor certification as to labor provisions would be eliminated since this certification is no longer required by the Department of Labor.

F. Grant Closeout Requirements

The requirements in proposed § 152.213 applicable to grant closeout are now in §§ 152.71 and 152.145.

The property accounting requirement in proposed § 152.213 (d) applies only to airport development projects. The property accounting requirement now in § 152.143 (f) applicable to planning project would be deleted as inappropriate.

Current §§ 152.71 (e) and 152.145 (d) provides that the Administrator determines the total amount of the allowable project costs based upon a final audit, and then makes settlement for any adjustments to the Federal share of costs. The FAA believes that a satisfactory determination can be made without a final audit. Proposed § 152.213 (e) would provide that the total amount of allowable project costs could be determined based on an audit or on other information considered sufficient in lieu of an audit.

VIII. Accounting and Reporting Requirements

A. Financial Management System

Proposed § 152.303 would require that each sponsor or planning agency establish and maintain a financial management system that meets the standards in Attachment G of OMB Circular A–102. Compliance with these standards, now in Appendix K, is currently required by §§ 152.63(a) and 152.143(e).

B. Records

Proposed §§ 152.305 through 152.311 are the accounting requirements now in §§ 152.63 and 152.143.

C. Property Management Standards

Proposed § 152.313 would require sponsors to establish and maintain property management standards in accordance with Attachment N of OMB Circular A–102, for the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part by the sponsor with Federal funds. These standards are now in Appendix L and compliance with them is required by §§ 152.63(g) and 152.143(f).

D. Reporting and Notice Requirements

The reporting requirements in current §§ 152.66 and 152.140 would be separated into separate sections to facilitate reference to them. They are proposed as new §§ 152.315 through 152.325.

IX. Nondiscrimination in Airport Aid Program

In Notice 77–1 (42 FR 2850; January 13, 1977) the FAA proposed to amend Part 152 to implement section 30 of the AADA (49 U.S.C. 1730) to ensure that no person is excluded on the grounds of race, creed, color, national origin, or sex from participating in any project for airport development, airport master planning, or airport system planning, conducted with funds received from a grant made under Part 152. Regulations adopted in accordance with that proposal will be incorporated into a new Subpart E, Nondiscrimination in Airport Aid Program.

X. Suspension and Termination of Grants

The provisions in proposed new Subpart F applicable to the suspension and termination of grants are the same as those now in §§ 152.64 and 152.142.

Proposed § 152.509 does not include the requirement, now in §§ 152.64(d) and 152.142(d), that requests for reconsideration be made within 45 days after receipt of a notice of suspension or termination. Although a specific time limitation is not appropriate, a petition should be submitted within a reasonable period of time to ensure adequate consideration.

XI. The Proposed Rule

Accordingly, it is proposed to revise Part 152 of the Federal Aviation Regulations (14 CFR Part 152) to read as follows:

PART 152—AIRPORT AID PROGRAM

Subpart A—General

Sec.

152.1 Applicability.
152.3 Definitions.
152.5 Exemptions.
152.7 Certifications.
152.9 Forms.
152.11 Incorporation by reference.

Subpart B—Eligibility Requirements and Application Procedures

152.101 Applicability.
152.103 Sponsors: Airport development.
152.105 Sponsors and planning agencies: Airport planning.
152.107 Project eligibility: Airport development.
152.109 Project eligibility: Airport planning.
152.111 Application requirements: Airport development.
152.113 Application requirements: Airport planning.
152.115 Grant agreement: Offer, acceptance and amendment.
152.117 Public hearings.
152.119 Contract requirements and procurement standards.

Subpart C—Funding of Approved Projects

152.201 Applicability.
152.203 Allowable project costs.
152.205 United States share of project costs.
152.207 Proceeds from disposition of land.
152.209 Grant payments: General.
152.211 Grant payments: Land acquisition.
152.213 Grant closeout requirements.

Subpart D—Accounting and Reporting Requirements

152.301 Applicability.
152.303 Financial management system.
152.305 Accounting records.
152.307 Retention of records.
152.309 Availability of sponsor's records.
152.311 Availability of contractor's records.
152.313 Property management standards.
152.315 Reporting on accrual basis.
152.317 Report of Federal cash transactions.
152.319 Monitoring and reporting of program performance.
152.321 Notice of delay or acceleration.
152.323 Budget revision: Airport development.
152.325 Financial status report: Airport planning.

Subpart E—Nondiscrimination in Airport Aid Program [Reserved]

Subpart F—Suspension and Termination of Grants

152.501 Applicability.
152.503 Suspension of grant.
152.505 Termination for cause.
152.507 Termination for convenience.
152.509 Request for reconsideration.

Appendix A—Contract Provisions and Labor Requirements
Appendix B—List of Advisory Circulars Incorporated by § 152.11
Appendix C—Contracting Requirements
Appendix D—Assurances

Authority: Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*); sec. 1.47 (f)(1) Regulations of the Office of the Secretary of Transportation (49 CFR 1.47 (f)(1))

Subpart A—General

§ 152.1 Applicability.

This part applies to airport planning and development under the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*).

§ 152.3 Definitions.

The following are definitions of terms used throughout this part:

"AADA" means the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*).

"Air carrier airport" means—

(1) An existing public airport regularly served, or a new public airport that the Administrator determines will be regularly served, by an air carrier, other than a charter air carrier, certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958; and

(2) A commuter service airport.

"Airport" means—

(1) Any area of land or water that is used, or intended for use, for the landing and takeoff of aircraft;

(2) Any appurtenant areas that are used, or intended for use, for airport buildings, other airport facilities, or rights-of-way; and

(3) All airport buildings and facilities located on the areas specified in this definition.

"Airport development" means—

(1) Any work involved in constructing, improving, or repairing a public airport or portion thereof, including the removal, lowering, relocation, and marking and lighting of airport hazards, and including navigation aids used by aircraft landing at, or taking off from, a public airport, and including safety equipment required by rule or regulation for certification of the airport under section 612 of the Federal Aviation Act of 1958, and security equipment required of the sponsor by the FAA by rule or regulation for the safety and security of persons or property on the airport, and including snow removal equipment, and including the purchase of noise suppressing equipment, the construction of physical barriers, and landscaping for the purpose of diminishing the effect of aircraft noise on any area adjacent to a public airport;

(2) Any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any such work or to remove or mitigate or prevent or limit the establishment of, airport hazards; and

(3) Any acquisition of land or of any interest therein necessry to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public airport.

"Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near a public airport, that—

(1) Obstructs the airspace required for the flight of aircraft landing or taking off at the airport; or

(2) Is otherwise hazardous to aircraft landing or taking off at the airport.

"Airport layout plan" means a plan for the layout of an airport, showing existing and proposed airport facilities.

"Airport master planning" means the development for planning purposes of information and guidance to determine the extent, type, and nature of development needed at a specific airport.

"Airport system planning" means the development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable and balanced system of public airports.

"Audit" means the examination and verification of part or all of the documentary evidence supporting an item of project cost.

"Commuter service airport" means an air carrier airport—

(1) That is not served by an air carrier certificated under section 401 of the Federal Aviation Act of 1958;

(2) That is regularly served by one or more air carriers operating under an exception granted by the Civil Aeronautics Board from section 401(a) of the Federal Aviation Act of 1958; and

(3) At which not less than 2,500 passengers were enplaned during the preceding calendar year by air carriers operating under an exemption from section 401(a).

"Force account" means—

(1) The sponsor's or planning agency's own labor force; or

(2) The labor force of another public agency acting as an agent of the sponsor or planning agency.

"General aviation airport" means a public airport other than an air carrier airport.

"Landing area" means an area used, or intended to be used, for the landing, takeoff, or surface maneuvering of aircraft.

"NASP" means the National Airport System Plan.

"National Airport System Plan" means the plan for the development of public airports in the United States formulated by the Administrator under section 12 of the AADA.

"Nonrevenue producing public-use areas" means areas that are directly related to the movement of passenagers and baggage in air commerce within the boundaries of the airport.

"Passengers enplaned" means—

(1) United States domestic, territorial, and international revenue passenger enplanements in scheduled and nonscheduled service of air carriers; and

(2) Revenue passenger enplanements by foreign air carriers in intrastate and interstate commerce.

"Planning agency" means a planning agency designated by the Administrator that is authorized by the laws of a State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam, or by the laws of a political subdivision of any of those entitles, to engage in areawide planning for the areas in which assistance under this part is to be used.

"Project" means a project for the accomplishment of airport development, airport master planning, or airport system planning.

"Project costs" means any costs involved in accomplishing a project.

"Project formulation costs" means, with respect to projects for airport development, any necessary costs of formulating a project including—

(1) The costs of field surveys and the preparation of plans and specifications;

(2) The acquisition of land or interests in land, or easement through or other interests in airspace; and

(3) Any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of a project for airport development, that would not have been incurred otherwise.

"Public agency" means—

(1) A state, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, the Government of the Northern Marianas, Guam, or any agency of those entities;

(2) A municipality or other political subdivision;

(3) A tax-supported organization; or

(4) An Indian tribe or pueblo.

"Public airport" means any airport that—

(1) Is used, or intended to be used, for public purposes;

(2) Is under the control of a public agency; and

(3) Has a property interest satisfactory to the Administrator in the landing area.

"Reliever airport" means a general aviation airport designated by the Administrator as having the primary function of relieving congestion at an air carrier airport by diverting from that airport general aviation traffic.

"Runway Clear Zone" means an area at ground level underlying a portion of the approach surface specified in the standards incorporated into this part by § 152.11.

"Satisfactory property interest" means—

(1) Title free and clear of any reversionary interest, lien, easement, lease, or other encumbrance that, in the opinion of the Administrator would—

(i) Create an undue risk that it might deprive the sponsor of possession or control;

(ii) Interfere with the use of the airport for public airport purposes; or

(iii) Make it impossible for the sponsor to carry out the agreements and convenants in its grant application;

(2) Unless a shorter term is authorized by the Administrator, a lease of not less than 20 years granted to the sponsor by another public agency, or the United States, that has title as described in paragraph (1) of this definition, on terms that the Administrator considers satisfactory;

(3) In the case of an off-airport area, title or an agreement, easement, leasehold or other right or property interest that, in the Administrator's opinion, provides reasonable assurance that the sponsor will not be deprived of its right to use the land for the intended purpose during the period necessary to meet the requirements of the grant agreement; or

(4) In the case of a runway clear zone, an easement or a covenant running with the land, giving the airport operator or owner enough control to rid the clear zone of all airport hazards and prevent the creation of future airport hazards.

"Sponsor" means any public agency that, whether individually or jointly with one or more other public agencies, submits to the Administrator, in accordance with this part, an application for financial assistance.

"Stage development" means airport development accomplished under stage construction over not less than two years where the sponsor assures that any development not funded under the initial grant agreement will be completed with or without Federal funds.

"State" means a State of the United States or the District of Columbia.

"Terminal development" means airport development in the nonrevenue producing public-use areas which are associated with the terminal and which are directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities and aircraft.

"Unified Work Program" means a single document prepared by a local areawide planning agency that identifies all transportation and related planning activities that will be undertaken within the metropolitan area during a one-year of two-year period.

§ 152.5 Exemptions.

(a) Except as provided in paragraph (b) of this section, any interested person may petition the Regional Director concerned for a temporary of permanent exemption from any requirement of this part.

(b) The Regional Director concerned does not issue an exemption from any rule of this part if the grant of exemption would be inconsistent with a specific provision of, or the purposes of, the AADA, or any other applicable Federal law.

(c) Each petition filed under this section must—

(1) Unless otherwise authorized by the Regional Director concerned, be submitted not less than 60 days before the proposed effective date of the exemption;

(2) Be submitted in duplicate to the FAA Regional Office or Airports District Office having jurisdiction over the area in which the airport is located;

(3) Contain the text or substance of the rule from which the exemption is sought;

(4) Explain the nature and extent of the relief sought; and

(5) Contain any information, views, or arguments in support of the exemption.

(d) The Regional Director concerned either grants or denies the exemption and notifies the petitioner of the decision.

(e) Official FAA records, including grants and denials of exemption, relating to petitions for exemption are maintained in current docket form in the Office of the Regional Counsel for the region concerned.

(f) Any interested person may—

(1) Examine any docketed material at the Office of the Regional Counsel, at any time after the docket is established, except material that is ordered withheld from the public under section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504); and

(2) Obtain a photostatic or similar copy of docketed material upon paying the same fee as that prescribed in 49 CFR Part 7.

§ 152.7 Certifications.

(a) Subject to such terms and conditions as the Administrator may prescribe, a sponsor or a planning agency may submit, with respect to any provision of this part implementing a statutory or administrative requirement imposed on the sponsor or planning agency under the AADA, a certification that the sponsor or planning agency has complied or will comply with the provision, instead of making the showing required.

(b) The Administrator exercises discretion in determining whether to accept a certification.

(c) Acceptance by the Administrator of a certification from a sponsor or planning agency may be rescinded by the Administrator at any time if, in the Administrator's opinion, it is necessary to do so.

(d) If the Administrator determines that it is necessary, the sponsor or planning agency, on request, shall show compliance with any requirement for which a certification was accepted.

§ 152.9 Forms.

Any form needed to comply with this part may be obtained at any FAA Regional Office or Airports District Office.

§ 152.11 Incorporation by reference.

(a) *Mandatory standards.* The technical guidelines in the advisory circulars listed in Appendix B to this part are incorporated into this part by reference. The Director, Office of Airports Standards, may add to, or delete from, Appendix B any advisory circular or part thereof. Except as provided in paragraph (c) of this section, these guidelines are mandatory standards.

(b) *Modification of standards.* When necessary to meet local conditions, any standard set forth in Appendix B may be modified for individual projects, if it is determined that the modifications will provide an acceptable level of safety, economy, durability, and workmanship. The determination and modification may be made by the Director, Office of Airport Standards, or the appropriate Regional Director, in instances where the authority has not been specifically reserved by the Director, Office of Airport Standards.

(c) *State standards.* Standards established by a state for airport development at general aviation airports in the state may be the standards applicable to those airports when they have been approved by the Director, Office of Airport Standards, or the appropriate Regional Director, in instances where approval authority has not been specifically reserved by the Director, Office of Airport Standards.

(d) *Availability of advisory circulars.* The advisory circulars listed in Appendix B may be inspected and copied at any FAA Regional Office or Airports District Office. Copies of the circulars that are available free of charge may be obtained from any of those offices or from the FAA Distribution Unit, M–443.1, Washington, D.C. 20590. Copies of the circulars that are for sale may be bought from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Subpart B–Eligibility Requirements and Application Procedures

§ 152.101 Applicability.

This subpart contains requirements and application procedures applicable to airport development and planning projects.

§ 152.103 Sponsors: Airport Development.

(a) To be eligible to apply for a project for airport development with respect to a particular airport the following requirements must be met:

(1) The sponsor, in the case of a single sponsor, or at least one cosponsor must be a public agency authorized by law to submit the project application;

(2) If a sponsor is the holder of an airport operating certificate issued for the airport under Part 139 of this chapter, it must be in compliance with the requirements of Part 139.

(3) Each sponsor must have complied, or show that it will or cannot comply, with the following agreements, when applicable to any airport which the sponsor owns or controls:

(i) Each grant agreement made with it under the Federal Airport Act (49 U.S.C. 1101 *et seq.*), or the AADA.

(ii) Each covenant in a conveyance to it under section 16 of the Federal Airport Act or section 23 of the AADA.

(iii) Each covenant in a conveyance to it of surplus airport property under section 13(a) of the Surplus Property Act (50 U.S.C. App. 1622(g)) or under Regulation 16 of the War Assets Administration.

(4) The sponsor, in the case of a single sponsor, or one or more of the cosponsors must have, or be able to obtain—

(i) Funds to pay all estimated costs of the project that are not to be born by the United States; and

(ii) Satisfactory property interests in the lands to be developed or used as part of, or in connection with, the airport as it will be after the project is completed.

(b) A public agency may act as agent of the public agency that is to own and operate the airport, for the purpose of channeling grant funds in accordance with state or local law, without becoming a sponsor.

§ 152.105 Sponsors and planning agencies: Airport planning.

(a) To be eligible to apply for a project for airport planning an applicant must—

(1) If the project is for airport master planning—

(i) Be a public agency;

(ii) Be legally able to implement the planning, within the existing or proposed airport boundaries, that results from the project study; and

(iii) Meet the requirements of § 152.103(a)(3); or

(2) If the project is for airport system planning, be a public agency.

(b) Cosponsors comply with paragraph (a) of this section if—

(1) Each applicable requirements of paragraph (a), except paragraph (a)(1)(iii), is met by one or more (but not necessarily the same) cosponsor; and

(2) Paragraph (a)(1)(iii) is met by each sponsor.

(c) A public agency or planning agency may act as agent of another public agency or planning agency, for the purpose of channeling grant funds in accordance with state or local law, without becoming a sponsor.

§ 152.107 Project eligibility: Airport development.

(a) Except in the case of approved stage development, each project for airport development must provide for—

(1) Development of an airport or unit of an airport that is safe, useful, and usable; or

(2) An additional facility that increases the safety, usefulness, and usability of an airport.

(b) Unless otherwise authorized by the Administrator, a project for airport development must involve more than $25,000 in United States funds.

(c) The development included in a project for airport development must—

(1) In the opinion of the Administrator, be "airport development" as defined in § 152.3;

(2) Be identified as airport development in the mandatory standards incorporated into this part by § 152.11; and

(3) Be described in an approved airport layout plan.

(d) The airport involved in a project for airport development must be included in the current NASP.

(e) In complying with paragraph (a) of this section, the sponsor must—

(1) Own, acquire, or agree to acquire control over, or a property interest in, runway clear zones that the Administrator considers adequate; and

(2) Provide for approach and runway lighting systems satisfactory to the Administrator.

§ 152.109 Project eligibility: Airport planning.

(a) *Airport master planning.* A proposed project for airport master planning is not approved unless—

(1) The location of the existing or proposed airport is included in the current NASP;

(2) In the opinion of the Administrator, the proposed planning would promote the effective location of public airports and the development of an adequate NASP;

(3) The project is airport master planning as defined in § 152.103;

(4) If the project has been determined to have areawide significance by an appropriate areawide agency, it has been incorporated into a unified work program; and

(5) In the case of a proposed project for airport master planning in a large or medium air traffic hub, in the opinion of the Administrator—

(i) There is an appropriate system plan identifying the need for the airport;

(ii) The absence of a system plan is due to the failure of the responsible planning agency to proceed with its preparation; or

(iii) An existing system plan is not acceptable.

(b) *Airport system planning.* A proposed project for airport system planning is not approved unless—

(1) In the opinion of the Administrator, the project promotes the effective location of public airports;

(2) In the opinion of the Administrator, the project promotes the development of an adequate NASP;

(3) The project is airport system planning as defined in § 152.3; and

(4) When the project encompasses a metropolitan area that includes a large or medium hub airport, the project is incorporated in a unified work program.

§ 152.111 Application requirements: Airport development.

(a) An eligible sponsor that desires to obtain Federal aid for eligible airport development must apply to the FAA in accordance with this section. The sponsor must apply on a form and in a manner prescribed by the Administrator, through the FAA Airports District Office having jurisdiction over the area where the sponsor is located or, where there is no such office, the Regional Office having that jurisdiction.

(b) *Preapplication for Federal assistance.* A preapplication for Federal assistance must be submitted unless—

(1) The Federal fund request is for $100,000 or less; or,

(2) The project does not include construction, land acquisition, or land improvement.

(c) Unless otherwise authorized by the Administrator, the preapplication required by paragraph (b) of this section must be accompanied by the following:

(1) A list of the items of airport development requested for programming, together with an itemized estimated cost of the work involved.

(2) A sketch or sketches of the airport layout indicating the location for each item of work proposed, using the same item numbers used in the list required by paragraph (c)(1) of this section.

(3) If the proposed project involves the displacement of persons or the acquisition of real property, the assurances required by §§ 25.57 and 25.59, as applicable, of the Regulations of the Office of the Secretary of Transportation (49 CFR 25.57 and 25.59), whether or not reimbursement is being requested for the costs of displacement or real property acquisition.

(4) Any comments or statements required by Special Federal Aviation Regulation No. 35, FAA Interim Procedures Implementing OMB Circular A-95, with a showing that they have been considered by the sponsor.

(5) If the proposed development involves the construction of eligible airport buildings or the acquisition of eligible equipment to be contained in those buildings, a statement whether the proposed development will be in an area of the community concerned that has been identified by the Department of Housing and Urban Development as an area of special flood hazard, as defined in the Flood Disaster Protection Act of 1973 (42 U.S.C. 4002 *et seq.*).

(6) If the proposed development is in an area of special flood hazard, a statement whether the community is participating in the National Flood Insurance Program (42 U.S.C. 4011 *et seq.*).

(7) The sponsor's environmental impact assessment report prepared in conformance with Department of Transportation "Procedures for Considering Environmental Impacts" (DOT Order 5610.1B; 39 FR 35234, September 30, 1974), and Appendix 6 of Federal Aviation Administration "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1B, Appendix 6; 42 FR 32647, June 27, 1977).

(8) A showing that the sponsor has complied with the public hearing requirements in § 152.117.

(9) In the case of a proposed new airport serving any area that does not include a metropolitan area, a showing that each community in which the proposed airport is to be located has approved the proposed airport site through the body having general legislative jurisdiction over it.

(10) In the case of a proposed project at an air carrier airport, a statement that the sponsor, in making the decision to undertake the project, has consulted with air carriers using the airport.

(11) In the case of a proposed project at a general aviation airport, a statement that the sponsor, in making the decision to undertake the project, has consulted with fixed-base operators using the airport.

(12) In the case of terminal development, a certification that the airport has, or will have, all safety and security equipment required for certification of the airport under Part 139 and has provided, or will provide, for access to the passenger enplaning and deplaning area to passengers enplaning or deplaning from aircraft other than air carrier aircraft.

(d) *Allocation of funds.* If the sponsor complies with the applicable requirements of this subpart, the Administrator may select the proposed project for airport development for inclusion in a program. If the proposed project is selected by the Administrator, a tentative allocation of funds is made for the project and the sponsor is notified of the allocation. The tentative allocation may be withdrawn if the sponsor does not submit a project application in accordance with paragraph (f) of this section.

(e) *Application for Federal Assistance.* As soon as practicable after receiving notice of a tentative allocation or, if a preapplication is not required (as provided in paragraph (b) of this section), an application for Federal assistance must be submitted.

(f) Unless otherwise authorized by the Administrator, the application required by paragraph (e) of this section must be accompanied by the following:

(1) When a preapplication has not been previously submitted, the information required by paragraph (c) of this section.

(2) A property map of the airport showing—

(i) The property interests of each sponsor in all the lands to be developed or used as part of, or in connection with, the airport as it will be when the project is completed; and

(ii) All property interests acquired or to be acquired, for which U.S. aid is requested under the project.

(3) With respect to all lands to be developed or used as a part of, or in connection with, the airport (as it will be when the project is completed) in which a satisfactory property interest is not held by a sponsor, a covenant by the sponsor that it will obtain a satisfactory property interest before construction is begun or within a reasonable time if not needed for construction.

(4) If the proposed project involves the displacement of persons, the relocation plan required by § 25.55 of the Regulations of the Office of the Secretary of Transportation.

(5) When the project involves an airport location, a runway location, or a major runway extension, a written certification from the Governor of the

state in which the project may be located (or a delegatee), providing reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

(6) A statement whether any building, installation, structure, location, or site of operations to be utilized in the performance of the grant or any contract made pursuant to the grant appears on the list of violating facilities distributed by the Environmental Protection Agency under the provisions of the Clean Air Act and Federal Water Pollution Control Act (40 CFR Part 15).

(7) The assurances on Civil Rights required by § 21.7 of the Regulations of the Office of the Secretary of Transportation (49 CFR 21.7).

(8) Plans and specifications for the proposed development in accordance with the design and construction standards listed in Appendix B to this part.

(9) The applicable assurances required by Appendix D to this part.

(10) If cosponsors are not willing to assume, jointly and severally, the obligations imposed on them by this part and the grant agreement, a statement satisfactory to the Administrator indicating—

(i) The responsibilities of each sponsor with respect to the accomplishment of the proposed project and the operation and maintenance of the airport;

(ii) The obligations each will assume to the United States; and

(iii) The name of the sponsor or sponsors who will accept, receipt for, and disburse grant payments.

(g) *Additional documentation.* The Administrator may request additional documentation as needed to support specific items of development or to comply with other Federal and local requirements as they pertain to the requested development.

§ 152.113 Application requirements: Airport planning.

(a) *Application for Federal assistance.* An eligible sponsor or planning agency that desires to obtain Federal aid for eligible airport master planning or airport system planning must submit an application for Federal assistance, on a form and in a manner prescribed by the Administrator, to the appropriate FAA Airports District Office having jurisdiction over the area where the sponsor or planning agency is located or, where there is no such office, the Regional Office having that jurisdiction.

(b) Unless otherwise authorized by the Administrator, the application required by paragraph (a) of this section must be accompanied by the following:

(1) Any comments or statements required by Special Federal Aviation Regulation No. 35, FAA Interim Procedures Implementing OMB Circular A–95.

(2) Budget (project costs) information subdivided into the following functions, as appropriate, and the basis for computation of these costs:

(i) Third party contracts.

(ii) Sponsor force account costs.

(iii) Administrative costs.

(3) A program narrative describing the proposed planning project including—

(i) The objective of study;

(ii) The results and benefits expected;

(iii) A Work Statement including—

(A) A detailed description of each work element;

(B) A list of each organization, consultant, and key individual who will work on the planning project, and the nature of the contribution of each; and

(C) A proposed schedule of work accomplishment; and

(iv) The geographic location of the airport or the boundaries of the planning area.

(4) If the sponsor proposes to accomplish the project with its own forces or those of another public or planning agency—

(i) An assurance that adequate, competent personnel are available to satisfactorily accomplish the proposed planning project, and

(ii) A description of the qualifications of the key personnel.

(5) If cosponsors are not willing to assume, jointly, and severally, the obligations imposed on them by this part and the grant agreement, a statement satisfactory to the Administrator indicating—

(i) The responsibilities of each sponsor with respect to the accomplishment of the proposed project;

(ii) The obligations each will assume to the United States; and

(iii) The name of the sponsor or sponsors who will accept, receipt for, and disburse grant payments.

(6) The assurances on Civil Rights required by § 21.7 of the Regulations of the Office of the Secretary of Transportation (49 CFR 21.7).

(7) The applicable assurances required by Appendix D of this part.

(c) *Additional documentation.* The Administrator may request additional documentation as needed to support a master plan or system plan, or to comply with other Federal and local requirements as they pertain to the requested plan.

§ 152.115 Grant agreement: Offer, acceptance, and amendment.

(a) *Offer.* Upon approving a project for airport development, airport master planning, or airport system planning, the Administrator issues a written offer that sets forth the terms, limitations, and requirements of the proposed agreement.

(b) *Acceptance.* The acceptance of an offer or an amendment to a grant agreement must be in writing. The sponsor's or planning agency's attorney must certify that the acceptance complies with all applicable law, and constitutes a legal and binding obligation of the sponsor or planning agency.

(c) *Amendment: Airport development grants.* The maximum obligation of the United States under a grant agreement for an airport development project may be increased by an amendment if—

(1) Except as otherwise provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the maximum obligation of the United States is not increased by more than 10 percent;

(2) Funds are available for the increase;

(3) The sponsor shows that the increase is justified; and

(4) The change does not prejudice the interest of the United States.

(d) *Amendment: Airport planning.* A grant agreement for airport planning may be changed if—

(1) The change does not increase the maximum obligation of the United States under the grant agreement; and

(2) The change does not prejudice the interest of the United States.

§ 152.117 Public hearings.

(a) Before submitting a preapplication for Federal assistance for an airport development project involving the location of an airport, an airport runway, or a runway extension, the sponsor must give notice of opportunity for a public hearing, in accordance with paragraph (b) of this section, for the purpose of—

(1) Considering the economic, social, and environmental effects of the location of the airport, the airport runway, or the runway extension; and

(2) Determining the consistency of the location with the goals and objectives of any urban planning that has been carried out by the community.

(b) The notice of opportunity for public hearing must—

(1) Include a concise statement of the proposed development;

(2) Be published in a newspaper of general circulation in the communities in or near which the project may be located;

(3) Provide a minimum of 30 days from the date of the notice for submission of requests for a hearing by persons having an interest in the economic, social, or environmental effects of the project; and

(4) State that a copy of the sponsor's environmental analysis is available, and will remain available, at the sponsor's place of business for examination by the public for a minimum of 30 days, beginning with the date of the notice, before any hearing held under the notice.

(c) A public hearing must be provided if requested. If a public hearing is to be held, the sponsor must publish a notice of that fact, in the same newspaper in which the notice of opportunity for a hearing was published.

(d) The notice required by paragraph (c) of this section must—

(1) Be published not less than 15 days before the date set for the hearing;

(2) Specify the date, time, and place of the hearings;

(3) Contain a concise description of the proposed project; and

(4) Indicate where and at what time more detailed information may be obtained.

(e) If a public hearing is held, the sponsor must—

(1) Provide the Administrator a summary of the issues raised, the alternatives considered, the conclusion reached, and the reasons for that conclusion; and

(2) If requested by the Administrator before the hearing, prepare a verbatim transcript to the hearing for submission to the Administrator.

(f) If a hearing is not held the sponsor must submit with its preapplication a certification that notice of opportunity for a hearing has been provided in accordance with this section and that no request for a public hearing has been received.

§ 152.119 Contract requirements and procurement standards.

To the extent applicable, all grant agreements, contracts, and subcontracts involving airport development projects or airport planning must be in accordance with the contract requirements in Appendices A and C, as applicable, and the procurement standards in Attachment O of Office of Management and Budget Circular A-102 (42 FR 45828).

Subpart C—Funding of Approved Projects

§ 152.201 Applicability.

This subpart contains the requirements for funding projects for airport development, airport master planning, and airport system planning.

§ 152.203 Allowable project costs.

(a) *Airport development.* To be an allowable project cost, for the purposes of computing the amount of an airport development grant, an item that is paid or incurred must, in the opinion of the Administrator—

(1) Have been necessary to accomplish airport development in conformity with—

(i) The approved plans and specifications for an approved project; and

(ii) The terms of the grant agreement for the project;

(2) Be reasonable in amount (subject to partial disallowance to the extent the Administrator determines it is unreasonable);

(3) Have been incurred after the date the grant agreement was executed, except that project formulation costs may be allowed even though they were incurred before that date.

(4) Be supported by satisfactory evidence;

(5) Have not been included in an airport planning grant; and

(6) Be a cost determined in accordance with the cost principles for State and local governments in Federal Management Circular 74-4 (39 FR 27133; 43 FR 50977).

(b) *Airport Planning.* To be an allowable project cost, for the purposes of computing the amount of an airport planning grant, an item that is paid or incurred must, in the opinion of the Administrator—

(1) Have been necessary to accomplish airport planning in comformity with an approved project and the terms of the grant agreement for the project;

(2) Be reasonable in amount;

(3) Have been incurred after the date the grant agreement was entered into, except for substantiated and reasonable costs incurred in designing the study effort;

(4) Be supported by satisfactory evidence; and

(5) Be figured in accordance with Federal Management Circular 74-4 (39 FR 27133; 43 FR 50977).

§ 152.205 United States share of project costs.

(a) *Airport development.* Except as provided in paragraphs (b) and (c) of this section, the United States share of the allowable cost of an approved project for airport development shall be—

(1) 90 percent in the case of grants made from funds for fiscal years 1976, 1977, and 1978 for—

(i) Each air carrier airport, other than a commuter service airport, which enplanes less than one quarter of one percent of the total annual passengers enplaned as determined for purposes of making the latest annual apportionment under section 15(a)(3) of the AADA;

(ii) Each commuter service airport; and

(iii) Each general aviation or reliever airport;

(2) 80 percent in the case of grants from funds for fiscal years 1979 and 1980 for the airports specified in paragraph (a)(1) of this section; and

(3) 75 percent in the case of grants made from funds for fiscal years 1976 through 1980 for airports other than those specified in paragraph (a)(1) of this section.

(b) In a State in which the unappropriated and unreserved public lands and nontaxable Indian lands, both individual and tribal, are more than five percent of the total land in the State, the United States' share under paragraph (a) of this section—

(1) Except as provided in paragraph (b)(2) of this section, shall be increased by the smaller of—

(i) 25 percent; or

(ii) A percentage (rounded to the nearest one-tenth of a percent) equal to one-half of the percentage which the area of those lands is of the total land area of the state; and

(2) May not exceed the greater of—

(i) The percentage share determined under paragraph (a) of this section; or

(ii) The percentage share applying on June 30, 1975, as determined under paragraph (b)(1) of this section.

(c) In the case of terminal development, the United States share shall be 50 percent.

(d) *Airport planning.* The United States share of the allowable project costs of an airport planning project shall be—

(1) In the case of an airport master plan, that percent for which a project for airport development at that airport would be eligible;

(2) In the case of an airport system plan, 75 percent.

§ 152.207 Proceeds from disposition of land.

Unless otherwise authorized by the Administrator, when a release has been granted authorizing the sponsor to dispose of land acquired with assistance under Part 151 of this chapter or this part, or through conveyances under the Surplus Property Act, the proceeds realized from the disposal may not be used as matching funds for any airport development project or airport planning grant, but may be used for any other airport purpose.

§ 152.209 Grant payments: General.

(a) An application for a grant payment is made on a form and in a manner prescribed by the Administrator, and must be accompanied by any supporting information, that the FAA needs to determine the allowability of any costs for which payment is requested.

(b) *Methods of payment.* Grant payments to sponsors and planning agencies will be made by—

(1) Letter of credit;

(2) Advance by Treasury check; or

(3) Reimbursement by Treasury checks.

(c) *Letter of credit funding.* Letter of credit funding may not be used unless—

(1) There is or will be a continuing relationship between a sponsor or planning agency and the FAA for at least a 12-month period and the total amount of advances to be received within that period is $120,000 or more;

(2) The sponsor or planning agency has established or demonstrated to the FAA the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds and their disbursement by the grantee; and

(3) The sponsor's or planning agency's financial management system meets the standards for fund control and accountability prescribed in Attachment G of Office of Management and Budget Circular A–102 (42 FR 45828).

(d) *Advance by Treasury check.* Advance of funds by Treasury check may be made subject to the following conditions—

(1) The sponsor or planning agency meets the requirements of paragraphs (c) (2) and (3) of this section;

(2) The timing and amount of cash advances are as close as administratively feasible to actual disbursements by the sponsor or planning agency; and

(3) Except as provided in paragraph (e) of this section, in the case of an airport development project, advance payments do not exceed the estimated project costs of the airport development expected to be accomplished within 30 days after the date of the sponsor's application for the advance payment.

(e) No advance payment may be made in an amount that would bring the aggregate amount of all partial payments for the project to more than the lower of the following:

(i) 90 percent of the estimated United States' share of the total estimated cost of all airport development included in the project, but not including contingency items; or

(ii) 90 percent of the maximum obligation of the United States as stated in the grant agreement.

(f) *Reimbursement by Treasury check.* Reimbursement by Treasury check will be made if the sponsor or planning agency does not meet the requirements of paragraphs (c) (2) and (3) of this section.

(g) *Withholding of payments.* Payment to the sponsor or planning agency may be withheld at any time during the grant period if—

(1) The sponsor or planning agency has failed to comply with the program objectives, grant award conditions, or Federal reporting requirements; or

(2) The sponsor or planning agency is indebted to the United States and collection of the indebtedness will not impair accomplishment of the objectives of any grant program sponsored by the United States.

(h) *Labor violations.* If a contractor or a subcontractor fails or refuses to comply with the labor provisions of a contract under a grant agreement for an airport development project, further grant payments to the sponsor are suspended until—

(1) The violations are corrected;

(2) The Administrator determines the allowability of the project costs to which the violations relate; or

(3) If the violations consist of underpayments to labor, the sponsor furnishes satisfactory assurances to the FAA that restitution has been or will be made to the affected employees.

(i) *Excess payments.* Upon determination of the allowability of all project costs of a project, if it is found that the total of grant payments to the sponsor or planning agency was more than the total United States share of the allowable costs of the project, the sponsor or planning agency shall promptly return the excess to FAA.

§ 152.211 Grant payments: Land acquisition.

If an approved project for airport development includes land acquisition as an item for which payment is requested, the sponsor may apply to the FAA for payment of the United States share of the allowable project costs of the acquisition, after—

(a) The Administrator determines that the sponsor has acquired satisfactory title to the land; or

(b) In the case of a request for advance payment under § 152.209(d), the Administrator is assured that a satisfactory title will be acquired.

§ 152.213 Grant closeout requirements.

(a) *Program income.* Sponsors or planning agencies that are units of local government shall return all interest earned on advances of grant-in-aid funds to the Federal Government in accordance with a decision of the Comptroller General (42 Comp. Gen. 289). All other program income (gross income) earned by grant-supported activities during the grant period shall be retained by the sponsor and, if required by the grant agreement—

(1) Be added to funds committed to the project by the FAA and the sponsor and used to further eligible program objectives; or

(2) Be deducted from the total project cost for the purpose of determining the net costs on which the Federal share of costs will be based.

(b) *Financial reports.* The sponsor or planning agency shall furnish, within 90 days after completion of all items in a grant, all reports, including financial performance reports, required as a condition of the grant.

(c) *Project completion.* When the project for airport development or planning is completed in accordance with the grant agreement, the sponsor or planning agency may apply for payment for all incurred costs, as follows:

(1) *Airport development.* When allowability of costs can be determined under section 152.203, payment may be made to the sponsor if—

(i) A final inspection of all work at the airport site has been made jointly by the appropriate FAA office and representatives of the sponsor and the contractor, unless that office agrees to a different procedure for final inspection; and

(ii) The sponsor has furnished final "as constructed" plans, unless otherwise agreed to by the Administrator.

(2) *Airport planning.* When the final planning report has been received and accepted by the FAA.

(d) *Property accounting reports: Airport development projects.* The sponsor of an airport development project shall account for any property acquired with grant funds or received from the United States, in accordance with the provisions of Attachment N of

Office of Management and Budget Circular A–102 (42 FR 45828).

(e) *Final determination of U.S. share.* Based upon an audit or other information considered sufficient in lieu of an audit, the Administrator determines the total amount of the allowable project costs and makes settlement for any adjustments to the Federal share of costs.

Subpart D—Accounting and Reporting Requirements

§ 152.301 Applicability.

This subpart contains accounting and reporting requirements applicable to—

(a) Each sponsor of a project for airport development;

(b) Each sponsor of a project for airport master planning; and,

(c) Each planning agency conducting a project for airport system planning.

§ 152.303 Financial management system.

Each sponsor or planning agency shall establish and maintain a financial management system that meets the standards of Attachment G of Office of Management and Budget Circular A–102 (42 FR 45828).

§ 152.305 Accounting records.

(a) *Airport development.* Each sponsor of a project for airport development shall establish and maintain, for each individual project, an accounting record satisfactory to the Administrator which segregates cost information in the following cost classifications:

(1) Purchase price or value of land.

(2) Cost of relocation payment and assistance.

(3) Incidental costs of land acquisition.

(4) Costs of contract construction.

(5) Costs of force account construction.

(6) Engineering costs of plans and designs.

(7) Engineering costs of supervision and inspection.

(8) Other administrative costs.

(b) *Airport planning.* Each sponsor of a project for airport master planning and each planning agency conducting a project for airport system planning shall establish and maintain, for each planning project, an adequate accounting record that segregates and groups direct and indirect cost information in the following classifications:

(1) Third party contract costs.

(2) Force account costs.

(3) Administrative costs.

§ 152.307 Retention of records.

Each sponsor or planning agency shall retain, for a period of 3 years after the date of submission of the final expenditure report—

(a) Documentary evidence, such as invoices, cost estimates, and payrolls, supporting each item of project costs; and

(b) Evidence of all payments for items of projects costs, including vouchers, cancelled checks or warrants, and receipts for cash payments.

§ 152.309 Availability of sponsor's records.

(a) The sponsor or planning agency shall allow the Administrator and the Comptroller General of the United States, or an authorized representative of either of them, access to any of its books, documents, papers, and records that are pertinent to grants received under this part for the purposes of accounting and audit.

(b) The sponsor or planning agency shall allow appropriate FAA personnel to make progress audits at any time during the project, upon reasonable notice to the sponsor or planning agency.

(c) If audit findings have not been resolved, the applicable records shall be retained by the sponsor or planning agency until those findings have been resolved.

(d) Records for nonexpendable property that was acquired with Federal funds shall be retained for three years after final disposition of the property.

(e) Microfilm copies of original records may be substituted for original records with the approval of the FAA.

(f) If the FAA determines that certain records have long-term retention value, the FAA may require transfer of custody of those records to the FAA.

§ 152.311 Availability of contractor's records.

The sponsor or planning agency shall include in each contract of the cost reimbursable type a clause that allows the Administrator and the Comptroller General of the United States, or an authorized representative of either, access to the contractor's records pertinent to the contract for the purposes of accounting and audit.

§ 152.313 Property management standards.

(a) The sponsor shall establish and maintain property management standards in accordance with Attachment N of Office Management and Budget Circular A–102 (42 FR 45828) for the utilization and disposition of property furnished by the Federal government or acquired in whole or in part by the sponsor with Federal funds.

(b) A sponsor may use its own property management standards and procedures as long as the standards required by paragraph (a) of this section are included.

§ 152.315 Reporting on accrual basis.

(a) Except as provided in paragraph (b) of this section each sponsor or planning agency shall submit all financial reports on an accrual basis.

(b) If records are not maintained on an accrual basis by a sponsor or planning agency, reports may be based on an analysis of records or best estimates.

§ 152.317 Report of Federal cash transactions.

When funds are advanced to a sponsor or planning agency by Treasury check, the sponsor or planning agency shall submit the report form prescribed by the Administrator within 15 working days following the end of the quarter in which check was received.

§ 152.319 Monitoring and reporting of program performance.

(a) The sponsor or planning agency shall monitor performance under the project to ensure that—

(1) Time schedules are being met;

(2) Work units projected by time periods are being accomplished; and,

(3) Other performance goals are being achieved.

(b) Reviews shall be made for—

(1) Each item of development or work element included in the project; and

(2) All other work to be performed as a condition of the grant agreement.

(c) *Airport development.* Unless otherwise requested by the Administrator, the sponsor of a project for airport development shall submit a performance report, on an annual basis, that must include—

(1) A comparison of actual accomplishments to the goals established for the period, made, if applicable, on a quantitative basis related to cost data for computation of unit costs;

(2) The reasons for slippage in each case where an established goal was not met; and

(3) Other pertinent information including, when appropriate, an analysis and explanation of each cost overrun and high unit cost.

(d) *Airport planning.* The sponsor of a project for airport master planning or a planning agency conducting a project for airport system planning shall submit a

performance report, on a quarterly basis, that must include:

(1) A comparison of actual accomplishments to the goals established for the period, made, if applicable, on a quantitative basis related to costs for computation of work element costs;

(2) Reasons for slippage in each case where an established goal was not met; and

(3) Other pertinent information including, when appropriate, an analysis and explanation of each cost overrun and high work element cost.

§ 152.321 Notice of delay or acceleration.

(a) The sponsor or planning agency shall promptly notify the FAA of each condition or event that may delay or accelerate accomplishment of the project.

(b) In the event that delay is anticipated, the notice required by paragraph (a) of this section must include—

(1) A statement of actions taken or contemplated; and

(2) Any Federal assistance needed.

§ 152.323 Budget revision: Airport development.

(a) If any performance review conducted by the sponsor discloses a need for change in the budget estimates, the sponsor shall submit a request for budget revision on a form prescribed by the Administrator.

(b) A request for prior approval for budget revision shall be made promptly by the sponsor whenever—

(1) The revision results from changes in the scope or objective of the project; or

(2) The revision increases the budgeted amounts of Federal funds needed to complete the project.

(c) The sponsor shall promptly notify the FAA whenever the amount of the grant is expected to exceed the needs of the sponsor by more than $5,000, or 5 percent of the grant amount, whichever is greater.

§ 152.325 Financial status report: Airport planning.

Each sponsor of a project for airport master planning and each planning agency conducting a project for airport system planning shall submit a financial status report on a form prescribed by the Administrator at the completion of the project.

Subpart E—Nondiscrimination in Airport Aid Program [Reserved]

Subpart F—Suspension and Termination of Grants

§ 152.501 Applicability.

This subpart contains procedures for suspending or terminating grants for airport development projects and airport planning.

§ 152.503 Suspension of grant.

(a) If the sponsor or planning agency fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor or planning agency, suspend the grant and withhold further payments pending—

(1) Corrective action by the sponsor or planning agency; or

(2) A decision to terminate the grant.

(b) Except as provided in paragraph (c) of this section, after receipt of notice of suspension, the sponsor or planning agency may not incur additional obligations of grant funds during the suspension.

(c) All necessary and proper costs that the sponsor or planning agency could not reasonably avoid during the period of suspension will be allowed, if those costs are in accordance with Appendix C of this part.

§ 152.505 Termination for cause.

(a) If the sponsor or planning agency fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor or planning agency, terminate the grant in whole, or in part.

(b) The notice of termination will contain—

(1) The reasons for the termination, and

(2) The effective date of termination.

(c) After receipt of the notice of termination, the sponsor or planning agency may not incur additional obligations of grant funds.

(d) Payments to be made to the sponsor or planning agency, or recoveries of payments by the FAA, under the grant shall be in accordance with the legal rights and liabilities of the parties.

§ 152.507 Termination for convenience.

(a) When the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds, the grant may be terminated in whole, or in part, upon mutual agreement of the FAA and the sponsor or planning agency.

(b) If an agreement to terminate is made, the sponsor or planning agency—

(1) May not incur new obligations for the terminated portion after the effective date; and

(2) Shall cancel as many obligations, relating to the terminated portion, as possible.

(c) The sponsor or planning agency is allowed full credit for the Federal share of the noncancellable obligations that were properly incurred by the sponsor before the termination.

§ 152.509 Request for reconsideration.

If a grant is suspended or terminated under this subpart, the sponsor or planning agency may request the Administrator to reconsider the suspension or termination.

Appendix A—Contract Provisions and labor Requirements

This appenix sets forth contracting requirements applicable to grants under the Airport and Airway Development Act of 1970.

This appendix does not apply to: (1) Any contract with the owner of airport hazards, buildings, pipelines, powerlines, or other structures or facilities, for installing, extending, changing, removing, or relocating that structure or facility, and (2) any written agreement or understanding between a sponsor and another public agency that is not a sponsor of the project, under which the public agency undertakes construction work for or as agent of the sponsor.

I. Contract provisions required by the Regulations of the Secretary of Labor

Each sponsor entering into a construction contract for an airport development project shall insert in the contract and any supplemental agreement:

(1) The provisions required by the Secretary of Labor, as set forth in paragraphs A through K;

(2) The provisions set forth in paragraph L, and

(3) Any other provisions necessary to ensure completion of the work in accordance with the grant agreement.

The provisions in paragraphs A through K and provision (5) in paragraph L need not be included in prime contracts of $2,000 or less.

A. *Minimum wages.* (1) All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act [29 CFR Part 3]), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision(s) of the Secretary of Labor which is (are) attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision(s) shall be posted by the contractor at the site of the work in a prominent place where it (they) can be easily

seen by the workers. For the purpose of this paragraph, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of subparagraph (4) below. Also for the purpose of this paragraph, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period (29 CFR 5.5(a)(1)(i)).

(2) Any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination(s) and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination(s), and a report of the action taken shall be sent by the [insert sponsor's name] to the FAA for approval and transmittal to the Secretary of Labor. In the event that the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees, to be used, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for final determination (29 CFR 5.5(a)(1)(ii)).

(3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for determination (29 CFR 5.5(a)(1)(iii)).

(4) If the contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract: *Provided, however,* the Secretary of Labor has found, upon written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program (29 CFR 5.5(a)(1)(iv)).

B. *Withholding: FAA from sponsor.* Pursuant to the terms of the grant agreement between the United States and [insert sponsor's name], relating to Airport Development Aid Project No.————, and Part 152 of the Federal Aviation Regulations (14 CFR Part 152), the FAA may withhold or cause to be withheld from the [insert sponsor's name] so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices and trainees, employed by the contractor or any subcontractor on the work the full amount of wages required by this contract. In the event of failure to pay any laborer or mechanics, including any apprentice or trainee, employed or working on the site of the work all or part of the wages required by this contract, the FAA may, after written notice to the [insert sponsor's name], take such action as may be necessary to cause the suspension of any further payment or advance of funds until such violations have ceased (29 CFR 5.5(a)(2)).

C. *Payrolls and basic records.* (1) Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records will contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv) (see subparagraph (4) of paragraph A above), that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits (29 CFR 5.5(a)(3)(i)).

(2) The contractor will submit weekly a copy of all payrolls to the [insert sponsor's name] for availability to the FAA. The copy shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance" which is required under this contract and the Copeland regulations of the Secretary of Labor (29 CFR Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under 29 CFR 5.5(a)(1)(iv) (see subparagraph (4) of paragraph A above), shall satisfy this requirement. The prime contractor shall be responsible for submission of copies of payrolls of all subcontractors. The contractor will make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of the FAA and the Department of Labor, and will permit such representatives to interview employees during working hours on the job. Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to the [insert sponsor's name] for availability to the FAA, that their employment is pursuant to an approved program and shall identify the program (29 CFR 5.5(a)(3)(ii)).

D. *Apprentices and trainees.* (1) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subparagraph (2) of this paragraph or is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish to the [insert sponsor's name] or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates), for the area of construction prior to using any apprentices on the contract work. The wage rate paid apprentices shall not be less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination (29 CFR 5.5(a)(4)(i)).

(2) *Trainees.* Except as provided in 29 CFR 5.15 trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish the [insert sponsor's name] or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the

certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved (29 CFR 5.5(a)(4)(ii)).

(3) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this paragraph shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30 (29 CFR 5.5(a)(4)(iii)).

(4) *Application of 29 CFR 5.5(a)(4).* On contracts in excess of $2,000 the employment of all apprentices and trainees as defined in 29 CFR 5.2(c) shall be subject to the provisions of 29 CFR 5.5(a)(4) (see paragraph D (1), (2), and (3) above).

E. *Compliance with Copeland Regulations.* The contractor shall comply with the Copeland Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference (29 CFR 5.5(a)(5)).

F. *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek unless such laborer or mechanic received compensation at a rate not less than 1½ times his basic rate of pay for all hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek, as the case may be (29 CFR 5.5(c)(1)).

G. *Violations; liability for unpaid wages; liquidated damages.* In the event of any violation of paragraph F of this provision, the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of said paragraph F of this provision, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by said paragraph F of this provision (29 CFR 5.5(c)(2)).

H. *Withholding for unpaid wages and liquidated damages.* The FAA may withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in paragraph G of this provision (29 CFR 5.5(c)(3)).

I. *Working conditions.* No contractor may require any laborer or mechanic employed in the performance of any contract to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to his health or safety as determined under construction safety and health standards (29 CFR Part 1926) and other occupational and health standards (29 CFR Part 1910) issued by the Department of Labor.

J. *Subcontracts.* The contractor will insert in each of his subcontracts the clauses contained in paragraphs A through K of this provision, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made (29 CFR 5.5(a)(6), 5.5(c)(4)).

K. *Contract termination debarment.* A breach of clause A, B, C, D, E, or J may be grounds for termination of the contract, and for debarment as provided in § 5.6 of the Regulations of the Secretary of Labor as codified in 29 CFR 5.6 (29 CFR 5.5(a)(7)).

L. *Additional contract provisions.* (1) *Airport Development Aid Program Project.* The work in this contract is included in Airport Development Aid Program Project No.————which is being undertaken and accomplished by the [insert sponsor's name] in accordance with the terms and conditions of a grant agreement between the [insert sponsor's name] and the United States, under the Airport and Airway Development Act of 1970 (84 Stat. 219) and Part 152 of the Federal Aviation Regulations (14 CFR Part 152), pursuant to which the United States has agreed to pay a certain percentage of the costs of the project that are determined to be allowable project costs under that Act. The United States is not a party to this contract and no reference in this contract to the FAA or any representative thereof, or to any rights granted to the FAA or any representative thereof, or the United States, by the contract, makes the United States a party to this contract.

(2) *Consent to assignment.* The contractor shall obtain the prior written consent of the [insert sponsor's name] to any proposed assignment of any interest in or part of this contract.

(3) *Convict labor.* No convict labor may be employed under this contract.

(4) *Veterans preference.* In the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to qualified individuals who have served in the military service of the United States (as defined in section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501) and have been honorably discharged from the service, except that preference may be given only where that labor is available locally and is qualified to perform the work to which the employment relates.

(5) *Withholding: sponsor from contractor.* Whether or not payments or advances to the [insert sponsor's name] are withheld or suspended by the FAA, the [insert sponsor's name] may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the contractor or any subcontractor on the work the full amount of wages required by this contract.

(6) *Nonpayment of wages.* If the contractor or subcontractor fails to pay any laborer or mechanic employed or working on the site of the work any of the wages required by this contract the [insert sponsor's name] may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment or advance of funds until the violations cease.

(7) *FAA inspection and review.* The contractor shall allow any authorized representative of the FAA to inspect and review any work or materials used in the performance of this contract.

(8) *Subcontracts.* The contractor shall insert in each of his subcontracts the provisions contained in paragraphs [insert designation of 6 paragraphs of contract corresponding to subparagraphs (1), (3), (4), (5), (6), and (7) of this paragraph], and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(9) *Contract termination.* A breach of paragraphs [insert designation of 3 paragraphs corresponding to subparagraphs (6), (7), and (8) of this paragraph] may be grounds for termination of the contract.

II. Adjustment in Liquidated Damages

A contractor or subcontractor who has become liable for liquidated damages under the provision set out in paragraph I.G of this appendix and who claims that the amount administratively determined as liquidate damages under section 104(a) of the Contract Work Hours and Safety Standards Act is incorrect or that he violated inadvertently the Contract Work Hours and Safety Standards Act, notwithstanding the exercise of due care, may—

(1) If the amount determined is more than $100, apply to the Administrator for a recommendation to the Secretary of Labor that an appropriate adjustment be made or that he be relieved of liability for the liquidated damages; or

(2) If the amount determined is $100 or less, apply to the Administrator for an appropriate adjustment in liquidated damages or for release from liability for the liquidated damages.

III. Corrected Wage Determinations

The Secretary of Labor corrects any wage determination included in any contract under this Appendix whenever the wage determination contains clerical errors. A correction may be made at the Administration's request or on the initiative of the Secretary of Labor.

IV. Applicability of Interpretations of the Secretary of Labor

When applicable by their terms, the regulations of the Secretary of Labor (29 CFR 5.20–5.32) interpreting the "fringe benefit provisions" of the Davis-Bacon Act apply to the contract provisions in this Appendix.

V. Records

A sponsor who is required to include in a construction contract the labor provisions required by this appendix shall require the contractor to comply with those provisions and shall cooperate with the FAA in effecting that compliance. For this purpose the sponsor shall—

(1) Keep, and preserve, the records described in paragraph C for a 3-year period beginning on the date the contract is completed, each affidavit and payroll copy furnished by the contractor, and make those affidavits and copies available to the FAA, upon request, during that period;

(2) Have each of those affidavits and payrolls examined by its resident engineer (or any other of its employees or agents who is qualified to make the necessary determinations), as soon as possible after receiving it, to the extent necessary to determine whether the contractor is complying with the labor provisions required by this appendix and particularly with respect to whether the contractor's employees are correctly classified;

(3) Have investigations made during the preformance of work under the contract, to the extent necessary to determine whether the contractor is complying with those labor provisions, including the investigations, interviews with employees and examinations of payroll information at the work site by the sponsor's resident engineer (or any other of its employees or agents who is qualified to make the necessary determinations);

(4) Keep the appropriate FAA office fully advised of all examinations and investigations made under this appendix, all determinations made on the basis of those examinations and investigations, and all efforts made to obtain compliance with the labor provisions of the contract; and

(5) Give priority to complaints of alleged violations, and treat as confidential any written or oral statements made by any employee in connection with a complaint, and not disclose an employee's statement made in connection with a complaint to a contractor without the employee's consent.

Appendix B—List of Advisory Circulars Incorporated by § 152.11

(a) *Circulars available free of charge.*

Number and Subject

150/5100–12 Electronic Navigational Aids Approved for Funding Under the Airport Development Aid Program (ADAP).
150/5190–3A Model Airport Hazard Zoning Ordinance.
150/5210–7A Aircraft Fire and Rescue Communications.
150/5210–10 Airport Fire and Rescue Equipment Building Guide.
150/5300–2C Airport Design Standards—Site Requirements for Terminal Navigational Facilities.
150/5300–4B Utility Airports—Air Access to National Transportation.
150/5300–6 Airport Design Standards—General Aviation Airports—Basic and General Transport.
150/5300–8 Planning and Design Criteria for Metropolitan STOL Ports.
150/5320–6B Airport Pavement Design and Evaluation.
150/5320–10 Environmental Enhancement at Airports—Industrial Waste Treatment.
150/5320–12 Methods for the Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces.
150/5325–2C Airport Design Standards—Airports Served by Air Carriers—Surface Gradient and Line-of-Sight.
150/5325–4 Runway Length Requirements for Airport Design.
150/5325–6A Airport Design Standards—Effect and Treatment of Jet Blast.
150/5325–8 Compass Calibration Pad.
150/5335–1A Airport Design Standards—Airports Served by Air Carriers—Taxiways.
150/5335–2 Airport Aprons.
150/5335–3 Airport Design Standards—Airports Served by Air Carriers—Bridges and Tunnels on Airports.
150/5335–4 Airport Design Standards—Airports Served by Air Carriers—Runway Geometrics.
150/5340–1D Marking of Paved Areas on Airports.
150/5340–4C Installation Details for Runway Centerline and Touchdown Zone Lighting Systems.
150/5340–5A Segmented Circle Airport Marker System.
150/5340–8 Airport 51-foot Tubular Beacon Tower.
150/5340–14B Economy Approach Lighting Aids.
150/5340–17A Standby Power for Non-FAA Airport Lighting System.
150/5340–18 Taxiway Guidance Sign System.
150/5340–19 Taxiway Centerline Lighting System.
150/5340–20 Installation Details and Maintenance Standards for Reflective Markers for Airport Runway and Taxiway Centerlines.
150/5340–21 Airport Miscellaneous Lighting Visual Aids.
AC/5340–22 Maintenance Guide for Determining Degradation and Cleaning of Centerline and Touchdown Zone Lights.
150/5340–23A Supplemental Wind Cones.
150/5340–24 Runway and Taxiway Edge Lighting System.
150/5340–25 Visual Approach Slope Indicator (VASI) Systems.
150/5345–1E Approved Airport Lighting Equipment.
150/5345–2 Specification for L–810 Obstruction Light.
150/5345–3C Specification for L–821 Panels for Remote Control of Airport Lighting.
150/5345–4 Specification for L–829 Internally Lighted Airport Taxi Guidance Sign.
150/5345–5 Specification for L–847 Circuit Selector Switch, 5,000 Volt 20 Ampere.
150/5345–7C Specification for L–824 Underground Electrical Cable for Airport Lighting Circuits.
150/5345–10C Specification for L–828 Constant Current Regulators.
150/5345–11 Specification for L–812 Static Indoor Type Constant Current Regulator Assembly; 4 KW and 7½ KW, With Brightness Control for Remote Operation.
150/5345–12A Specification for L–801 Beacon.
150/5345–13 Specification for L–841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits.
150/5345–18 Specification for L–811 Static Indoor Type Constant Current Regulator Assembly, 4 KW; With Brightness Control and Runway Selection for Direct Operation.
150/5345–21 Specification for L–813 Static Indoor Type Constant Current Regulator Assembly; 4 KW and 7½ KW; for Remote Operation of Taxiway Lights.
150/5345–26A Specification for L–823 Plug and Receptacle, Cable Connections.
150/5345–27A Specification for L–807 Eight-foot and Twelve-foot Unlighted or Externally Lighted Wind Cone Assemblies.
150/5345–28C Specification for L–851 Visual Approach Slope Indicators and Accessories.
150/5345–36 Specification for L–808 Lighted Wind Tee.
150/5345–39A FAA Specification for L–853, Runway and Taxiway Retroreflective Markers.
150/5345–42A FAA Specification L–857, Airport Light Bases, Transformer Housings, and Junction Boxes.
150/5345–43B FAA/DOD Specification L–856, High Intensity Obstruction Lighting Systems.
150/5345–44A Specification for L–858 Retroreflective Taxiway Guidance Sign.
150/5345–45 Lightweight Approach Light Structure.
150/5345–46 Specification for Semiflush Airport Lights.
150/5345–47 Isolation Transformers for Airport Lighting Systems.
150/5345–48 Specification for Runway and Taxiway Edge Lights.
150/5360–6 Airport Terminal Building Development with Federal Participation.
150/5360–7 Planning and Design Considerations for Airport Terminal Building Development.
150/5370–7 Airport Construction Controls to Prevent Air and Water Pollution.
150/5370–9 Slip-Form Paving—Portland Cement Concrete.
150/5370–11 Use of Nondestructive Testing Devices in the Evaluation of Airport Pavements.

(b) *Circulars for sale.*

Number and Subject

150/5320–5B Airport Drainage; $1.30.
150/5370–10 Standards for Specifying Construction of Airports; $7.25.
150/5390–1A Heliport Design Guide; $1.50.

Appendix C—Contracting Requirements

There is set forth below contracting requirements applicable to grants for airport development under the Airport and Airway Development Act of 1970.

1. *General.* Each contract under a project must meet the requirements of local law and the requirements and standards contained in this appendix. The sponsor shall establish

procedures for procedurement of supplies, equipment, construction, and other services funded under the project which meet the requirements of this appendix.

2. *Out-of-state labor.* No procedure or requirement shall be imposed by any grantee which will operate to discriminate against the employment of labor from any other State, possession, or territory of the United States in the construction of a project.

3. *Bid guarantee.* All bids for construction or facility improvement in excess of $100,000 shall be accompanied by a bid guarantee consisting of a firm commitment such as a bid bond, certified check or other negotiable instrument equivalent to five percent of the bid price as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

4. *Construction work.* All construction work under a project must be performed under contract, except in a case where the Administrator determines that the project, or a part of it, can be more effectively and economically accomplished on a force account basis by the sponsor or by another public agency acting for or as agent of the sponsor.

5. *Change order.* Unless otherwise authorized by the Administrator, no sponsor may issue any change order under any of its construction contracts or enter into a supplemental agreement unless three copies of that order or agreement have been sent to, and approved by, the FAA.

6. *Beginning work.* No sponsor may allow a contractor or subcontractor to begin work under a project until——

a. The sponsor has furnished three conformed copies of the contract to the appropriate FAA office;

b. The sponsor has, if applicable, submitted a statement that comparable replacement housing, as defined in § 25.15 of the Regulations of the Office of the Secretary of Transportation, will be available within a reasonable period of time before displacement.

c. The appropriate FAA office has agreed to the issuance of a notice to proceed with the work to the contractor.

7. *Supervision and inspection.* No work will be commenced until the sponsor has provided for adequate supervision and inspection of construction and advised the appropriate FAA office.

8. *Engineering and planning services.* Unless otherwise authorized by the Administrator, each proposal for engineering and planning services shall be reviewed by FAA before the commencement of the development of design plans and specifications.

9. *Advertisting general.* Unless the Administrator approves another method for use on a particular airport development project, each contract and supplemental agreement for construction work on a project in the amount of more than $10,000 must be awarded on the basis of public advertising and open competitive bidding under the local law applicable to the letting of public contracts.

10. *Advertising: Conditions and contents.* There may be no advertisement for bids on, or negotiation of, a construction contract or supplemental agreement until the Administrator has approved the plans and specifications. The advertisement shall inform the bidders of the equal employment opportunity requirements of Part 152. Unless the estimated contract price or construction cost is $2,000 or less, there may be no advertisement for bids or negotiations until the Administrator has given the sponsor a copy of a decision of the Secretary of Labor establishing the minimum wage rates for skilled and unskilled labor under the proposed contract. In each case, a copy of the wage determination decision, including fringe benefits, must be set forth in the intitial invitation for bids or proposed contracts, or incorporated therein by reference to a copy set forth in the advertised or negotiated specifications.

11. *Procedures for obtaining wage determinations.*

(a) *Specific request for wage determination.* At least 60 days before the intended date of advertising or negotiating of this section, the sponsor shall send to the appropriate FAA office, completed Department of Labor Form DB–11 or DB–11(a), as appropriate, with only the classifications needed in the performance of the work checked. General entries (such as "entire schedule" or "all applicable classifications") may not be used. Additional necessary classifications not on the form may be typed in the blank spaces or on an attached separate list. A classification that can be fitted into classifications on the form, or a classification that is not generally recognized in the area or in the industry, may not be used. Except in areas where the wage patterns are clearly established, the Form must be accompanied by an available pertinent wage payment or locally prevailing fringe benefit information.

(b) *General wage determination.* Wherever the wage patterns in a particular area for a particular type of construction are well settled and whenever it may be reasonably anticipated that there will be a large volume of procurement in that area for that type of construction, the Secretary of Labor, upon the request of a Federal agency or in his discretion, may issue a general wage determination when, after consideration of the facts and circumstances involved, he finds that the applicable statutory standards and those of Part 1, 29 CFR, Subtitle A, will be met. This general wage determination is used for all projects located in the area and for the type of construction covered by the general wage determination.

12. *Advertising: wage determinations.* (a) Wage determinations are effective only for 120 days from the date of the determinations. If it appears that a determination may expire between bid opening and award, the sponsor shall so advise the FAA as soon as possible. If it wishes a new request for wage determination to be made and if any pertinent circumstances have changed, it shall submit the appropriate form of the Department of Labor and accompanying information. If it claims that the determination expires before award and after bid opening due to unavoidable circumstances, it shall submit proof of the facts which it claims support a finding to that effect.

(b) The Secretary of Labor may modify any wage determination before the award of the contract or contracts for which it was sought. If the proposed contract is awarded on the basis of public advertisement and open competitive bidding, any modification that the FAA receives less than 10 days before the opening of bids is not effective, unless the Administrator finds that there is reasonable time to notify bidders. A modification may not continue in effect beyond the effective period of the wage determination to which it relates. The Administrator sends any modification to the sponsor as soon as possible. If the modification is effective, it must be incorporated in the invitation for bids, by issuing an addendum to the specifications or otherwise.

13. *Awarding contracts.* A sponsor may not award a construction contract without the written concurrence of the Administrator (through the appropriate FAA office) that the contract prices are reasonable. A sponsor that awards contracts on the basis of public advertising and open competitive bidding, shall, after the bids are opened, send a tabulation of the bids and its recommendations for award to the appropriate FAA office. The allowable project costs of the work, on which the Federal participation is computed, may not be more than the bid of the lowest responsible bidder. The sponsor may not accept a bid by a contractor whose name appears on the current list of ineligible contractors published by the Comptroller General of the United States under § 5.6(b) of the regulations of the Secretary of Labor (29 CFR Part 5), or a bid by any firm, corporation, partnership, or association in which the contractor has a substantial interest. A sponsor's proposed contract must have preaward review and approval of the FAA in any of the following circumstances:

(a) The sponsor has not complied with the standards of this appendix.

(b) The contract is proposed to be awarded on a sole-source basis and is expected to exceed $5,000.

(c) The proposed contract is expected to exceed $500,000.

(d) The sponsor has not previously received a grant from the Department of Transportation.

(e) The FAA requests that the proposed contract be submitted for preaward review and approval.

14. *Force account work.* Before undertaking any force account construction work, the sponsor (or any public agency acting as agent for the sponsor) must obtain the written consent of the Administrator through the appropriate FAA office. In requesting that consent, the sponsor must submit——

(a) Adequate plans and specifications showing the nature and extent of the construction work to be performed under that force account;

(b) A schedule of the proposed construction and of the construction equipment that will be available for the project;

(c) Assurance that adequate labor, material, equipment, engineering personnel, as well as supervisory and inspection personnel as required by this appendix, will be provided; and

(d) A detailed estimate of the cost of the work, broken down for each class of costs involved, such as labor, materials, rental of equipment, and other pertinent items of cost.

15. *Exceptions.* (a) Paragraphs 1 through 5 and paragraphs 9 through 13 of this section do not apply to contracts with the owners of airport hazards, buildings, pipelines, powerlines, or other structures or facilities, for installing, extending, changing, removing, or relocating any of those structures or facilities. However, the sponsor must obtain the approval of the appropriate FAA office before entering into such a contract.

(b) Any oral or written agreement or understanding between a sponsor and another public agency that is not a sponsor of the project, under which that public agency undertakes construction work for or as agent of the sponsor, is not considered to be a construction contract for the purposes of this appendix.

Appendix D—Assurances

There is set forth below the assurances that the sponsor or planning agency must submit with its application in accordance with §§ 152.111 or 152.113, as applicable.

I. General Assurance

Each applicant for an airport development grant or in an airport planning grant shall submit the following assurance:

The applicant hereby assures and certifies that it will comply with the regulations, policies, guidelines, and requirements, including Office of Management and Budget Circulars No. A–95 (41 FR 2052), A–102 (42 FR 45828), and FMC 74–4 (39 FR 27133; as amended by 43 FR 50977), as they relate to the application, acceptance, and use of Federal funds for this federally-assisted project.

II. Airport Development

Each applicant for an airport development grant shall submit the following assurances:

1. *Authority of applicant.* It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. *E.O. 11296 and E.O. 11288.* It will comply with the provisions of: Executive Order 11296, relating to evaluation of flood hazards, and Executive Order 11288, relating to the prevention, control, and abatement of water pollution.

3. *Sufficiency of funds.* It will have sufficient funds available to meet the non-Federal share of cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purposes constructed.

4. *Construction.* It will obtain approval by the appropriate Federal agency of the final working drawings and specifications before the project is advertised or placed on the market for bidding; that it will construct the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specification; that it will submit to the appropriate Federal agency for prior approval changes that alter the costs of the project, use of space, or functional layout; that it will not enter into a construction contract(s) for the project or underake other activities until the conditions of the construction grant program(s) have been met.

5. *Supervision, inspection, and reporting.* It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the Federal grantor agency may require.

6. *Operation of facility.* It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State and local agencies for the maintenance and operation of such facilities.

7. *Access to records.* It will give the grantor agency and the Comptroller General through any authorized representative access to and the right to examine all records, books, papers, or documents related to the grant.

8. *Access for handicapped.* It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically handicapped," Number A117.1–1961, as modified (41 CFR 101–17.703). The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

9. *Commencement and completion.* It will cause work on the project to be commenced within a reasonable time after receipt of notification from the approving Federal agency that funds have been approved and that the project will be prosecuted to completion with reasonable diligence.

10. *Disposition of interest.* It will not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the Government holds bonds, whichever is the longer.

11. *Civil Rights.* It will comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) and in accordance with Title VI of that Act, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

12. *Private gain.* It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

13. *Relocation assistance.* It will comply with the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Pub. L. 91–646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs.

14. *OMB Circular A–102.* It will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with Office of Management and Budget Circular No. A–102.

15. *Hatch Act.* It will comply with the provisions of the Hatch Act which limit the political activity of employees.

16. *Federal Fair Labor Standards Act.* It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.

17. *Effective date and duration.* These covenants shall become effective upon acceptance by the sponsor of an offer of Federal aid for the Project or any portion thereof, made by the FAA and shall constitute a part of the Grant Agreement thus formed. These covenants shall remain in full force and effect throughout the useful life of the facilities developed under this Project, but in any event not to exceed twenty (20) years from the date of said acceptance of an offer of Federal aid for the Project. However, these limitations on the duration of the covenants do not apply to the covenant against exclusive rights. Any breach of these covenants on the part of the sponsor may result in the suspension or termination of, or refusal to grant Federal assistance under, FAA administered programs, or such other action which may be necessary to enforce the rights of the United States under this agreement.

18. *Conditions and limitations on airport use.* The Sponsor will operate the Airport as such for the use and benefit of the public. In furtherance of this covenant (but without limiting its general applicability and effect), the Sponsor specifically agrees that it will keep the Airport open to all types, kinds, and classes of aeronautical use of fair and reasonable terms without discrimination between such types, kinds, and classes.

Provided, that the sponsor may establish such fair, equal, and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the Airport; And Provided Further, That the Sponsor may prohibit or limit any given type, kind, or class of aeronautical use of the Airport if such action is necessary for the safe operation of the Airport or necessary to serve the civil aviation needs of the public.

19. *Exclusive right.* The Sponsor—

(a) Will not grant or permit any exclusive right forbidden by section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)) at the Airport, or at any other airport now owned or controlled by it;

(b) Agrees that, in furtherance of the policy of the FAA under this covenant, unless authorized by the Administrator, it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right at the Airport, or at any other airport now owned or controlled by it, to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity.

(c) Agrees that it will terminate any existing exclusive right to engage in the sale of gasoline or oil, or both, granted before July 17, 1962, at such an airport, at the earliest renewal, cancellation, or expiration date applicable to the agreement that established the exclusive right; and

(d) Agrees that it will terminate any other exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under the Airport and Airway Development Act.

20. *Public use and benefit.* The Sponsor agrees that it will operate the Airport for the use and benefit of the public, on fair and reasonable terms, and without unjust discrimination. In furtherance of the covenant (but without limiting its general applicability and effect), the Sponsor specifically covenants and agrees:

(a) That in its operation and the operation of all facilities on the Airport, neither it nor any person or organization occupying space or facilities thereon will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of any of the facilities provided for the public on the Airport.

(b) That in any agreement, contract, lease or other arrangement under which a right or privilege at the Airport is granted to any person, firm, or corporation to conduct or engage in any aeronautical activity for furnishing services to the public at the Airport, the sponsor will insert and enforce provisions requiring the contractor—

(1) To furnish said service on a fair, equal, and not unjustly discriminatory basis to all users thereof, and

(2) To charge fair, reasonable, and not unjustly discriminatory prices for each unit or service; Provided, That the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

(c) That it will not exercise or grant any right or privilege which would operate to prevent any person, firm or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance and repair) that it may choose to perform.

(d) In the event the Sponsor itself exercises any of the rights and privileges referred to in subsection b, the services involved will be provided on the same conditions as would apply to the furnishing of such services by contractors or concessionaires of the sponsor under the provisions of such subsection b.

21. *Nonaviation activities.* Nothing contained herein shall be construed to prohibit the granting or exercise of an excusive right for the furnishing of nonaviation products and supplies or any service of a nonaeronautical nature or to obligate the Sponsor to furnish any particular nonaeronautical service at the Airport.

22. *Operation and maintenance of the airport.* The Sponsor will operate and maintain in a safe and serviceable condition the Airport and all facilities thereon and connected therewith which are necessary to serve the aeronautical users of the Airport other than facilities owned or controlled by the United States, and will not permit any activity thereon which would interfere with its used for airport purposes: *Provided,* That nothing contained herein shall be construed to require that the Airport be operated for aeroanutical uses during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance: *And provided further,* That nothing herein shall be construed as requiring the maintenance, repair, restoration or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the Sponsor. In furtherance of this covenant the sponsor will have in effect at all times arrangements for—

(a) Operating the airport's aeronautical facilities whenever required;

(b) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

(c) Promptly notifying airmen of any condition affecting aeronautical use of the Airport.

23. *Airport hazards.* Insofar as it is within its power and reasonable, the Sponsor will, either by the acquisition and retention of easements or other interests in or rights for the use of land or airspace or by the adoption and enforcement of zoning regulations, prevent the construction erection, alteration, or growth of any structure, tree, or other object in the approach areas of the runways of the Airport, which would constitute an airport hazard. In addition, the Sponsor will not erect or permit the erection of any permanent structure or facility which would interfere materially with the use, operation, or future development of the Airport, in any portion of a runway approach area in which the Sponsor has acquired, or hereafter acquires, property interests permitting it to so control the use made of the surface of the land.

24. *Use of adjacent land.* Insofar as it is within its power and reasonable, the Sponsor will, either by the acquisition and retention of easements or other interests in or rights for the use of land or airspace or by the adoption and enforcement of zoning regulations, take action to restrict the use of land adjacent to or in the immediate vicinity of the Airport to activities and purposes compatible with normal airport operations including landing and takeoff of aircraft.

25. *Airport layout plan.* The Sponsor will keep up to date at all times an airport layoyt plan of the Airport showing (1) boundaries of the Airport and all proposed additions, thereto, together with the boundaires of all offsite areas owned or controlled by the Sponsor for airport purposes, and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plan and each amendment, revision, or modification thereof, shall be subject to the approval of the FAA, which approval shall be evidenced by the signature of a duly authorized representative of the FAA on the face of the airport layout plan. The Sponsor will not make or permit any of its facilities other than in conformity with the airport layout plan as so approved by the FAA, if such changes or alterations might adversely affect the safety, utility, or efficiency of the Airport.

26. *Federal use of facilities.* All facilities of the Airport developed with Federal aid and all those usable for the landing and taking off of aircraft, will be available to the United States at all times, without charge, for use by government aircraft in common with other aircraft, except that if the use by government aircraft is substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining facilities so used, may be charged. Unless otherwise determined by the FAA, or otherwise agreed to by the Sponsor and the using agency, substantial use of an airport by government

aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the FAA, would unduly interfere with use of the landing area by other authorized aircraft, or during any calendar month that—

(a) Five (5) or more government aircraft are regularly based at the airport or on land adjacent thereto; or

(b) The total number of movements (counting each landing as a movement and each takeoff as a movement) of government aircraft is 300 or more, or the gross accumulative weight of government aircraft using the Airport (the total movements of government aircraft multiplied by gross certified weights of such aircraft) is in excess of five million pounds.

27. *Areas for FAA use.* Whenever so requested by the FAA, the Sponsor will furnish without cost to the Federal government, for construction, operation, and maintenance of facilities for air traffic control activities, or weather reporting activities and communication activities related to air traffic control, such areas of land or water, or estate therein, or rights in buildings of the Sponsor as the FAA may consider necessary or desirable for construction at Federal expense of space or facilities for such purposes. The approximate amounts of areas and the nature of the property interests and/or rights so required will be set forth in the Grant Agreement relating to the project. Such areas or any portion thereof will be made available as provided herein within 4 months after receipt of written requests from the FAA.

28. *Fee and rental structure.* The airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the Airport as self-sustaining as possible under the circumstances existing at the Airport, taking into account such factors as the volume of traffic and economy of collection.

29. *Reports to FAA.* The Sponsor will furnish the FAA with such annual or special airport financial and operational reports as may be reasonably requested. Such reports may be submitted on forms furnished by the FAA, or may be submitted in such manner as the Sponsor elects so long as the essential data are furnished. The Airport and all airport records and documents affecting the Airport, including deeds, leases, operation and use agreements, regulations, and other instruments, will be made available of inspection and audit by the Secretary and the Comptroller General of the United States, or their duly authorized representatives, upon reasonable request. The Sponsor will furnish to the FAA or to the General Accounting Office, upon request, a true copy of any such document.

30. *System of accounting.* All project accounts and records will be kept in accordance with a standard system of accounting if so prescribed by the Secretary.

31. *Interfering right.* If at any time it is determined by the FAA that there is any outstanding right or claim of right in or to the Airport property, other than those set forth in Part II of the Application for Federal Assistance, the existence of which creates an undue risk of interference with the operation of the Airport or the performance of the covenants of this Part, the sponsor will acquire, extinguish, or modify such right or claim of right in a manner acceptable to the FAA.

32. *Performance obligation.* The Sponsor will not enter into any transaction which would operate to deprive it of any of the rights and powers necessary to perform any or all of the covenants made herein, unless by such transaction the obligation to perform all such covenants is assumed by another public agency found by the FAA to be eligible under the Act and Regulations to assume such obligations and having the power, authority, and financial resources to carry out all such obligations. If an arrangement is made for management or operation of the Airport by any agency or person other than the Sponsor or an employee of the Sponsor, the Sponsor will reserve sufficient rights and authority to insure that the Airport will be operated and maintained in accordance with the Act, the Regulations, and these covenants.

33. *Meaning of terms.* Unless the context otherwise requires, all terms used in these covenants which are defined in the Act and the Regulations shall have the meanings assigned to them therein.

III. Airport Planning

Each applicant for an airport planning grant shall submit the assurances numbered 1, 7, 11 (except for the last sentence), and 12 through 16 of Part I of this appendix, and the following assurance:

It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.

Note.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044. However, in accordance with Department of Transportation Regulatory Policies and Procedures for Improving Government Regulations (44 FR 11034; February 26, 1979), a Regulatory Evaluation has been prepared, analyzing the economic consequences of this proposal. A copy of the Regulatory Evaluation has been placed on file in the Rules Docket and is available for examination by interested persons. Comments are invited on the economic impact of this proposal, and commenters may submit such written data, views or arguments as they may desire.

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

Robert J. Aaronson,

Acting Associate Administrator for Airports.

[FR Doc. 79-24437 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

[14 CFR Part 204]

[EDR-385; Docket No. 36176; Dated: July 19, 1979]

Data To Be Submitted With Applications for Passenger Route Authority Filed With the Board and by Commuter Carriers Serving an Eligible Point; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Erratum to Notice of Proposed Rulemaking.

SUMMARY: Information concerning requests for the service list in this rulemaking was not included in the original notice. The notice proposes new rules setting forth fitness data which must be filed by applicants for passenger route authority. (44 FR 44106; July 26, 1979).

DATES: Comments by September 24, 1979. Reply comments by October 15, 1979. Comments and relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be part of the service list by August 17, 1979. the Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Comments should be sent to Docket 36176, Docket Section; Civil Aeronautics Board; 1825 Connecticut Avenue, N.W.; Washington, D.C. 20428. Comments may be examined in Room 711 at the address above as they are received.

FOR FURTHER INFORMATION CONTACT: Paul L. Gretch, Deputy Director of the Bureau of Domestic Aviation, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5373.

Dated: August 3, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-24555 Filed 8-8-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 6]

International Airports of Entry; Withdrawal of Proposed Revocation of International Airport Status of Akron Municipal Airport, Akron, Ohio

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

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposal to amend section 6.13, Customs Regulations, to revoke the international

airport status of Akron Municipal Airport in Akron, Ohio. After reviewing comments received in response to the proposal and further consideration of the matter, Customs has determined that implementation of the proposed change at this time would not be in the public interest.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Robert Schenarts, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8151).

SUPPLEMENTARY INFORMATION:

Background

To improve service to the public and to provide more effective enforcement of the Customs laws and regulations on October 12, 1978, Customs published a notice in the **Federal Register** (43 FR 46981) proposing to revoke the international airport status of Akron Municipal Airport in Akron, Ohio. The change was proposed because air traffic in the area appeared to have shifted from the Akron Municipal Airport to the newer and larger Akron-Canton Airport, located between Akron and Canton in Summit County, Ohio, and was based upon information which indicated that an average of only 146 aircraft required Customs clearance at Akron Municipal Airport during each of the preceding three years.

Interested parties were given until December 11, 1978, to submit written comments concerning the proposal. Three comments were received and all opposed the proposal.

Discussion of Comments

All of the commenters expressed the opinion that the proposed amendment would not achieve the intended objective of improved service to the public and more effective enforcement of the Customs laws and regulations. They noted that Customs personnel and equipment currently are not stationed at Akron Municipal Airport, but are located in downtown Akron, closer to Akron Municipal Airport than to Akron-Canton Airport, where traffic would be diverted. Consequently, they suggested that no real saving of time or money would result from the proposed change.

The commenters also noted that since Customs initiated the proposal, more aircraft on international flights have begun to use the Akron Municipal Airport, and the number of aircraft requiring Customs clearance at that facility in Fiscal Year 1978 increased to 182.

Two commenters expressed concern that revocation would diminish the level of service now available to members of the traveling public. One noted that the diversion of aircraft from Akron Municipal Airport to Akron-Canton Airport would inconvenience both travelers and Customs personnel because Akron-Canton Airport is futher from downtown Akron (and major corporate headquarters located there) than is Akron Municipal Airport. The other noted that Akron Municipal Airport currently provides Customs services with 1 hour advance notice, as well as Federal Aviation Administration (F.A.A.) Flight Plan Notification, but that Akron-Canton Airport requires 2 hours advance notice, charges the user for mileage, and does not provide F.A.A. flight plan notification.

This commenter also noted that because Akron Municipal Airport originally was designed to relieve congestion at the Akron-Canton Airport, the curtailment of service at Akron Municipal Airport and the diversion of international flights to Akron-Canton Airport would negate its basic function.

One commenter also suggested that the revocation of the international airport status of the Akron Municipal Airport may impact adversely upon the economic growth potential of existing businesses at the airport.

Related Development

Customs has initiated a project to study the feasibility of eliminating the present designation of airports as international and landing rights airports and substituting a new system for categorizing airports of arrival based on their capacity to handle international flights.

Withdrawal of Proposal

For the foregoing reasons, Customs has determined that adoption of the proposal at this time would not be in the public interest. Accordingly, the notice published in the **Federal Register** on October 12, 1978 (43 FR 46981), proposing to amend § 6.13, Customs Regulations, to revoke the international airport status of Akron Municipal Airport is withdrawn.

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 Customs offices participated in its development.

R.E. Chasen,
Commissioner of Customs.

Approved: July 13, 1979.

Richard J. Davis,
Assistant Secretary of the Treasury.

[FR Doc. 79-24560 Filed 8-8-79; 8:45 am]
BILLING CODE 4810-22-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

[20 CFR Part 901]

Proposed User Fee for Examinations Given by the Joint Board for the Enrollment of Actuaries

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Proposed rule.

SUMMARY: The proposed rule amends the regulations governing eligibility for enrollment to perform actuarial services under the Employee Retirement Income Security Act of 1974. It authorizes the Joint Board for the Enrollment of Actuaries to charge an applicant a fee to participate in examinations administered under its regulations. The fee charged would be for the purpose of meeting the costs of administering the examinations.

DATE: Comments must be in writing and must be received on or before September 10, 1979.

The effective date will be the date of publication of the anticipated final rule in the **Federal Register**. No hearing is contemplated, but one may be held at a time and place set in a later notice in the **Federal Register** if requested by an interested person desiring an opportunity to comment orally and raising a genuine issue.

ADDRESS: Comments should be addressed to the Executive Director, Joint Board for the Enrollment of Actuaries, c/o Department of the Treasury, Washington, D.C. 20220.

FOR FURTHER INFORMATION, CONTACT: Mr. Leslie S. Shapiro, Executive Director, 202–376–0767.

SUPPLEMENTARY INFORMATION: An enrolled actuary, as defined in the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1000 et seq., is an individual who is enrolled under authority of Section 3042 of ERISA to perform actuarial services under the Act. Those individuals are enrolled by the Joint Board for the Enrollment of Actuaries (Joint Board) established under Section 3041 of

ERISA. Eligibility for enrollment includes demonstrating at least a minimum level of knowledge in actuarial matters and fulfilling a period of responsible pension actuarial experience.

Successful completion of examinations in actuarial mathematics and methodology offered by the Joint Board is a means by which an applicant may meet the knowledge requirement. In accordance with this requirement, the Joint Board administers an examination in basic actuarial mathematics and methodology and a separate examination in actuarial mathematics and methodology relating to pension plans. These examinations have been given in September of each year throughout the United States. There heretofore has been no charge to the persons taking them. The cost of developing the examinations, their examination, grading and disseminating the results has been borne entirely by the Departments of the Treasury and Labor. To the extent feasible, government facilities and personnel not part of the Joint Board have been used for the examinations' administration.

The Joint Board has continually re-evaluated its procedures in an attempt to provide more efficient service to applicants for enrollment and to reduce the costs to the government. As a result of this process, the Joint Board has determined that some functions related to the examinations should be provided jointly by the Joint Board and organizations not part of the Joint Board. The fee for examinations given by the Joint Board is being proposed to obtain funds to reduce or meet the costs of the administration of the examinations.

The statutory basis for the proposed fee is found in the Act of August 31, 1951, ch. 376, Title V, Section 501, 65 Stat. 290, 31 U.S.C. 483a. This statute authorizes a Federal agency to charge a fee for a service provided by that agency taking into consideration, *inter alia*, the cost to the government and value to the recipient. OMB Circular No. A-25, which implements the statute, states that where a service provides special benefits to an identifiable recipient above and beyond those which accrue to the public at large, a charge should be imposed to recover the full cost to the Federal government of rendering that services. The Joint Board examinations are this type of service. Because only enrolled actuaries are permitted to perform certain services required by ERISA, attaining that status ordinarily results in financial benefit that is unavailable to an individual who is not enrolled.

The cost of administering the examinations will vary with changing circumstances. Thus, the proposal does not establish a fixed fee. The fee will be determined by the varying expenses of each examination and revised as necessary. Included in the expenses which the fee is intended to cover are the costs of printing the examination and answer sheets, computer costs for grading the examinations, postage, salaries of personnel responsible for developing, administering, and grading the examinations, and rental expenses for examination centers. It is anticipated that such expense could differ between examinations, requiring flexibility in setting the fee. The Joint Board anticipates the fee for each of the initial examinations will be $30.00.

Drafting Information

The principal author of this amendment is Mr. Leslie S. Shapiro, Executive Director, Joint Board for the Enrollment of Actuaries and members of his staff.

Authority

These amendments are proposed under the authority of: Sec. 3042, Subtitle C, Title 3, Employee Retirement Income Security Act of 1974 (88 Stat. 1002, 29 U.S.C. 1241, 1242), and the Act of August 31, 1951, ch. 376, Title V, Section 501, 65 Stat. 290, 31 U.S.C. 483a.

Proposed Amendments to the Regulations

In consideration of the foregoing, it is proposed to amend 20 CFR Part 901 by revising § 901.13 to read as follows:

(a) by redesignating present paragraph (e) as paragraph (f); and

(b) by adding a new paragraph (e), as follows:

§ 901.13 Eligibility for enrollment of individuals applying for enrollment on or after January 1, 1976.

* * * * *

(e) *Form; fee.* An applicant who wishes to take an examination administered by the Joint Board under paragraphs (c)(1) or (d)(1) of this section shall file an application on a form prescribed by the Joint Board. Such application shall be accompanied by a check or money order in the amount set forth on the application form, payable to the Treasury of the United States. The amount represents a fee charged to each applicant for examination and is designed to cover the costs assessed the Joint Board for the administration of the examination. The fee shall be retained by the United States whether or not the applicant successfully completes the examination or is enrolled.

Note.—The Joint Board for the Enrollment of Actuaries has determined that the proposal contained in this document does not meet the criteria for significant regulations within the meaning of Executive Order 12044.

Dated: August 6, 1979.

Rowland E. Cross,

Chairman, Joint Board for the Enrollment of Actuaries.

Approved: August 3, 1979.

Ray Marshall,

Secretary of Labor.

Robert Carswell,

Acting Secretary of the Treasury.

[FR Doc. 79-24574 Filed 8-8-79; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 635]

[FHWA Docket No. 78-43, Notice 2]

Interstate Maintenance Guidelines

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) issues this proposed regulation covering Interstate Maintenance Guidelines as required by section 116(d) of the Surface Transportation Assistance Act of 1978. The regulation is in furtherance of the State's basic responsibility for Federal-aid highway maintenance as set forth in 23 U.S.C. 116. The guidelines, which do not impose detailed maintenance procedures but rather impose overall maintenance objectives, will be the basis on which States will be required to develop a maintenance program to ensure that the condition of the Interstate (Highway) System is maintained at the level required by the purpose for which it was designed. Failure by a State to develop such a program and to certify that it has such a program, and that the Interstate is being maintained in accordance with the State's program will result in reduction of apportioned Interstate funds. The regulation would further permit the FHWA to reduce a State's apportioned Interstate funds if the FHWA determines that the State is not adequately maintaining the Interstate in accordance with the maintenance program. The regulation would, however, permit a State to recover the reduced apportionment upon a showing that corrective action has been taken.

DATE: Comments must be received on or before October 9, 1979.

ADDRESS: Written comments should be sent to Federal Highway Administration, Docket No. 78–43, Notice 2, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All written comments and suggestions will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. P. E. Cunningham, 202–426–0436, Office of Highway Operations; or Mr. Wilbert Baccus 202–426–0786, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are Monday through Friday from 7:45 to 4:15 p.m. ET.

SUPPLEMENTARY INFORMATION:

Discussion of Comments Received

On December 27, 1978, the FHWA issued an advance notice of proposed rulemaking (ANPRM) requesting suggestions for the development of the Interstate Maintenance Guidelines, 44 FR 69 (January 2, 1979). In particular, the GHWA requested responses to certain questions. Comments were received from 41 interested parties, of which 35 were States and the ramaining 6 were received from the National Crushed Stone Association (NCSA); Highway Users Federation and Safety Mobility (HUFSM); National Traffic Safety Board (NTSB); New York State Thruway Authority; American Association of State Highway and Transportation Officials (AASHTO); and Cushman, Darby, and Cushman, Attorney at Law, Washington, D.C. The following major concerns address the issues expressed by all parties that responded to the ANPRM.

The comments pertaining to the general format and scope of the guidelines predominantly favored a general written description of the completed maintenance activity. While many States and interest groups preferred that the guidelines established a minimum threshold level of maintenance to obtain a consistent level of maintenance nationwide, about an equal number preferred that no effort be made to obtain any consistency.

Comments indicated that local conditions and budgetary limitations would definitely impact the desired level set by the guidelines; however, a significant agreement of all was that the guidelines should be enforced regardless of restrictions of resources, such as labor, money, equipment, and materials. While the comments supported that the guidelines should by general in nature, many States expressed the feeling that the guidelines should be specific enough to establish a minimum level, especially on the critical maintenance items that impact highway safety, the preservation of the capital investment, operational capabilities, and aesthetics. Other responses, such as NTSB and HUFSM, agreed that some maintenance aspects should be specific and consistent nationally and not governed by local conditions.

The reactions were about evenly divided on whether the guidelines should be different for rural and urban highways. Those indicating that the guidelines should be different felt that rural traffic, geometric and climatic conditions warranted different levels of highways maintenance work.

The ANPRM requested suggestions on how critical maintenance elements should be defined. No conclusive response was evident although about half of the responses, which included States, NTSB, and HUFSM, felt critical elements should be defined by traffic services and physical maintenance. Two States suggested that only traffic services be used. Ten States though critical elements should not be defined because determining whether an element is critical varies among the States.

It was generally felt that maintenance critical elements should be rated and prioritized based on factors such as safety, rideability, protection of investment, and aesthetics. Six States suggested that the AASHTO maintenance subcommittee should be utilized to develop the critical elements.

When asked if the States should be allowed to develop independent guidelines subject to FHWA approval, all but two States' responses were affirmative. Most States and HUFSM assumed that there would be a minimum level established by the FHWA which the States' programs would have to meet or exceed. Four responses suggested that the FHWA use the AASHTO Maintenance[1] as a base. The NTSB suggested that the State and FHWA develop the guidelines jointly. The two States opposing State set guidelines were concerned that different maintenance conditions would create a lack of national uniformity.

Over 50 percent of the replies recommended that conformance be measured by evaluating the accomplishment of objectives set forth in the guidelines. The remainder of the responses recommended continuing current State and FHWA inspection procedures for evaluating the overall condition of the Interstate System.

The majority of the responses indicated that a method should be developed to determine when routine maintenance is no longer sufficient to keep the pavement at desired level. Other responses noted that either research was already underway to develop a rating method or that established procedures, primarily maintenance management evaluation systems, are presently used. The HUFSM replied that such a determination is desirable but not appropriate to these regulations.

All but seven replies expressed concern over the legal implications of establishing a specific minimum level of service. The majority felt that the guidelines would be another tool for plaintiffs bringing tort (liability) suits against the States. Some comments reflected that the Federal Government would become liable by promulgating minimum level maintenance guidelines and should be prepared to share in the costs of legal suits. It is important to note that case law clearly reflects that the FHWA does not incur any tort liability by imposing Federal-aid highway requirements on States or by approving the State highway program. Four States reported that their current legal problems would possibly be diminished through improved maintenance attained through adherence to the guidelines. The HUFSM and NTSB responses foresaw increased awareness on the part of the States of their duty to conform to a minimum level of service.

Request for Additional Comments

In order to develop a more complete regulatory analysis, we would be interested in receiving comments from States and other interested parties to strengthen or more specifically report the economic and administrative implication of these guidelines. In addition, we would also welcome the submission of comments on maintenance criteria and system monitoring and evaluation.

Maintenance Criteria

As discussed earlier there is an issue as to whether or not the guidelines should establish a miniumum threshold level of maintenance to obtain nationwide consistency. The proposed regulation allows the States flexibility in developing their programs and operating

[1] The AASHTO Maintenance Manual, 1976, is available for inspection as prescribed in 49 CFR 7, Appendix D.

procedures in order to satisfy the maintenance guidelines.

Given the current state-of-the-art pertaining to quantitative measurements for highways, the FHWA has determined that very little useful objective data is available for specific application of guidelines employing such measurements. We plan to intitate new research efforts as well as support current programs that develop more systematic procedures for establishing maintenance guidelines (quantitative where feasible).

One such standard of measurement is the Pavement Serviceability Rating (PSR), a subjective rating of a surface ride. It is basically a measurement of how the pavement surface feels to a person on a scale of 0–5 with 5 being excellent. Several types of mechanical methods have been designed to try and compare the ride with mechanical measurement. The industry has developed various instruments and methods (i.e. PCA road rater, Mays Meter, CHLOE longitudinal profolometer, longitudinal profolometer, etc.). Since one is not comparable to the other, the National Cooperative Highway Research Program has research efforts underway to correlate the instrument readings and methods from the various meters and measuring devices presently available. Setting a national standard at this time is not feasible. However, as additional information and procedures are developed through our program, we will examine and amend the regulations as appropriate. We would be interested in receiving any comment to expedite our efforts in this area.

System Monitoring and Evaluations

The Highway Performance Monitoring System (HPMS), utilized by some States is one example of a system which can be used to monitor and evaluate the effectiveness of State plans and programs regarding maintenance procedures. Other methods may also provide a process of systems monitoring and evaluations. The development of tools for measuring maintenance capabilities is certainly encouraged. As various guidelines are developed and refined for monitoring systems their applications will aid in achieving maintenance goals. We welcome the submission of systems and measurements which may assist in the attainment of these goals.

This proposed regulation will impact upon the policies and procedures contained in the Federal-Aid Highway Program Manual, Volume 6, Chapter 4, Section 3, Subsection 1.[2]

Note.—The Federal Highway Administration has determined that this document contains a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044. A regulatory analysis of this proposal is available for inspection in the public docket and may be obtained by contacting the program office person specified above.

This notice of proposed rulemaking is issued under the authority of 23 U.S.C. §§ 109(m), 116, and 315 and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b).

Issued on: August 6, 1979.

John S. Hassell, Jr.,

Deputy Administrator.

It is, therefore, proposed to amend Chapter I of Title 23, Code of Federal Regulations by adding a new Subpart E to part 635 to read as follows:

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart E—Interstate Maintenance Guidelines

Sec.

635.501 Purpose.
635.503 Policy.
635.505 Maintenance Guidelines.
635.507 Implementation.
635.509 Deficient or Unsatisfactory Maintenance.

Authority: 23 U.S.C. 109(m), 116, and 315; and 49 CFR 1.48(b).

§ 635.501 Purpose.

To prescribe Interstate maintenance guidelines and establish the policy and procedures to ensure that the condition of Interstate routes is maintained at the level required by the purposes for which they were designed.

§ 635.503 Policy.

The policy of the FHWA is to ensure that each State highway agency develops and implements an Interstate maintenance program conforming to the guidelines developed herein, as required in 23 U.S.C. 109(m). The maintenance program, which reflects local conditions and budgeting limitations shall be consistent with practices deemed necessary to adequately provide for motorist safety, preservation of the highways, rideability, and aesthetics.

§ 635.505 Maintenance guidelines.

(a) The States shall prepare an annual Interstate maintenance program which shall include a discussion of (1) the condition of the Interstate System and deficiencies, (2) State maintenance priorities and (3) maintenance budget.

(b) The States Interstate maintenance program shall describe the level of resources and activity the State intends to devote to attain the objectives stated under each of the following critical items.

(1) *Roadway surfaces.* Preservation of the structural integrity of the roadway, safety, and comfort of the user. This includes a safe, smooth, skid-resistant surface, as close as practical to the original grade and cross section.

(2) *Shoulders.* Preservation of a safe and smooth surface which is free of obstruction, even with the adjacent roadway surface, and which is as close as practical to the original grade and cross section.

(3) *Roadside.* Preservation of the roadside in a safe, pleasant, and forgiving manner through vegetation management, erosion control, and litter pick-up.

(4) *Drainage.* Preservation of hydraulic capacity for which originally designed.

(5) *Structures over 20 feet.* Preservation of the structural and operational characteristics for which originally designed. These include safe and smooth skid-resistant surfaces, proper surface drainage, and adequate functioning bearing devices and substructural elements. Replacement or repair of structural railing and approach guardrail should be done without unreasonable delay. Tunnels should be cleaned, properly lighted, and adequately ventilated.

(6) *Snow and ice control.* Preservation of a safe and efficient hazard-free winter driving environment, when feasible.

(7) *Traffic control devices.* Preservation of clean, legible, visible, and properly functioning traffic control devices at all times. This includes pavement markings, signing, delineators, signals, etc.

(8) *Safety appurtenances.* Replacement of damaged, defective, and/or inoperable devices without unreasonable delay. This includes guardrails impact attenuators, breakaway supports, barriers, etc.

(9) *Safety rest areas.* Preservation and operations of facilities reasonably necessary for the convenience, relaxation, and informational needs of the user.

(10) *Access control.* Preservation of the originally designed access control, elimination of unauthorized traffic movement, and preservation of improper

[2] The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR 7, Appendix D.

or unauthorized use of the highway rights-of-way.

(11) *Traffic safety in maintenance and utility zones.* Procedures that will aid the safety of motorists and maintenance workers. The procedures shall be consistent with the provisions of the Manual on Uniform Traffic Control Devices (MUTCD),[3] Part VI.

(b) All replacement and repairs should conform to the current design standards for all critical elements listed in paragraph (a) of this section.

(c) These guidelines will be interpreted to expect that repairs and maintenance will be done as soon as is practical, that variations from the requirements of the guidelines will be allowed in situations involving emergency or unforeseeability, and that the State will seek to attain the highest level of maintenance that is feasibly possible.

§ 635.507 Implementation.

An initial State program, as required by Section 635.505, shall be submitted to the FHWA by April 15, 1980. The State shall certify to the FHWA on October 1, 1980, and on October 1 of each subsequent year, that it is in compliance with its program. The FHWA will review and approve or disapprove the State highway agency's program using readily available items such as maintenance reports, records, measurements of performance, traffic wear, past performance, availability of funds, State legislative requirements, public concern for ecology and aesthetic aspects of highways, energy shortages, safety requirements, effects of weather, available manpower, equipment, and materials, age of the system, State policies and procedures, and other management documents. If difference between the State and the FHWA cannot be resolved concerning the adequacy of the Interstate maintenance program's level of resources and activity, the sanctions described in Section 635.509 will be invoked.

The FHWA will monitor the implementation in accordance with the review procedures described in the FHWA Maintenance Review Manual,[4] and the Federal-Aid Highway Program Manual, Volume 6, Chapter 4, Section 3, Subsection 1. Copies of the State's program are to be submitted to the FHWA regional office and the Washington Headquarters for review and comment prior to approval.

§ 635.509 Deficient or unsatisfactory maintenance.

(a) *Effect of failure to certify.* Each State shall certify on October 1 of each year (beginning on October 1, 1980) that it has a program as required by this subpart and that the Interstate System is maintained in accordance with that program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate System in accordance with such program then the Federal-aid highway funds apportioned to the State for the next fiscal year (after the date the State must certify) shall be reduced by amounts equal to 10 percentum of the amount which would otherwise be apportioned to the State under 23 U.S.C. 104. In addition, future project approvals may be withheld by the Secretary under Section 116 of Title 23, United States Code.

(b) *Procedure for reduction of funds.* (1) If it appears to the FHWA that a State has not submitted a certification conforming to the requirements of this section, or that the State is not adequately maintaining its Interstate highways, the FHWA shall make this determination in writing, and shall notify the Chief Administrator of the State of the determination and inform the State that it may, within 30 days, respond with proposed corrective action or rebuttal to the Administrator's findings. If the State informs the Administrator before the end of this 30-day period that it wishes to attempt to resolve the matter informally, the Administrator may extend the time for response by an additional 30 days. In the event of a request for informal resolution, the State and the Administrator or his designee shall promptly schedule a meeting to resolve the matter.

(2) If the State does not respond in a timely fashion as provided in paragraph (1), the Federal Highway Administrator shall forward the determination to the Secretary. Upon approval of the determination by the Secretary, the funds reduction specified by paragraph (a) of this section shall be affected.

(3) If the State requests a hearing, the Secretary shall expeditiously convene a hearing on the record, which shall be conducted according to the provisions of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* Based on the record of the proceeding, the Secretary shall determine whether the State is in nonconformity with this section. If the Secretary determines that the State is in nonconformity, the fund reduction specified by paragraph (a) shall be effected.

(4) The Secretary may reduce 10 percent of a State's apportionment of funds under 23 U.S.C. 104 prior to the administrative determination under this section in order to prevent the apportionment to the State of funds which would be affected by a determination of nonconformity.

(5) Funds withheld pursuant to a final administrative determination under this section shall be reapportioned to all other eligible States 1 year from the date of this determination, unless before this time the Secretary determines, on the basis of information submitted by the State and the FHWA, that the State has come into conformity with this section. If the Secretary determines that the State has come into conformity, the withheld funds shall be released to the State.

(6) The reapportionment of funds under paragraph (b)(5) of this section shall be stayed during the pendency of any proceeding for judicial review of a final administrative determination of nonconformity made by the Secretary.

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BILLING CODE 4910-22-M

[3] The Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), FHWA 1978, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (GPO Stock Number 5001-00021). It is available for inspection as prescribed at 49 CFR 7, Appendix D.

[4] The FHWA Maintenance Review Manual, January 1979, is available for inspection and copying as prescribed in 49 CFR 7, Appendix D.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 203]

[Docket No. R-79-691]

Mutual Mortgage Insurance and Insured Home Improvement Loans

AGENCY: Office of Single Family Housing, HUD.

ACTION: Proposed Rule.

SUMMARY: The regulation change will permit government agencies to secure repayment of funds expended on behalf of low and moderate income families in order to assist them in securing housing. The change will permit a government agency to take a second lien or other obligation which is subordinate to the mortgage which is offered for insurance.

DATES: Comment due date: October 9, 1979.

ADDRESSES: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each

person submitting a comment should include his/her name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The proposal may be changed in the light of comments received.

FOR FURTHER INFORMATION CONTACT:
Mr. William L. Halpern, Director, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-6720.

SUPPLEMENTARY INFORMATION:
Historically, it has been the Department's position that a purchaser seeking insured mortgage financing is not permitted to use the property as security to borrow funds with which to meet the required statutory investment or to borrow funds for this purpose on an unsecured basis. Rather, if the prospective mortgagor owned some other property or collateral in which he/she had equity, he/she would be permitted to borrow against that property or collateral. However, the obligation undertaken would have to be secured by that property or collateral and not the property that was to be purchased. The existing § 203.32 reflects this position.

In this regard, the regulation prevents the use of insured mortgage financing if a government agency provides assistance that would reduce the purchase price, the mortgagor's monthly housing expense, or provides the mortgagor with funds to meet the statutory investment requirement, if the agency requires the mortgagor to obligate himself/herself to repay the assistance at some later date. This is regardless of whether the obligation is unsecured or creates a subordinated lien on the mortgaged property.

BACKGROUND: Section 323 of the Housing and Community Development Amendments of 1978 added a new Section 528 to Title V of the National Housing Act which authorizes the Secretary to permit under certain circumstances secondary mortgages and liens on one-to-four family dwellings. The proposed changes to Section 203.32 reflect this new authority and will enable the Department to make insured mortgage financing available when a government agency's program to further homeownership is involved even though a second mortgage obligation or lien is required.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

Accordingly, the Department proposes to amend Section 203.32 of Subpart A of Part 203, Chapter II, 24 CFR, to read as follows:

§ 203.32 Mortgage lien.

(a) Except as provided in paragraph (b) of this section, a mortgagor must establish that after the mortgage offered for insurance has been recorded, the mortgaged property will be free and clear of all liens other than such mortgage and that there will not be outstanding any other unpaid obligation contracted in connection with the mortgage transaction or the purchase of the mortgaged property, except obligations which are secured by property or collateral owned by the mortgagor independently of the mortgaged property.

(b) With the prior approval of the Commissioner, the mortgaged property may be subject to a secondary mortgage or loan made or insured, or other secondary lien, held by a Federal, State, or local governmental agency or instrumentality provided that:

(1) The required monthly payments under the insured mortgage and the secondary mortgage or lien shall not exceed the mortgagor's reasonable ability to pay as determined by the Commissioner.

(2) The principal obligation of the mortgage offered for insurance and the obligation of a mortgage or other lien to secure the reduction in purchase price or to assist in meeting downpayment requirement shall not exceed the Commissioner's estimate of value of the property, except that the principal obligations of such mortgages may exceed the Commissioner's estimate of value of the property if the transaction represents an acceptable underwriting risk to the Department giving consideration to the economic potential of the area in which the dwelling is located.

(3) The principal obligation of a mortgage or other lien to secure the advance of funds to reduce interest charges or monthly payments shall not exceed the amount advanced.

(Section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C. on July 19, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-24527 Filed 8-8-79; 8:45 am]

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[24 CFR Parts 203, 204, 213, 220 and 240]

[Docket No. R-79-687]

Mutual Mortgage Insurance and Insured Home Improvement Loans

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

ACTION: Proposed Rule.

SUMMARY: This change will provide for greater HUD-FHA participation in home improvement and rehabilitation programs through the insurance of advances during the rehabilitation period. Loans may be used to: (1) Rehabilitate an existing one-to-four unit structure; (2) purchase and rehabilitate such a structure; and (3) refinance and rehabilitate such a structure.

We are particularly interested in comments which deal with the proposed six months maximum period which would be allowed for the completion of the improvement or rehabilitation work.

DATES: Comment due date: October 9, 1979.

ADDRESS: Interested persons should file written comments on or before due date with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:
William L. Halpern, Director, Single Family Development Division, Room 9270, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6720. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The 203(k) loan program has been changed by legislation from simply an insured home improvement loan to a broader insured rehabilitation loan which may also include refinancing or acquisition of the property to be rehabilitated. The allowable loan amounts have been increased to equal the current 203(b) loan to value limits. These loans will be available for one-to-four family properties. The loan amount will be based on the FHA estimate of value. Value is determined by either (a) the value of the property before rehabilitation plus the costs of the

rehabilitation, or (b) the appraised value of the property after rehabilitation, whichever is less.

The interest rate will be the same as Section 203(b), except that the interest rate can be two percentage points higher during the rehabilitation. In order to compensate the lender for the additional cost of partial loan disbursements and inspections of completed work, the lender may charge a two and one-half percent loan origination fee or $250, whichever is greater, for the portion of the loan which is allocated to rehabilitation. The $250 floor is a change from the previous regulation limit of $50. Also, the lender may charge the buyer fees in the nature of discounts under this program, whereas this is not allowed in most other cases. The primary reason for this change is because in many cases, there will be no seller to absorb the charges.

The regulations have been consolidated by deleting the formed 203(k) regulations (§ 203.51 through § 203.102) and changing other parts of Section 203 to reflect the new 203(k) program requirements.

Several format changes were required in Section 213, Section 220, and Section 240 to reflect the deletion of the former 203(k) regulations since these programs have many of the same requirements as the former 203(k). The regulations for these Sections have thus been rewritten to reflect appropriate cross references in Section 203. Several provisions formerly located in Section 203 have been moved since they are no longer appropriate to that program, but continue to be required by Section 220 or 240. However, no substantive changes in these programs are being proposed.

Section 235.15 is changed to permit insurance of a mortgage under the Section 235 program if it involves a property which was rehabilitated under the Section 203(k) program, although the property was not newly constructed.

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

Accordingly, it is proposed that Chapter II be amended as follows:

1. The title of Part 203 is amended to read as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

2. Section 203.27 is amended by revising (a)(2)(ii) and (a)(4)(ii) to read as follows:

§ 203.27 Maximum charges, fees or discounts.

(a) * * *

(2) * * *

(ii) $250 or 2½ percent of the original principal amount of the mortgage, whichever is the greater, with respect to mortgages on property under construction or to be contsructed where the mortgagee makes partial disbursements and inspections of the property during the progress of construction.

* * * * *

(4) * * *

(ii) Constructing, repairing or rehabilitating a dwelling for his own occupancy; or

3. Section 203.28 is amended by revising (f) to read as follows:

§ 203.28 Economic soundness of projects.

* * * * *

(f) To a rehabilitation loan of the character described in § 203.50 and with respect to such a rehabilitation loan, the Commissioner shall determine that the rehabilitation loan is an acceptable risk.

4. Delete center caption "Open End Advances" appearing before § 203.44.

5. Delete center caption "Insured Home Improvement Loans" appearing before § 203.

6. Section 203.50 is amended by revising (a) thru (i) to read as follows:

§ 203.50 Eligibility of rehabilitation loans.

A rehabilitation loan which meets the requirements of this subpart, except as modified by this section, shall be eligible for insurance under § 203(k) of the National Housing Act.

(a) For the purpose of this section—

(1) the term 'rehabilitation loan' means a loan, advance of credit, or purchase of an obligation representing a loan or advancement of credit, made for the purpose of financing—

(i) the rehabilitation of an existing one-to-four unit structure which will be used primarily for residential purposes;

(ii) the rehabilitation of such a structure and refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(iii) the rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(2) the term'rehabilitation' means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary) or repair of a structure, or facilties in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, a community development plan, or a statewide property insurance plan to be provided by the owner or tenant of the project.

(b) The provisions of §§ 203.14, 204.18, 203.28, 203.43b, 203.43c and 203.45 shall not apply to loans insured under this section.

(c) The loan shall cover a dwelling which was completed more than one year preceding the date of the application for mortgage insurance and which was approved for mortgage insurance prior to rehabilitation.

(d)(1) The buildings on the mortgaged property must, upon completion of rehabilitation, conform with standards prescribed by the Secretary.

(2) Improvements or repairs made under this section must be designed to meet cost-effective energy conservation standards prescribed by the Secretary.

(e) The loan transaction shall be an acceptable risk as determined by the Commissioner.

(f) The loan shall not exceed an amount which, when added to any outstanding indebtedness of the borrower which is secured by the property, creates an outstanding indebtedness in excess of the lesser of:

(1) The limits prescribed in §§ 203.18(a)(1) and (2), and 203.18(c).

(2) The limits prescribed in §§ 203.18(a) (1) and (2) and 203.18(c), based on the sum of the estimated cost of rehabilitation and the Commissioner's estimate of the value of the property before rehabilitation.

(g) The Commissioner may issue a commitment for the insurance of advances made during rehabilitation or for insurance upon completion of rehabilitation.

(h) Rehabilitation loans which do not involve the insurance of advances, the refinancing of ourstanding indebtedness or the purchase of the property need not be a first lien on the property but shall not be junior to any lien other than a first mortgage. The provisions of §§ 203.15, 203.19, 203.23, 203.24, and 203.26 shall not be applicable to such loans.

(i) The Commissioner may insure advances made by the mortgagee during rehabilitation if the following conditions are satisfied:

(1) The mortgage shall be a first lien on the property.

(2) The mortgagor and the mortgagee shall execute a rehabilitation loan agreement, approved by the Commissioner, setting forth the terms and conditions under which advances will be made.

(3) The advances shall be made as provided in the commitment.

(4) The loan shall bear interest at the rate prescribed in § 203.20 but the interest rate may be two per centum per annum above such prescribed rate for the period beginning with the making of the loan and ending with the completion of rehabilitation; but not later than six months after the date of initial endorsement for insurance.

(5) The mortgage may provide that amortization of the principal amount of the loan will begin on the first day of the month following completion of rehabilitation but not later than six months after the date of initial endorsement for insurance.

* * * * *

7. Sections 203.51 through 203.102 are deleted.

§§ 203.51–203.102 [Removed]

8. Amend the center caption, "Insured Home Improvement Loans" appearing before § 203.440 to read "Rehabilitation Loans."

9. Section 203.441 is amended to read as follows:

§ 203.441 Insurance of loan.

(a) *Endorsement without insured advances.* Upon compliance with a commitment that does not include insurance of advances, the Commissioner shall insure the loan by endorsing a Mortgage Insurance Certificate. The certificate shall identify the date of insurance and the regulations under which the loan is insured.

(b) *Endorsement with insured advances.* If the commitment includes insurance of advances, the Commissioner shall initially endorse a Mortgage Insurance Certificate after the first advance of funds by the mortgagee. The certificate shall identify the date of initial endorsement and the regulations under which the advances are insured. Upon compliance with a commitment and disbursement of all advances, the Commissioner shall finally endorse the Mortgage Insurance Certificate and indicate on such instrument the date of final endorsement and the total of all advances approved for insurance.

10. Section 203.477 is amended by adding a new paragraph (c) as follows:

§ 203.477 Certificate by lender when loan assigned.

* * * * *

(c)(1) The mortgage is prior to all mechanics' and materialmen's liens filed of record, regardless of when such liens attach, and prior to all liens and encumbrances, or defects which may arise except such liens or other matters as may have been approved by the Commissioner; or

(2) The mortgage transaction did not involve the insurance of advances, the refinancing of outstanding indebtedness or the purchase of the property and the mortgage is prior to all mechanics' and materialmen's liens filed of record, regardless of when such liens attach, and prior to all liens and encumbrances other than a first mortgage, or defects which may arise except such liens or other matters as may have been approved by the Commissioner.

* * * * *

PART 204—COINSURANCE

11. Part 204 is amended by revising the list of excepted provisions appearing in § 204.1 to read as follows:

§ 204.1 Incorporation by reference

* * * * *

Sec.
203.12 Application and commitment extension fees.
203.18(c), (d), (e) and (f) Maximum mortgage amounts.
203.43 Eligibility of miscellaneous-type mortgages.
203.43a Eligibility of mortgages covering housing in certain neighborhoods.
203.43b Eligibility of mortgages covering housing intended for seasonal occupancy.
203.44 Eligibility of open-end advances.
203.50 Eligibility of rehabilitation loans.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

12. Section 213.1 is amended by revising (n) to read as follows:

§ 213.1 Definitions.

* * * * *

(n) "Lender" means a financial institution meeting the requirements of §§ 203.1–203.4 and 203.6–203.8.

* * * * *

13. Section 213.39 is amended to read as follows:

§ 213.39 Qualifications.

The provisions of §§ 203.1–203.4 and 203.6–203.9 shall apply and govern the eligibility, qualifications and requirements of mortgagees and lenders under this subpart.

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

14. Part 220 is amended by deleting §§ 220.100 through 220.125 and substituting therefor, the following:

§ 220.100 Incorporation by reference.

(a) All of the provisions of Subpart A, Part 203 of this chapter covering mortgages insured under § 203 of the National Housing Act shall apply to insured home improvement loans on one-to-eleven-family dwellings under § 220(h) of the Act except the following:

Sec.
203.12 Application and commitment extension fees.
203.14 Builders warranty.
203.15 Certification of appraisal amount.
203.17 Mortgage provisions.
203.18 Maximum mortgage amounts.
203.19 Mortgagor's minimum investment.
203.23 Mortgagor's payments to include other charges.
203.24 Application of payments.
203.26 Mortgagor's payments when mortgage is executed.
203.28 Economic soundness of projects.
203.32 Mortgage lien.
203.37 Nature of title to reality.
203.38 Locatoin of dwelling.
203.40 Location of property.
203.42 Rental properties.
203.43b Eligibility of mortgages covering housing intended for seasonal occupancy.
203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.
203.45 Eligibility of graduated payment mortgages.
203.50 Eligibility of rehabilitation loans.

(b) References to "mortgage" in Part 203 shall be construed to refer to "loan" in §§ 220.100 et seq.

(c) For purposes of §§ 220.100 et seq., "outstanding indebtedness relating to the property" means the total outstanding amount of unsecured obligations of the borrower incurred in connection with improving, repairing or maintaining the property and outstanding mortgages or obligations consituting liens on the title to the property to be improved.

§ 220.101 Application and commitment extension fees.

(a) *Application fee.* The lender shall pay an application fee of $20 to cover the cost of processing.

(b) *Commitment extension fee.* The lender shall pay a commitment extension fee of $20 for extending an outstanding commitment or for

reopening and extending an expired commitment within two months after such expiration.

(c) *Time of fee payment.* The fee shall be due and payable by the lender upon receipt from the FHA of a monthly statement covering the related transactions.

(d) *Credit for fee previously charged.* A credit may be allowed the lender for a fee previously charged under such conditions as the Commissioner prescribes.

(e) *Application fee not required.* A lender shall not be required to pay an application fee where the application is not accepted for processing.

(f) *Mortgagee's late charge.* Application fees and commitment extension fees which are paid to the Commissioner more than 15 days after the billing date shall include a late charge of 4% of the amount of the payment, except that no late charge shall be required with respect to any case for which HUD fails to render a proper billing to the mortgagee.

§ 220.102 Mortgage provisions.

(a) The lender shall present for insurance a note and security instrument on forms approved by the Commissioner for use in the jurisdiction in which the property covered by the security instrument is situated. Prior to endorsement, the entire principal amount of the loan shall have been disbursed to the borrower or to his creditors for his account and with his consent.

(b) The loan shall:

(1) come due on the first of the month.

(2) involve a principal obligation in multiples of $50.

(3) have an amortization of either 5, 7, 10, 12, 15, 17 or 20 years by providing for either 60, 84, 120, 144, 180, 204 or 240 monthly amortization payments.

(4) provide for payments to interest and principal to begin not later than the first day of the month following 60 days from the date the lender's certificate on the commitment was executed.

(c) The loan shall have a maturity satisfactory to the Commissioner not less than 5 nor more than 20 years from the date of the beginning of amortization or three-quarters of the Commissioner's estimate of the remaining economic life of the structure, whichever is the lesser.

§ 220.103 Maximum amount.

(a) The principal amount of the loan shall not exceed:

(1) The commissioner's estimate of the cost of improvements, $40,000 or $12,000 per family unit, whichever is the lesser; or

(2) An amount which, when added to any outstanding indebtedness related to the property, creates a total outstanding indebtedness which does not exceed the limits prescribed in §§ 220.25 and 220.30 for mortgages on properties other than new construction; or

(3) Where the proceeds are to be used for the purpose indicated in § 220.106(a)(2), an amount which when added to the aggregate principal balance of any outstanding insured home improvement loans which were obtained for the purposes indicated in § 220.106(a)(2), creates an aggregate indebtedness for such purposes of not to exceed $12,000.

(b) In any geographical area where the Commissioner finds the cost levels so required, he may increase by not to exceed 45 percent the $12,000 per family unit limitation set forth in paragraphs (a)(1) and (3) of this section.

§ 220.104 Type and location of property.

The property to be improved shall:

(a) Constitute real property located within the United States, its territories, or possessions;

(b) Contain an existing structure or structures;

(c) Be located in one of the urban renewal areas specified in § 220.5.

§ 220.105 Cost certification requirements.

A loan for the improvement of a structure which is used, or upon completion of the improvements will be used, as a dwelling for five-to-eleven families shall be subject to the provisions of paragraphs (a) through (c) of this section as follows:

(a) The lender shall submit with the application for commitment an agreement on a form prescribed by the Commissioner, executed by the borrower and the lender, in which:

(1) The borrower agrees to execute upon completion of the improvements a certificate of the actual cost of the improvements.

(2) The borrower and the lender agree that if the actual cost of the improvements is less than the amount authorized in the commitment, the amount of the loan shall not exceed the actual cost of the improvements, and that the amount of the loan shall be further adjusted to the lowest $50 multiple where the amount is not in excess of $12,000, or adjusted to the lowest $100 multiple where the amount exceeds $12,000.

(b) No loan shall be insured unless in accordance with the agreement between the borrower and the lender.

(1) The required certification of actual cost is made by the borrower; and

(2) The amount of the loan is adjusted to reflect the actual cost of the improvements.

(c) The term "actual cost of the improvements" shall mean the cost to the borrower of the improvements after deducting the amount of any kickbacks, rebates, or trade discount received in connection with the improvements, and including:

(1) The amounts paid under any contract for the improvements, labor, materials, and for any other items of expense approved by the Commissioner; and

(2) A reasonable allowance for contractor's profit, in an amount approved by the Commissioner, where the Commissioner determines that there is an identity of interest between the borrower and the contractor.

(d) Any agreement, undertaking, statement or certification required in connection with cost certification shall specifically state that it has been made, presented and delivered for the purpose of influencing an official action of the Commissioner and may be relied upon as a true statement of the facts contained therein.

(e) Upon the Commissioner's approval of the borrower's certification, such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the borrower.

(f) The borrower shall keep and maintain adequate records of all costs of any construction improvements or other cost items not representing work under the general contract and shall require the builder to keep similar records and, upon request by the Commissioner, shall make available for examination such records, including any collateral agreements.

§ 220.106 Use of proceeds.

(a) The proceeds of the loan shall be used only for the following purposes:

(1) To finance improvements that result in or are in connection with the conservation, repair, restoration or refurbishing of the basic livability or utility of an existing structure, including the property on which the structure is located, or in the conversion, alteration, enlargement, remodeling, or expansion of such structure, including a change in the living accommodations or the number of family dwelling units located therein.

(2) To pay that part of the cost of the construction or installation of sidewalks, curbs, gutters, street paving, street lights, sewers, or other public improvements, adjacent to or in the vicinity of the borrower's property,

which is assessed against the borrower or for which he is otherwise legally liable as the property owner.

(b) No loan proceeds shall be used to finance individual equipment items except those relating to heating, ventilating or plumbing or those items determined by the Commissioner to be necessary and incident to improvements as outlined in paragraph (a) of this section.

(c) The structure in connection with which the improvements are to be made shall:

(1) Constitute a structure which is used or will be used upon completion of the improvements, primarily for residential purposes by not more than eleven families; and

(2) Have been constructed not less than ten years prior to the date of the application for commitment unless, as determined by the Commissioner, the proceeds of the loan are or will be used primarily for major structural improvements, or to correct defects which are not known at the time of the completion of the structure or which were caused by fire, flood, windstorm or other casualty.

§ 220.107 Nature of borrower's ownership.

To be eligible for insurance, the property to be improved shall be owned by the borrower, or be leased by the borrower under a lease for not less than 99 years which is renewable, or be under a lease with an expiration date in excess of 10 years later than the maturity date of the loan.

§ 220.108 Certification as to outstanding indebtedness relating to the property.

The loan application shall be accompanied by a certificate by the borrower on a form prescribed by the Commissioner setting forth the total amount of outstanding indebtedness relating to the property.

§ 220.109 Acceptable risk.

The loan transaction shall, in the opinion of the Commissioner, constitute an acceptable risk.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

5. Part 235 is amended by revising (b), (c) and (d) as follows:

§ 235.15 Eligible types of dwellings.

* * * * * * *

(b) A single family dwelling that is security for a mortgage which was finally endorsed for mortgage insurance under § 203.50 not more than three months prior to the application for a firm commitment under this part.

(c) With respect to mortgages approved for insurance under this Part on and after January 5, 1976, the mortgage shall involve only the types of dwellings identified in paragraphs (a)(1), (a)(3) or (b) of this section, the construction or rehabilitation of which shall have begun after October 17, 1975.

(d) The marketability of all lots or units to be developed or rehabilitated must be established.

PART 240—MORTGAGE INSURANCE ON LOANS FOR FEE TITLE PURCHASE

16. Section 240.1 is amended to read as follows:

§ 240.1 Incorporation by reference.

A mortgage for the purchase of fee simple title which meets the requirements of this subpart and Subpart A of Part 203, except as modified by § 240.1 et seq., shall be eligible for insurance under § 240 of the National Housing Act, except the following provisions:

Sec.
203.12 Application and commitment extension fees.
203.14 Builders warranty.
203.15 Certification of appraisal amount.
203.16a Mortgagor and mortagee requirement for maintaining flood insurance coverage.
203.17 Mortgage provisions.
203.18 Maximum mortgage amounts.
203.19 Mortgagor's minimum investment.
203.23 Mortgagor's payments to include other charges.
203.24 Application of payments.
203.26 Mortgagor's payments to include other charges.
203.28 Economic soundness of projects.
203.32 Mortgage lien.
203.37 Nature of title to realty.
203.38 Location of dwelling.
203.39 Standards for buildings.
203.43b Eligibility of mortgages covering housing intended for seasonal occupancy.
203.43c Eligibility of mortgages involving a dwelling unit in a cooperative development.
203.45 Eligibility of graduated payment mortgages.
203.50 Eligibility of rehabilitation loans.

* * * * *

17. A section 240.16 is added to read as follows:

§ 240.16 Application and commitment extension fees.

(a) *Application fee.* The lender shall pay an application fee of $20 to cover the cost of processing.

(b) *Commitment extension fee.* The lender shall pay a commitment extension fee of $20 for extending an outstanding commitment or for reopening and extending an expired commitment within two months after such expiration.

(c) *Time of fee payment.* The fee shall be due and payable by the lender upon receipt from the FHA of a monthly statement covering the related transactions.

(d) *Credit for fee previously charged.* A credit may be allowed the lender for a fee previously charged under such conditions as the Commissioner prescribes.

(e) *Application fee not required.* A lender shall not be required to pay an application fee where the application is not accepted for processing.

(f) *Mortgagee's late charge.* Application fees and commitment extension fees which are paid to the Commissioner more than 15 days after the billing date shall include a late charge of 4% of the amount of the payment, except that no late charge shall be required with respect to any case for which HUD fails to render a proper billing to the mortgagee.

18. A new section 240.18 is added to read as follows:

§ 240.18 Mortgage provisions.

(a) Mortgage form—The mortgage shall be executed upon a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated. The mortgage shall be a first lien upon the fee simple title and a second lien on the leasehold. The entire principal amount of the mortgage must have been disbursed to the mortgagor or to his creditors for his account and with his consent.

(b) The mortgage shall:

(1) Come due on the first of the month.

(2) Involve a principal obligation in multiples of $50.

(3) Have an amortization of either 5, 7, 10, 12, 15, 17 or 20 years by providing for either 60, 84, 120, 144, 180, 204 or 240 monthly amortization payments.

(4) Provide for payments to interest and principal to begin not later than the first day of the month following 60 days from the date the lender's certificate on the commitment was executed.

(c) Maturity of mortgage—The mortgage shall have a maturity satisfactory to the Commissioner but not less than five years nor more than 20 years from the date of the beginning of amortization of three-quarters of the Commissioner's estimate of the remaining economic life of the structure, whichever is the lesser.

19. Section 240.251 is amended to read as follows:

§ 240.251 Incorporation by reference.

All of the provisions of §§ 203.440 et seq. of the chapter covering rehabilitation loans under section 203(k) of the National Housing Act shall apply to mortgages for the purchase of the fee simple title to property which are insured under § 240 of the Act.

* * * * *

(Sec. 211 of the National Housing Act (12 U.S.C. 1709, 1715).)

Issued at Washington, D.C., July 18, 1979.

Morton Baruch,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-24528 filed 8-8-79; 8:45 am]

BILLING CODE 4210-01-M

Government National Mortgage Association

[24 CFR Part 390]

Docket No. R-79-689]

Guaranty of Mortgage-Backed Securities; Amendment To Permit Combination Mobile Home and Mobile Home Lot Loans To Be Included in GNMA Mortgage-Backed Securities Program.

AGENCY: Government National Mortgage Association, HUD.

ACTION: Proposed Rule.

SUMMARY: The amendment would permit "combination loans," which finance the purchase of mobile homes and developed lots in a single transaction, to be included in pools of mobile home loans under the existing GNMA program for mobile home loan securities.

COMMENT DUE DATE: October 9, 1979.

ADDRESSES: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The proposal may be changed in the light of comments received.

FOR FURTHER INFORMATION CONTACT: Warren Lasko, Office of Mortgage-Backed Securities, Government National Mortgage Association, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-8772.

SUPPLEMENTARY INFORMATION: At present, the GNMA securities program for mobile home loans includes only FHA insured or VA guaranteed loans for mobile home units. Recently, FHA inaugurated a program for insuring loans on both lots and units. This proposed amendment would permit such loans, when they are made as a "combination loan" to purchase a mobile home unit and developed lot in a single transaction, to be included in pools of loans which back GNMA-guaranteed securities. The amendment would be made by explaining that, for the purpose at hand, mortgages on mobile homes include the combination loans. The amendment would substantially increase the availability of funds for the "combination loans," and thereby help increase the supply of moderately priced housing, in a suitable living environment. A Finding of Inapplicability of the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. It is available for public inspection and copying in the office of the Rules Docket Clerk.

It is proposed to amend Part 390, by revising § 390.3(c)(3) introductory paragraph to read as follows:

§ 390.3 Eligible issuers of securities.

(c) ***

(3) For the issuance of modified pass-through securities based on and backed by mortgages on mobile homes (which for the purpose of this Part means either a loan for the purchase of a mobile home unit or a combination loan for the purchase of a mobile home and a developed mobile home lot in a single transaction)

* * * * *

Issued at Washington, D.C., July 18, 1979.

R. Frederick Taylor,

Executive Vice President, Government National Mortgage Association.

[FR Doc. 79-24523 Filed 8-8-79; 8:45 am]

BILLING CODE 4210-01-M

VETERANS ADMINISTRATION

[38 CFR Part 3]

Veterans Benefits; Character of Discharge

AGENCY: Veterans Administration.

ACTION: Proposed Regulation Change.

SUMMARY: The Veterans administration is proposing to amend its character of discharge regulation to provide that only in certain cases shall an other-than-honorable discharge issued for homosexual acts be considered to have been issued under dishonorable conditions. The effect of this proposed change is to confer basic eligibility for Veterans Administration benefits on most persons discharged for homosexual acts.

DATES: Comments must be received on or before September 10, 1979. It is proposed to make this change effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until September 18, 1979.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle (202-389-3005).

SUPPLEMENTAL INFORMATION: Under § 3.12(d)(5) an other-than-honorable discharge issued for homosexual acts is considered to have been issued under dishonorable conditions. An other-than-honorable discharge held to have been issued under dishonorable conditions is, subject to the exception contained in § 3.360, a bar to the receipt of Veterans administration noncontractual benefits.

The service departments are now generally issuing honorable or general discharges to persons discharged for homosexual acts. The only exception to this policy is when the homosexual act or acts which formed the basis for the discharge involved aggravating circumstances or other factors affecting the performance of duty. Consequently, we are proposing to amend § 3.12(d)(5) to conform to this change in service department policy.

When a person receives an other-than-honorable discharge based on homosexual acts involving aggravating circumstances or other factors affecting the performance of duty, the discharge shall be held under the proposed amendment of § 3.12(d)(5), to have been issued under dishonorable conditions. Examples of homosexual acts involving aggravating circumstances or other factors affecting the performance of duty are child molestation, homosexual prostitution, homosexual acts or conduct accompanied by assault or coercion,

and homosexual acts or conduct taking place between service members of disparate rank, grade or status when a service member has taken advantage of his or her superior rank, grade or status.

Other-than-honorable discharges based on homosexual acts not involving aggravating circumstances or other factors affecting the performance of duty shall be held not to have been issued under dishonorable conditions, assuming no other bar to entitlement exists.

The Veterans Administration does not consider this to be a significant proposal since only a small segment of the veteran population is affected and no complaints, burdens or costs are imposed.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objection regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until September 18, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: August 1, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

In § 3.12, paragraph (d)(5) is revised to read as follows:

§ 3.12 Character of discharge.

* * * * *

(d) A discharge or release because of one of the offenses specified in this paragraph is considered to have been issued under dishonorable conditions.

* * * * *

(5) Homosexual acts involving aggravating circumstances or other factors affecting the performance of duty.

* * * * *

[FR Doc. 79-24571 Filed 8-8-79; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1293-4]

District of Columbia State Implementation Plan; Proposed Revision

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The District of Columbia has submitted amendments to the District's air pollution control regulations and has requested that they be reviewed and processed as a revision of the District of Columbia State Implementation Plan (SIP). The amendments propose to retain permanently the requirement of a maximum 1% sulfur content in fuel oil and coal sold and burned in the District and to delete the 0.5% sulfur increment which was to take effect October 1, 1978.

DATE: Comments must be submitted on or before September 10, 1979.

ADDRESSES: Copies of the proposed SIP revision and accompanying support documentation are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Mr. Bernard E. Turlinski.

District of Columbia Department of Environmental Services, Bureau of Air and Water Quality, 5010 Overlook Avenue, S.W., Washington, D.C. 20032, ATTN: Mr. John V. Brink.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

All comments on the proposed revision submitted within 30 days of publication of this notice will be considered and should be directed to:

Mr. Howard R. Heim, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Philadelphia, Pennsylvania 19106, ATTN: AH012DC.

FOR FURTHER INFORMATION CONTACT: Mr. Bernard E. Turlinski, Regional Energy Coordinator (3AH13), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106; phone 215/597-9944.

SUPPLEMENTARY INFORMATION: On December 27, 1978, the District of Columbia submitted to the Regional Administrator, EPA, Region III, amendments to the District's Air Quality Control Regulations and requested that they be reviewed and processed as a revision of the District of Columbia's State Implementation Plan (SIP) for the attainment and maintenance of National Ambient Air Quality Standards (NAAQS). The amendments consist of changes to Sections 8-2:704 (Allowable Sulfur Content in Fuel Oil) and 8-2:705 (Allowable Sulfur Content in Coal). The proposed revision amends both regulations by deleting the provision which states that the use and sale in the District of Columbia of fuel oils and coal containing up to 1% sulfur are permitted only until October 1, 1978.

On two previous dates, the District of Columbia requested one-year postponements of the date that the 0.5% sulfur in fuel increment was to take effect. The regulations as originally approved by City Council on July 7, 1972, permitted the sale and use of all fuels containing up to 1% sulfur by weight until June 1, 1975. On November 18, 1975, the Council approved an extension for one year after the enactment date of March 12, 1976, to allow continued use of 1% sulfur fuels. This extension was submitted to the EPA as a revision and approved by the EPA on December 6, 1976 (41 FR 53325 (1976)). After March 12, 1977, all fuels sold or burned in the District were to contain no more than 0.5% sulfur. However, on December 7, 1976, the City Council further extended the sale and use of 1% sulfur fuels until October 1, 1978. The second postponement was subsequently submitted on March 3, 1977, and later approved by the EPA as a revision to the implementation plan on July 10, 1978 (43 FR 29559 (1978)). As a result of the second extension, all fuels were to contain no more than 0.5% sulfur after October 1, 1978.

By virtue of the most recent action on the part of the District, the 1% sulfur content in fuel oil and coal would be permanently retained and the 0.5% sulfur increment deleted. Some of the arguments presented by the District to support its proposed revision are as follows:

1. The District is presently meeting the Federal ambient air quality standards for sulfur dioxide and it expects to maintain the standards through 1985;

2. The 0.5% sulfur content level would substantially increase the cost of fuel and electricity to the consumer;

3. There is a shortage of the higher grade (lower sulfur content) coal in the East; and

4. Maryland and Virigina maintain a 1% sulfur limit.

EPA is proposing to approve the revision, in part, by allowing 1% sulfur fuels to be sold and burned in the District until December 31, 1980. This partial approval is based on the District's demonstration in which growth projections applied to an air quality baseline indicate that no violations are expected to occur before December 31, 1980. During the intervening period selected for approval, the District has the opportunity to reevalute the impact on ambient air quality and demonstrate that the 0.5% sulfur increment will not be needed after December 31, 1980 to maintain the sulfur dioxide standards. If a reevaluation effort is undertaken and the results support permanent deletion of the 0.5% sulfur increment, the EPA could then propose such action.

EPA is requesting this further evaluation because the demonstration presented by the District is based on extrapolations from air quality data collected only at a single site. A study entitled "Air Quality Maintenance Planning, Technical Analysis" (October 1977) conducted by the Metropolitan Washington Council of Governments indicates that the site used by the District is probably not near the locations of maximum SO_2 concentrations. The further evaluation requested by EPA would estimate air quality over the entire District, and would utilize dispersion modeling techniques consistent with current EPA Guidelines on Air Quality Models.

The District of Columbia certified that a public hearing with respect to the revision was held on May 23, 1978, in accordance with the requirements of 40 CFR 51.4.

The public is inivted to submit to the address stated above, comments on whether the amendments to Sections 8–2:704 and 8–2:705 of the District's air pollution control regulations governing the sulfur content in fuels should be approved as a revision of the District of Columbia State Implementation Plan.

The Administrator's decision to act on the proposed revision will be based on the comments received, and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

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

Authority: 42 U.S.C. 7401–7642.

Dated: August 3, 1979.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 79–24602 Filed 8–8–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 52]

[FRL 1293–7]

Approval and Promulgation of Ohio Implementation Plans

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve a revision to the Ohio State Implementation Plan (SIP) for sulfur dioxide (SO_2) for Republic Steel Corporation, Cleveland District. This revision is requested because the control strategy proposed by Republic Steel Corporation differs significantly form the one proposed by USEPA in the Ohio SO_2 plan. The Republic Steel control strategy formulation utilized the bubble concept. The bubble concept considers Cleveland District's emissions in the aggregate as if its facilities were encapsulated in a bubble. This strategy results in an overall reduction of SO_2 emissions in the bubble which is equal to or less than the EPA strategy but is more cost effective. It is the opinion of Region V that the revision to the Ohio SIP should be approved. The purpose of this notice is to invite public comment on EPA proposed revision to Ohio State Implementation Plan.

DATE: Comments must be received on or before September 10, 1979. Requests for a public hearing on this revision must be received no later than August 24, 1979.

ADDRESSES: Comments and requests for a hearing should be submitted to Steve Rothblatt, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The Technical Support Document and the docket 5A–79–3 for this revision are on file at the above address and at: Central Docket Section, Room 2903B, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. They may be inspected and copied during normal business hours.

FOR FURTHER INFORMATION CONTACT: Patricia Powell, Assistant Regional Counsel, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2205.

SUPPLEMENTARY INFORMATION: On August 27, 1976, the U.S. Environmental Protection Agency (USEPA) promulgated regulations establishing the SIP for the control of sulfur dioxide for the State of Ohio. On January 24, 1978, Republic Steel Corporation requested a revision of the Ohio SIP for SO_2 for the Cleveland District which is located in Cuyahoga County. The request was made in order to propose a control strategy different from that used by EPA in the development of the Ohio SO_2 Plan. The EPA control strategy addressed partial desulfurization of coke oven gas at coke oven plants No. 1 and No. 2. The strategy proposed by Republic Steel addresses full desulfurization at the No. 1 coke plant and maintenance of 415 grains H_2S/100 dscf without desulfurization at the No. 2 coke plant.

The Republic Steel control strategy formulation utilized the bubble concept. The bubble concept considers the Cleveland District's emissions in the aggregate as if its facilities were encapsuated in a bubble. Such a stratey would allow for an overall reduction of SO_2 emissions in the bubble which would be at a level equal to or less than that dictated by the EPA strategy but which would prove more cost effective. Republic Steel has performed an air quality impact analysis because it is required to assess the effect of the emission trade-offs. Republic Steel used the EPA RAM dispersion model to assess the air quality of the Cleveland District sources.

As part of its modeling methodology, Republic Steel identified an additional ten critical days, which were analyzed with the ten critical days used by EPA. The 20 critical days studied demonstrated that the Republic Steel control strategy is effective in achieving air quality levels which are better than or not significantly degraded from those of the EPA strategy. The regulations for the control of sulfur dioxide in the State of Ohio and their proposed revisions are included and have been found acceptable by EPA. The supporting data is contained in the Technical Support Document. The SIP revision is applicable to the refinery located in Cuyahoga County in the City of Cleveland. Final promulgation of this revision will follow analysis of the comments and will depend on consistency with section 110 of the Clean Air Act. Comments are being solicited. A 30-day comment period will

be observed because the emission limitation is not significantly changed.

Note.—The Environmental Protection Agency has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

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

Subpart KK—Ohio

1. Section 52.1881 is amended by revising paragraph (b) as follows:

§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(23) In Cuyahoga County:

* * * * *

(iii)(A) The Republic Steel Corporation or any subsequent owner or operator of Republic Steel facilities located in Cuyahoga County, Ohio, shall not cause or permit the combustion of by-product coke oven gas or mixed gas (by-product coke oven gas mixed with other gases) containing a total sulfur content expressed as hydrogen sulfide, or the emission of sulfur dioxide in the exhaust gas from any stack, that exceeds the following limits:

Facility	H_2S limit [1]	SO_2 limit [2]
BOF Shop misc	240	1.22
Open Hearth misc	240	1.22
Blast Fces. 1 and 4 misc	240	1.22
No. 1 coke plt. car thaw	240	1.22
Foundry	240	1.22
P anneals	240	1.22
Blast fce. 5 and 6 misc	415	2.10
No. 2 coke plt. car thaw	415	2.10
10" bar mill reheat fce	90	0.46
12" bar mill reheat fce	80	0.40
44" mill soaking pits	165	0.84
45" mill soaking pits	165	0.84
No. 1 coke battery	24	0.12
No. 2 coke battery	24	0.12
No. 3 coke battery	24	0.12
No. 4 coke battery	24	0.12
No. 6 coke battery	415	2.10
No. 7 coke battery	415	2.10
84" anneal furnaces	415	2.10
84" slab reheat fces. 1, 2 and 3	415	2.10

[1] In fuel gas (gr. H_2S equialent per 100 dscf).
[2] In exhaust gas (lb. SO_2 per million Btu acutal heat input).

(iii)(B) The Republic Steel Corporation or any subsequent owner or operator of the Republic Steel facilities located in Cuyahoga County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack attached to the Open Hearth precipitator units 111 and 112, 98-inch slab furance units 1, 2, 3, 4, and 5, 84-inch slab furnace units 1 and 2, and the sinter plant at this facility in excess of 0.00 pounds of sulfur dioxide per million BTU actual heat input.

(iii)(C) The Republic Steel Corporation or any subsequent owner or operator of Republic Steel's No. 1 Coke Plant desulfurization plant located at Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from the stack of the Claus incinerator of the desulfurization plant to exceed 1871 pounds per day, or 2200 ppm.

Dated: August 1, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-24601 filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1293-6]

Availability of Implementation Plan Revisions for the Control of Particulate Emissions from Steel Mills

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt and Availability

SUMMARY: This Notice announces the receipt of revised Illinois Air Pollution Control Regulation 203(d) submitted to the U.S. Environmental Protection Agency (U.S. EPA) as a proposed revision to the State Implementation Plan (SIP). This revised regulation addresses the control of particulate emissions from steel mills and is available for public review and comment at the offices listed below.

On June 22, 1979, the Illinois Air Pollution Control Board preliminarily adopted this revised regulation with final adoption scheduled after completion of the remaining necessary State administrative procedures. The State submitted this revised regulation to U.S. EPA on July 19, 1979, in order to satisfy the requirements of Part D of the Clean Air Act.

The purpose of this revision, as required by the Act, is to implement new measures for controlling air pollution and to demonstrate that these measures will provide for attainment of the primary National Ambient Air Quality Standards for total suspended particulates as expeditiously as practicable, but no later than December 31, 1982. A notice of Proposed Rulemaking describing the revision and U.S. EPA's intended approval or disapproval action will be published in the **Federal Register** at a later date.

DATES: See supplementary Information.

ADDRESSES: The Illinois submittal may be examined during normal business hours at the following U.S. EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

In addition the revisions may be examined at the offices of the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

WRITTEN COMMENTS SHOULD BE SENT TO: Ms. Maxine Borcherding, State Implementation Plan Coordinator, U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Borcherding, State Implementation Plan Coordinator, U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6052.

SUPPLEMENTARY INFORMATION: On April 3, 1979, pursuant to the requirements of Part D of the Clean Air Act, the State of Illinois submitted draft revisions to the SIP. After reviewing the revisions, U.S. EPA published its proposed rulemaking action in the July 2, 1979, **Federal Register.** In this **Federal Register** it was noted that the U.S. EPA would propose rulemaking on the proposed Illinois Regulations for controlling particulate emissions from iron and steel mills at a later date.

On July 19, 1979, Illinois submitted to U.S. EPA copies of the proposed revisions to Rule 203(d) of Chapter 2 (particulate emissions from steel mills). U.S. EPA is reviewing this latest submittal and upon completion of the review will publish a Notice of Proposed Rulemaking in the **Federal Register.**

All interested persons are advised that the proposed revisions are available for review at the locations listed above. The Proposed Rulemaking Notice referred to above will announce the last day for public comment. This public comment period will extend for not less than 30 days from the date of publication in the **Federal Register** of U.S. EPA's proposed rulemaking action.

Dated: August 1, 1979.

John McGuire,

Regional administrator.

[FR Doc. 79-24611 Filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL #1281-1]

Approval and Promulgation of Implementation Plans; New Mexico Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes approval/disapproval of various revisions to the New Mexico State Implementation Plan (SIP). The revisions were submitted by the Governor to fulfill the requirements of the Clean Air Act, as amended in August 1977 (the Act), for attainment and maintenance of National Ambient Air Quality Standards (NAAQS). The revisions being acted on today are those relating to the plan requirements for nonattainment areas (Part D of the Act) and include control requirements for particulate matter, sulfur dioxide, hydrocarbons, and carbon monoxide. In reviewing the State submittal, EPA assessed the ability of the plan to meet the requirements of Part D. While the plan meets the Part D requirements in many respects, there are a number of deficiencies in the plan that the State and local agencies need to address before full SIP approval can be granted by the Administrator of EPA.

DATES: Interested persons are invited to submit comments on this proposed action on or before September 10, 1979.

ADDRESSES: Written comments should be submitted to the address below. Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, SW., Washington, D.C. 20460.

New Mexico Environmental Improvement Division, Health and Environment Department, P.O. Box 968, Crown Building, Santa Fe, New Mexico 87503.

Middle Rio Grande Council of Governments, Suite 1320, 505 Marquette Avenue, Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTARY INFORMATION: Provisions of the 1977 Clean Air Act Amendments (the Act) require States to revise their State Implementation Plans (SIP) for all areas that have been designated as not attaining the National Ambient Air Quality Standards (NAAQS). The Act requires that States submit the necessary plan revisions to the Environmental Protection Agency (EPA) by January 1, 1979. The requirements for an approvable SIP are described in a general preamble published in the April 4, 1979, **Federal Register** (44 FR 20372), and will not be restated in this notice. A supplement to the April 4 notice was published on July 2, 1979 (44 FR 38583) involving among other things, conditional approval.

EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurance that it will submit corrections by a specified deadline. This notice solicits comment on what items should be conditionally approved, and it solicits comment on the deadlines where specified in this notice. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State falls to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

The Governor of New Mexico, after adequate notice and public hearing, submitted revisions to New Mexico's SIP on January 23, 1979. These revisions address Part D (Plan Requirements for Nonattainment Areas) of the Act in regard to the attainment and maintenance of the NAAQS for particulate matter, sulfur dioxide, carbon monoxide and photochemical oxidants in the designated nonattainment areas. In addition, the State submittal includes provisions relating to other parts of the Act. The action being taken today by EPA is only with respect to Part D requirements. Those SIP provisions relating to requirements of the Act other than Part D will be addressed in a later **Federal Register**. An evaluation report,[1] which reviews the SIP in detail, is available for inspection by interested parties during normal business hours at the EPA Region 6 Office or the Public Information Reference Unit (see addresses above).

The overall plan was developed by the New Mexico Environmental Improvement Division except for portions applicable to the Albuquerque area. The portion of the SIP which addresses attainment of standards for the metropolitan Albuquerque area was developed under the direction of the Albuquerque-Bernalillo County Air Quality Control Board. The Middle Rio Grande Council of Governments was designated as the local lead planning agency by the Governor, and as a result, was responsible for developing the transportation related provisions (carbon monoxide and ozone) for the metropolitan Albuquerque area. The Albuquerque Department of Environmental Health was responsible for developing that portion of the plan addressing the attainment of standards for particulate matter, in the Albuquerque area.

A notice of availability of the New Mexico SIP revisions was published in the **Federal Register** on March 12, 1979, and interested persons were invited to comment. Two comments on the Albuquerque portion of the SIP were received. These and all other comments received under this notice will be addressed at the time of final rulemaking.

Part D—SIP Requirements

Total Suspended Particulates. There are several areas in New Mexico which are designated nonattainment for total suspended particulate matter (TSP). These areas are either in the vicinity of major point sources, or they are small areas in the vicinity of monitoring sites which have recorded violations of standards. The exact boundaries of these designated areas are described in the SIP and discussed in the evaluation report.[1] The control strageties for these areas are discussed below.

1. Albuquerque: There are five monitoring sites (out of 11 total sites) within the city limits of Albuquerque where violations of the annual primary standard for TSP have been recorded. While several violations of the 24-hour standard have been recorded, attainment of the annual standard requires the most stringent control strategy in each case because attainment of the annual standard requires the greatest percent reduction in emissions.

Each of the nonattainment areas is defined as a circle of one mile radius around each monitoring site. Inventories representing 1977 emissions indicate that fugitive dust from unpaved roads and parking lots, and reentrained dust from paved roads (non-traditional sources) contribute to over fifty percent of the emissions inventories and account for a major portion of the air quality problem at each site. Consequently, control measures for these non-traditional sources of TSP need to be a

[1] EPA Review of New Mexico State Implementation Plan Revision, June 1979.

major part of the control strategies. The SIP contains legally enforceable provisions for stationary sources and an adequate assessment of the impact of non-traditional sources. The SIP also contains a detailed discussion of alternative non-traditional source control measures, including costs and emission reduction effectiveness. However, the plan does not contain a commitment or schedule for adoption of these measures, nor is there a demonstration of attainment of primary standards. Regarding attainment of the secondary standards, the plan neither includes a demonstration of attainment nor requests an extension for plan submittal. An extension of up to 18 months may be granted under certain conditions. These plan deficiencies have been discussed with the State and local agencies. As a result of these discussions, EPA expects an additional submittal to address these dificiencies. EPA will, upon receipt of this information publish a notice of availability in the **Federal Register.** Therefore, the plan is currently being proposed for approval on the basis that the State and local agencies will provide the additional information on or before September 10, 1979.

2. Grant County: the nonattainment area in Grant County consists of a 4.5 mile radius circle around the Kennecott Copper Smelter which is located near the town of Hurley. The State's control strategy is based on attainment of the annual primary standard since attainment of this standard requires the most stringent controls, as demonstrated by air quality dispersion modeling.

Air quality violations result from a combination of emissions from the smelter stacks, fugitive emissions, and fugitive dust from storage piles and unpaved roads on the smelter property and within the town of Hurley. The SIP shows required emission reductions at three receptor sites through application of the Air Quality Display Model (AQDM). The AQDM predicts that at the maximum receptor point a reduction of 59 percent is required and at receptor points located in South Hurley and the Hurley Shops reductions of 8 percent and 45 percent respectively are necessary to attain the primary annual standard. The SIP demonstrates, through modeling, that the application of traditional source controls (State Regulations (State Regulations 506, 509) and non-traditional source controls (State Regulations 510, 511) will result in particulate reductions of 65 percent at the maximum receptor point and 31 percent and 45 percent at the South Hurley and Hurley Shops receptors, respectively. These reductions are sufficient to attain the annual primary standard at all three sites. The plan does Not address attainment of the secondary standard nor does it request an extension for plan submittal. Plan approval is being proposed on the basis that the State will address the issue of secondary standard attainment within 30 days after publication of this notice.

Although the new plan contains a demonstration of attainment of the primary standard for TSP, EPA is carefully scruitinizing the attainment demonstration for the Kennecott Hurley site to ensure that the control of non-traditional sources will reduce emissions to the extent estimated and to the degree necessary for ultimate attainment of the TSP standards.

The new (1979) SIP control requirements will not supersede or replace the old requirements until the source comes into compliance with the new requirements. Instead, as stated in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20372 (April 4, 1979), the old requirements will remain an enforceable provision of the SIP, co-existing with the new requirements in the SIP.

a. Regulation 506: This regulation specifies mass emission limits for new and existing nonferrous smelters. In Sections A, B.2, and B.3, the emission limits are specified in grains per dry cubic foot of discharge gas measured at standard conditions. Compliance with these limits cannot be determined, as a practical matter, since measurement of gases at standard conditions (68° F and 29.92 inches of Hg) would not be possible in the affected stacks. Consequently, replacement measurement conditions are being proposed by EPA. The magnitude of the mass emission limits specified in the regulation are considered to be adequate and will not be changed.

In Section B.4, separate emission limits are specified for various smelter operations, and Section A specifies an emission limit for new smelters. Compliance with the emission limits for both new and existing smelters is to be determined by test methods and procedures in 40 CFR Part 60, Appendix A, Methods 1 through 5. It is not clear in the regulation that appropriate testing criteria will be required. To be acceptable, tests must consist of a minimum of three one-hour samples. Therefore, testing according to the provisions of 40 CFR 60.8(f) is being proposed by EPA for Section A and each operation of Section B.4. The proposed replacement measurement conditions would apply to Section A, B.2 and B.3 of Regulation 506. The magnitude of the mass emission limit will not change but will be expressed in terms of grains per dry standard cubic foot of discharge gas as defined in 40 CFR Part 60. Testing for purposes of demonstrating compliance is to be conducted in accordance with the requirements of § 60.8(f) and these requirements shall also be extended to each operation defined under Section B.4 of Regulation 506.

b. Regulations 509, 510, 511. Regulation 509 specifies emission limits for new and existing lime manufacturing plants. Regulation 510 specifies control requirements for fugitive emissions from existing nonferrous smelters. Regulation 511 requires the control of fugitive dust from roads within Hurley. These three regulations are considered approvable.

3. Eddy and Lea Counties: The nonattainment areas in Eddy and Lea Counties are areas in the vicinity of several potash plants. Nonattainment designations were made on the basis of predicted violations of the primary annual and 24-hour standards by the PTMTP model. The predicted air quality levels indicate that attainment of the 24-hour standard requires the most strigent controls.

Control requirements for potash plants are specified in Regulation 508. By applying the emission limits in this regulations, and using worst case meteorological data, the dispersion model results indicate that the primary 24-hour standard will be attained by 1982 and that the secondary 24-hour standard will be attained no later than 1984. These results apply to the nonattainment areas around each plant. Consequently, Regulation 508 and the TSP control strategy for Eddy and Lea Counties are considered approvable.

Sulfur Dioxide Nonattainment Areas

There are two counties containing nonattainment areas for sulfur dioxide (SO_2) in New Mexico. These include three areas in the vicinity of the Four Corners and San Juan power plants in San Juan County, and an area around the Kennecott Copper Smelter in Grant County. The control strategies and regulations for the various areas are discussed in detail below.

1. San Juan County (Four Corners): The nonattainment areas in San Juan County consist of a 2.5 mile radius circle around the Four Corners Generating Station and two nearby high altitude areas, Mesa Verde Plateau and The Hogback. Based upon State dispersion modeling, sulfur dioxide emissions from the Four Corners Generating Station (operated by Arizona Public Service)

and the San Juan Generating Station (operated by Public Service Company of New Mexico) are the only known causes of nonattainment in these areas. The State used a gaussian plume model, with a terrain adjustment, to estimate high terrain SO_2 concentrations and the PTMTP model to estimate SO_2 concentrations near the Four Corners Generating Station.

The emission limits used in the modeling are set by Regulation 602, Coal Burning Equipment-Sulfur Dioxide. Section A of the Regulation (for new equipment) sets an emission limit of 0.34 pounds SO_2 per million British Thermal Units (BTU) of heat input and applies to Units 1, 3, and 4 of the San Juan Station. Section B of the Regulation sets an emission limit of 0.53 pounds SO_2 per million BTU heat input and applies to Unit 2 of the San Juan Station. All five units of the Four Corners Station have a total allowable emission limit, specified in Section C of the Regulation, of 0.53 pounds SO_2 per million BTU heat input, applicable when all units are operating at maximum capacity. Sections B and C of Regulation 602 are new SIP submittals and are considered by EPA to represent reasonably available control technology (RACT) for the applicable units.

Based upon these specified emission rates, the State has demonstrated, using EPA approved methods, that both the primary and secondary standards for SO_2 will be attained in San Juan County by December 31, 1982.

2. Grant County (Kennecott): The SO_2 nonattainment area in Grant County consists of a 3.5 mile radius circle around the Kennecott Copper Smelter. Emissions from the smelter are the only known cause of nonattainment, and control of these smelter emissions is the basis for the State's control strategy.

The State used three separate dispersion models. The AQDM model was used to determine annual concentrations, the PTMTP model was used to determine 24-hour SO_2 concentrations, and a gaussian point source model was used to determine high terrain, 24-hour concentrations. Based on application of the emission limits in Regulation 652 (governing sulfur emissions from nonferrous smelters), the analyses adequately demonstrate attainment of both the annual primary and 24-hour standards.

State Regulation 652, applies to the Kennecott Smelter in Grant County. The Regulation requires compliance by December 31, 1982 with the following provisions: (1) Total sulfur emissions from the entire smelter shall not exceed 3550 pounds per hour, 24-hour running average, (2) best engineering practices for capture of fugitive sulfur emissions, and (3) venting of captured fugitive emissions through the tallest stack serving the smelter.

The State claims to demonstrate attainment of the 3-hour secondary standard based on a sulfur emission limit (Section A.1 of Regulation 652) of 3,550 pounds per hour for a 24-hour running average period. Because this emission limit is specified for a 24-hour period, it is possible that fluctuations in the smelter operation, and resulting emissions, could cause violations of the 3-hour standard. Since no information has been submitted demonstrating that the use of a 24-hour emission limit averaging time will attain the 3-hour standard, EPA considers the demonstration for attainment of the secondary standard to be inadequate and is proposing to disapprove the sulfur emission limiting regulation with regard to attainment of the secondary standard.

Therefore, EPA is proposing to approve the control strategy and Regulation 652 for attainment of the primary standards. For attainment of the 3-hour secondary standard, EPA will propose, at a later date, an additional emission limitation for the Kennecott copper smelter in Grant County which will demonstrate attainment of the secondary standard.

Carbon Monoxide Nonattainment Areas

1. Bernalillo County (Albuquerque): All of Bernalillo County is designated as nonattainment for carbon monoxide (CO). The problem is caused primarily by motor vehicle emissions which make up approximately 96 percent of the total 1977 CO emissions. All four monitoring sites within the county have recorded violations of the 8-hour standards.

In the SIP, a justification is presented for determining the design value by averaging the second highest values from all monitoring sites. A control strategy based on such an average would not be sufficiently stringent to demonstrate attainment at all sites since the average value would be lower than the highest second high value recorded. Since standards must be attained at all sites, this approach is clearly unacceptable. The EPA evaluation is based on a design value of 22 ppm, which is the highest second high 8-hour average of all sites and occurs at Indian School Road and Indiana Street. Based on this design value, an emission reduction of 59 percent is required to demonstrate attainment. It is this reduction which must be used in the development of control measures for an approvable SIP.

Since 96 percent of the CO emissions are estimated to come from mobile sources, the control strategy concentrates on these sources. The SIP demonstrates that implementation of control measures available between 1977 and 1982 will not sufficiently reduce CO emissions for attainment of standards by December 31, 1982. As a result, an extension of the attainment date to 1987 has been requested. A plan with an extension date must satisfy the following requirements:

a. Establish a specific schedule for implementation of an inspection/maintenance (I/M) program;

b. Identify and commit to the expeditious implementation of currently planned reasonable available transportation control measures.

c. Identify other measures necessary to provide for attainment no later than December 31, 1987. These other measures are described in the Criteria for Proposing Approval of Revision to Plans for Nonattainment Areas published in the May 1, 1978 **Federal Register** (44 FR 21675);

d. Establish a new source review program which requires an analysis of alternative sites, sizes, production processes, and control techniques prior to the issuance of a permit to a proposed source.

A draft schedule for implementation of an I/M program is included in the SIP. A centralized, contractor operated program has been selected for implementation. Mandatory vehicle inspection and maintenance are scheduled to begin on January 1, 1982. This start date is consistent with the time period considered reasonable by EPA for a centralized program. The SIP reflects the required minimum 25 percent emission reduction from I/M in 1987. The City and County must submit a final implementation schedule, including specific dates for the key milestone events described in EPA's July 17, 1978 policy letter and must submit commitments by responsible officials to implement and enforce the I/M program in order for this portion of the SIP to be approved.

In its 1979 session, the State Legislature did not consider enabling legislation for an I/M program. As a result, implementation and enforcement of the I/M program is being authorized by local ordinance. The City Council adopted an I/M ordinance on May 21, 1979. The County Commission is in the process of considering an I/M ordinance for the County.

Where an I/M program is to be carried out at the local level, State certification of adequate authority to

enact the necessary ordinances is required. The State Attorney General has been requested by EPA to provide an opinion on this matter. In order to meet the requirements for an approvable SIP submittal of both the City and County ordinances, and a positive opinion from the State Attorney General is needed.

The SIP does not identify (or include any commitment to implement) any currently planned transportation control measures having beneficial air quality impacts. EPA purposes to approve the SIP on the condition that within 90 days of the publication of this notice, the State identify and commit to expeditious implementation of currently planned TCM's which may be included in the Transportation Improvement Plan (TIP).

The SIP addresses each of the nineteen transportation control measures (TCMs) considered by EPA to be reasonable, and a discussion is presented on the degree of consideration each measure has received to date. Analysis of the TCM alternatives is scheduled for completion by June 30, 1980, with implementation of selected measures to begin December 31, 1982. The actual commitments for analysis and implementation of TCMs are, at present, vague and general, however, the local agencies have demonstrated a willingness to develop and implement those control measures necessary to provide for attainment. As a result, the SIP is considered adequate with respect to the requirement for analyzing additional TCM's.

In the Albuquerque-Bernalillo County Area the new source review program is carried out under the requirements of Section 20 of the Albuquerque-Bernalillo County regulations. This Section does not require analysis of alternative sites, sizes, production processes, and control techniques for a proposed major source prior to issuance of a permit. This deficiency has been discussed with respresentatives of the local agency, and approval of the attainment date extension is being proposed based on the submission of the necessary new source review provisions, as required in Section 172 (b)(11)(A) of the Act, within 60 days after publication of this notice.

2. Santa Fe: The CO nonattainment area consists of a road segment in the City of Santa Fe. Violations of the CO standard along this road segment is attributed, by the State, to mobile sources. As a result, the control strategy relies only on the reduction of motor vehicle emissions, to be accomplished through the Federal Motor Vehicle Control Program (FMVCP).

Violations of only the 8-hour standard have been recorded. Based on a 1976 air quality design value of 12.3 ppm, an emission reduction of 27 percent is required to demonstrate attainment. The reduction in CO emissions resulting from the FMVCP is estimated to be 25 percent by the end of 1982. Consequently, the control stategy is not considered adequate for demonstrating attainment.

The State has indicated that additional information will be submitted to support either a redesignation of the Santa Fe area to attainment, or a demonstration of attainment by December 31, 1982 based on current air quality data. Upon submittal of such information, EPA will evaluate its impact on the approvability of the SIP.

3. Las Cruces: There are two road segments and an area around a street intersection designated as nonattainment for CO. Violations of only the 8-hour standard have been recorded, and these violations are attributed to emissions from mobile sources. The control strategy consists of the FMVCP and demonstrates, using EPA approved methods, sufficient emission reductions to demonstrate attainment of standards by 1982.

4. Farmington: The CO nonattainment area in Farmington consists of one road segment. Violations of only the 8-hour standard have been recorded along this segment, and these violations are attributed to mobile source emissions. The FMVCP is shown, using EPA approved methods, to provide sufficient emission reductions to demonstrate attainment of standards by 1982.

Photochemical Oxidant Nonattainment Area

The Albuquerque urban area is the only area in New Mexico designated nonattainment for photochemical oxidants (ozone). The designation was based on violations of the previous 0.08 ppm oxidant standard, and the SIP revision is based on attainment of this standard.

The air quality design value is 0.11 ppm, which was recorded in 1976. Based on this value, an emission reduction of 27 percent is required to demonstrate attainment. Since mobile source emissions account for approximately 88 percent of total 1977 emissions, the control strategy is dependent primarily on reducing motor vehicle emissions through the FMVCP and an I/M program. Since Stage I vapor recovery has already been implemented in Albuquerque, no additional benefits from this measure will be realized. Some emission reduction will occur from implementation of a regulation to control the use of cutback asphalt. Implementation of all measures is predicted to result in a reduction of hydrocarbon emissions of 28 percent by 1982. Consequently, the control strategy is considered adequate to demonstrate attainment of standards. EPA is proposing approval of this portion of the plan since a demonstration of attainment of the old photochemical oxidant standard (0.08 ppm) also results in a demonstration of attainment of the new standard (0.12 ppm).

Other Part D Requirements

1. Reasonable Further Progress-Section 172(b)(3) and (b)(11)(C):* The plan generally lacks a discussion of how reasonable further progress (RFP) is to be achieved. In the case of attainment of the CO standard in Bernalillo County, the plan must show that there will be sufficient reductions such that the total CO emissions in 1982 will be at or below the intersection of a straight line projection of emission reductions between the 1977 emissions and the emission level for attainment in 1987. Since a 59 percent reduction is needed by the end of 1987, RFP must show at least a 29 percent reduction by the end of 1982. In addition, total CO emissions after 1982 must remain below the projected RFP curve as constructed by the above method.

For CO in Santa Fe, Farmington, and Las Cruces, the State has indicated that new data either shows attainment or that the Federal Motor Vehicle Control Program (FMVCP) alone will demonstrate attainment of the CO standard. The State has committed to submitting new information for these areas in the near future which should address both the attainment problem and RFP. Final SIP approval in these areas is contingent on receipt of this additional information from the State.

In the case of RFP for San Juan County, Grant County, and Eddy and Lea Counties an alternate approach may be used. Within all three areas, nonattainment is the result of specific stationary source emissions. In EPA's judgment the establishment of compliance schedules defining dates by which certain specific requirements must be met by the individual sources will be sufficient to demonstrate RFP. The State needs to address the compliance schedule requirements for these specific sources.

The plan is being proposed for approval with respect to RFP on the basis that the RFP demonstrations will

* Sections of the Act.

be submitted within 30 days after publication of this notice.

2. Emission Inventories—Section 172(b)(4): Section III of the SIP contains emission data for all nonattainment areas. Emission data, in most cases, are provided only for the specific areas designated nonattainment. All data represent 1977 emission levels. The SIP is considered adequate to satisfy the minimum requirements of Section 172(b)(4) of the Act regarding baseline emission inventories. However, the State has not addressed how they will satisfy the annual emissions reporting requirements.

3. Permit Requirements—Sections 172(b)(6) and 173: As currently submitted, the SIP does not contain the specific requirements of § 173 of the Act for: (a) restrictions for the permitting agencies on issuing permits consistent with reasonable further progress, (b) application of lowest achievable emission rate, and (c) a finding that all sources in the state owned or operated by the applicant are in compliance or on a schedule for compliance.

The State has indicated to EPA that the New Mexico Air Quality Control Act under which the currently approved plan is operating, prohibits the State and local agency from issuing permits in nonattainment areas. The language in the New Mexico Air Quality Control Act is discretionary and although the agencies have not issued any such permits there are no assurances, contained in the SIP, that this policy would continue. Recent amendments to the Act give the permitting agencies authority to meet the requirements of § 173 but the amended statute has not yet been submitted as part of the SIP. An additional submittal from the State addressing the matter should remove this deficiency in the plan. This portion of the plan is presently being proposed for approval with regard to this issue, since EPA expects the new submittal to remove the deficiency before final promulgation of plan approval.

4. Resources—Section 172(b)(7): In Section IX of the SIP it is stated that both the State and local agencies have determined that their present resources are sufficient to carry out most of the program in the 1979 SIP. However, the plan goes on to say that the State does not intend to make any fixed commitments to new positions and that State resources cannot be committed without Federal matching funds. This last statement is in conflict with § 172(b)(7) of the Act and raises questions concerning the adequacy of their resources.

The Middle Rio Grande Council of Governments, which has responsibility for the CO portion of the Bernalillo County SIP, has made the necessary commitments of resources.

5. Social and Economic Analysis—Section 172(b)(9): The socio-economic analyses are provided in Section IB of the SIP. Descriptions of the Air Quality Control Regions (AQCRs), current and projected population statistics, topographical features, and industrial activities are discussed.

6. Summary of Public Comments—The State included a listing of persons making comment and a summary of their comments.

This notice is issued under the authority of Sections 110 and 171 to 178 of the Clean Air Act, as amended (42 U.S.C. §§ 7410, 7501 to 7508).

Dated: June 7, 1979.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 79-24614 Filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 440]

Medical Assistance Programs; Family Planning Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed Rule.

SUMMARY: This proposed regulation specifies Federal requirements under Medicaid (title XIX of the Social Security Act) for the provision of family planning services. It would implement section 1905(a)(4)(C) of the Act, which provides that family planning services must be furnished to categorically needy recipients under the State plan. This regulation specifies what services must be included under family planning, and indicates the range of services that States may choose to include.

DATES: Consideration will be given to written comments or suggestions received on or before October 9, 1979.

ADDRESSES: Send comments to: Administrator, Health Care Financing Administration, Department of Health Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. When commenting, please refer to MMB-134. Comments will be available for public inspection beginning approximately 2 weeks from today in room 5231 of the Department's offices at 330 C Street, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m., telephone 202-245-0950.

FOR FURTHER INFORMTION CONTACT: Margaret O. Schnoor, 202-245-0722.

SUPPLEMENTARY INFORMATION: Section 299E of Public Law 92-603, the Social Security Amendments of 1972, amended Sections 1903(a)(5) and 1905(a)(4) of the Act, making family planning services a mandatory Medicaid service for the categorically needy who desire such services and providing increased Federal funding (90%) for these services. We have already published in the **Federal Register** two Notices of Proposed Rulemaking in our effort to implement this statutory mandate. The first Notice, published on June 13, 1973 (38 FR 15580), defined family planning services for purposes of Medicaid as "any medically approved means, including diagnosis, treatment, drugs, supplies, devices, and related counseling which are furnished or prescribed by or under the supervision of a physician, for individuals of childbearing age (including minors who can be considered to be sexually active) for purposes of enabling such individuals freely to determine the number and spacing of their children." A second Notice of Proposed Rulemaking was published in the **Federal Register** on December 9, 1974 (39 FR 42919). This second notice repeated the earlier definition of family planning services, but also specified that certain services, including sterlization, must be provided and that abortions could not be considered family planning services.

These two notices generated over 3,000 comments, most of them concerning the questions of whether sterilizations and abortions should be Federally funded. The comments on abortion were particularly intense, arguing on the one hand, that abortion is a back-up method of family planning, a necessary alternative to unwanted pregnancy, and that its exclusion would discriminate against the poor, and on the other hand, that abortion is the destruction of innocent, unborn human life and tax dollars should not be used to pay for it. Neither the previous Proposed Rule nor this one deals with the entire subject of federal funding of abortions and sterilizations. Instead, they address the much narrower question of whether these procedures should be considered family planning services and thus be funded at 90%. Because the issues raised by the commenters had to be resolved, we did not publish a final rule in the intervening years since the first NPRM. Recently,

however, we have published detailed final rules on the subjects of sterilizations and abortions and we now believe that, relying in part on these rules, we can consider the narrower question of sterilizations and abortions as family planning services.

1. With regard to sterilization, we published final rules on November 8, 1978 (43 FR 52171). These regulations establish elaborate procedural safeguards to ensure that the accessibility of sterilization does not lead to abuse. They provide that Federal funding is available for sterilizations only if the individual to be sterilized has given informed, written consent in accordance with the specific requirements detailed in the regulations. Except for two specified situations, the consent must be obtained on an approved consent form at least 30 days before the date of sterilization. The individual to be sterilized must be at least 21 years old at the time consent is obtained and must be mentally competent.

In determining whether sterilization was properly included within the term "family planning services," for purposes of this regulation, we were confronted with two opposing policies. On the one hand, we wish to implement the Congressional intent that family planning services be made freely available and the explicit Congressional mandate that family planning services be a mandatory service to categorically needy Medicaid recipients who desire them. According to recently completed studies, sterilization is the second most popular form of family planning overall and the primary method for women over 30. *See* National Center for Health Statistics, Advanced Data, Nos. 36 and 40 (Aug. 18, 1978; Sept. 22, 1978). On the other hand, we are aware that to require states to fund sterilizations creates possibilities for abuse. For example, an individual might agree to undergo a sterilization without adequate information about the consequences of the procedure, because of a lack mental capacity, or out of fear that should he or she refuse, benefits will be terminated.

Because we are confident that the safeguards in our current sterilization regulations (42 CFR 441.250–441.259) will prevent abuse, and because sterilization is a safe, effective method of family planning, we propose to include sterilization as one of the family planning services which a state must provide.

2. With regard to abortion, we published final rules on February 3, 1978, (43 FR 4832). Those rules implemented the Hyde Admendment restrictions on federal funding of abortions. P.L. 95–205, § 101; P.L. 95–480, § 210. They provide that FFP is not available in expenditures for an abortion except under limited circumstances: where the life of the mother would be endangered, where severe and long lasting physical health damage to the mother would result if the pregnancy were carried to term, or where the pregnancy resulted from rape or incest, and the rape or incest is reported promptly to a law enforcement agency or public health service. *See* 42 CFR 441.201 through 42 CFR 441.208. The regulation also prescribed procedural safeguards in connection with Federally funded abortions.

Since those abortions which can now be funded with HEW appropriations will be for reasons other than family planning, we have specifically excluded abortions as a family planning service. Thus, no abortions would be funded at the 90 percent matching rate. We note that, although this final rule states that no abortions will be considered family planning services, we do not believe that drugs or devices to prevent implantation of a fertilized ovum should be considered abortions, and thus, these may be considered family planning services.

3. This proposal is essentially the same as the second NPRM, although it has been rephrased for clarity. It provides that, to enable individuals to freely determine the number and spacing of their children, as a minimum, States must include the following family planning services: consultation (including counseling and patient education), examination, and treatment, furnished by or under the supervision of a physician or prescribed by a physician; laboratory examinatons and tests; medically approved methods, procedures, pharmaceutical supplies and devices to prevent conception; natural family planning methods; diagnosis and treatment for infertility; and procedures for voluntary sterilization.

Family planning consultation by or under the supervision of a physician includes counseling and patient education. These services are critical in the individual's decisionmaking process concerning which method is best suited to him or her as well as the individual's effective use of the method selected. Such counseling must include information on natural family planning methods since they are the only contraceptive methods acceptable to some individuals for personal and health reasons.

Infertility services have been included in the mandatory services because without such services which assist couples who want to have children but cannot, the services are not truly family planning. Infertility services include sterilization reversal.

Beyond the mandatory services, States may choose to provide any medically approved means, other than abortions, for family planning purposes, furnished by or under the supervision of a physician or prescribed by a physician. States are prohibited from considering any abortions as being family planning services.

42 CFR 440.40 is amended by adding a new paragraph (c) to read as follows:

§ 440.40 Skilled nursing facility services for individuals age 21 or older (other than services in an institution for tuberculosis or mental diseases), EPSDT, and family planning services and supplies.

* * * * *

(c) *Family planning services and supplies.* Family planning is the means of enabling individuals of childbearing age, including minors who can be considered to be sexually active, to determine freely the number and spacing of their children. Family planning service and supplies must include at least the following: consultation (including counseling and patient education), examination, and treatment, furnished by or under the supervision of a physician or prescribed by a physician; laboratory examinations and tests; medically approved methods, procedures, pharmaceutical supplies and devices to prevent conception through chemical, mechanical, or other means; natural family planning methods; diagnosis and treatment for infertility; and voluntary sterilization in accordance with the procedures specified in §§ 441.250 through 441.259 of this chapter. In addition, States may choose to include any medically approved means, other than abortions, for family planning purposes, if furnished by or under the supervision of a physician or if prescribed by a physician. No abortions will be considered family planning services.

(Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program)

(Sec. 1102, 1905(a)(4)(c) of the Social Security Act, 42 U.S.C. 1302, 1396d(a)(4)(c)).

Dated: June 1, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: August 2, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24547 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-35-M

NATIONAL SCIENCE FOUNDATION

[45 CFR Part 640]

National Environmental Policy Act Regulations

AGENCY: National Science Foundation (NSF).

ACTION: Proposed regulations.

SUMMARY: These regulations are intended to supplement the regulations of the Council on Environmental Quality at 40 CFR Parts 1500–1508 by establishing responsibilities and other supplemental procedures in conformance to the uniform procedures established by the CEQ. Types of NSF-supported activities that normally do not require an environmental assessment or impact statement are described, as are the types of activities that normally require at least an environmental assessment. These proposed regulations will replace current NSF regulations at 45 CFR Part 640.

DATE: Comments must be received on or before October 9, 1979.

ADDRESS: Comments should be addressed to the Assistant Director for Astronomical, Atmospheric, Earth, Ocean Sciences, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550, Attention: Ms. Adair F. Montgomery.

FOR FURTHER INFORMATION CONTACT: Ms. Adair F. Montgomery at the above address or by telephone at 202/632–7360.

SUPPLEMENTAL INFORMATION: The proposed regulations are generally procedural in nature. As proposed, however, these regulations implement 40 CFR 1507.3(b)(2), which requires that agencies establish criteria for and identify typical classes of actions that may or may not require environmental assessments or environmental impact statements. At proposed 45 CFR 640.3, such classes are described. The proposed regulations provide that most research projects supported by NSF do not require an assessment since the likely environmental impact of the results of the research is highly speculative, and the NSF is prohibited from supporting developmental work, except quite limitedly in science education [NSF Act, Sec. 3(a)4]. The proposed regulations require at least an assessment of those projects, other than curriculum development, that are part of an overall plan to promote commercialization. [See SIPI v. AEC 481 F. 2d 1079 (D.C. Cir. 1973)]. Section 640.3 describes classes of research that involve research methods (as opposed to possible research results) that require at least an environmental assessment.

These proposed regulations do not address the applicability of NEPA to environmental effects in foreign countries or in the global commons. National Science Foundation regulations implementing Executive Order 12114 of January 4, 1979, regarding Environmental Effects Abroad of Major Federal Actions will be issued separately as a supplement to the regulations proposed here.

Draft Regulations for Compliance With CEQ Regulations

It is proposed to revise part 640 of title 40 of the Code of Federal Regulations to read as follows:

PART 640—PURPOSE, POLICY, AND PROCEDURES FOR COMPLIANCE WITH NEPA AND CEQ REGULATIONS

Sec.

640.1 Purpose.
640.2 Committee on Environmental Matters.
640.3 Actions requiring an environmental assessment, and categorical exclusions.
640.4 Responsibilities and procedures for preparation of an environmental assessment.
640.5 Responsibilities and procedures for preparation of an environmental impact statement.

Authority: NEPA; the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.); Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609); Executive Order 11514, "Protection and Enhancement of Environmental Quality" (March 5, 1970, as amended by Executive Order 11991, May 24, 1977); and CEQ regulations at 40 CFR Part 1500–1508.

§ 640.1 Purpose.

The purpose of this regulation is to adopt NSF procedures to supplement regulations at 40 CFR Parts 1500–1508 (hereafter referred to as "CEQ regulations").

§ 640.2 Committee on Environmental Matters.

(a) There is established an NSF Committee on Environmental Matters (hereafter referred to as the Committee) to consist of one representative from each directorate, the Office of General Counsel, the Office of Government and Public Programs, and the Office of Planning and Resources Management. The Assistant Director for Astronomical, Atmospheric, Earth, and Ocean Sciences, or his or her designee, shall serve as Chairman. At the discretion of the Chairman and with the concurrence of the Committee, additional members may be appointed.

(b) All incoming correspondence from CEQ and other agencies concerning matters related to NEPA, including draft and final environmental impact statements, shall be brought to the attention of the Chairman. The Chairman will prepare or, at his or her discretion, coordinate replies to such correspondence.

(c) The Committee shall meet regularly to discuss NSF policies and practices regarding NEPA, and make recommendations on the need for or adequacy of environmental impact assessments or statements.

(d) With respect to actions of NSF, the Committee will:

(1) Maintain a list of actions for which environmental impact statements are being prepared.

(2) Revise this list at regular intervals, based on input from the directorates, and send revisions to CEQ.

(3) Make the list available for public inspection on request.

(4) Maintain a list of environmental impact assessments.

(5) Maintain a file of draft and final environmental impact statements.

(e) The Committee and/or the Chairman will perform such additional functions as are set forth elsewhere in this Part and in other NSF issuances.

§ 640.3 Actions requiring an environmental assessment and categorical exclusions.

(a) The types of actions to be classified as "major Federal actions" subject to NEPA procedures are discussed generally in the CEQ regulations. Paragraph (b) of this section describes various classes of NSF actions that normally require the preparation of an environmental assessment or an EIS, and those classes that are categorically excluded. The word "normally" is stressed; there may be individual cases in that specific factors require contrary action. NSF directorates and offices should be on the alert for situations in which an environmental assessment or an EIS should be prepared even if not normally required by paragraph (b).

(b) Most NSF grants support individual scientific research projects and are not "major Federal actions significantly affecting the quality of the

human environment" except in the sense that the long term effect of the accumulation of human knowledge is likely to affect the quality of the human environment. However, such long term effects are basically speculative and unknowable in advance; thus they normally do not provide a sufficient basis for classifying research as subject to NEPA (See 40 CFR 1508.8) and are categorically excluded from an environmental assessment.

Nevertheless, in some cases the actual procedures used in carrying out the research may have potential environmental effects, particularly where the project requires construction of facilities or major disturbance of the local environment brought about by blasting, drilling, excavating, or other means. Accordingly, except as provided in paragraph (c) of this section, the following types of activities require at least an environmental assessment:

(1) Cases where developmental efforts are supported, if the project supports the transition of a particular technology from the development stage to large-scale commercial utilization.

(2) Any project supporting construction, other than interior remodelling.

(3) Cases where field work affecting the natural environment will be conducted.

(4) Any project that will involve drilling of the earth, excavation, explosives, weather modification, or other techniques that may alter a local environment.

(5) Any project that provides for the testing and release of biological-control agents for purposes of ecosystem manipulation and assessment of short- and long-term effects of major ecosystem perturbation.

(c) Directorates having divisions or programs with a substantial number of projects that fall within categories (3) and (4) in (b) above, are authorized to issue supplemental guidelines to Division Directors and Program Officers establishing subcategories of research methodologies or techniques for which environmental assessments need not be prepared. For example, if a program regularly supports research that involves noninvasive techniques or nonharmful invasive techniques (such as taking water or soil samples, or collecting non-protected species of flora and fauna) the directorate may determine that field projects otherwise coming under (b)(3) which involve only the use of such techniques do not require an environmental assessment. However, any such supplemental guidelines must be submitted to the Chairman for approval after consideration by the Committee.

(d) In some cases within the categories listed in paragraph (b), it will be evident at the outset or after the assessment process is begun that an EIS should be prepared. In such cases an assessment need not be completed, but the process of preparing an EIS (See § 640.5, below) should be started.

§ 640.4 Responsibilities and procedures for preparation of an environmental assessment.

(a) Program Officers, as the first point of decision in the review process, shall determine into which category incoming proposals fall, according to the criteria set forth in Section 640.3 of this Part. Notwithstanding this responsibility of the Program Officer, the appropriate Division Director, Assistant Director, and other reviewing policy officials must assure that adequate analysis is being made.

(b) Where appropriate, programs, divisions, or directorates will advise prospective applicants in program announcements, requests for proposals, and other NSF-prepared brochures of the requirement to furnish information regarding any environmental impact that the applicant's proposed study may have.

(c) Should an environmental assessment be required, the directorate supporting the activity shall be responsible for its preparation. Though no specific format for an environmental assessment is prescribed, it shall be a separate document suitable for public review and shall serve the purpose described in 40 CFR 1508.9, which is quoted in full as follows:

§ 1508.9 Environmental Assessment.

"Environmental Assessment":

(a) Means a concise public document for which a Federal agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by Section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

(d) A copy of the assessment or drafts shall accompnay the appropriate proposal throughout the NSF internal review and approval process. At the option of the directorate preparing the assessment, a draft may be submitted to the Committee for its review and comments. Prior to an award decision, one copy of all completed assessments shall be sent to the Chairman for review and updating of the Committee listing of assessments.

§ 640.5 Responsibilities and procedures for Preparation of an environmental impact statement.

(a) If initially or after an environmental assessment has been completed, it is determined that an environmental impact statement should be prepared, it and other related documentation will be prepared by the directorate responsible for the action in accordance with Section 102(2)(c) of the Act, this Part, and the CEQ regulations. However, once a document is prepared it shall be submitted to the Chairman who, after such review by the Committee as is deemed necessary by the Chairman shall transmit the document as required by CEQ regulations and this Part. If the Chairman considers a document unsatisfactory, he or she shall return it to the responsible directorate for revision prior to an award decision.

Specifically, the following steps, as discussed in the CEQ regulations, will be followed in preparing an EIS:

(1) A notice of intent to prepare a draft EIS will be published as described in 40 CFR 1501.7.

(2) Scoping, as described in 40 CFR 1501.7, will be conducted.

(3) The format and contents of the draft and final EIS shall be as discussed in 40 CFR Part 1502.

(4) Comments on the draft EIS shall be invited as set forth in 40 CFR 1503.1. The minimum period to be afforded for comments on a draft EIS shall be 45 days, unless a lesser period is necessary to comply with other specific statutory requirements or in case of emergency circumstances, as described in 40 CFR 1506.11.

(5) The requirements of 40 CFR 1506.9 for filing of documents with the Environmental Protection Agency shall be followed.

(6) The responsible directorate shall examine carefully the basis on which supportive studies have been conducted to assure that such studies are objective and comprehensive in scope and in depth.

(7) The Act requires that the decisionmaking involved "utilize a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences and the environmental design arts." If such disciplines are not present on the NSF staff, appropriate use should be made of personnel of Federal, State, and local agencies, universities, non-profit organizations, or private industry.

(8) A copy of the draft EIS or the final EIS (or a summary, if the size of the EIS does not make this practical) shall be included in and accompany the appropriate proposal throughout the NSF internal review and approval process.

(b)(1) 40 CFR 1506.1 describes the types of actions that should not be taken during the NEPA process. Such actions shall be avoided by NSF personnel during the process of preparation of an EIS and for a period of thirty days after the final EIS is filed with EPA, unless such actions are necessary to comply with other specific statutory requirements.

(2) 40 CFR 1506.10 also places certain limitations on the timing of agency decisions on taking "major Federal actions". In some cases the actual "decision point" may be more clearcut than others. If the "action" that necessitated the preparation of an EIS is one that would be carried out under grant, contract, or cooperative agreement, then the award shall not be made before the times set forth in 40 CFR 1506.10, unless such action is necessary to comply with other specific statutory requirements, or as exceptions are needed as provided in 40 CFR 1506.10, 1506.11, or 1507.3. However, an award for preliminary planning proposals may be made before such times if it is so structured as to require further NSF approvals for funding the actual actions that might adversely affect the quality of the human environment. In such cases, the subsequent approvals for funding these actions will be considered the "decision". This is consistent with the requirement that environmental considerations undergo concurrent review with all other project planning considerations.

(c) In appropriate cases, if the action involves other agencies, the Chairman may agree to designate another agency as "lead agency" and to cooperate as discussed in 40 CFR 1501.5 and 1501.6. In such cases, the Chairman has authority to alter the procedures described in (a) to the extent they are inconsistent with functions assigned to NSF under the "cooperating agency" arrangements.

Dated: August 2, 1979.

Richard C. Atkinson,

Director.

[FR Doc. 79-24524 Filed 8-8-79; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 216]

Scoping-Planning Meeting for the Development of Regulations for the Taking of Marine Mammals Incidental to Commercial Fishing Operations for 1981 and Beyond

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Announcement of public scoping meeting.

SUMMARY: Notice is hereby given that the National Marine Fisheries Service has determined that preparation of a draft environmental impact statement is necessary on regulations for the taking of marine mammals incidental to commercial fishing operations for 1981 and beyond. The National Marine Fisheries Service will hold two informal public meetings to scope and plan the range of issues, alternatives, and impacts that should be considered in a draft environmental impact statement.

DATES: NOAA has scheduled public meetings at 10:00 a.m., August 29, 1979, in San Diego, Calif., and Washington, D.C.

ADDRESSES: The public meetings will be held at the following locations: Federal Building, Room 6S19, 800 Front St., San Diego, California: National Marine Fisheries Service Headquarters, Penthouse, 2001 Wisconsin Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: J. Gary Smith, Chief, Fisheries Management Division, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, (213) 548-2518; or Richard B. Roe, Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, NOAA, Department of Commerce, Washington, D.C. 20235, (202) 634-7461.

SUPPLEMENTARY INFORMATION: The existing regulations, quotas and permits governing the taking of marine mammals (porpoises) incidental to commercial fishing operations in the eastern tropical Pacific Ocean will remain in effect through December 31, 1980. Because the required rulemaking process is lengthy and complex, it is imperative to begin that process immediately so that regulations will be in place for the 1981 fishing season. The informal public meetings are designed to solicit public participation in planning the rulemaking process and scoping the range of issues, alternatives, and impacts that should be considered in a draft environmental impact statement. A tentative timetable for the rulemaking process will be presented at the meeting.

for purposes of the informal scoping-planning meetings the proposed action is to begin preparation of a draft environmental impact statement on regulations for the taking of marine mammals incidental to commercial fishing operations for 1981 and beyond, and to review regulations governing the importation of tuna. The following alternatives have been identified:

1. Extend 1980 regulations and quotas;

2. Promulgate revised regulations and quota(s) for one or more years; and

3. Promulgate 1980 regulations and new quota(s) for one or more years.

(Title 1 of the Marine Mammal Protection Act of 1972, 86 Stat. 1027; 16 U.S.C. 1361-1407; Pub. L. 92-522)

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Dated: August 6, 1979.

[FR Doc. 79-24495 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

[50 CFR Part 611]

Groundfish of the Gulf of Alaska, Fishery Management Plan Amendment; Proposed Implementing Regulations

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of approval of fishery management plan amendment; proposed regulations.

SUMMARY: An amendment (amendment number 6) to the fishery management plan (FMP) for the Gulf of Alaska Groundfish fishery, submitted by the North Pacific Fishery Management Council, is approved. This amendment lowers the estimates of domestic annual harvest (DAH) and commensurately increases the total allowable level of foreign fishing (TALFF). Revised regulations to implement the amendment are proposed.

DATE: Comments are invited until September 22, 1979.

ADDRESS: Comments should be addressed to: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Telephone: (907) 586–7221.

SUPPLEMENTARY INFORMATION: At its June 28–29 meeting, the North Pacific Fishery Management Council (Council) submitted amendment 6 to the FMP for the Gulf of Alaska Groundfish fishery. The amendment lowers the estimates of DAH and commensurately increases the TALFF by 27,700 m.t. for all species of groundfish combined. (For specifications by species, see revised Table 61 of the FMP.) The Assistant Administrator for Fisheries approved the amendment on July 26, 1979.

The lowering of DAH, by species and individual regulatory areas in the Gulf of Alaska, is based upon data gathered by the National Marine Fisheries Service and reviewed by the Council on (1) total domestic harvest thorough April 1979, and (2) processors' intentions to process during the remainder of the fishing year. The purpose of the amendment is to make available for foreign fishing, fish which will not be harvested by domestic vessels.

For clarity, the proposed revised TALFFs and DAHs are specified for each of the three regulatory areas which have been approved as amendment 4 to the FMP and for which proposed regulations have been published (see 44 FR 40099, July 9, 1979). The revised tables in the proposed implementing regulations also incorporate: (1) Amendment 5 to the FMP which has been approved by the Secretary and published for public comment (see 44 FR 42738, July 20, 1979); and (2) the July 2, 1979 release of reserves to TALFF (see 44 FR 44853, July 31, 1979.) A final reserve release is also anticipated on approximately August 15, 1979. The amounts of fish made available to TALFF as a result of this release will also be incorporated in the final regulations implementing this amendment 6.

If either amendment 4 or 5 is modified as a result of public comments, the final regulations implementing this amendment 6 will be revised appropriately.

The Assistant Administrator for Fisheries, under a delegation of authority from the Secretary, has determined that this amendment to the FMP (1) is necessary and appropriate to the conservation and management of Gulf of Alaska Groundfish resources; (2) is consistent with the National Standards and other provisions of the Act; (3) does not constitute a major Federal action requiring the preparation of an environmental impact statement; and (4) does not constitute a significant action requiring the preparation of a regulatory analysis under Executive Order 12044.

The FMP for Gulf of Alaska Groundfish as published on April 21, 1978 (43 FR 17242) is amended as follows:

Page	Section	Place	Change
17313	5.2.2.1	Line 11	Change "is" to "was".
17313	5.2.2.2	Table 61	Before Table 61, add new paragraph as follows: "The DAH was reviewed in April, 1979. Questionnaires were sent to 40 processors who were asked to respond concerning their performance to date and projections for the remainder of the fishing year. Thirty-three responses were received and a revised DAH was determined. Revisions are shown in Table 61.
17313	5.2.2.2	Table 61	Change Table 61 to add an additional column as follows:

Table 61.—*Expected Domestic Annual Harvest (DAH) of Groundfish From the Gulf of Alaska in Metric Tons*

Species	Initial estimate	Revision
Pollock	14,200	6,100
Cod	15,500	4,000
Flounders	7,200	1,300
Pacific Ocean perch	1,100	400
Other rockfishes	2,000	700
Sablefish	4,000	4,000
Atka mackerel	0	0
Squid	0	0
Other species	500	300
Total	44,500	16,800

Page	Section	Place	Change
17313	5.2.2.2	Table 61	Following Table 61 add Table 61A as follows:

Table 61A.—*Revised DAH By Species By Area (Metric Tons)*

Species	Area			
	Western	Central	Eastern	Total
Pollock	25	5,380	695	6,100
Cod	240	3,480	280	4,000
Flounder	100	300	900	1,300
Pacific Ocean perch	25	295	80	400
Rockfish	45	200	455	700
Sablefish	100	100	3,800	4,000
Others	100	100	100	300
Total	635	9,855	6,310	16,800

Page	Section	Place	Change
17315	7.0	Table 62	Change Table 62 to read as follows:

Gulf of Alaska Groundfish TALFF

[1,000's mt]

Species	OY	Reserve	DAH	TALFF[1]
Pollock	168.8	133.8	6.1	28.9
Cod	34.8	10.0	4.0	20.8
Flounders	33.5	9.7	1.3	22.5
Pacific Ocean perch	25.0	7.9	0.4	16.6
Rockfish	7.6	3.5	0.7	3.4
Sablefish	13.0	4.1	4.0	4.9
Atka mackerel	26.8	5.9	0	20.9
Squid	5.0	1.5	0	3.5
Rattail	12.2	0	1.3	11.868
Other	16.2	4.7	0.3	11.2
Total	343.9	181.1	18.1	144.6

[1] Initial TALFF; may be increased as reserve is apportioned during the fishing year.

Page	Section	Place	Change
17316	7.0	Table 64	Change figures in Table 64 to read as follows:

Table 64.—*OY[1]/Reserve[3]/DAH/TALFF[2] Schedule, by Area (1,000's mt)*

Species		Western	Central	Eastern	Total
Pollock	OY	57.0	95.2	16.6	168.8
	Reserve	45.2	75.5	13.1	133.8
	DAH	.025	5.38	.695	6.1
	TALFF	11.775	14.32	2.805	28.9
Cod	OY	9.6	19.4	5.8	34.8
	Reserve	2.73	5.57	1.7	10.0
	DAH	.24	3.48	.28	4.0
	TALFF	6.63	10.35	3.82	20.8
Flounders	OY	10.4	14.7	8.4	33.5
	Reserve	3.0	4.3	2.4	9.7
	DAH	.1	.3	.9	1.3
	TALFF	7.3	10.1	5.1	22.5
Pacific Ocean perch	OY	2.7	7.9	14.4	25.0
	Reserve	.9	2.5	4.5	7.9
	DAH	.025	.295	.08	.4
	TALFF	1.775	5.105	9.82	16.7
Other rockfish	OY	.3	.8	6.5	7.6
	Reserve	.1	.4	3.0	3.5
	DAH	.045	.2	.455	.7
	TALFF	.155	.2	3.045	3.4
Sablefish	OY	2.1	3.8	7.1	13.0
	Reserve	.7	1.5	1.9	4.1
	DAH	.1	.1	3.8	4.0
	TALFF	1.3	2.2	1.4	4.9
Rattail	OY	3.3	7.1	2.8	13.2
	Reserve	0	0	0	0
	DAH	.033	.033	1.266	1.332
	TALFF	3.267	7.067	1.534	11.868
Atka mackerel	OY	4.4	19.4	3.0	26.8
	Reserve	1.0	4.3	.6	5.9
	DAH	0	0	0	0
	TALFF	3.4	15.1	1.4	20.9
Squid	OY	1.0	2.0	2.0	5.0
	Reserve	.3	.6	.6	1.5
	DAH	0	0	0	0
	TALFF	.7	1.4	1.4	3.5
Other species	OY	4.4	8.6	3.2	16.2
Reserve		1.3	2.5	.9	4.7
	DAH	.1	.1	.1	.3
	TALFF	3.0	6.0	2.2	11.2

[1] Based on percentages shown in Table 63.
[2] Initial TALFF may be larger as reserve is apportioned during year.
[3] Includes additional reserve for possible use in joint ventures.

Signed at Washington, D.C. this 6th day of August, 1979.

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

(16 U.S.C. 1801 *et seq.*)

It is proposed to amend 50 CFR 611 as follows:

1. Section 611.20(c), Table I, change the TALFFs for species in the Gulf of Alaska Groundfish fishery to the following:

§ 611.20 Total allowable level of foreign fishing.

* * * * * * * *

(c) * * *

Fishery	Species	Species code	TALFF (metric tons)
Gulf of Alaska groundfish	Cod, Pacific	702	[4][5] 28,112
Do	Flounders, including yellowfin sole	129	[4][5] 31,950
Do	Mackerel, Atka	207	[4][5] 25,640
Do	Perch, Pacific Ocean (POP)	780	[4][5] 22,275
Do	Pollock	701	[4][5] 144,650
Do	Rockfishes, other than POP	849	[4][5] 6,575
Do	Rattails	315	[4] 11,868
Do	Sablefish	703	[4][5] 7,100
Do	Squid	509	[4][5] 4,465
Do	Other species	499	[4][5] 15,570

2. Section 611.92(b)(1), remove Table I and replace it with the following Table I:

§ 611.92 Gulf of Alaska trawl fishery.

* * * * * * *

(b) * * *
(1) * * *

Table I.—*Gulf of Alaska Groundfish Fishery: TALFF and Reserve[1] by Species and Regulatory Area for 1978/1979*

[Metric Tons]

Species		Regulatory areas[2]			
		Western	Central	Eastern	Total
Pollock	TALFF	56,925	72,820	14,905	144,650
	Reserve	50	17,000	1,000	18,050
Pacific Cod	TALFF	7,996	14,746	5,370	28,112
	Reserve	1,364	1,174	150	2,688
Flounders	TALFF	10,250	14,300	7,400	31,950
	Reserve	50	100	100	250
Pacific Ocean perch (POP)	TALFF	2,225	6,355	13,695	22,275
Reserve		450	1,250	625	2,325
Other rockfishes[3]	TALFF	230	500	5,845	6,575
	Reserve	25	100	200	325
Sablefish	TALFF	1,815	2,795	2,490	7,100
	Reserve	185	905	810	1,900
Atka Mackerel	TALFF	4,350	18,700	2,590	25,640
	Reserve	50	700	410	1,160
Squid	TALFF	895	1,780	1,790	4,465
	Reserve	105	220	210	535
Rattails	TALFF	3,267	7,067	1,534	11,868
	Reserve	0	0	0	0
Other species[4]	TALFF	4,200	8,300	3,070	15,570
	Reserve	100	200	30	330

[1] The TALFF's specified in this table may be modified during the year if reserves are apportioned to TALFF.
[2] See Figure 1 of this § 611.92(b) for description of regulatory areas.
[3] The category "other rockfishes" includes all rockfishes other than Pacific Ocean perch.
[4] The category "other species" includes all species of fish except: (A) The other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, and Continental Shelf fishery resources.

[FR Doc. 79-24496 Filed 8-8-79; 8:45 am]
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Notices

Federal Register
Vol. 44, No. 155
Thursday, August 9, 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

Finding of No Significant Impact, Vegetation Management Along Thompson Creek Road; Rogue River National Forest

An Environmental Assessment that discusses proposed road side vegetation management by the Josephine County Road Department for the U.S. Forest Service portion of the Thompson Creek Road #3900 in Sections 1 & 12, T.40S., R. 5W., W.M., in Josephine County, Oregon for not more than 7.7 acres along a 1½ mile section of the road, is available for public review at the Star Ranger Station, 6941 Upper Applegate Road, Jacksonville, Oregon 97530.

The Environmental Assessment does not indicate that there is a major federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) that the treatment of 1.2 acres of basal stump treatment with 2,4–D and 2,4–DP herbicide with follow-up treatments of Krenite and the treatment of 1.7 acres of road shoulder for soil sterilization with Simazine and Bromacil, with a possible later follow-up with Roundup and/or Dalapon, with an additional 4.8 acres of hand brush cutting and mechanical chipping on a yearly maintenance basis, as needed, over the next five years will have only a slight effect on the ecosystem adjacent to the road within the project area; (b) there are no irreversible resource commitments; (c) there are no apparent adverse cumulative or secondary effects; (d) the physical and biological effects are limited to the area of planned development and use; and (e) there are no known threatened or endangered plants or animal resources that will be adversely affected within the project area.

No public concern has been expressed about possible effects of the project.

No action will be taken prior to September 10, 1979.

The responsible official is Donald H. Smith, Forest Supervisor, Rogue River National Forest, P.O. Box 520, Medford, OR 97501.

Dated: July 16, 1979.

Donald H. Smith,

Forest Supervisor.

[FR Doc. 79-24497 Filed 8-8-79; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Upper Bay River Watershed, N.C.; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Upper Bay River Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Upper Bay River Watershed, Pamlico County, North Carolina.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 552, Federal Office Building, Raleigh, North Carolina 27611, telephone number 919–755–4165. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 9, 1979.

Dated: August 2, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

[FR Doc. 79-24499 Filed 8-8-79; 8:45 am]

BILLING CODE 3410-16-M

Upper Chester River Watershed Project, Maryland-Delaware; Intent to Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Upper Chester River Watershed project, Kent and New Castle Counties, Delaware; Kent and Queen Annes Counties, Maryland.

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

The project concerns a plan for watershed protection, flood damage reduction, and adequate agricultural drainage. The planned works of improvement include approximately 100 miles of channel modification.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The

draft environmental impact statement will be developed by Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740, telephone number (301) 344–4180.

Dated: August 2, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-24498 Filed 8-8-79; 8:45 am]

BILLING CODE 3410-16-M

Science and Education Administration

Animal Health Science Research Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92–463, the Science and Education Administration announces the following meeting:

Name: Animal Health Science Research Advisory Board.
Date: September 13–14, 1979.
Time: 10:00 a.m.
Place: Room 3109, South Building, U.S. Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C. 20250.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: The Board will consult with and advise the Secretary of Agriculture on implementing animal health and disease research programs. Recommendations will be made also on priorities of research in these programs.
Board Names and Agenda: Available from contact person below.
Contact Person: Dr. Anson R. Bertrand, Director of Science and Education, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–5923.

Done at Washington, D.C., this 3rd day of August 1979.

Anson R. Bertrand,

Director, Science and Education.

[FR Doc. 79-24587 Filed 8-8-79; 8:45 am]

BILLING CODE 3410-22-M

COMMISSION ON CIVIL RIGHTS

Hawaii Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provision of the rules and regulations of the U.S. Commission on Civil Rights, that a planning and briefing session of the Hawaii Advisory Committee (SAC) of the Commission will convene at 7:00 pm and will end at 9:00 pm, on August 26, 1979, at the Ala Moana Hotel, Board Room, 410 Atkinson Drive, Honolulu, Hawaii 96806.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is for a briefing session in preparation for August 27, consultation on equal opportunities for Native Hawaiians.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 6, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-24514 Filed 8-8-79; 8:45 am]

BILLING CODE 6335-01-M

Hawaii Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a Native Hawaiian Conference of the Hawaii Advisory Committee (SAC) of the Commission will convene at 8:00 a.m. and will end at 5:00 p.m., on August 27, 1979, at the Prince Kuhio Federal Building, Room C–270, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is for a one-day consultation on equal opportunities for Native Hawaiians.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 6, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-24515 filed 8-8-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 10(a)(2) (1976), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, August 28, 1979, at 9:30 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, October 21, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Nomination and election of new chairman.

(4) Committee program planning for 1979–80.

(5) Presentation by Alan Minthorne on Automatic Test Equipment (ATE).

Executive Session

(6) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

With respect to agenda item (6), the Assistant Secretary for Administration with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings

and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the **Federal Register** on December 27, 1978 (43 FR 60328).

Copies of the minutes of the open portions of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202–377–2583.

For further information, contact Mrs. Cornejo, either in writing or by phone at the address or number shown above.

Dated: August 6, 1979.

Kent N. Knowles,

Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-24600 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council's Atlantic Mackerel Resources Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established an Atlantic Mackerel Resources Subpanel which will meet to discuss Amendment 1 to the Mackerel Fishery Management Plan.

DATES: The meeting will convene on Monday, August 27, 1979, at 10 a.m., and will adjourn at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Inn, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 6, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24598 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council's Surf Clam/Ocean Quahog Resources Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established a Surf Clam/Ocean Quahog Resources Subpanel which will meet to discuss the Surf Clam/Ocean Quahog Fishery Management Plan and regulations.

DATES: The meeting will convene on Friday, August 31, 1979, at 10:00 a.m., and will adjourn at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Sheraton, Route 13, Dover, Delaware.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 6, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24599 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established the Scientific and Statistical Committee which will meet to discuss work plans for future species, election of a vice-chairman and other fishery management matters.

DATES: The meeting will convene on Monday, September 10, 1979, at 10 a.m., and will adjourn at approximately 3 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Motel, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 6, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24596 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Squid Fishery Resources/Butterfish Subpanels; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established Squid Fishery Resources/Butterfish Subpanels which will meet to discuss the first amendments to the Squid Fishery Management Plan and the Butterfish Fishery Management Plan.

DATES: The meeting will convene on Wednesday, August 29, 1979, at 10 a.m., and will adjourn at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Inn, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 6, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24597 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council, Scientific and Statistical Committee, and Advisory Panel; Amended Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established a Scientific and Statistical Committee (SSC) which will meet on August 21 & 22, 1979.

DATES: The SSC meeting will convene on Tuesday, August 21, 1979, at 10 a.m.; Wednesday, August 22, 1979, at 10 a.m.; adjourning both days at 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place in the Council Conference Room, 333 West Fourth Avenue, Post Office Mall Building, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, Post Office Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Dated: August 6, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24595 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Electromagnetic Radiation Management Advisory Council; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, notice is hereby given that the Electromagnetic Radiation Management Advisory Council will meet from 9:00 a.m. to 5:00 p.m. on September 5 and from 9:00 a.m. to 5:00 p.m. on September 6 in Room 540, 1800 G Street, N.W., Washington, D.C.

The Council advises the Secretary of Commerce on the biological effects of radiowaves and other forms of electromagnetic radiation. It was originally established in 1968 in the Executive Office of the President. The Council reports to the Secretary through NTIA's administrator, the Assistant Secretary for Communications and Information.

Principal agenda items will include a review of the NTIA Task Force Second Draft, *Preliminary Research Plan on Biological Effects of Nonionizing Electromagnetic Radiation* and discussion of the status and plans for the ERMAC's next Program Recommendation Report. There will also be a brief discussion of future ERMAC activities. The second day will consist primarily of a working session to draft comments on the Task Force Report.

The meeting will be open to the public. Oral questions and comments will be allowed, time permitting. Written questions and comments may be submitted before or after the meeting. Public seating will be available on a first-come, first-served basis. Copies of the minutes will be provided upon request when available.

Inquiries may be addressed to the Committee Control Officer, Mr. Robert Frazier, NTIA, 1800 G Street, N.W., Washington, D.C. 20504, telephone (202) 377–1850.

Dated: August 3, 1979.

Cloyd C. Dodson,

Committee Liaison Officer, National Telecommunications and Information Administration.

[FR Doc. 79-24517 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-60-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes in Officials of the Government of Hong Kong Authorized To Endorse Export Visas for Certain Apparel Products from Hong Kong

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing a new list of officials of the Government of Hong Kong who are authorized to endorse export visas for cotton, wool and man-made fiber apparel from Hong Kong.

SUMMARY: The Government of Hong Kong has notified the Government of the United States that 14 officials are currently authorized to endorse export visas for apparel products exported from Hong Kong to the United States. Six officials previously designated are no longer so authorized. A complete list of authorized officials accompanies this notice.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Judith L. McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On May 9, 1979 a letter dated May 3, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (44 FR 27232), which announced the use by the Hong Kong Government of a new endorsement stamp showing both quantity and textile category on export visas accompanying certain cotton, wool and man-made fiber apparel products, produced or manufactured in Hong Kong and exported to the United States, effective on June 1, 1979. It further specified that the visas must be endorsed by officials authorized by the Government of Hong Kong. The Government of Hong Kong has requested that 14 officials be recognized as authorized to endorse export visas for certain apparel products exported from Hong Kong to the United States. The list that follows this notice includes the names of all Hong Kong officials currently authorized to issue such endorsements.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Hong Kong Government Officials Currently Authorized To Endorse Export Visas for Apparel Products Exported to the United States

Chin Lai-ming
Fung Chan Yan-mui
Ho Siu-lan
Hon Leung Mi-kin
Lau Ho Wan-chee, Norah
Law Shuk-ngor, Anita
Law Yin-hing
Sin Fung-pik
So Chan Kit-ping, Alice
To Dao-wah
Tsang Miu-wah
Wong Yau Suk-fun
Yu Mak Kin-yee
Yuen Chung-lai

[FR Doc. 79-24782 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board, Aeronautical Systems Division; Meeting

July 30, 1979.

The USAF Scientific Advisory Board Division Advisory Group, Aeronautical Systems Division, will hold meetings on August 27, 1979 from 8:30 a.m. to 5:00 p.m. and August 28, 1979 from 8:30 a.m. to 5:00 p.m. at Wright-Patterson Air Force Base, Ohio, in Room 222, Building 14, Area B.

The Group will receive classified briefings and hold classified discussions on selected programs and projects relating to the missions of the Aeronautical Systems Division and the Air Force Wright Aeronautical Laboratories.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-24500 Filed 8-8-79; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board Electronic Systems Division Advisory Group; Meeting

August 1, 1979.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group will hold meetings on October 4, 1979 from 8:30 a.m. to 5:00 p.m. and October 5, 1979 from 8:30 a.m. to 12:00 p.m. at Hanscom Air Force Base, Massachusetts in the Command Management Center, Building 1606.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control, and Communications Programs.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-24501 Filed 8-8-79; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers

Intent To Prepare a Revised Draft Environmental Impact Statement (RDEIS) For An Aquatic Plant Control Program in South Carolina

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Revised Draft Environmental Impact Statement (RDEIS).

SUMMARY:

1. Description of proposed action:

The proposed program provides for a comprehensive plan to control aquatic plants within the state waters of South Carolina in the interest of navigation, flood control, agriculture, fish and wildlife, public health, and other related purposes. Target species include alligatorweed *(Alternanthera philoxeroides)*, Brazilian elodea *(Egeria densa)*, and water primrose *(Ludwigia uruguayensis)*. Control may be directed at other species if any should significantly interfere with the use of public waters. Alligatorweed would be controlled by an integrated program involving insects and herbicides. Brazilean elodea and water primrose would be controlled by herbicides alone.

2. Description of alternatives:

a. *Biological Control:* The absence of natural enemies is one of the reasons for the abundance and rapid spread of exotic plants in South Carolina. Biological control of aquatic plants is an environmentally attractive alternative. Various types of organisms are being sought and tested for use in control work. Attempts have been made to control exotic plants by seeking out and importing their enemies from the native area of the plants. Organisms considered and used thus far are insects, plant pathogens and fish.

b. *Chemical Control:* The primary method of aquatic weed control is chemical control by the use of herbicides. Many alternative types of aquatic herbicides have been used and tested with varying degrees of success. However, the herbicide 2,4-D is considered the safest and least expensive chemical for control of alligatorweed and water primrose. Herbicides proposed for use on elodea include Diquat and Fenac if field tests on the latter herbicide are favorable.

c. *Mechanical Control:* High cost and the unsuitability of mechanical harvesters for use where trees, stumps and logs abound practically preclude the use of mechanical control in most areas. At present, mechanical control is used only where chemical control cannot be used and is not considered a suitable alternative.

d. *No Action:* The last alternative considered for the program is the no-action alternative. Adoption of this alternative would permit aquatic plant growths to continue to interfere with the use of public waters. Excessive aquatic plant growth would interfere with navigation, increase flooding, endanger public health, and interfere with native fish and wildlife resources.

3. a. *Public and Private Participation in the RDEIS Process:* Full participation by interested Federal, state and local agencies as well as other interested private organizations and parties will be invited. Coordination as needed will be accomplished with aforementioned agencies and parties during the preparation of the RDEIS.

b. *Significant Issues to be Discussed in the RDEIS Include:*

(1) Project Description

(2) Environmental Setting Without the Project

(3) Relationship of the Proposed Action to Land Use Plans

(4) Adverse Environmental Effects Which Cannot be Avoided Should the Proposed Project be Implemented

(5) alternatives to the Proposed Action

(6) Any Irreversible and Irretrievable Commitments of Resources which would be Involved in the Proposed Action should it be Implemented.

(7) Coordination and Comment and Response

c. *Environmental Review:* Environmental review of the RDEIS and EIS as well as consultations will be made with the U.S. Fish and Wildlife Service, Environmental Protection Agency, National Marine Fisheries Service, South Carolina Coastal Council, South Carolina Department of Health and Environmental Control, and South Carolina Wildlife and Marine Resources Department.

4. A scoping meeting will not be held as a result of near completion of the RDEIS.

5. The Revised Draft Environmental Impact Statement *"An Aquatic Plant Control Program in South Carolina"* will be made available to the public about September 1, 1979.

6. Questions about the proposed action and RDEIS can be answered by: John Carothers, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, Charleston District, Box 919, Charleston, South Carolina 29402.

Dated: August 1, 1979.

William W. Brown,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 79-24502 Filed 8-8-79; 8:45 am]

BILLING CODE 3710-CH-M

Department of the Navy

Amendments to Systems of Records

AGENCY: Department of the Navy (DON).

ACTION: Notice of amendments to systems of records.

SUMMARY: The Department of the Navy proposes to amend 5 existing systems of records subject to the Privacy Act of 1974. The specific changes to the systems being amended are set forth below, followed by the systems published in their entirety, as amended.

DATES: These systems shall be amended as proposed without further notice September 10, 1979, unless comments are received on or before September 10, 1979, which would result in a contrary determination.

ADDRESS: Send comments to the systems manager identified in the particular record system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act

Coordinator, Office of the Chief of Naval Operations (OP–09B1P), Department of the Navy, The Pentagon, Washington, D.C. 20350, telephone 202–694–2004.

SUPPLEMENTARY INFORMATION: The Navy systems of records notices are prescribed by the Privacy Act of 1974, 5 U.S.C. 552a (Public Law 93–579) have been published in the **Federal Register** as follows:

FR DOC 77–28255 (42 FR 51229) September 28, 1977.
FR DOC 78–23953 (43 FR 42379 and 42497) September 20, 1978.
FR DOC 78–32596 (43 FR 54124) November 20, 1978.
FR DOC 79–20457 (44 FR 38961) July 3, 1979.

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552(o) of the Act which require the submission of a new or altered system report. Specific changes to the systems being amended are set forth below. Followed by the systems published in their entirety as amended.

August 6, 1979.

H. E. Lofdahl,

Director Correspondence and Directives Washington Headquarters Services Department of Defense.

N00018–03

System name

Medical Treatment Record System (42 FR 51252) 28 Sep 77.

Changes

System name

Delete entire entry and substitute: "Health Care Treatment Record System."

System location

Delete entire entry and substitute: "Service Medical (Health and Dental) Records for active duty and Reserve, Navy and Marine Corps Personnel. Retained at the individual's duty station or reserve unit. (Mailing addresses are listed in the Navy directory in the appendix in the Component System Notice). Bureau of Naval Personnel, Navy Department, Washington, D.C.; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana 70149; Headquarters Marine Corps, Navy Department, Washington, D.C. 20380; Marine Corps Reserve Forces Administrative Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri 64131; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Inpatient treatment records for active duty military, dependents, retired military and dependents, civilian employees, VA beneficiaries and humanitarian. Naval regional medical centers and naval hospitals; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Outpatient treatment records for dependents of active duty military, retired military and their dependents, civilian employees, VA beneficiaries and humanitarian. Naval regional medical centers and naval hospitals, and clinics (dispensaries); National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Subsidiary record files of the Health Care Treatment Record System are located at Naval Medical Data Services Center, Bethesda, Maryland; Regional Data Service Centers; Naval Environmental Health Center, Norfolk, Virginia; and other approved locations for conducting research studies."

Categories of records in the system

In second paragraph (line 6), delete phrase ". . . reports of exposure to ionizing radiation . . ." and substitute phrase; ". . . reports of exposure to environmental and radiation hazards . . ."

In second paragraph, last sentence, delete in its entirety and substitute: "In addition to, and based on individual medical record files, there are subsidiary records such as registers of patients; patient health care, medical board and death statistics; environmental health data; operating room schedules, tumor registers; appointment registers; sick call and treatment logs; X-ray files; laboratory files and logs; pharmacy records; EKG's; EEG's; neuropsychiatric evaluations; physical therapy records; other patient evaluation records, etc."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute:

Officials and employees of the Department of the Navy (and Members of the American National Red Cross in Navy health care facilities) in the performance of their official dutes relating to the health and medical treatment of those categories of individuals covered by this record system; determining physical qualifications and suitability of candidates for various programs; personnel assignment; adjudicating claims and appeals before the Council of Personnel Boards, and the Board for Correction of Naval Records; rendering opinions regarding members' physical fitness for continued naval service; litigation involving medical care provided those categories of individuals covered by this record system; performance of research studies and compilation of statistical data; implementing preventive medicine, dentistry, and communicable disease control programs. Officials and employees of other components of the Department of Defense in the performance of their official duties relating to determining the physical qualifications of applicants; in providing medical care to those categories of individuals covered by this record system; and in the conduct of analyses and research studies.

Officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of Veterans claims and in providing medical care to members and former members of the Naval Service. The Attorney General of the United States or his authorized representatives in conncection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties related to review of the physical qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies. Private organizations (including educational institutions) and individuals for authorized research studies in the interest of the Federal Government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies. Parent activities releasing such records shall maintain a list of all such research organizations and records released thereto.

Officials and employees of the National Research Council in cooperative studies of the National history of disease, of prognosis and of epidemiology. Each study in which the records of individuals covered by this record system are used must be approved by the Surgeon General of the Navy.

Officials and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing the local control of communicable diseases, preventive

medicine and safety programs, child abuse and other public health and welfare programs. Authorized surveying bodies for professional certification and accreditations.

When required by federal statute, by executive order, or by treaty, medical record information will be disclosed to the individual organization or governmental agency as necessary. Drug/alcohol and family advocacy information maintained in connection with abuse prevention programs shall be disclosed only in accordance with the applicable statutes, 21 U.S.C. 1175, 42 U.S.C. 4582, and 5 U.S.C. 552.

Records will not be further released by routine users without prior approval of the SYSMANAGER.

Retrievability:

Delete the entire first subparagraph and substitute:

"Records retired to the National Personnel Records Center, St. Louis, Missouri, prior to 1971 are retrieved by name and service or file number. After that date, records are retrieved by name and social security number."

Safeguards:

Add the words "of" to the next to last sentence as follows:

"Access is restricted to personnel having a need for the record in providing further medical care or in support of administrative/clerical functions."

Retention and Disposal:

Delete the entire paragraph and substitute:

"Health care treatment records are retained, retired, and disposed of in accordance with SECNAVINST 5212.5 series, Disposal of Navy and Marine Corps Records."

Notification procedures:

Delete the entire entry and substitute:

"Service Medical (Health and Dental) Records for active duty and reserve; Navy and Marine Corps members;

Requests for information from active duty Navy and Marine Corps personnel and drilling members of the Navy and Marine Corps Reserves should be addressed to the individual's commanding officer. Official mailing addresses are in the Department of Defense directory in the appendix to the Component's System Notice. Inactive naval reservists should address requests for information to the Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana 70149. Marine Reservist's should address requests for information to Marine Corps Reserve Forces Administrative Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri 64131.

Former members who have no further reserve or active duty obligation should address requests for information to Director, National Personnel Records Center (Navy Reference Branch), 9700 Page Boulevard, St. Louis, Missouri 63132.

All written requests should contain the full name and social security account number of the individual, his signature, and in those cases where his period of service ended before 1971, his service or file number. In requesting records for personnel who served before 1964, information provided to the National Personnel Records Center should also include date and place of birth and dates of periods of active naval service. Active duty Navy and Marine Corps personnel including drilling members of the reserves may visit the Medical Department of the activity to which attached. Inactive Naval Reservists whose tour of active duty ended after 1 July 1972 may visit the Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana. Marine Reservists whose tour of active duty ended after 1 July 1972 and who have a continual reserve obligation may visit the Marine Corps Reserve Forces Administration Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri. Former members with no further obligation and reservists whose tour of active duty ended prior to 1 July 1972 may visit the National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri. Proof of identification in the case of active duty, retired and reserve personnel will consist of the Armed Forces of the U.S. Identification Card or by other types of identification bearing picture and signature. Former members may provide drivers license or other types of identification bearing picture and signature.

Inpatient and outpatient treatment records:

(Care/treatment—within 2 years) Commanding officer of the naval regional medical center or hospital where the individual was treated.

(More than 2 years) Director, National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118 or Director, National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132.

Provide the following data: Full name, service number, status, or SSN of sponsor, date(s) of treatment or period of hospitalization, address at time of medical treatment, if known.

Office where requester may visit to obtain information of records pertaining to the individual.

Regional medical center or hospital Chief, Patient Affairs Service

Chief, Outpatient Service

Officer-in-charge other Navy medical facility

Full name, date and place of birth, ID card or drivers license, or other identification to sufficiently identify the individual with the medical records held by the treatment facility."

Record access procedures:

Delete the entire entry and substitute:

Sysmanager—Service Medical (Health and Dental) Records for active duty and reserve, Navy and Marine Corps; requests from individuals should be addressed to Chief, Bureau of Medicine and Surgery, (Code 3111), Navy Department, Washington, DC 20372.

Record source categories:

Change the word "is" to "or" in the next to last line.

N00022 PERSRECSYS

System name:

Navy Personnel Records System (42 FR 51266) 28 Sep 77

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add a new paragraph after the seventh paragraph as follows: "Duly appointed Family Ombudsmen in the performance of their duties related to the assistance of the members and their families."

Notification procedure:

In line 2, delete the words ". . . Chief of Naval Personnel . . ." and substitute as follows: ". . . Commander, Naval Military Personnel Command . . ."

In the second paragraph, line 1, delete the words ". . . Chief of Naval Personnel . . ."and substitute as follows: ". . . Commander, Naval Military Personnel Command. . ."

Systems exempted from certain provisions of the act:

Delete the entire entry and substitute: "Parts of this system may be exempt under 5 U.S.C. 552a(k) (1) and (5), as applicable. For additional information contact the System Manager."

N00600-1NAVTIS

System name:

Naval Schools/Training Information System (42 FR 51290) 28 Sep 77

Changes:

System name:

Delete the entire entry and substitute "Naval Schools/Training Information System, Marine Corps Aviation Training Support Systems."

System location:

Delete entire entry and substitue: "Schools and other training activities or similar organizational elements of the Department of the Navy and Marine Corps as listed in the directory of Department of Navy activities."

Categories of individuals covered by the system:

Delete the phrase "Naval schools" in the second line, and substitute: ". . . Navy/Marine Corps schools. . ."

Categories of records in the system:

Add the following phrase to the second sentence in this category: ". . . professional records, i.e., Navy enlisted classification, military occupational specialty for Marines, subspecialty codes. . ."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add the following phrase to the third sentence in this category ". . . Chief of Naval Personnel, Naval education and training command activities staff personnel and the Commandant of the Marine Corps and his designated officials in the performance of their duties relating to aviation training/assignments. . ."

System manager(s) and address:

Delete the second sentence and substitute with the following: ". . . See the directory of Navy and Marine Corps activities mailing addresses."

Record source categories:

Add the following phrase to the third line after the words "and other activities," ". . . and the Commandant of the Marine Corps;"

System name:

DODCI Student Biography System (42 FR 51310) 28 Sep 77

Changes:

System name:

Delete the entire entry and substitute as follows: "DODCI Faculty/Senior Staff/Student Biography System"

Categories of individuals covered by the system:

Add the following paragraph at the beginning of the existing entry: "All faculty members, senior staff members, and guest lecturers currently instructing or managing at the DODCI."

Categories of records in the system:

At the end of line 2, add the following phrase before the word "student": ". . . faculty member, senior staff member, guest lecturer, or . . ."

At the beginning of line 3, add the word "Students . . ."

At the end of entry, add a new entry as follows: "Faculty/senior staff record consists of name, rank or rate, current and previous job titles and positions, former major duties, formal education completed, computer-related and other technical training and experience."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add a new paragraph at the end of the existing entry: "Information on faculty/senior staff members contained in the biographical summaries is provided to students as an attachment to their student notebooks. Records are used by students to identify faculty and senior staff members, areas of data processing and information management experience for consultation purposes and as an expertise preamble to the next scheduled lecturer."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retrievability:

Delete the entire entry and substitute: "By name for faculty/senior staff members. Course title and name for students."

Safeguards:

In line 1 add the following phrase after the words "scheduling office": ". . . (for students) and in the Reproduction Shop (for faculty/senior staff members) . . ."

Retention and disposal:

Add the following entry at the end of the existing paragraph: "All individual faculty and senior staff biographical summaries are retained in a master file folder until no longer providing services to DODCI. Master file is revised periodically to maintain currency. Students receiving a course notebook can retain the included biographical records as well as the notebook."

Notification procedure:

Add the word "Students" at the beginning of the second sentence.

Record source categories:

Add the following paragraph at the end of the existing one: "Biographies are authorized by each faculty and senior staff member soon after arrival at DODCI. Guest lecturers are requested to voluntarily submit biographies for use in course notebooks; content is never changed, but in some cases selectively reduced in length so as not to exceed one page. Format and content are generated solely by DODCI member and are subjected only to editorial review.

N65196 DODCI. 03

System name:

DODCI Course Evaluation System (42 FR 51311) 28 Sep 77

Changes:

Routine uses of records maintained in the system, including categories of users and the proposes of such uses:

In line 7, after the sentence ending with the word "revisions", add the following new sentence: "Copy is provided to unite education offices upon request."

N00018-03

SYSTEM NAME:

Health Care Treatment Record System

SYSTEM LOCATION:

Service Medical (Health and Dental) Records for active duty and Reserve, Navy and Marine Corps Personnel. Retained at the individual's duty station or reserve unit (Mailing addresses are listed in the Navy directory in the appendix in the Component System Notice). Bureau of Naval Personnel, Navy Department, Washington, DC; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana 70149; Headquarters Marine Corps, Navy Department, Washington, DC 20380; Marine Corps Reserve Forces Administrative Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri 64131; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Inpatient treatment records for active duty military, dependents, retired military and dependents, civilian employees, VA beneficiaries and humanitarian. Naval regional Medical centers and naval hospitals; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Outpatient treatment

records for dependents of active duty military, retired military and their dependents, civilian employees, VA beneficiaries and humanitarian. Naval regional medical centers and naval hospitals, and clinics (dispensaries); National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Subsidiary record files of the Health Care Treatment Record System are located at Naval Medical Data Services Center, Bethesda, Maryland; Regional Data Service Centers; Naval Environmental Health Center, Norfolk, Virginia; and other approved locations for conducting research studies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy, Marine Corps, other military personnel, dependents, retired military personnel and dependents, civilian employees, VA beneficiaries and humanitarian.

CATEGORIES OF RECORDS IN THE SYSTEM:

Service Medical (Health and Dental) Records for active duty and reserve, Navy and Marine Corps: System is made up of records pertaining to the member's or former member's medical history; physical, dental and mental examinations; consultation; inoculations; outpatient treatment, including laboratory and x-ray reports; report of medical boards; summaries of periods of hospitalization; dental evaluation and treatment; reports of exposure to ionizing radiation; results of special diagnostic and clinical studies; recommendations regarding requests for waivers of established physical standards.

Inpatient and Outpatient treatment records: File contains a multiplicity of prescribed forms documenting health evaluations, medical/dental care and treatment for any health or medical condition or problem provided an eligible individual on an outpatient and/or inpatient status. The records contain history and physical examinations or health evaluations, reports of exposure to environmental and radiation hazards, consultation reports and medical care and treatment provided, including procedures utilized such as surgery, drugs, dietary, x-ray, laboratory, nursing notes, physical therapy, and other specialty care applicable to the medical diagnosis or conditions found. The records also contain patient's demographic data, family health history data, length of inpatient stay, disease nomenclature, and a discharge summary of inpatient care. Documentation of health history, diagnosis, care, and treatment provided, and the recording thereof conforms with the standards prescribed by the Joint Commission on Accreditation of Hospitals. In addition to, and based on individual medical record files, there are subsidiary records such as registers of patients; patient health care, medical board and death statistics; environmental health data; operating room schedules; tumor registers; appointment registers; sick call and treatment logs; x-ray files; laboratory files and logs; pharmacy records; EKG's; EEG's; neuropsychiatric evaluations; physical therapy records; other patient evaluation records; etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5131 (as amended), 10 U.S.C. 5132, 44 U.S.C. 3101, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Officials and employees of the Department of the Navy (and members of the American National Red Cross in Navy Health Care Facilities) in the performance of their official duties relating to the health and medical treatment of those categories of individuals covered by this record system; determining physical qualifications and suitability of candidates for various programs; personnel assignment; adjudicating claims and appeals before the Council of Personnel Boards, and the Board for Correction of Naval Records; rendering opinions regarding members' physical fitness for continued naval service; litigation involving medical care provided those categories of individuals covered by this record system; performance of research studies and compilation of statistical data; implementing preventive medicine, dentistry, and communicable disease control programs. Officials and employees of other components of the Department of Defense in the performance of their official duties relating to determining the physical qualifications of applicants; in providing medical care to those categories of individuals covered by this record system; and in the conduct of analyses and research studies.

Officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of Veterans claims and in providing medical care to members and former members of the Naval Service. The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties related to review of the physical qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies. Private organizations (including educational institutions) and individuals for authorized research studies in the interest of the Federal Government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies. Parent activities releasing such records shall maintain a list of all such research organizations and records released thereto.

Officals and employees of the National Research Council in cooperative studies of the National history of disease, of prognosis, and of epidemiology. Each study in which the records of individuals covered by this record system are used must be approved by the Surgeon General of the Navy.

Officals and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing the local control of communicable diseases, preventive medicine and safety programs, child abuse and other public health and welfare programs. Authorized surveying bodies for professional certification and accreditations.

When required by federal statute, by executive order, or by treaty, medical record information will be disclosed to the individual organization or governmental agency as necessary. Drug Alcohol and Family Advocacy Information Maintained in Connection With Abuse Prevention Programs Shall be Disclosed Only in Accordance With the Applicable Statutes, 21 U.S.C. 1175, 42 U.S.C. 4582, and 5 U.S.C. 552.

Records will not be further released by routine users without prior approval of the SYSMANAGER.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Service Medical (Health and Dental) Records for active duty and reserve, Navy and Marine Corps members:

Records are stored in file folders, microform, magnetic tape, punched cards, machine listings, discs, and other computerized or machine readable media.

Inpatient and Outpatient treatment records. These records originate at any Navy medical treatment facility where the individual comes for medical care and treatment. The inpatient treatment records are retained for 2 years from date of last treatment at the activity and then sent to the National Personnel Records Center, St. Louis, Missouri. Outpatient treatment records are transferred for continuity of care and treatment to other medical activities upon change of station by the service member. Outpatient files, 2 years after the date of last treatment, are transferred to the National Personnel Records Center.

Inpatient and outpatient treatment records are maintained in mechanized lists, file folders, microform, magnetic tape, discs, punched cards and other computerized or machine readable media. Inpatient treatment records are filed numerically by hospital register numbers. The alphabetical patient register serves as the locator media. Outpatient treatment records are filed by the military member's SSN with an alphabetical card or mechanized list or other record as the locator media. Medical x-rays are filed by a sequential numbering system in manual or mechanized format with an alphabetical name locator.

RETRIEVABILITY:

Service Medical (Health and Dental) Records for active duty and reserve, Navy and Marine Corps members: Records retired to the National Personnel Records Center, St. Louis, Missouri, prior to 1971 are retrieved by name and service or file number. After that date records are retrieved by name and social security number.

Inpatient and Outpatient treatment records. Records are retrieved by manual or automated locator media (alpha name cards logs, listings, tapes, etc.).

SAFEGUARDS:

Records are maintained in various kinds of filing equipment in specific monitored or controlled access rooms or areas; public access is not permitted. Computer terminals are located in supervised areas; access is controlled by password or other user code system; utilization reviews ensure that the system is not violated. Access is restricted to personnel having a need for the record in providing further medical care or in support of administrative/clerical functions. Records are controlled by a charge-out system to clinical and other authorized personnel.

RETENTION AND DISPOSAL:

Health care treatment records are retained, retired, and disposed of in accordance with SECNAVINST 5212.5 series, Disposal of Navy and Marine Corps Records.

SYSTEM MANAGER(S) AND ADDRESS:

Service Medical (Health and Dental) records for active duty and reserve, Navy and Marine Corps: Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372; commanding officers, naval activities, ships and stations; Director, National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132.

Inpatient and outpatient treatment records: Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372; commanding officers, Naval regional medical centers and hospitals or activities having clinics; Director, National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118.

NOTIFICATION PROCEDURE:

Service Medical (Health and Dental) Records for active duty and reserve Navy and Marine Corps members;

Requests for information from active duty Navy and Marine Corps personnel and drilling members of the Navy and Marine Corps Reserves should be addressed to the individual's commanding officer, official mailing addresses are in the Department of Defense directory in the appendix to the Component's System Notice. Inactive naval reservists should address requests for information to the Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana 70149. Marine Reservists should address requests for information to Marine Corps Reserve Forces Administrative Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri 64131.

Former members who have no further reserve or active duty obligation should address requests for information to Director, National Personnel Records Center (Navy Reference Branch), 9700 Page Boulevard, St. Louis, Missouri 63132.

All written requests should contain the full name and social security account number of the individual, his signature, and in those cases where his period of service ended before 1971, his service or file number. In requesting records for personnel who served before 1964, information provided to the National Personnel Records Center should also include date and place of birth and dates of periods of active naval service. Active duty Navy and Marine Corps personnel including drilling members of the reserves may visit the Medical Department of the activity to which attached. Inactive Naval Reservists whose tour of active duty ended after July 1, 1972 may visit the Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana. Marine Reservists whose tour of active duty ended after July 1, 1972 and who have a continual reserve obligation may visit the Marine Corps Reserve Forces Administration Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri. Former members with no further obligation and reservists whose tour of active duty ended prior to July 1, 1972 may visit the National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri. Proof of identification in the case of active duty, retired, and reserve personnel will consist of the Armed Forces of the U.S. Identification Card or by other types of identification bearing picture and signature. Former members may provide drivers license or other types of identification bearing picture and signature.

Inpatient and outpatient treatment records:

(Care/treatment—within 2 years) Commanding officer of the naval regional medical center or hospital where the individual was treated.

(More than 2 years) Director, National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118 or Director, National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132.

Provide the following data: Full name, service number, status, or SSN of sponsor, date(s) of treatment or period of hospitalization, address at time of medical treatment, if known.

Office where requester may visit to obtain information of records pertaining to the individual:

Regional medical center or hospital
Chief, Patient Affairs Service
Chief, Outpatient Service
Office-in-charge other Navy medical facility

Full name, date and place of birth, ID card or drivers license, or other identification to sufficiently identify the

individual with the medical records held by the treatment facility must be presented.

RECORD ACCESS PROCEDURES:

Sysmanager

Service Medical (Health and Dental) Records for active duty and reserve, Navy and Marine Corps; Requests from individuals should be addressed to Chief, Bureau of Medicine and Surgery, (Code 3111), Navy Department, Washington, DC 20372.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determination may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Reports from attending and previous physicians and other medical personnel regarding the results of physical, dental and mental examinations, treatment, evaluation, consultation, laboratory, x-ray, and special studies conducted to provide health care to the individual or to determine the individual's physical and dental qualification.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N00022PERSRECSYS

SYSTEM NAME:

Navy Personnel Records System

SYSTEM LOCATION:

Primary System-Bureau of Naval Personnel, Navy Department, Washington, D.C. 20370; Naval Reserve Personnel Center, Naval Support Activity (East Bank), Bldg. 603, New Orleans, LA 70159; and local activity to which individual is assigned (see Directory of the Department of the Navy Mailing Addresses).

Secondary System—Department of the Navy Activities in chain of command between the local activity and the Headquarters level (see Directory of the Department of the Navy Mailing addresses); Federal Records Storage Centers; National Archives.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Navy military personnel: officers, enlisted, active, inactive, reserve, fleet reserve, retired, midshipmen, officer candidates, and Naval Reserve Officer Training Corps personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Service Jackets and Service Records, correspondence and records in both automated and non-automated form concerning classification, assignment, distribution, promotion, advancement, performance, recruiting, retention, reenlistment, separation, training, education, morale, personal affairs, benefits, entitlements, discipline and administration of Navy military personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301 Departmental Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Officials and employees of the Department of the Navy in the performance of their official duties related to the management, supervision, and administration of Navy military personnel and the operation of personnel affairs and functions; the design, development, maintenance and operation of the manual and automated system of records.

The Comptroller General or any of his authorized representatives, upon request, in the course of the performance of duties of the General Accounting Office relating to the Navy's military manpower management program.

The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies. State, local, and foreign (within Status of Forces agreements) law enforcement agencies or their authorized representatives in connection with litigation, law enforcement, or other matters under the jurisdiction of such agencies.

Officials and employees of other components of the Department of Defense in the performance of their official duties related to the management, supervision and administration of military personnel and the operation of personnel affairs and functions.

Officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of military personnel and the operation of personnel affairs and functions.

Officials and employees of the National Research Council in Cooperative Studies of the National History of Disease; of Prognosis and of Epidemology. Each study in which the records of members and former members of the Naval Service are used must be approved by the Chief of Naval Personnel.

Officials and employees of the Department of Health, Education, and Welfare, Veterans' Administration, and Selective Service Administration in the performance of their official duties related to eligibility, notification and assistance in obtaining benefits by members and former members of the Navy. The Senate or the House of Representatives of the United States or any Committee or subcommittee thereof, any joint committee of Congress or any subcommittee of joint committees on matters within their jurisdiction requiring disclosure of the files or records of Navy military personnel. Officials and employees of Navy Relief and the American Red Cross in the performance of their duties related to assistance of the members and their dependents and relatives.

Duly appointed Family Ombudsmen in the performance of their duties related to the assistance of the members and their families.

State and local agencies in performance of their official duties related to verification of status for determination of eligibility for veterans' bonuses and other benefits and entitlements.

Such civilian contractors and their employees as are or may be operating in accordance with an approved, official contract with the U.S. Government. When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records may be stored on magnetic tapes, disc, drums and on punched cards.

Manual records may be stored in paper file folders, microfiche or microfilm.

RETRIEVABILITY:

Automated records may be retrieved by social security account number and/or name.

Manual records may be retrieved by name, social security account number, enlisted service number, or officer file number.

SAFEGUARDS:

Computer and punched card processing facilities and terminals are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained.

Manual records and computer printouts are available only to authorized personnel having a need to know.

RETENTION AND DISPOSAL:

Records are retained or disposed of in accordance with SECNAVINST P5212.5, subj: Disposal of Navy and Marine Corps Records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Naval Personnel, Washington, D.C. 20370; Commanding Officers, Officers in Charge, and Heads of Department of the Navy activities as listed in the Directory of the Department of the Navy Mailing Addresses.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or, in accordance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number (and/or enlisted service number/officer file number), rank/rate, designator, military status, address, and signature of the requestor.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

RECORD ACCESS PROCEDURES:

The Agency's rules for access to records may be obtained from SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from SYSMANAGER.

RECORD SOURCE CATEGORIES:

Officials and employees of the Department of the Navy, Department of Defense, and components thereof, in performance of their official duties and as specified by current instructions and regulations promulgated by competent authority; educational institutions; federal, state, and local court documents; civilian and military investigatory reports; general correspondence concerning the individual; official records of professional qualifications; Navy Relief and American Red Cross requests for verification of status.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a(k) (1) and (5) as applicable. For additional information contact the System Manager.

N00600-1NAVTIS

SYSTEM NAME:

Naval Schools/Training Information System, Marine Corps Aviation Training Support Systems.

SYSTEM LOCATION:

Schools and other training activities or similar organizational elements of the Department of the Navy and Marine Corps as listed in the directory of Department of Navy activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records of present, former, and prospective students at Navy and Marine Corps schools and other training activities or associated educational institution of Navy sponsored programs; instructors, staff and support personnel; participants associated with activities of the Naval Education and Training Command, including the Navy Campus for Achievement and other training programs; tutorial and tutorial volunteer programs; dependents' schooling.

CATEGORIES OF RECORDS IN THE SYSTEM:

Schools and personnel training programs administration and evaluation records. Such records as basic identification record i.e., social secutity number, name, sex, date of birth, personnel records i.e., rank/rate/grade, branch of service, billet, expiration of active obligated service, professional records i.e., Navy enlisted classification, military occupational specialty for Marines, subspecialty codes, test scores, basic test battery scores, and Navy advancement test scores. Educational records i.e., education levels, service and civilian schools attended, degrees, majors, personnel assignment data, course achievement data, class grades, class standing, and attrition categories. Academic/training records, manual and mechanized, and other records of educational and professional accomplishment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Schools and training programs administration and evaluation. Student performance, progression and prediction; instructors performance; organizational and administrative control. Internal Navy users are Chief of Navy Personnel, Naval education and training command activities staff personnel, and the Commandant of the Marine Corps and his designated officials in the performance of their duties relating to aviation training/assignments. Type commanders; Health/Science Education Training Center; Chief, Bureau of Medicine and Surgery; Commander, Naval Recruiting Command, and to other Department of the Navy officials in the performance of personnel training functions. Information may be used to determine course and training demands, requirement, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; guidance and counseling of students; preparation of required reports, and for other training administration and planning purposes. Internal users are staff and faculty. Information is provided to officials of the Department of Defense on "need-to-know" basis in the performance of their official duties; and for reporting to other government agencies, such as HEW. It may be provided to such civilian contractors and their employees as are or may be operating in accordance with an approved official contract with the U.S. Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in microform or in file folders, card files, file drawers, cabinets, or other filing equipment. Automated records may be stored on magnetic tape, discs, punched cards, etc.

RETRIEVABILITY:

Social security number and name.

SAFEGUARDS:

Access is provided on a "need-to-know" basis and to authorized personnel only. Records are maintained

in controlled access rooms or areas. Data is limited to personnel training associated information. Computer terminal access is controlled by terminal identification and the password or similar system. Terminal identification is positive and maintained by control points. Physical access to terminals is restricted to specifically authorized individuals. Password authorization, assignment and monitoring are the responsibility of the functional managers. Information provided via batch processing is of a predetermined and rigidly formatted nature. Output is controlled by the functional managers who also control the distribution of output.

RETENTION AND DISPOSAL:

Records disposal manual.

SYSTEM MANAGER(S) AND ADDRESS:

The commanding officer of the activity in question. See the directory of Department of the Navy and Marine Corps activities mailing addresses.

NOTIFICATION PROCEDURE:

Apply to system manager. Requestor should provide his full name, social security number, military or civilian duty status, if applicable, and other data when appropriate, such as graduation date. Visitors should present drivers license, military or Navy civilian employment identification card, or other similar identification.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals, schools and educational institutions, Chief of Naval Personnel, staff of Naval Education and Training Command and other activities and the Commandant of the Marine Corps; instructor personnel; and Commander, Naval Recruiting Command.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N65196 DODCI.02

SYSTEM NAME:

DODCI Faculty/Senior Staff/Student Biography System.

SYSTEM LOCATION:

Department of Defense Computer Institute, Washington Navy Yard, Washington, D.C. 20374.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All faculty members, senior staff members, and guest lecturers currently instructing or managing at the DODCI.

All students who are attending or who have completed a course of instruction presented by DODCI; primarily DOD military and civilian personnel as regular students; personnel from other federal, state and local government agencies who have attended courses on a space available basis; military and civilian personnel from foreign governments who requested and were granted authority to attend courses; and personnel from private industry who are under direct contract to a DOD activity who sponsor their attendance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical summary forms individually submitted upon request by each DODCI faculty member, senior staff member, guest lecturer, or student. Student's record consists of name, rank or rate, civilian grade, organization and division, office phone number, current and previous job titles and positions, number of months with present job title, major duties of present job, formal education completed, objectives for attending DODCI course, computer-related and other technical training and experience, information on usage of computers in present position, influence and authority student has over design of computer-based systems including security and privacy aspects, extent involved in planning and design of teleprocessing systems.

Faculty/senior staff record consists of name, rate or rank, current and previous job titles and positions, former major duties, formal education completed, computer-related and other technical training and experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in the student biographical summaries is restricted to internal use within DODCI. Used by Course Managers and functional Department Head to evaluate education level, computer related work experience, and general computer background of DODCI students. Establishes student qualifications to attend a requested course and if course objectives have satisfied personal objectives of students for attending course. Statistical summarization of information contained therein provides basis for modification and revision to course content. Also serves as vehicle to place student into appropriate laboratory and seminar group in courses requiring such a breakout.

Information on faculty/senior staff members contained in the biographical summaries is provided to students as an attachment to their student notebooks. Records are used by students to identify faculty and senior staff members, areas of data processing and information managment expertise for consultation purposes and as an expertise preamble to the next scheduled lecturer.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in file cabinet.

RETRIEVABILITY:

By name for faculty/senior staff members. Course title and name for students.

SAFEGUARDS:

Maintained in Scheduling Office (for students) and in the Reproduction shop (for faculty/senior staff members) which is locked after normal working hours, access controlled by systems manager and accessible only to authorized faculty members, Director of Administration, and Director or delegate on demand.

RETENTION AND DISPOSAL:

All completed individual student biographical summaries attending a specific course are retained in a file folder marked by course title and course date. Individual student biographical summaries are retained by course for two fiscal years preceeding the fiscal year in progress.

All individual faculty and senior staff biographical summaries are retained in a master file folder until no longer providing services to DODCI. Master file is reviewed periodically to maintain currency. Students reviewing a course notebook can retain the included biographical records as well as the notebook.

SYSTEM MANAGER(S) AND ADDRESS:

Scheduling Officer, DOD Computer Institute, Building 175, Washington Navy Yard, Washington, D.C. 20374.

NOTIFICATION PROCEDURE:

By individual request upon presentation of identification. Students must provide course title and year of attendance.

RECORD ACCESS PROCEDURES:

The Agency's rules for access to records can be obtained from the Systems Manager.

CONTESTING RECORD PROCEDURES:

The Institute's rules for contesting contents and appealing initial determinations by the DODCI member concerned can be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Student Biography Forms are of DODCI origin and completed by each individual student. Forms are completed either the first day of the course or, in the case of certain specific courses, are mailed to the prospective student requesting return prior to commencement of the course.

Biographies are authorized by each faculty/senior staff member soon after arrival at DODCI. Guest lecturers are requested to voluntarily submit biographies for use in course notebooks; content is never changed, but in some cases selectively reduced in length so as not to exceed one page. Format and content are generated solely by DODCI member and are subject only to editorial review.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N65196 DODCI. 03

SYSTEM NAME:

DODCI Course Evaluation System

SYSTEM LOCATION:

Department of Defense Computer Institute, Washington Navy Yard, Washington, D.C. 20374.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All students who have completed a course of instruction presented by the Department of Defense Computer Institute: primarily DOD military and civilian personnel as regular students; personnel from other federal, state and local government agencies who have attended courses on a space available basis; military and civilian personnel from foreign governments who requested and were granted authority to attend courses; and personnel from private industry who are under direct contract to a DOD activity who sponsor their attendance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual student evaluation of entire course and random sampling of specific lecture presentations. Includes objectives for attending course; statement concerning realization of personal objectives, numerical or qualitative rating of overall course, lab sessions and/or specific lectures; list of strengths and weaknesses of course; list of lecture subjects of particular benefit or of little use to student; list of lecture subjects which should be expanded or reduced in coverage; and list of topics not covered in course but should be included. Comments concerning course content, sequence, lecture presentation, teaching techniques, audio visual aids, physical facilities and administrative support are solicited and recorded. Categories are posed as questions with ample space to encourage written response of student opinion in a structured but nonrestrictive format. These Course Evaluation Forms also contain hard core factual information, i.e., course title, course dates, student name, rank/rate/grade, branch of service, duty station or agency, and present job title.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use of the student evaluation forms and the information contained therein is restricted to internal use within DODCI. Used to evaluate course, lecture, teaching techniques and individual instructor effectiveness. Provides basis for modification and revision to course content, and sequence and lecture content. Provides input to long range plan for course update, additions and revisions. Copy is provided to unit education offices upon request. Student evaluations of all attendees to a particular course are reviewed as a composite group by DODCI faculty members to determine problem areas, trends, and provides a continuous evaluation of course effectiveness.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in file cabinet.

RETRIEVABILITY:

Course Title and Student Name.

SAFEGUARDS:

Maintained in Scheduling Office which is locked after normal working hours, access controlled by Systems Manager and accessible only to authorized faculty members, Director of Administration, and Director or delegate on demand.

RETENTION AND DISPOSAL:

All completed individual evaluations of students attending a specific course are retained in a file folder marked by Course Title and Course Date. Individual student evaluation forms are retained by course, for two fiscal years preceding the fiscal year in progress.

SYSTEM MANAGER(S) AND ADDRESS:

Scheduling Officer, Department of Defense Computer Institute, Building 175, Washington Navy Yard, Washington, D.C. 20374.

NOTIFICATION PROCEDURE:

By individual request upon presentation of letter or identification. Must provide course title and year of attendance.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtined from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Student Course Evaluation Forms are of DODCI origin and are distributed in class and completed by each individual student.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-24619 Filed 8-8-79; 8:45 am]
BILLING CODE 3810-71-M

DELAWARE RIVER BASIN COMMISSION

Lehigh Scenic River System; Environmental Assessment; Negative Declaration

The Delaware River Basin Commission has prepared an environmental assessment based on an environmental report prepared by the Pennsylvania Department of Environmental Resources (PaDER) in relation to a proposal by PaDER to adopt certain portions of the Lehigh

River and its tributaries into the Commission's Comprehensive Plan as components of Pennsylvania's Scenic River System.

The analysis indicates that the proposed action will be beneficial to the quality of the human environment in the area involved. There would be few, essentially unavoidable, adverse impacts which would be limited in area and scope. The environmental assessment concludes that an environmental impact statement is not required.

Notice is hereby given that the Executive Director intends to issue a negative declaration, i.e., a finding of no significant adverse impact, based upon the environmental assessment, in accordance with Section 2–4.5 of the Commission's Rules of Practice and Procedure, as amended.

Objection to the issuance of a negative declaration may be submitted by any interested person or agency in a written statement showing cause why an environmental impact statement should be prepared. To be considered, such written statement must be submitted to the Executive Director of the Commission no later than 5 p.m., August 31, 1979.

Copies of the environmental assessment, dated August 1, 1979, are available from the Commission upon request. A copy of PaDER's Environmental Report is available for examination in the Commission's library.

Those interested in receiving a copy of the Commission's environmental assessment for this proposed action should advise Mr. J. W. Thursby, Head, Environmental Unit. (609) 883–9500.

August 9, 1979.

W. Brinton Whitall,

Secretary.

[FR Doc. 79-24714 Filed 8-8-79; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Cases Filed With the Office of Hearings and Appeals; Week of June 1 Through June 8, 1979

Notice is hereby given that during the week of June 1, 1979 through June 8, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

July 30, 1979.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of June 1, through June 8, 1979]

Date	Name and location of applicant	Case No.	Type of submission
June 1, 1979	Citadel Corporation, Washington, D.C.	DEX-0181	Supplemental Decision (Ref. DES-3870). **If granted:** The relief granted to Citadel Corporation in the Stay decision issued May 2, 1979, would be extended.
June 1, 1979	Cities Service Company, Tulsa, Oklahoma	DEA-0440, DES-0440 and DST-0440.	Request for Stay; Request for Temporary Stay; Appeal of ERA Decision and Order. **If granted:** The Economic Regulatory Administration's May 9, 1979, Decision and Order regarding Cities Service Company's supply obligations to A & A Oil Company, Inc., would be rescinded. Cities Service Company would receive a temporary stay and stay of the Decision and Order pending a final determination on its Appeal.
June 1, 1979	Pennzoil Producing Company, Houston, Texas	DEE-6200	Exception to the reporting requirements. **If granted:** Pennzoil Producing Company would not be required to file Form EIA Form 23, Part II.
June 1, 1979	Young Refining Corporation, Washington, D.C.	DES-0055 and DSG-0215.	Request for Stay; Petition for Special Redress. **If granted:** The Office of Hearings and Appeals would review the denial of the Assistant Administrator for Enforcement to review the decision denying the Application to Quash Subpoenas submitted by Young Refining Corporation. A Stay of the Subpoenas would be granted pending a determination on the Petition for Special Redress.
June 4, 1979	Amerada Hess Corporation, New York, New York	DEA-0445	Appeal of DOE Temporary Assignment Order. **If granted:** The DOE April 20, 1979, Temporary Assignement Order issued to Amerada Hess Corporation regarding its supply obligations to Award Petroleum, Inc., would be rescinded.
June 4, 1979	Cities Service Company, Tulsa, Oklahoma	DEA-0444, DES-0444 and DST-0444.	Appeal of ERA Decision and Order; Request for Stay; Request for Temporary Stay. **If granted:** The Economic Regulatory Administration's May 15, 1979, Decision and Order regarding Cities Service Company's supply obligations to Bell Oil Company would be rescinded. Cities Service Company would receive a temporary stay and stay of the Decision and Order pending a final determination on its Appeal.
June 4, 1979	Cities Service Company, Tulsa, Okahoma	DEA-0443, DES-0443 and DST-0443.	Appeal of ERA Decision and Order; Request for Stay; Request for Temporary Stay. **If granted:** The Economic Regulatory Administration's May 16, 1979 Decision and Order regarding Cities Service Company's supply obligations to Hoover Oil Company would be rescinded. Cities Service Company would receive a temporary stay of the Decision and Order pending a final determination on its Appeal.
June 4, 1979	Edgington Oil Co., Inc., et. al., Washington, D.C.	DEX-0170 through DEX-0179.	Supplemental Order. **If granted:** Each firm's obligations to purchase entitlements during the period June 1, 1979 through November 30, 1979, would be stayed pending the DOE's final determination on the respective Proposed Decision issued to the firm.
June 4, 1979	Hartford Electric Light Company et al., Hartford, Connecticut.	DEA-0446 and DEA-0447.	Appeal of Recission Orders. **If granted:** The DOE's May 4, 1979, Recission Orders withdrawing the ESECA Prohibition Orders to Hartford Electric Light Company and Connecticut Light and Power Company with respect to the Middletown and Norwalk Harbor Powerplants would be vacated and reissued.
June 4, 1979	Pacific Interstate Transmission Company, Los Angeles, California.	DFA-0442	Appeal of an Information Request Denial. **If granted:** The DOE's April 26, 1979, Information Request Denial would be rescinded and the Pacific Interstate Transmission Company would receive access to certain DOE data regarding DOE Forme EIA-14 filed for several fuel oil refiners.
June 5, 1979	American Agri-Fuels Corporation, Kansas City, Missouri.	DEN-2179	Interim Order. **If granted:** DOE would grant American Agri-Fuels Corporation an Interim Order pending the finalization of the Proposed Decision and Order issued May 9, 1979.
June 5, 1979	Don Thompson Shell, Bakersfield, California	DEE-6316	Price Exception (Section 212.93). **If granted:** Don Thompson Shell would receive an increase in its maximum allowing selling price to reflect non-product cost increases.

List of Cases Received by the Office of Hearings and Appeals—Continued

(Week of June 1, through June 8, 1979)

Date	Name and location of applicant	Case No.	Type of submission
June 5, 1979	Gulf Oil Corporation, Houston, Texas	DEE-6314	Price Exception. **If granted:** Gulf Oil Corporation would receive an exception from the provisions of 10 CFR 212.83(c)(2)(iii)(E).
June 5, 1979	Industrial Fuel & Asphalt of Indiana, Inc., Hammond, Indiana.	DEE-6312, DES-6312 and DST-6312.	Application for Exception, Stay and Temporary Stay (Buy/Sell Program). **If granted:** Industrial Fuel & Asphalt of Indiana, Inc. would receive an exception from the provisions of 10 CFR 211.65(c)(2) (The Buy/Sell Program) with respect to adjusting January through October 1978 base period runs. Industrial Fuel & Asphalt of Indiana would receive a stay and temporary stay pending a determination on its request for exception.
June 5, 1979	Mallard Resources, Inc., Houston, Texas	DEE-6318 and DES-6318.	Exception to (Buy/Sell Program) Request for Stay. **If granted:** Mallard Resources, Inc., would receive an exception and stay from the provisions of 10 CFR 211.63, permitting it to participate in the Emergency Crude Oil Allocation (Buy/Sell) Program.
June 5, 1979	Rutgers, the State University, New Brunswick, New Jersey.	DFA-0450	Appeal of an Information Request Denial. **If granted:** The DOE's May 18, 1979, Information Request Denial would be rescinded and Rutgers, the State University, would receive access to the "Reply to Notice of Proposed Disallowance on Behalf of Gulf Oil Corporation."
June 5, 1979	Vorys, Sater, Seymour & Pease, Washington, D.C.	DFA-0448	Appeal of an Information Request Denial. **If granted:** The DOE's April 18, 1979, Information Request Denial would be rescinded and Vorys, Sater, Seymour & Pease would receive access to certain DOE data regarding the audit involved in the Notice of Probable Violation issued to Ashland Oil on May 12, 1978.
June 5, 1979	Wind Energy, Rockville Centre, New York	DFA-0449	Appeal of an Information Request Denial. **If granted:** The DOE's May 21, 1979, Information Request Denial would be rescinded and Wind Energy would receive access to certain reports contracted for by DOE.
June 7, 1979	Tipperary Corporation, West Illinois Midland, Texas.	DEE-6347	Exception to the Entitlements Program. **If granted:** Tipperary Corporation would receive an exception to the Entitlements Program which would permit the firm to include in May 1979 receipts and runs to stills on form ERA 49 the number of barrels granted by the allocation for May 1979, but actually received and processed in subsequent months.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Date	Name and Location of Applicant	Case No.
June 1, 1979	Larry's Orangevale Tire #2, Orangevale, Calif.	DEE-6166
June 4, 1979	Ken's Sce Station, Greenville, S.C.	DEE-6182
June 4, 1979	Bristol Service Center, Inc., Bristol, R.I.	DEE-6184
June 4, 1979	Hadley Service Center, Hadley, Mass.	DEE-6183
June 4, 1979	Bennett Hamre, Erskine, Minn.	DEE-6190
June 4, 1979	Amoco Travel Center, Billings, Mont.	DEE-6191
June 27, 1979	Rockwell Skelly, Oklahoma City, Okla	DEE-6189
June 4, 1979	E-Z Stop Food Store, Richmond, Va.	DEE-6197
June 16, 1979	Kenneth Luff, Inc., Denver, Colo	DXE-6214
June 1, 1979	Musolino & Sons, Inc., Alexandria, Va	DEE-6199
June 5, 1979	Gene's Standard, New York Mills, Minn	DEE-6238
June 5, 1979	Boikanyo, Benjamin V., Compton, Calif	DEE-6219
June 5, 1979	Hadley Car Wash, Whittier, Calif.	DEE-6225
June 5, 1979	Alpha Cab Company, San Jose, Calif	DEE-6239
June 5, 1979	Colton, David W., Jr., San Antonio, Tx.	DEE-6240
June 5, 1979	Mylo Oil, Birmingham, Ala.	DEE-6241
June 5, 1979	Sissie Carwash, Inc., Glendale, Ariz.	DXE-6242
June 5, 1979	Don Harris Mobil Service, Austin, Tex	DEE-5809
June 5, 1979	Bowers & Burrows, Inc., Henderson, N.C.	DXE-5012
June 5, 1979	Indian Rock "66", Largo, Fla	DEE-5935
June 5, 1979	Cibolo Self Service, Cibolo, Tex	DEE-6251
June 5, 1979	Don's Conoco Gas Station, Bandera, Tex	DEE-6247
June 5, 1979	Maxwell Enterprises, Ltd., Placerville, Calif	DEE-6248
June 5, 1979	C. J.'s Standard, Yankton, S. Dak	DEE-6245
June 5, 1979	Ravensworth Texaco, Annandale, Va	DEE-6274
June 5, 1979	Carcraft Ltd. Service Station , Sausalito, Calif	DEE, DES-6275
June 5, 1979	Russian River Chamber of Commerce, Guerneville, Calif	DEE, DES-6276
June 5, 1979	Asansouski, Drago, Costa Mesa, Calif	DXE-6271
June 5, 1979	Hollow Tree Grocery, Annapolis, Calif	DEE-6302
June 5, 1979	Ray's Standard Service, Watford City, N. Dak	DEE-6303
June 5, 1979	Ryder Truck Rental, Inc., San Francisco, Calif	DEE-6304
June 5, 1979	Con Edison, New York, N.Y.	DEE-6311
June 5, 1979	Podoll's 281 Standard, Aberdeen, S. Dak	DEE-6293
June 5, 1979	Quick Six Shoppe, Boulder, Colo	DEE-6292
June 5, 1979	Dudley & Associates, Inc., Corning, Calif	DEE-6290
June 5, 1979	Fegley's Mini Mart, Inc., Tamaqua, Pa.	DEE-6289
June 7, 1979	Dumfries, Texaco, Dumfries, Va	DEE-6331
June 7, 1979	Murphys Ranch, Murphys, Calif	DEE-6077
June 7, 1979	Ray Modrell Trucking, Vallecito, Calif	DEE-5761
June 7, 1979	A. J. Harris, Inc., Jackson, Calif	DEE-5754
June 7, 1979	Decker, Ron L., Powell, Wyo.	DEE-5881
May 3, 1979	** Allied Oil Company, Kalamazoo, Mich	DXE-5784
June 7, 1979	Kerr McGee Station #6762, Tahlequah, Okla	DEE-6334
June 6, 1979	Viger's Shell Service, Lincoln Park, Mich	DEE-6332
June 6, 1979	Derrick's, Inc., Columbia, S.C.	DEE-6343
June 6, 1979	B. B. Oil, Inc., Richfield, S.C.	DEE-6340
June 7, 1979	Parkview Exxon Service Station, New Iberia, La	DEE, DES-6348
June 6, 1979	Dillon Amoco, Dillon, S.C.	DEE-6350
June 8, 1979	Thomco #11, Tulsa, Okla.	DEE-6377
June 4, 1979	Starkey's Service Center, Dallas, Tex.	DEE-6203
June 4, 1979	United States Gypsum Company, Santa Fe Springs, Calif.	DEE-6212
June 4, 1979	Bob Alton Shell, Granada Hills, Calif.	DEE-6211
June 4, 1979	Bayer's Exxon Servicenter, Havelock, N.C.	DEE-6208
June 4, 1979	Woodbrook Cities Service, Baltimore, Md	DEE-6202
June 4, 1979	Romine Oil Company, DeQueen, Ark.	DEE-6223
June 4, 1979	Lien Oil Company, Inc., Grand Forks, N. Dak	DEE-6216

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline—Continued

Date	Name and Location of Applicant	Case No.
June 1, 1979	Long Island Tourism Comm., Inc., Long Island, N.Y	DEE-6227
June 4, 1979	Chesapeake Car Wash Systems, Inc., Balitmore, Md	DEE-6215
June 4, 1979	Blodgett Oil Co., Inc., Mount Pleasant, Mich	DEE-6229
June 5, 1979	Hollimans Full Service, Jacksonville, Fla	DEE-6221
June 5, 1979	Town of East Hampton, N.Y., East Hampton, N.Y	DEE-6220
June 5, 1979	Kenny's Food Markets, Richfield, Minn	DXE-5734
June 5, 1979	Dale Olson Oil Co., Sioux Falls, S. Dak	DEE-6263
June 5, 1979	Rainbow Willowridge Service, Amhearst, N.Y	DEE-6261
June 5, 1979	Modern Oil Co., Inc., Shawnee, Okla	DEE-6265
June 5, 1979	W. Broward Phillips "66" Service, Fort Lauderdale, Fla	DXE-6257
June 5, 1979	Beard Oil Co., Camden, S.C	DEE-6281
May 30, 1979	** Teledyne Laars (No submission list)	DEE-3950
March 16, 1979	** Trans Oil Co., Inc., Statesboro, Ga	DEE-6309
June 8, 1979	Reilly's Coin-op Car Wash, Stockton, Calif	DEE, DST, DES-6356
June 8, 1979	Interstate Gulf, Fort Smith, Ark	DEE-6375
June 5, 1979	Lloyd R. Crais Oil Co., New Orleans, La	DXE-6380
May 9, 1979	** Solvang, Calif. (No submission list)	DEZ-5121
June 1, 1979	Thrasher Arco Service, Lancaster, Mass	DEE-6167
June 1, 1979	City of Industry Disposal Co., Inc., City of Industry, Calif	DEE-6161
June 1, 1979	Johnnie's Arco, Meriden, Conn	DEE-6174
June 1, 1979	Johnson Roofing Inc., Waco, Tex	DEE-6176
June 1, 1979	Central N.Y.S. Park & Recreation Comm., Cooperstown, N.Y	DEE-6163
June 1, 1979	Knox Street Mobil, Dallas, Tex	DEE-6168
June 1, 1979	Interstate United, Gary, Ind	DEE-6173
June 1, 1979	Plaza Gulf, Inc., Sunrise, Fla	DEE-6164
June 1, 1979	Tigre Island Fuel Service, Inc., Morgan City, La	DEE, DES-6169
June 1, 1979	McNeese Exxon Service Station, Lake Charles, La	DEE-6170
June 1, 1979	Hebert's Gulfpride Service Station, Opelousas, La	DEE-6171
June 1, 1979	Dick Valley Texaco, Pittsburgh, Pa	DEE-6175
June 1, 1979	Lakeview Marina, Inc., Avinger, Tex	DEE-6180
June 4, 1979	Tri-County Marine, Inc., Mismarck, Ark	DEE-6165
June 4, 1979	Yarbrough Oil Co., Searcy, Ark	DEE-6162
June 4, 1979	Stuckey, Carl F., Richmond, Calif	DEE, DES-6181
June 4, 1979	Ken's Exxon, Carlsbad, Calif	DEE-6196
June 4, 1979	Pacific Soils Engineering Inc., Harbor City, Calif	DEE-6195
June 4, 1979	Hub of America, Rugby, N. Dak	DEE-6194
June 4, 1979	J. C. Corp., Bel Air, Md	DEE-6186
June 4, 1979	Cox's Amoco & Car Wash, Baltimore, Md	DEE-6187
June 4, 1979	Orchard Lake Car Care, Orchard Lake, Mich	DEE-6206
June 4, 1979	Ameroil Corp., Victoria, Tex	DEE-6204
June 4, 1979	Container Supply Co., Inc., Garden Grove, Calif	DEE-6210
June 4, 1979	Autohaus, V.I.C., Petaluma, Calif	DEE-6209
June 4, 1979	Kountry Korner Grocery, Bryan, Tex	DEE-6207
June 4, 1979	Bieber Lighting Corp., Inglewood, Calif	DEE-6222
June 4, 1979	Highway Host Standard, Grand Forks, N. Dak	DEE-6217
June 4, 1979	Palm & McKinley Shell Auto Centre, Fresno, Calif	DEE-6205
June 4, 1979	Hull's Exxon, Nashville, Tenn	DEE-6228
June 4, 1979	Langley, Burton, Elizabethtown, Ky	DEE-6224
June 4, 1979	Herb Weiner's Shell, Sausulito, Calif	DEE-6234
June 4, 1979	S. Lane Sunoco, Miamitown, Ohio	DEE-6233
June 1, 1979	Greenwood Oil Co., Inc., Waynesburg, Pa	DEE-6232
June 5, 1979	Holiday Foods, Inc., Seattle, Wash	DXE-6237
June 5, 1979	Terrace Shell I, Bethpage, N.Y	DEE-6255
June 5, 1979	Hamiter, Mary Frances, Waskom, Tex	DEE, DST-6254
June 5, 1979	Petroleum Marketing Co., Tulsa, Okla	DEE-6253
June 5, 1979	Harry W. Ruffner & Sons Texaco, Pittsburgh, Pa	DEE-6252
June 5, 1979	Clayton's Standard, Grand Forks, N. Dak	DEE-6251
June 5, 1979	Eller, Thomas S., Ivanhoe,Tex	DEE-6250
June 5, 1979	Griffin, John P., No. Hollywood, Calif	DEE-6349
June 5, 1979	Starkey's Service Center, Dallas, Tex	DEE-6248
June 5, 1979	Alan's interstate Standard, Miles City, Mont	DEE-6243
June 5, 1979	Van's Grocery, Bismarck, Ark	DEE-6256
June 5, 1979	L. E. Blain Co., Paramount, Calif	DEE-6269
June 5, 1979	McNaughton's Grocery, Jay, Fla	DEE-6268
June 5, 1979	Hatfield Pontiac-Cadillac, Fayettesville, Ark	DEE-6266
June 5, 1979	Tuckerton Exxon, Tuckerton, N.J	DEE-6260
June 5, 1979	Bubble Machine Car Wash, Rancho Cordova, Calif	DEE-6264
June 5, 1979	Jack Vaughn Oil Co., Inc., Pampa, Tex	DEE-6262
June 5, 1979	Mim's Oil Co., Paonia, Colo	DEE-6259
June 5, 1979	Fleenor's Supermarket, Mount Airy, N.C	DEE-6258
June 5, 1979	Canyon Creek Shell, Richardson, Tex	DEE-6278
June 5, 1979	Gay's Arco & Mini-Mart, Marysville, Wash	DES, DEE-6273
June 5, 1979	Plastic Industries, Garden Grove, Calif	DES-6272
June 5, 1979	Stone & Drachman Texaco, Tucson, Ariz	DEE-6271
June 5, 1979	Morales, Jesse, Uvalde, Tex	DEE-6270
June 5, 1979	Brook Plaza Exxon, Brooksville, Fla	DEE, DES, DST-6305
June 5, 1979	Unsworth Sunoco Sevice Station, District Heights, Md	DEE-6391
June 5, 1979	Central Distributing Co., San Antonio, Tex	DEE-6299
June 5, 1979	Shortstop, Oakland, Calif	DEE, DES, DST-6298

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline—Continued

Date	Name and Location of Applicant	Case No.
June 5, 1979	Excelsior Super Shell, San Francisco, Calif	DEE-6267
June 5, 1979	Allen, Larry, Westwego, La	DEE-5918
June 5, 1979	Fort Oglethorpe Tire & Service Center, Inc., Rossville, Ga	DEE-6300
June 5, 1979	Hampton Road Fina Station, Desoto, Tex	DEE-6297
June 5, 1979	Mini-Mart, Casper, Wy	DEE-6296
June 5, 1979	Dean-O of Georgia, Inc., Moultrie, Ga	DEE-6295
June 5, 1979	George's Mobil, Los Angeles, Calif	DEE-6294
June 5, 1979	Travlers Petroleum, Inc., Anderson, S.C	DXE-6287
June 5, 1979	Harr's Grocery, Big Cove Tannery, Pa	DEE-6286
June 5, 1979	Dillon, John, Philadelphia, Pa	DEE-6285
June 5, 1979	Ed Marteusz Arco, Valleso, Calif	DEE-6284
June 5, 1979	Ali, Shiraz, G., Houston, Tex	DEE, DES-6315
June 5, 1979	JJ's Exxon, Horseshoe Bend, Ark	DEE-6283
June 5, 1979	Robins Marina, Inc., Port Bolivar, Tex	DEE-6282
June 5, 1979	Hurst Chevron Service, Plant City, Fla	DEE-6280
June 6, 1979	Bruder's Exxon, Baltimore, Md	DXE-6319
June 4, 1979	Scotland Oil Co., Inc., Alma, Mich	DEE-6313
June 5, 1979	Pensa's Shell Servicenter, Buellton, Calif	DEE-6288
June 5, 1979	Lincoln Mini-Mall, Ogdon, Utah	DEE-6291
June 5, 1979	Bud Wolfe's Arco Mini Market, Redlands, Calif	DXE, DES-6310
June 5, 1979	Husky Oil Co., Denver, Colo	DXE-6321-6327
April 13, 1979	Anoka International Sales & Service, Anoka, Mich	DEE-6328
June 6, 1979	Energy Development Corp., Catlettburg, Ky	DEE-6349
April 24, 1979	***Covington Shell Service Station, Covington, La	DEE-6330
June 7, 1979	Charlestowne Exxon, Charleston, S.C	DEE-5441
June 7, 1979	Cen-Cal Engineering Inc., San Anreas, Calif	DEE-5737
June 7, 1979	Ranch, Raskin R., Linden, Calif	DEE-5736
June 7, 1979	Wallen Bros. & Habelt Inc., Grand View, Wis	DEE-6277
June 7, 1979	Auto Care Center, Inc., Farmington Hills, Mich	DEE-5112
June 7, 1979	Sears Roebuck & Co., Wilmington, Del	DEE-5805
June 6, 1979	Hampton Park Exxon, Camden, S.C	DXE-6336
June 6, 1979	Max Oil Co., Inc., Greenville, Ala	DEE-6335
June 7, 1979	Mahoning Farm Bureau Cooperative, Canfield, Ohio	DEE-6333
June 6, 1979	Fort & Emmons Shell, Lincoln Park, Mich	DEE-6338
June 7, 1979	Southern Tours, New Orleans, La	DEE-6337
June 7, 1979	Busbee Service Station, Byromville, Ga	DEE-6103
June 6, 1979	D. & F. Food Store #1, Taylorsville, Ga	DEE-6344
June 6, 1979	Ellsworth Oil Co., Spearman, Tex	DEE-6342
June 6, 1979	Tony's Texaco, Inc., Miami, Fla	DEE-6341
June 7, 1979	Smith Service Oil Co., Inc., Savannah, Ga	DEE-6345
June 7, 1979	Mayo's Standard Service, Fergus Falls, Minn	DEE-6203
June 6, 1979	Broom's Service, Pleasanton, Tex	DEE-6339
June 7, 1979	H-30, Inc., Kans	DEE-5735
June 7, 1979	Crowder Blvd. Service Station Shell, New Orleans, La	DEE-6390
June 6, 1979	Putnam's R. V. Center, Inc., Klamath, Oreg	DEE-6393
June 4, 1979	Livingston-Thebaut Oil Co., Inc., Jacksonville, Fla	DEE-6394
June 6, 1979	Echo Bay Resort, Overton, Nev	DEE-6395
June 4, 1979	Ruth L. Thomason, Sherman, Tex	DEE-6193
June 4, 1979	Bob's 27th Street Standard, Fargo, N. Dak	DEE-6192
June 4, 1979	Quarterfield Amoco Service, Glen Burnie, Md	DEE-6190
June 4, 1979	Jack's Arco, Belmont, Mass	DEE-6185
June 4, 1979	Ferndale Amoco Station, Glen Burnie, Md	DEE-6188
May 7, 1979	Teague Oil Company, Henderson, Tenn. (No submission list)	DEE-6159
June 8, 1979	Publix Oil Company, Washington, D.C	DEN-5462
May 9, 1979	Raypak, Inc. (No submission list)	DEE-6231
June 5, 1979	Franklin Oil Co., Houston, Mo	DEE-6346
June 1, 1979	Edgewater Standard Service Station, Orlando, Fla	DEE-6172
June 1, 1979	Israle DeLeon Service Center, Coachella, Calif	DEE-6179
June 5, 1979	Cibolo Self Service, Cibolo, Tex	DEE-6351
June 5, 1979	Aianboucki, Drago	DXE-6352

Notices of Objection Received

June 4, 1979	D & D Mobil Service Center, Cupertino, Calif	DEE-2668
June 5, 1979	James Oil Co., Inc., Golden, Colo	DEE-2912
June 8, 1979	Beaver Lake Camp Ground, Orlando, Fla	DEE-3272

Proposed Remedial Orders Notices of Objections Received

June 5, 1979	King City Truck Stop, Pasco, Wis	DRO-0224
June 5, 1979	Addie Fuel and Drum Co., Gloverville, S.C	DRO-0227
June 5, 1979	Tenneco Oil Comany, Houston, Tex	DRO-0026
June 5, 1979	Wilshire Oil Company of Texas, North Harvey, Tex	DRO-0225
June 8, 1979	Atlantic Richfield Company, Los Angeles, Calif	DRO-0029
June 8, 1979	Lavender, George, Silverdale, Wash	DRO-0228

[FR Doc. 79-24488 Filed 8-8-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; June 18 through June 22, 1979

Notice is hereby given that during the period June 18 through June 22, 1979 the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form.

Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

August 2, 1979.

Edgington Oil Company, Inc.; Washington, D.C.; DXE-3442, crude oil.

Edgington Oil Company, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Programs). The exception, if granted, would relieve Edgington of its obligations to purchase entitlements beginning in the month of June 1979. On June 19, 1979 the DOE issued a Proposed Decision and Order which determined that Edgington's monthly obligations to purchase entitlements should each be reduced by $627,218 during the period June through November 1979 to account for crude oil receipts and runs to stills during the period April through September 1979.

Mohawk Petroleum Corporation, Inc.; Los Angeles, California; DEE-2105, crude oil.

Mohawk Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception, if granted, would relieve Mohawk of its obligations to purchase entitlements beginning in the month of June 1979. On June 19, 1979 the DOE issued a Proposed Decision and Order which determined that Mohawk's monthly obligations to purchase entitlements should each be reduced by $1,289,056 during the period June through November 1979 to account for crude oil receipts and runs to stills during the period April through September 1979.

Moran Pipe and Supply Company, Inc.; Seminole, Oklahoma; DXE-4212, crude oil.

Moran Pipe and Supply Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Cozar Lease for the benefit of the working interest owners at upper tier ceiling prices. On June 22, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Cozar Lease.

Propane Gas and Appliance Company; New Brockton, Alabama; DEE-1080, propane.

The Propane Gas and Appliance Company filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would result in the issuance of an order relieving Propane of its obligation to refund to its customers certain revenues which it obtained by charging prices for propane in excess of the maximum levels permitted by Section 212.93. On June 19, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Southland Oil Company/VGS Corporation; Washington, D.C.; DXE-3449, crude oil.

Southland Oil Company/VGS Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception, if granted, would relieve Southland of its obligations to purchase entitlements beginning in the month of June 1979. On June 19, 1979 the DOE issued a Proposed Decision and Order which determined that Southland's monthly obligations to purchase entitlements should each be reduced by $708,195 during the period June through November 1979 to account for crude oil receipts and runs to stills during the period April through September 1979.

Eldon Walker; Fortuna, California; DEE-4106, crude oil.

Eldon Walker filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Eldon Walker to sell the crude oil produced for the benefit of the working interest owners at the Hutson 1-A lease at upper tier ceiling prices. On June 20, 1979 the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Warrior Asphalt Company of Alabama, Inc.; Washington, D.C.; DXE-3715, crude oil.

Warrior Asphalt Company of Alabama, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception, if granted, would relieve Warrior of its obligations to purchase entitlements beginning in the month of June 1979. On June 19, 1979 the DOE issued a Proposed Decision and Order which determined that Warrior's monthly obligations to purchase entitlements should each be reduced by $146,798 during the period June through November 1979 to account for crude oil receipts and runs to stills during the period April through September 1979.

Young Refining Corporation; Washington, D.C.; DXE-3445, crude oil.

Young Refining Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception, if granted, would relieve Young of its obligations to purchase entitlements beginning in the month June 1979. On June 19, 1979 the DOE issued a Proposed Decision and Order which determined that Young's monthly obligations to purchase entitlements should each be reduced by $266,754 during the period June through November 1979 to account for crude oil receipts and runs to stills during the period April through September 1979.

List Of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of June 18 through June 22, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Order which determined that the exception requests be granted.

Corner Pantry Food Marts, Inc.; DEE-2408; Greensboro, GA.

"J" Oil, Inc.; DEE-2594; Colorado Springs, Colorado.

Peter H. Clark, Inc.; DEE-5927; Pawtucket, RI.

Priebe Bros. Oil Company; DEE-2266; St. Joseph, MS.

List of Cases Involving the Standby Petroleum Product Allocation Regulation for Motor Gasoline

Week of June 18 through June 22, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline.

The DOE issued Proposed Decision and Order which determined that the exception requests be denied.

Bird Road Exxon; DEE–3289; Miami, Florida.
C&C Garage and Towing; DEE–3362; Slatersville, RI.
Colony West Gulf; DEE–4579; Little Rock, Ark.
George Adamian Texaco; DEE–5421; Los Angles, CA.
J. D. Streett & Co.; DEE–3255; Washington, D.C.
Magnolia Exxon; DEE–2861; Charleston, SC.
Pea Soup Anderson's; DEE–3251; Buellton, CA.

[FR Doc. 79–24486 Filed 8–8–79; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; June 25 through June 29, 1979

Notice is hereby given that during the period June 25 through June 29, 1979 the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N. W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

August 2, 1979.

City of Long Beach, California; Long Beach, California; DXE–5820, crude oil.

The City of Long Beach, California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Fault Block II Unit for the benefit of the working interest owners at upper tier ceiling prices. On June 29, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Fault Block II Unit.

Equipment, Inc.; Lafayette, Louisiana; DXE–4107, crude oil.

Equipment, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell the crude oil which it produces from the Hayes No. 1 and Hayes A–1 Wells for the benefit of the working interest owners at market price levels. On June 29, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Hayes No. 1 Well and Hayes A–1 Well.

M. J. Mitchell; Dallas, Texas; DXE–5534, crude oil.

M. J. Mitchell filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell the crude oil which it produces from the Mitchell State Minnelusa Sand Unit for the benefit of the working interest owners at market price levels. On June 28, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Mitchell State Minnelsua Sand Unit.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of June 25 through June 29, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Big K Oil Co.; DEE–2494; Hattiesburg, MS.
Greenwood Petroleum; DEE–6718; Greenwood, SC.
Jersey Crown Dairy; DEE–4549; Manteca, CA.
Mason Valley Petroleum; DEE–5144; Yerington, NV.
McDaniel's Grocery & Meat Market; DEE–5933; Port Bolivar, TX.
Pine Grove Exxon; DEE–5051; Pine Grove, CA.
Town & Country Food Markets, Inc.; DEE–2863; Washington, D.C.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of June 25 through June 29, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Deacon's Corner; DEE–2278; Tampa, FL.
Hull Oil Company; DEE–4200; Washington, D.C.
Ron's Shell Service; DEE–5912; San Francisco, CA.
Zarda Bros. Dairy, Inc.; DEE–5747; Shaunee, KS.

[FR Doc. 79–24387 Filed 8–8–79; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Kenneth H. White Co., Inc.; 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 Kenneth H. White Co., Inc. This Proposed Remedial Order charges White with pricing violations in the amount of $447,431.21 in sales of 2 fuel oil and residual fuel oils during the time period November 1, 1973, through December 31, 1974, in the State of Michigan.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from William D. Miller, Acting District Manager of

Enforcement, 324 East 11th Street, Kansas City, Missouri 64106. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri, on the 30th day of July 1979.

William D. Miller,

Acting District Manager, Central Enforcement District.

[FR Doc. 79-24489 Filed 8-8-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-145; FRL 1293-5]

Pesticide Programs; Filing of Pesticide/Food/Feed Additive Petitions

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 8F2122. Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166. Proposes that 40 CFR 180.364 be amended by establishing a tolerance for the combined residues of the herbicide glyphosate [*N*-(phosphonomethyl)glycine] and its metabolite aminomethyl-phosphonic acid resulting from the application of the sodium salt of glyphosate in the growing of sugarcane with a tolerance limitation of 2.0 parts per million (ppm) in or on the raw agricultural commodity sugarcane. The proposed analytical method for determining residues is by gas liquid chromatography using a phosphorus-specific flame photometric detector.

FAP 9H5196. Monsanto Co. Proposes that 21 CFR 193.235 and 561.253 be amended by permitting the combined residues of the herbicide glyphosate and its metabolite aminomethylphosphonic acid resulting from application of the sodium salt of glyphosate in the growing of sugarcane with a tolerance limitation of 2.0 ppm in or on raw sugar.

Interested persons are invited to submit written comments on these petitions. Comments may be submitted, and inquires directed, to Product Manager (PM) 25, Room 359, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755/2196. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: August 3, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-24503 Filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

[Fact Finding Investigation No. 9]

Possible Rebates and Similar Malpractices in the United States Foreign Commerce; Extension of Investigation

By Order of August 2, 1978, the Federal Maritime Commission extended for a term of one year Fact Finding Investigation No. 9. This nonadjudicatory proceeding was instituted by Order of the Commission on July 9, 1976 (Federal Register Vol. 41, No. 141, July 21, 1976), into the practices of rebates, absorptions, allowances in excess of those set forth in the tariff, and any other method of obtaining or allowing other persons to obtain transportation of property at less than the rates or charges which would otherwise be applicable in the United States foreign commerce.

Since its institution, Fact Finding Investigation No. 9 has been utilized as an integral part of the Commission's program into rebates and other malpractices in the foreign commerce of the United States. While Fact Finding Investigation No. 9 was initially extended for a one year period, the Commission's continuing investigation into these matters raises the possibility that the compulsory processes authorized by Fact Finding Investigation No. 9 may have to be utilized to fully develop cases still pending final resolution.

Therefore, it is ordered, That pursuant to sections 22 and 27 of the Shipping Act, 1916 [46 U.S.C. 821 and 826] and section 214(a) of the Merchant Marine Act of 1936 [46 U.S.C. 1124(a)], Fact Finding Investigation No. 9 is extended for one year after publication of this Order in the Federal Register.

It is further ordered, That Notice of this Order be published in the Federal Register.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-24492 Filed 8-8-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Nutrition Education Conference: Directions for the 1980's

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice presenting background papers and inviting public comment for the HEW sponsored "National Conference on Nutrition Education: Directions for the 1980's."

SUMMARY: This notice sets forth four Task Force papers that will be used as background documents for a Department of Health, Education, and Welfare sponsored national conference on nutrition education, to be held next September 27 and 28 in Bethesda, Maryland. Each paper addresses recommendations for meeting the nutrition education needs and desires of various U.S. population groups during the next decade: pregnant women, children, and adolescents; the general public; low income populations and the elderly; and persons with diet-related diseases.

Interested individuals and organizations are invited to submit comments on the recommendations and justification statements appearing in each of the four Task Force reports. The respective chairpersons on each Task Force will consider the comments as they refine the documents during and following the September Conference.

Please note that these are draft documents.

DATES: The Assistant Secretary for Health invites comments on these special Task Force Reports. The comment period closes on Friday, August 31, 1979.

ADDRESS: Please send written comments to: Deputy, HEW Nutrition Coordinator, room 708B Hubert H. Humphrey building, 200 Independence Avenue, SW, Washington, D.C. 20201.

All comments received in timely response to this notice will be considered and will be available for public inspection weekdays between the hours of 9 a.m. and 5 p.m.

Additional information may be obtained from Dr. Lenora Moragne, Deputy HEW Nutrition Coordinator (202-472-5308).

Dated: August 1, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Report on Task Force on Nutrition Education for the General Public

Co-Chairpersons: Ms. Karen Brown, Food Marketing Institute; and Mr. Tom Cooke, Manoff International

This is a draft document. This paper should not be interpreted as official policy of DHEW, any other Federal department or agency, or organization.

Task Force II—the General Public

I. Summary and Recommendations

A. Goals. In the coming decade, nutrition policy makers will be challenged by new education goals for the general public. Long term changes in dietary practices can result in substantial reduction of risks for chronic diseases prevalent in our country. Expert scientific groups in the US and abroad advise that the typical American eating patterns can be improved by:

(1) Increasing consumption of fruits, vegetables and grains, especially whole grains;

(2) Cutting down consumption of fats, oils and fatty foods;

(3) reducing consumption of animal products rich in cholesterol;

(4) Limiting the amount of highly sugared foods in the diet;

(5) Reducing consumption of highly salted foods;

(6) Eating just enough calories to keep body weight at desirable levels;

(7) Limiting amounts of alcoholic beverages in the diet.

In addition to dietary guidance, there will be increasing concern among the public about food safety and quality as more fabricated and modified food products are marketed, as different packaging and preserving methods are used, and new retailing methods are employed. These topics merit more attention in nutrition information plans.

B. Methods. More effective techniques must be used of bringing about behavior change or of merely offering new, credible information to the public. These methods will draw upon a variety of disciplines not usually associated with traditional nutrition education: social psychology, psychiatry, anthropology, sociology, economics, industrial design, architecture, marketing, and advertising. The need for new approaches to nutrition education is based on a better understanding of the close links between our food habits and our life-styles. Food choices are not merely the result of the information each of us has, but they are caused by a life time of social, cultural and economic influences. Changes will not be made without the long term application of carefully designed programs.

Successful behavior change efforts of the past and on-going experimental programs suggest that careful segmentation of the target group is important in designing relevant programs. Just as injunctions to vague ideals such as "eat a balanced diet" are ineffective and irrelevant, so are programs aimed at the general public. The public, apart from special groups considered by other task forces, is too diverse to be the subject of a single program. The specific segmentation will depend upon the communication and education task.

Other specific approaches include the following:

- learning about self-image, concepts of well-being, self-control;
- aiming at clusters of behaviors related to diet, exercise, self-awareness, assertiveness;
- using a wide variety of sites for learning and transmitting information—not just schools, clinics, and mothers' clubs, but stores, the street, the mass media;
- designing the programs to last over long periods of time—months, years instead of the common blitz or campaign approach;
- providing consistent information but explaining the areas of uncertainty;
- directing the program, not merely at the specific target individual—the over-weight teen or the misinformed housewife, but at others in their lives who will influence their behavior.

Several important ethical-political issues must be addressed if the government is going to take nutrition behavior change more seriously in the coming decade. For example, how much of the responsibility for dietary improvement should rest with the individual and how much should be engineered into the food supply, kitchen design, or city planning? How certain must be the scientific evidence before dietary changes are recommended to the public? How invasive in personal life-style is it justifiable to be for publically sponsored programs?

II. Discussion and Rationale

A. Goals. There is evidence that long-term changes in the dietary practices of our population can result in substantial reduction of risks for chronic diseases prevalent in our country. These changes are consistent with the recommendations of expert scientific groups in many parts of the world including the United States.

The dietary guides represent a profound change in dietary recommendations for the American public. In the past, when prevention of deficiency diseases required our attention, food guidance focused on eating enough of a variety of foods to assure that adequate levels of essential nutrients would be consumed by the public. However, the long-range effects of a national diet abundant in protein, vitamins, and minerals was not known. Today, severe deficiency disorders are extremely rare in our country. Improvements in food production, manufacturing and distribution, as well as a better informed public have resulted in the eradication of classical malnutrition in all but a few sub-groups in our society. To continue to advise the public to consume a traditional abundant diet can contribute to over-consumption of dietary components associated with our principal public health problems.

The rationale for food safety education is equally compelling. Government and private surveys in recent years have documented growing consumer concern and confusion about food safety and the nutritional adequacy of the present food supply. Many consumers fear the harmful effects from the proliferation of ingredients in processed foods. Others are uncertain about the nutritional and other properties of processed foods and foods that substitute for traditional foods, such as those containing new sources of protein.

Current methods permit the reduction of edible protein from cottonseeds and the separation of edible protein from whey. Solvent extraction and texturizing yield a variety of soy protein products. Processes using enzymes produce high-fructose corn syrups and other corn sweeteners. Single-cell organisms produce protein for a variety of processing wastes and other sources. Economically, processes could produce useful products from wastes such as fruit and vegetable pulp, peelings and animal by-products, thereby reducing food losses and costs.

More than half of the foods eaten today are processed, and more processed foods are likely to be used in the future as a factor in maintaining an urban society. Advancing food technology undoubtedly will continue to make new foods and new forms of foods available in the marketplace. Thus in the 1980's and beyond, the complexity of the food supply may continue to

confound the public unless serious educational efforts are made.

Several major areas of food safety and quality will merit attention:

Traditionally, education in food safety has related primarily to the prevention of microbiological contamination and, because it is the issue of greatest public health significance, the safe handling of food in the home and in food service establishments needs continuing major emphasis. In view of the expected continuing shortage and the high cost of energy, the safe and efficient use of energy-conserving measures of food handling in the food system and in the consumer's home will probably be an area for increased emphasis in the future.

In addition, education needs to expand to encompass the issues about food safety and quality that have developed in relation to a more sophisticated food supply, such as food additives and the nutritional qualities of new foods. Evidence indicates that many Americans are using food labeling information to avoid what are perceived as "harmful substances" in foods, and the purpose of many fad diets is the avoidance of certain substances. The ingredient list on food labels presently is of greater importance to many people than the nutritional label. Hence a priority is to help the public understand the ingredient information and how to use it in a valid way in making dietary selections.

New packaging techniques are particularly important in the coming decade as consumers are more cost and energy conscious. Currently packaging is second only to labor as a contributor to food costs. Some new methods promise to reduce costs, allow for fewer preservatives, and permits shorter preparation time.

New packaging materials may be developed in conjunction with new processing technology or may be a new way of packaging a traditional product. The oxygen scavenger packaging process can reduce the need for food additives or preservatives by trapping oxygen and forming water in the outer layer of the package. The retortable pouch, still in the development stage, is a multilayer plastic laminate with a middle layer of aluminum foil, with an adhesively bonded bag that will withstand thermoprocessing. This pouch combines the advantages of the metal can and the plastic boil-in-the-bag. The tray pack uses a metal tray in which complete meals are processed, transported, stored, reheated, and served from the container itself. Data on energy savings of these new packaging technologies are being gathered.

B. Characteristics of the Population. Nutrition education will be particularly challenging in the next decade because of the changing characteristics of the general public. Several important trends are worth noting.

First, more and more women are entering the work force. In 1977, 47.4 percent of all mothers were working outside the home. Surveys indicate that something more than economics is motivating mothers to work. Today's image of the achieving woman will include a family and a career. However, for many women, employment is a necessity. The number of families headed by women, with no husband present, is growing at 4.4 percent annually. Approximately 5.5 million children under 18 years are in homes of this category.

As more mothers enter the work force less time is spent in shopping and food preparation, at a time when, as the previous section indicated the food supply is becoming more complex (with approximately 50,000 items listed in the Universal Product Code), processed, and hard to recognize. Moreover, consumers are as likely to be men as women, children as adults, food wise as well as food naive.

A second major trend is that individualized eating has become a national pastime. Working parents eat lunch out of the home. Their children fix breakfasts for themselves, eat lunch out and help to get dinners on the table. Dinnertime for many means "fast fooding" the family or a go-go affair at home between evening recreations and completing workday chores. "No time for" . . . it's the theme repeatedly heard in relation to household shopping, cooking, and clean-up.

Another significant trend is the increase in away-from-home eating which is frequently done on an individual basis. Currently the away-from-home eating industry is growing at four times the rate of the retail food industry. In the fast food industry alone, sales of $74 billion in 1975 are expected to swell to $113 billion by 1980.

This trend away from family meals does just not affect working adults. Today with more employed mothers, children are out of the home at an earlier age. As a consequence, children eat many meals with persons outside the family. In 1965, about 27 percent of all three to five year-olds were enrolled in pre-school. By 1970, the figure rose to 37 percent; it continues to rise as more mothers enter the labor force.

So it is that today's children are at an earlier age exposed to many people of varying social strata and different ethnic origins. According to behavioral scientists, this is significant because 80 percent of a child's personality . . . attitudes, motivations, expectations . . . is formed before the age of six years.

The increasing number of single person households is the third major trend. During the 1980's U.S. Census projections predict that the population in the age groups 18–24, 25–34, and 65 years and older will increase measurably over preceding decades. Young adults are delaying marriage until late in their 20's and there are increasing numbers of the elderly living alone.

These individuals give less attention to their diet, are willing to spend less time cooking, and are likely to spend more per serving than those in larger households.

The net result of these factors is an increase in products that facilitate convenient individualized eating . . . soup for one, single serving canned and frozen entrees, delicatessen fare, vending machine foods, fast food take-out or eat-in items, individually packaged steaks, and small-size packages of fruits and vegetables.

Statistics supporting these trends report that the frozen food section grew from a $1.5 billion business in 1956 to $6.5 billion in 1976. Delecatessens are among the four fastest growing sections in the supermarket today. Surveys show that about 70 percent of all female consumers today shop at a deli, and about half that number shop there each week.

C. Methods. 1. Building a Natural Strategy. The dietary guidelines provide general goals upon which to develop a national strategy. Each does not apply with equal relevance to each element of the general public.

A major emphasis of nutrition education should be research into the target groups' food habits, broader food culture, media habits, and self-perceptions. Much of this information has been gathered by food marketers, but is not available to the public.

An adequate strategy will require multi-sectoral planning involving the food industry, government, press and broadcast media, universities, schools, consumers and public interest groups. The formulation of the strategy must be a conscious act, requiring considerably more effort and money than has been invested in this conference.

Before a strategy can be formulated many different value issues must be resolved.

First, it must be wondered how much reliance can be placed upon individual-change-focused educational programs as opposed to environmental manipulations that require health behaviors and take them beyond individual control. As a parallel, banning cigarette sales in certain buildings probably is a better way of reducing smoking in those areas than educating people not to smoke; and limiting gasoline sales may be a better way of ensuring slow driving than merely posting 55-mph speed limits and occasionally prosecuting violators. Once it is decided that the expenditure of resources for education is justified—and in a free society one can strongly argue that the first approach must always be appeal to the individual—a number of secondary value questions arise: For example: How strongly must recommended changes be based upon research leading to relatively unchallenged conclusions: How invasive in personal life-style is it justifiable for publicly sponsored programs to be? To what extent must cultural values of learners by respected even though they may conflict with the principles that lie at the base of the health-behavior-promotion programs? To what extent is it justifiable to ask learners to modify thoughts and feelings, social interactions, and related contributors to the urge to overeat in programs aimed at promoting obesity control.

The answers to these questions can only be found through discussion among health behavior professionals and representatives of the consumers and service communities. It is strongly urged that one of the outputs of this conference will be the stimulation of just such a dialogue.

2. Segmentation of the Target Group. Segmentation permits the design of programs: selection of specific objectives, instructional methods, media selection, appeals, etc. to suit the characteristics of each segment. However market segments are not rigid divisions and the characteristics of each segment changes continually.

The following list of socio-demographic segments is one taxonomy.

Parents of children birth to 18 months
Parents of children 19 months to 4 years
Parents of children 5 to 15 years old
Children, kindergarten to 16 years of age
Parents of teenagers still living at home
Teenagers
Pregnant teenagers
Single young adults, male and female, who are in college or living on their own for the first time
Pregnant women 20 years and older
Adults 25 to 65
Adults 65 and over
Male and female working single heads of household with children

Another set of categories might be organized around the extent to which individuals understood and cared about the relationship between diet and health. On one extreme of this set of market segments would be the food faddists and on the other, the middle of the road, well informed home maker. Another segment might be those who tend toward moderate to heavy exercise.

Socio-demographic segments may also be sub-divided by ethnic groups: Black, Spanish, Asian, Caucasian, and Middle Eastern.

3. Education and Communication Methods. We should be challenged by the immense task of nutrition education in the next decade and somewhat humbled in our expectations since little seems to have been accomplished in the preceding decades of effort.

When the Task Force considers general dietary changes, it is not suggesting fewer steaks, or more vegetables and whole grain bread. It is asking people to change how they live and to take risks with their personal self esteem and aspirations, parenting mores, leisure habits and peer status. It's asking people to tamper with an important source of relaxation and pleasure. These changes are pervasive for families—for the country, they are nothing short of societal, or cultural change. Attempts to influence the general public's dietary practices will fall short of their mark if they do not take into account the relationship between our eating habits and every other aspect of our life.

Dietary change is not independent of, but allied with, transitions in our living styles. The subject of change itself, its nature, rate, and extent may be a relevant initial charge of this group. The Task Force's charge may be aided by an examination of commonalities in the overall interplay of many events characterizing each past societal problem and subsequent change. Getting a "feel" for what is required to orchestrate a prolonged nutrition education program may be a more important task than considering the validity and effectiveness of the components of a nutrition education program. The challenge is more management, motivation and maintenance, than a search for powerful and key components.

In one essay a Task Force member discussed approaches to changing eating habits for weight control. Since this is one of the most difficult behavioral issues, yet one about which more adults are concerned, the insights from this experience will help us with understanding how to approach nutrition education in general.

"Several important choices confront those interested in developing programs aimed at both preventing and controlling overweight. The first and most critical choice must be made between using a direct versus an indirect programming approach. By analogy, a direct approach to the problem of depression involves the giving of antidepressants intended to elevate mood, while an indirect approach would offer training in assertive restructuring of the individual's environment so as to eliminate depression-eliciting cues. For obesity a direct approach would provide much more broad-spectrum training in behavioral self-management, which should be coupled with some community and/or environmental changes that would facilitate a life-style change. Over the two decades of research on clinical applications of these strategies seems to indicate that while direct methods may lead to more immediate successes, maintainable changes seem to depend upon the successful application of indirect methods. By extension from these clinical studies, it can be strongly argued that indirect methods followed by application of direct techniques would seem to present the best opportunity for effective preventive efforts."

The direct versus the indirect choice determines the general *thrust* of the program; the next choice relates to the *scope* of the program that is offered. Direct nutrition education programs could be as *narrow* as offering only recommendations for specific menus or as *broad* as providing training in the principles of good nutrition or discussing the origin of food and the role of food in the maintenance of healthful living. Education programs taking an indirect approach can be viewed as points along a similar continuum: At the more narrow end of the continuum is training limited to building better eating patterns by improving habits of food intake and the management of food availability in living, work, and play environments. At the broader end of this continuum are programs that help learners to understand the sources and influence of their philosophies and values of life, their concepts of self and health, and the role of these notions as arbiters of their own fate, and to develop skills not just in nutritional planning but in far-

reaching aspects of their daily health-related behaviors."

Less research evidence is relevant to this choice than to that between direct and indirect approaches. Such data as do exist, however, suggest that the broad-spectrum approach may be more effective for two important reasons: First, the learner may be more willing to take initial action in some areas than in others, and offering alternatives is often helpful in inducing learners to begin participating in health-behavior-promoting programs. For example, chronic overeaters may be more willing to embark on a stress-managment program aimed at reducing their urge to eat or on physical activity programs aimed at increasing caloric utilization than to attempt programs that immediately impose reduction in food intake. Indeed, it is often the case that those who are put off by eating focus are lost to weight control programs, while those who begin on related programs are strong potential candidates for later participation in eating-management programs. Second, currently available data support the notion that individuals who change several behaviors concurrently may be more successful than those who concentrate upon a single behavior, because they are more attentive to opportunities for behavior change in general and because success in one area often helps to reinforce efforts made in related areas. Therefore, the broad-spectrum approach is more likely to tap into the learner's willingness to change and is better adapted to meeting the challenge of providing the reinforcement needed to maintain participation in the program."

Consistent with the indirect, broad spectrum programming thus far recommended are a series of operational choices. The location of the programs may affect compliance with their recommedations: programs offered at schools or in clinics are less likely to generalize than those offered in the home or at nonclinical sites in the community. Teaching will be most effective if it is offered in varied settings despite the added cost and inconvenience of decentralization of the programs. Teaching that is continuous over time is more likely to be effective than a "one-shot" approach for at least two reasons: First, the goal of the program contemplated by this conference is long-term change in behaviors that have been acquired throughout the life experience of the learners, whether of three, thirty or seventy-three years' duration. It is unrealistic to expect to change these patterns with a single effort, just as it is unwise to think there is one universal "critical" time at which the information is relevant and the individual ready to receive it. The interruption of daily habits of even short duration often requires repeated inputs, and individuals are ready to receive and to utilize these inputs at varied times in their lives. Moreover, as life configurations change for individuals, so, too, do their needs for specific health behavior programs. Therefore, repetition of these programs throughout the developmental cycle from early childhood to old age offers an opportunity to vary content and presentation in a manner that increases the likelihood that the message will be understood and utilized. For example, if the core message is the wisdom of prudently planning diet, several stages of development-related adaptations can be visualized: Young children who are learning to categorize life experience generally may be most receptive to the "basic four" approach; adolescents who are struggling with autonomy might respond most favorably to training in making decisions independently of the urging of food packagers and marketers; the prevalence of obesity becomes more marked among men who reach their early 20s, probably due to a change in the level of their physical acitivity, so this group may respond best to (and need most) instigations to sustain activity levels; while many women are interested in nurturing their young children during their twenties and early thirties and therefore may respond most favorably to a "nutrition fact" approach, their obesity is most likely to escalate during the period of their middle thirties when they, too, may respond most favorably to an exercise and/or youthful-appearance-sustaining approach. Thus *repetition* of the program permits utilization of a stronger pedagogical approach while also affording the change to utilize the principles of social marketing in adapting programs to the needs and interests of the learner."

Beyond timing, it is also important to consider the *targets* of nutrition programs aimed at combating obesity. In general, programs aimed simply at individuals cannot be expected to pay rich dividends. There is mounting evidence to support the views that eating and activity patterns are well predicted by those of parents, siblings, and peers; that such paterns of married adults are well predicted by those of their mates; and that cultural, institutional, and small-group influences leave a heavy stamp upon the health behaviors of those exposed to their influence. Therefore, nutrition education programs aimed at controlling obesity should be conceived as coordinated efforts to deliver relevant aspects of instigations to change behavior by all of those whose influence is likely to affect the individual's choices. These multiple inputs might be delivered to the child in the context of his or her family, to couples, to naturally occurring social groups, to religious organizations that seek to influence the health behaviors of their members, and obviously to all levels of work organizations. Finally, it is also critically important to offer education to community planners whose decisions profuoundly affect the provision of stress-minimizing versus stress-inducing environments, environments that facilitate or impede physical activity, and environments that discourage rather than encourage problem eating by planfull consideration of the location of food availability. Without including this group as a target of educational efforts, little success can be expected from the more individual-focused activities."

"The format of the programs will also bear significantly upon their effectiveness in promoting the control of behaviors that result in obesity. Programs that involve active participation by learners are often more effective than those in which learners are passive recipients of new information. A few reports of successful programs aimed at weight control appear to include roles for clients in which each serves as a mentor for others. Promotion of active learner participation by involving learners as teachers of others therefore offers the potential of greater program effectiveness in health behavior-promoting programs."

4 Evaluation. No essay or report on nutrition education is complete without a reference to evaluation. One of the Task Force members addressed this issue in a thought provoking statement.

"New and socially pertinent evaluation technologies such as cost effectiveness and cost benefit analyses are viewed with the reverence usually reserved for godheads and sports celebrities. We are led to believe that we will heedlessly waste our resources if we do not incorporate complicated and expensive evaluation strategies—

given an increasing number of societal needs and decreasing societal resources to meet these needs. One hears much talk about their relevance to nutrition education."

"The underlying rationale for their use is relatively simple: identify the procedure to change dietary patterns and assess cost in relation to yield. Compare to other means, costs and yields and, then make a decision. These procedures only are valid if the conditions and requirements for their appropriate application are present. If these criteria are applied to the area of nutrition change, the utility of sophisticated evaluation models diminishes rapidly. First, it has always been difficult, if not impossible, to acceptably quantify behavioral interventions. Second, even if it were possible to quantify interventions, no empirical data on outcome or effectiveness exists for any change techniques because we have no previous record of successful use. We don't know how long any given intervention should take—1, 3, 5, 10, or 20 years? Third, it is unrealistic to consider comparing alternative approaches. Nutrition change will take everything we have for the longest possible time we can afford it—and it still will not be enough."

"In such circumstances, there is no common, nor economic sense in dividing our limited resources to tackle nutrition change. Any comparisons generated would be superficial, and contradict empirical experience regarding the enormity of the undertaking required to make headway. At best, we will be able to take one broad, sustained comprehensive crack at it. We do not know what, where, how much, nor how long to do it. These are not the optimum conditions the designers of such sophisticated evaluation techniques had in mind. They require quantifiable, finite and valid events and a problem conceptually consonant with their capabilities. As with all technologies, relevance depends upon their intelligent use, sometimes intelligent non-use."

Successful nutrition education programs will depend upon accurate, defensible message; the identification of appropriate population segments at which the message is to be targeted; realistic attitudes regarding what actually can be accomplished within certain time frames; the enthusiatic cooperation of industry, consumers, government and academia; and, perhaps most importantly, our ability to *motivate* changes in dietary behavior on the part of the public.

Report of Task Force on Nutrition Education for Pregnant Women, Children, and Adolescents

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Abstract Report of Task Force on Nutrition Education for Pregnant Women, Children and Adolescents

In order to promote and maintain the health of pregnant women, infants and children, today's nutrition education messages *and* their methods of delivery must be substantially changed. The following recommendations made by the task force grow out of the group's perception both of current problems with existing programs as well as the emerging needs of the 1980's:

1. *Nutrition education needs a new orientation, both for the message as well as its delivery:*

(a) Message—Nutritionists and others who design nutrition education must define and continually update a base of nutrition information upon which to build their programs. The message must grow out of a recognition of nutrition's role in total health and lifestyle and must reflect the need for individual and social responsibility in carrying out this role.

(b) Delivery—Nutrition education should promote attitudinal and behavioral change rather than merely disseminate information. It should "get people to want to know" about nutrition.

2. *Nutrition messages must be consistent, clear, useful and matched with the information desires and specific developmental characteristics as well as the cultural, social and ethnic orientations of the target groups.*

3. *All nutrition education curricula for preschool through secondary school must be redesigned and refocused around the target group's level of understanding. Curricula users must be trained in their use, and the use of related materials. Evaluation mechanisms must be built into curricula and the results used to improve future programs.*

4. *Nutrition education should be organized around specific objectives that:*

—maintain an overall structure and sequence that demonstrates a logical progression of subject matter and learning experience;

—allow for individual differences in learning styles as well as physiological needs;

—emphasize the role of nutrition in achieving maximum health and prevention of health disorders;

—promote learning that is practical and directly useful;

—emphasize self-involvement in learning;

—enhance sensory-motor developmental skills;

—take into consideration different cultural or ethnic orientations and lifestyles;

(d) Mass media programmers should be informed about the important relationship of nutrition to health. They should be encouraged to develop programs to support general nutrition education efforts and know where to obtain technical assistance in nutrition.

6. *New ways to reach out and provide nutrition education in different settings should be explored.*

7. *The mass media should be used more effectively to improve the image of nutrition and to initiate large-scale change in attitudes about healthy eating.*

8. *More adequate monitoring of the quality and safety of our foods, especially those used by pregnant and lactating women and children, should take place.*

9. *Evaluation of nutrition education should receive more emphasis.*

10. *Research in nutrition education must continue.*

Report Task Force on Nutrition Education for Pregnant Women, Children and Adolescents

Introduction

For pregnant women, lactating mothers, infants and children through adolescence, adequate nutrition is vital for attaining growth, promoting development and maintaining maximal health and well-being at a particularly important time of life.

Projected trends support the continuing nutrition needs of these target group.

Because of the "baby boom" following World War II, the female population in prime childbearing age, which has increased rapidly since 1970, will continue to increase from 48 million to between 55–57 million women by 1990. As a result, births for the 1980's would be above the current level of nearly 3.2 million and could easily reach 4 million.

Between 1976 and 1990, the following changes are expected among the child

population: the 1–4 year-olds are expected to increase from 12.3 million to somewhere between 13–19 million; the 5–13 year-olds may decrease from 32.9 million to about 29 million or, depending on fertility rates, could escalate to nearly 38 million; while the 14–17 year-olds will experience a significant decrease from 16.8 million to between 12–13 million.

In addition, women appear to be having their first babies at a later age; birth rates for teenagers, 15–17 years of age, are decreasing; and more women are receiving prenatal care earlier in pregnancy. Although infant mortality rates have declined, there are still significant differences among racial groups, e.g., the proportion of low-birth-weight infants born to black women is nearly twice as high as the proportion born to white women. Low-birth-weight babies have higher mortality rates and are more likely to suffer from handicapping conditions. There is ample evidence that higher weight gain was related to higher birth weight. Dental problems still affect large numbers of children, as does obesity and other nutrition-related problems, such as iron-deficiency anemia.

Nutrition Education Today (The Experts' Perspective)

Within the target groups considered here, there is much activity in nutrition education, most of it geared to low-income persons served in public programs. Evidence that it is effective in influencing behavior is limited. This task force identified these major reasons:

—There is no comprehensive philosophy or approach shared by those who plan and implement nutrition education programs, nor is there agreement on the message. Responsibility for nutrition education is scattered throughout a number of Government and voluntary agencies, as well as the private sector. The results of this piecemeal philosophy and approach are conflicting and competing messages, overlap and duplication among programs, creating confusion and apathy.

The "message" often is not tailored to the information needs *felt* by the target group. Too often nutrition specialists are more concerned about what they want people to know and too little concerned with what people are intellectually able and motivationally ready to learn. For example, adolescents are interested in health primarily for self-indulgent reasons—for them the benefits of nutrition must be tangible and immediate to the greatest extent possible, e.g., don't talk about delayed gratification, but tell what you can offer now.

Unless the potential recipient can see how the information is useful to her or him, it is not useful at all. More recognition of the diversity of ways in which food and eating is used in a given society is important.

Delivery of the message often doesn't "take." Poorly designed curricula and nutrition education materials are not always geared to children's developmental levels and needs. Teachers and other providers are not adequately trained to convey nutrition information effectively; further, it may be unrealistic to depend totally on teachers to do so. Heavy reliance on print media ignores the greater effects of visual, especially mass media. Perceived experts such as doctors and nurses are ill prepared. However, recent trends such as the following are encouraging (a) more attention being given to nutrition in medical school curricula, (b) focus on nutrition in continuing education programs developed by professional organizations such as American College of Obstetricians and Gynecologists (ACOG), American Academy of Pediatrics (AAP), and voluntary agencies such as March of Dimes (MOD). Role models and learning enforcers such as parents and caretakers either don't see nutrition education as part of their jobs or are not knowledgeable enough to reinforce what their charges have learned elsewhere. Consideration needs to be given to attaching a value to nutrition education rather than treating it as a give-away; to providing more specific information on a local or regional basis; with attention to "reach and frequency" (how many people reached, how often); and to more effective use of mass media to initiate large scale change in eating habits.

Nutrition education has not kept place with changes in food technology and changing attitudes toward our food system, as well as such factors as the escalating number of working women, increase in group care of children and the increase in meals eaten away from home, etc. The fact that nutrition education has become somewhat standardized to a food-grouping system has meant that contributions of cultural/regional food often become obscure. A traditional approach to healthly eating, traditionally delivered, does not meet contemporary needs. Efforts should be made to present nutrition as a part of popular lifestyle and culture and to create a public demand for nutrition information.

Aspects of each of these complex difficulties apply to all the target groups:

Prenatal nutrition education is focused almost exclusively on clients enrolled in public programs; although in recent years, obstetricians and their professional organizations have given more emphasis to nutrition as an important component of maternity care. Varying in intensity and comprehensiveness, nutrition education is offered in various public and private settings by a diversity of providers with varying backgrounds in nutrition. Evaluation is sporadic and inconsistent, thus unproductive nutrition education may continue to be offered. Client perception of nutrition education as an important part of supplemental food programs is limited. More thought needs to be given to improving one-to-one nutrition counseling, more innovative use of the home evironment, e.g., telephone followup, mass media, community aides, etc., and increased client involvement.

The unique needs of pregnant adolescents, both in terms of the nutrition message as well as its delivery, need special consideration.

Nutrition education for *infants* and *preschool children* also focuses on low-income groups and tends to omit middle and upper income persons. The need for training of nutrition education providers, especially day care personnel, is a critical problem. Many who offer nutrition information for child caretakers use invalid sources and perpetuate misinformation. Training efforts for these teachers and caretakers have been inadequate and, in some cases, ineffective. Much nutrition education does not recognize the developmental level of the population to be served.

While nutrition education programs for *school-age youth* have become more comprehensive and systematic, several major flaws persist: the programs do not consider the changing nature of our food supply; curricula are not comprehensive or individualized, rarely evaluated and frequently do not consider and support overall educational goals. Less knowledge about nutrients and more about developing healthy lifestyles would be closer to the information needs of this group.

The task force concluded that, in order to meet the contemporary needs of the target groups considered, today's nutrition education messages *and* their methods of delivery must be substantially changed. The following recommendations made by the task force grow out of the group's perception both of current problems with exising programs as well as the emerging needs of the 1980's.

Recommendations

1. *Nutrition education needs a new orientation, both for the message as well as its delivery:* (a) *Message*—Nutritionists and others who design nutrition education must define and continuously update a base of nutrition information upon which to build their programs.

The message must grow out of a recognition of nutrition's role in total health and lifestyle and must reflect the need for an individual social responsibility in carrying out this role.

(b) *Delivery*—Nutrition education should promote attitudinal and behavioral change rather than merely disseminate information. It should get people to want to know "about nutrition."

The lack of a comprehensive philosophy of nutrition education and agreement of the message is responsible for much of the confusion and duplication that plague today's programs. Nutritionists must agree on some basics, and at least agree to disagree on lesser points.

Any emerging philosophy of nutrition education must take into account the changing role of food in our society as well as the effect food has on health. Food and eating are ethnic and social forces as well as economic and political ones and, as such, serve many purposes in a society. Nutrition concerns the critical linkage between food and health and well-being. Nutrition touches young women and children everywhere—at home, in their schools, their communities, and their world, and influences the present generation as well as future generations. Recognizing the complex multifactorial role of nutrition is a first step toward providing the kind of relevant nutrition education that promotes behavioral change.

2. *Nutrition messages must be consistent, clear, useful, and matched with the information desires and special developmental characteristics as well as the cultural, social, and ethnic orientations of the target groups.* Priority should be given to providing nutritionally important information that is wanted by the target group. Information with no practical relevance the recipient can see will not be assimilated and may even discourage or annoy the recipient. Ideally, this approach of matching message to felt need would provide actual, fairly immediate benefits to recipients and their families. These positive experiences with nutrition education would then ensure continuing interest in the issue of good nutrition.

Pregnancy

Because pregnant women generally seek information about their changing bodies and their unborn children, pregnancy is considered a particularly important "teachable moment."

The prospective mother, especially during her first pregnancy, is for example, receptive to information about optimizing her diet, breastfeeding, weaning, and the diet of her expected baby.

Nutrition education for the pregnant women should include discussion of the physiological changes expected in pregnancy, including the desirability of a weight gain of 22–27 pounds, the extra nutritional needs of mother and fetus and how to obtain them respecting socio-economic and cultural differences; the importance of avoiding fad diets, reducing diets, alcohol, non-prescription drugs; and anticipatory guidance relative to breastfeeding, etc.

A counseling format, which can be adapted to the women's specific needs, works best.

Once again, pregnant adolescents require a special approach. They may be less interested in their babies than in their own appearance and body image, for example. It is important to ascertain their special needs and attitudes first before beginning nutrition counseling.

Lactating Mothers

The consideration of breastfeeding provides another "teachable moment" when nutrition education can be maximized. Prospective nursing mothers need to know about the process and course of lactation, its many advantages and possible problems, in order to make an informed choice about whether or not to nurse their babies. They need to be informed about the effect of the mother's diet on milk supply, kinds and amounts of foods and nutritional supplements needed to support lactation, nursing procedures, non-nutritional factors affecting breastfeeding, e.g., rest, stress, drugs, etc.

Women who may choose, or already have chosen, to nurse also should receive need support from care providers, family, and friends, and guidance about sources of accurate information on nursing.

Again, it is essential to want to know the desires of the recipient. She may not want to nurse because she had to work or go to school or her mother didn't. While nutrition information should emphasize the health advantages of nursing, it also should introduce and explain bottle-feeding as an alternative in a way that will not engender any guilt and will optimize bottle-feeding.

Infants

The same careful balance between information that is both needed and desired applies to mothers of infants as well, and on the same subject—breastfeeding—as well as other aspects of infant feeding.

While breastfeeding is the method of nutritional preference, care providers working with new mothers must recognize the limitations of individual situations. A nursing mother needs support from the hospital staff, her family, her community, perhaps her employer. In today's world, these supports are not consistently there, perhaps through apathy or ignorance.

Infancy's "teachable moment" comes from the mother or infant caretaker's interest and concern in the growth and development of his or her child. The principles of growth and development can be successfully related to nutrition concepts and the process of feeding. Actual growth of the infant can itself serve as a valuable and powerful tool in demonstrating the effects of nutritional care. Nutrition educators do not make enough use of this connection. Nutrition educators also must recognize the significant role of cultural and family background in the caretaker's role as a food provider.

Child caretakers need to understand the nutritional needs of infants and how to meet them within their cultural, social, and economic environment; to recognize individual differences between infants and influence on feeding; to be alert to signs of inappropriate feeding or signs which signal need for intervention; to appreciate the extra-nutritional role of food and feeding in both cognitive and social-emotional development, and to know where to obtain accurate information.

Preschool

Many of the points discussed under infant feeding also apply to pre-school children.

It is helpful for nutrition educators to know that parents and caretakers of infants and pre-school children may be more interested in nutrition than parents of older children. By working with this interest—preparing parents early for their roles as nutrition educators—positive lifelong habits can be built.

In their early years, children should begin to develop a concept of food and eating as part of family and community life. They may be assisting with food purchasing, preparation, and clean-up.

Through their family and community, they also should begin to perceive food as a symbol of history, ethnicity, politics and culture. Learning experiences of young children shape food habits and attitudes towards food for years to come.

School-age

School-age children should begin to relate food to health in terms of their own growth and development. Learning about food—where it comes from, its physical attributes, how we use it, its relationship to culture—is a first step toward understanding how food contributes to total body needs. As is true for the pre-school child, school-age children should also have some responsibility for contributing to food purchasing, preparation, service, and cleanup.

Adolescents

In order to connect with the adolescents' absorption with body and self, nutrition education must be continually incorporated into human biological and life cycle studies. Unless it can be linked to teenagers' concerns with self-development, nutrition education will fall on deaf ears.

Nutrition education should meet the practical, everyday needs of youngsters in terms of weight loss and gain, obesity, exercise, fitness, alcohol and drugs. More abstract, precise information can be tied into personal needs, body functions, and appearance.

In addition to the link of their physical well-being, teenagers should see, through nutrition education, a growing awareness of the world around them; how food relates to the community politically, economically and energy-wise. Through a broader sense of community, adolescents should also learn how to get help in the community—how to fill specific needs relating to food resources, such as applying for food stamps.

3. *All nutrition education curricula for preschool through secondary school must be redesigned and refocused around the target group's level of understanding. Curricula users must be trained in their use, and the use of related materials. Evaluation mechanisms must be built into curricula and the results used to improve future programs.* Multiple problems with existing curricula include: the lack of clearly stated educational objectives, lack of comprehension, lack of capability for individualizing, confusion of content with performance, misinformation, and contradicting information. Comprehensive nutrition education programs should be provided for children and youth at all age levels. Rather than content defined almost solely by nutrition experts who view nutrition as a discipline first, nutrition education programs should be based on the specific developmental characteristics of each target group and should build gradually on children's understanding of food and health. A sequence in nutrition education that demonstrates a logical progression of subject matter and learning experience is important.

A brief comparison of the developmental characteristics of pre-school and school-age children demonstrates the importance of gearing curricula to level of understanding.

Preschool

Nutrition education within this age group should take place around sensory-motor skills, for example: pre-school children can actually prepare and serve food. They can enjoy stories and songs about food. They can feel and taste foods and recognize and sort colors and shapes. Since children do much spontaneous classification, foods offer good possibilities for sharpening this skill.

Nutrition education for pre-schoolers also must address the physical surroundings and emotional climate of mealtimes and feeding situations. These children are very imitative, so factors other than food must be considered in their nutritional education.

School-age

In contrast, school-age children are developmentally ready for more focus on body growth and development. They can understand nutrition as a part of social studies, that could include, for example, studies of community food ways, regional ecology, and family food history through several generations. Reading, science, and math offer further opportunities for the study of food, including food vocabulary, weighing, and measuring.

Adolescents

At a teenage level, it is even more important that nutrition be taught across disciplines to reinforce learning and to help students get a more realistic view of nutrition as an integral part of all aspects of life. Adolescents can handle more abstract and precise information related to personal needs, body functioning, etc.

4. *Nutrition education programs should be organized around specific objectives that:*

—maintain an overall structure and sequence that demonstrates a logical progression of subject matter and learning experience;
—allow for individual differences in learning styles as well as physiological needs and biochemical make-up;
—emphasize the role of nutrition in achieving maximum health and prevention of health disorders;
—are practical and directly useful;
—emphasize self-involvement in learning;
—enhancing sensory and motor developmental skills;
—take into consideration different cultural or ethnic orientations and lifestyles;
—are integrated into the aims of general education and can thereby be related to other curricula;
—consider the learning environment in which the program is conducted;
—demonstrate the critical linkage between food and energy, both in relationship to personal diet and in the context of the world food supply and ecology;
—include the use of all resources of the agencies currently involved in nutrition education.

Support should be provided for developing a wide variety of materials required for training programs on all levels. These materials should be developmentally organized and geared to the population served. They should be pre-tested. Trainers should be taught how to use them.

5. *The nutrition education role must be recognized and all education providers—experts and nonexperts—must be better trained.* To date, much of the emphasis in nutrition education has been on the recipient. It is imperative to critically evaluate providers of nutrition education and to determine whether or not the counselor/educator is equipped to be an effective "agent of change." To this end:

(a) The teaching role of parents and caretakers, who serve as role models, structure children's environment and can mediate and reinforce what children have learned elsewhere.

(b) Paraprofessionals involved in nutrition learning experiences, such as food service workers for children and hospital aides for lactating mothers, should receive training in nutrition education.

(c) Perceived experts, such as health care, education and other professionals, should receive training in the science of nutrition health, and its application to life-style and health.

(d) Mass media programmers should be informed about the important relationship of nutrition to health. They should be encouraged to develop programs to support general nutrition education efforts and know where to obtain good technical assistance in nutrition.

A wide range of persons from many walks of life, because they interact with children around food and health, are in a position to act as nutrition educators or reinforcers of nutrition education received elsewhere. Sound, practical educational programs should be developed and implemented for these persons, including:

—parents and prospective parents. They serve as role models, structure children's physical environment and mediate what children have learned in other places.

—teachers and day care personnel. They are important purveyors of educational information and can reinforce nutrition education that takes place at home and elsewhere.

—health care professionals, including physicians, psychiatrists, dentists, nurses and other public health workers. Usually perceived as the most credible authorities, these health personnel often are the least knowledgeable and effective in transmitting meaningful nutrition advice. Those who advise women during pregnancy should be alert to and better informed about women of high nutritional risks—how to identify, diagnose and manage them. Efforts to work with lead professional organizations in medicine, nursing, dentistry, etc., should be increased relative to nutrition education.

—food service personnel. Their interaction with children during meal time affects the children's attitude toward the meal.

—paraprofessionals related to all of the above.

—any others who are in a position to influence children.

6. *Ways to reach out and provide nutrition education in different settings should be explored.* Training of parents and caretakers should take place in both formal and informal settings, including day care centers, Lamaze classes, doctors' waiting rooms, beauty salons, laundromats, church events and other creative outlets. More attention needs to be given to innovative use of the work place for parent education, with support from both labor and management. Very little use is currently being made of these places where parents and caretakers spend a great deal of time. The climate of an informal setting may facilitate a more receptive attitude toward nutrition education and offer the reinforcement of peers.

7. *The mass media should be used more effectively to improve the image of nutrition and initiate large-scale change in attitudes about healthy eating.* Our society as a whole appears to be in need of a general restructuring of its dietary practices. Federal nutrition education programs, no matter how effective, are not likely to alter the eating patterns of a society. Any alteration in eating habits implies a substantial alteration in some of our most basic cultural and social values—indeed, a redefinition of lifestyle. Mass change requires a massive effort. A change in attitude could pave the way for more effective use of specific programs aimed at specific target groups. Various media organizations (PBS, CTV, BCTV, etc.) should be encouraged to develop programs to support general nutrition education efforts.

8. *More adequate monitoring of the quality and safety of our foods, especially those used by pregnant and lactating women and children, should take place.* It is important to know about and inform each target group, or the caretakers involved with each group, about the risks and benefits of food additives and contaminants present in various foods so they can make informed decisions about their diets. Industry should make a positive contribution to this monitoring effort.

Consideration also should be given to the development of a mechanism, including consumers as well as representatives of many other disciplines, which could examine various fad diets and nutrition "movements" and formulate advice and recommendations to guide customers.

9. *Evaluation of nutrition education should receive more emphasis.* Evaluation of nutrition education programs should be used to refine and upgrade as well as to assess their effectiveness. Support should be provided to develop appropriate evaluation methodologies for both these formative and summative evaluations. Evaluators should be trained in these methodologies.

10. *Research in nutrition education must continue.* Nutrition education is complicated by the fact that there is much which is still unknown about nutrients in food and the interrelationship with each other and with body processes. Nutrition education must necessarily raise questions even as it attempts to answer them.

Research is needed to determine the characteristics of target populations so that curriculum materials can be developed to "fit" them. Of special importance is assessing developmental levels of young children so that the nutrition education program will be maximally effective (i.e., how food, nutrition and their relation to health is understood so starting points and sequencing can be determined).

Report of Task Force on Nutrition Education for Low Income Populations and the Elderly

Co-Chairpersons: Judy Brun, Ph.D., National Dairy Council; and Kate Clancy, Ph.D., Federal Trade Commission.

This is a draft document. This paper should not be interpreted as official policy of DHEW, any other Federal department or agency, or organization.

Task Force III—Low Income and Elderly Populations

Recommendation 1: *There must be a national commitment to job and income supplements to insure a level of income that allows for the purchase of a nutritionally adequate diet for all Americans. In conjunction with this, there should be an active continual nutrition education program for the entire population.*

One of the primary goals of government is to promote an optimum nutritional status for the population. In order to achieve this objective a two-pronged approach is necessary. First, sufficient income must be available to purchase a nutritious diet. Second, this must be complemented by nutrition education programs. An emphasis on both an optimum level of income and nutrition education is necessary because the nutrition problems of low-income people are only sometimes related to lack of knowledge, and the nutrition problems of middle and high income people are not prevented by money. Although nutrition education can at times be helpful in assisting consumers to use food resources effectively, many nutrition problems are directly related to insufficient food in the household. Unfortunately, the level of benefits now in the Food Stamp Program based on the Thrifty Food Plan is too low to allow the purchase of a nutritionally adequate diet even though, as other studies have shown, low income households make a more efficient use of their food dollars than do households in higher income categories. It is apparent that even the most effective nutrition education program cannot be used as a surrogate

for food dollars and that, unless this situation is remedied, nutrition education will prove ineffective.

Recommendation 2: *A new national nutrition education program must be established and a wide variety of possible funding sources for this program must be explored. The nutrition education components of the federal feeding programs should be integrated into this broader based effort, with funding for these programs kept distinct from funding for any food assistance programs.*

Nutrition problems are not restricted to individuals in low-income settings. For example, existing survey data indicate that common nutrition-related problems such as obesity, anemia and hypertension are found at some level in all income groups. Yet past nutrition education programs have been aimed primarily at the low-income consumer. A broader-based approach needs to be taken in order for the government (federal, State, and local) to be effective in addressing the nutrition needs of the entire population and funding should be provided to begin this task.

This national nutrition education program might be implemented in a variety of ways. The funding and coordination of the program could be undertaken primarily by the federal government. Alternatively, funding could emanate from the federal government, as well as public organizations at the State, city and community levels, private foundations, non-profit corporations, health care organizations and others.

The nutrition education component of the federal feeding programs should be one aspect of this nationwide project. Funding for nutrition education in these settings, if not separate from food assistance funds, will continue to encounter the problem of the past where nutrition education was mandated but funded inadequately to insure a cohesive program.

Recommendation 3: *Specific provisions must be made to direct nutrition education activities to nutritionally vulnerable individuals who, because of unique circumstances, require nutrition education on special topics and with special approaches.*

Although we believe that nutrition education is necessary for all segments of the American population, we also believe that specific nutrition education funds should be allocated to activities with low-income groups and the elderly. Further, within this group programs should be specifically targeted for high risk, nutritionally vulnerable individuals.

No matter who you are, how old you are or how much money you have, many factors affect what you decide to eat. Money, food accessability, transportation, literacy, family structures and traditions are only some of the elements that must be taken into account in the design and implementation of effective nutrition education programs. These factors are somewhat similar for all groups and must be addressed in the design of any program, but we emphasize strongly the need for a special approach to the poor and the elderly. The poor, given society's economic structure and the adverse marketplace conditions to which they are often subjected, are at greater risk of nutritional deprivation, illness and a general lack of well-being than is the general population. It is particularly important to focus on the needs of the elderly because this population historically is too often forgotten, because nutrition educators are less sensitive to their needs, and because the society as a whole places little value on old age.

Recommendation 4: *Nutrition education activities must be developed in collaboration with the low-income and elderly consumer audience so as to reflect needs and interests as perceived by the community.*

Nutrition education programs have been criticized for being ineffective, not only in terms of approach but of content. In other words, programs have sent "the wrong message to the wrong audience using the wrong medium." Rather than proceeding with the notion that there is a definite body of knowledge that a person "needs," nutrition educators should be sensitive to the needs of consumers who comprise the target audience, work to understand what they want to know, and initiate programs on that basis. All aspects of program planning, including content, should be client-oriented, reflecting the needs of the community. In essence, nutrition education efforts should be a sharing of problems, information and resources between client and educator because, without "grassroots" planning, programs will fail.

Recommendation 5: *Nutrition education for low income and elderly populations, as well as the general public, must be conducted from a holistic, multi-disciplinary perspective to include consumerism, food management and preparation, and human relations. The changing lifestyles and food consumption patterns of the American public must be recognized in developing programs which are integrated with these related home economics skills.*

Knowledge of nutrition principles is the foundation for any nutrition education program. However, the ability and motivation to use these principles to improve food choice behaviors depends upon more than basic knowledge. One must also be able to select, buy and prepare the foods which provide the necessary nutrition and serve them in a setting which encourages their consumption. It is perhaps because many nutrition education programs fail to focus on this holistic, multi-disciplinary perspective that we find so few indications of programs that lead to behavior and diet-related health improvements in the research literature. This concept of integration has important implications for what is taught in nutrition education, where it is taught, and by whom.

Recommendation 6: *Evaluation of nutrition education programs for low income and elderly populations must receive improved attention at local, state and federal levels. Priority concerns for improvement must be:*

a. *Research to develop methodologies.*

b. *Evaluation designs which focus on the appropriate goals and objectives.*

c. *Evaluation designs which focus on both the continuous study of the educational process and the educational product.*

d. *Programs for upgrading the evaluation skills of nutrition educators and program administrators.*

e. *Recognition in program planning and execution of evaluation as a necessary component needing time and funding.*

f. *Understanding of the political aspects of evaluation of nutrition education programs.*

Research related to evaluation of nutrition education is in its infancy. This is primarily due to the developing nature of educational evaluation and the complex nature of the outcomes of nutrition edcuation programs. While administrators are constantly asked to be accountable—to document the effectiveness of their programs—there are few methodologies available for making this accountability effort a vaild one. At the present time, therefore, inappropriate evaluation approaches are often used.

Further complicating the issue of appropriate methodologies is the lack of consensus concerning what kinds of program outcomes are desired. Knowledge, behavior, and physiological criteria are all contenders; each requires a unique set of evaluative methodologies. Lack of consensus and

of knowledge in nutrition science and in the relation of nutrition to health also complicates the establishment of agreement on desired educational outcomes.

Many evaluations focus on factors of client changes and cost of programs. However, if we are to improve our knowledge of effective methods or processes for nutrition education, we must design the program evaluations to include study of these methods and processes.

Ideally, the evaluation process would be apolitical but usually this is not possible. Therefore, the political and related social aspects of evaluation must be identified because they need to be reflected in evaluation designs and communicated to all involved. Failure to face these realities leads to misunderstandings and apprenhensions which hinder the quality, and therefore the validity, of the evaluation process.

Recommendation 7: *Nutrition education for low income and elderly populations must be included as a component of health care programs. The cost of these services needs to be reimbursable by Medicaid, Medicare and private health insurances and/or deductible from gross income for income tax purposes.*

Nutrition and diet are important aspects of preventive and curative health care. Some programs now include nutrition educatin and therapy; however, those persons providing the services are often not well-prepared either in nutritional science or in education and psychology. Increased inclusion of the nutrition education component conducted by well-prepared nutrition educators can lead to better health of the clients of the programs and, in come cases, lower medical bills. Unless these nutrition education services are respected as an insurable and deductible component of health care their integration into the overall program will not occur to the extent that is needed for effective contribution to good health. This approach is also needed to provide momentum to the process of upgrading the knowledge and skills of the professionals providing the nutrition education services.

Recommendation 8: *Mass media must be incorporated into many of the nutrition education programs designed for low income and elderly populations. This incorporation must reflect the cultural and physical environment of the audience trying to be reached by a particular program, and the ways in which the target populations use television, radio, and print media.*

In the past, nutrition educators have relied primarily on printed materials, small group lectures, discussions and individual counseling. However, any message is most effectively communicated when reinforced by several modes of communication. Older people and people with limited incomes are specially likely to seek out electronic media—television and radio—as a common mode of communication for their information and entertainment. Because of this and the persuasive and effective influence of the mass media, one cannot adequately design and implement nutrition education programs for these target groups without their use.

Recommendation 9: *Nutrition educators who work with low income and elderly populations must be prepared in the principles of:*

a. *Community development.*

b. *Program development (content and methodologies) and use to promote behavior change of learners.*

c. *Nutrition and its related sociological and physiological aspects.*

d. *Evaluation to determine program effectiveness.*

e. *Mass communications.*

Many past community nutrition education programs have been conducted by nutritionists not prepared in education, educators not prepared in nutrition, or other health professionals not prepared in either nutrition or education. These programs have often tended to present nutrition facts and information without consideration for the needs, characteristics and learning styles of the clients receiving the information.

Providing information is only one aspect of and educational program. Professionals prepared in a combination of the physical sciences—nutrition—and the social sciences—education—will be best able to teach in programs that are truly educative in nature.

Most programs in nutrition education for low income and elderly populations occur in the community outside of a formal educational institution. There is a growing body of knowledge related to community diagnosis and development. This knowledge, developed as part of a nutrition educator's classroom education and further expanded through supervised field experiences, is necessary to the development of effective community nutrition education programs.

Report of Task Force on Nutrition Education for Persons With Diet Related Diseases

Co-Chairpersons: Kristen McNutt, Ph.D. National Nutrition Consortium; and Louis Steinberg, Ed.D., DHEW-Health Resources Administration.

This is a draft document. This paper should not be interpreted as official policy of DHEW, any other Federal department or agency, or organization.

Introduction

Task Force IV has developed a background paper on nutrition education efforts for persons with diagnosed diet related diseases (DRD). This report focuses on the role that nutrition education plays in the management of persons with DRD.

In reviewing this area, the Task Force reached several conclusions:

1. Nutrition education efforts for persons with DRD differ from other target populations addressed at this conference. The underlying focus for this report is patient compliance with a prescribed diet. This is a step beyond improving the probability that persons with DRD will be able to make intelligent and informed diet decisions.

2. The presence of disease, *per se*, requires clinical management. In turn, this requires involvement by health care professionals.

3. One can consider all DRD on a continuum. Diseases at one end of this continuum demand immediate dietary interventions. At the opposite end are disease states with less immediate dietary intervention needs.

4. All DRD affect individual patients differently. While similar considerations may intervene between the health care professional and the DRD patient, each disease—and ultimately each patient—must be considered and managed separately.

5. Health care professionals who diagnose and treat persons with DRD approach the management of disease states from their specific orientation. They may often overlook the role of diet and nutrition in clinical management.

6. At this point in time, to facilitate the aforementioned conclusions, priority should be placed on incorporating nutrition education into health care professionals training. This is the preferred mechanism for ensuring the best possible nutrition education for the general public with DRD.

7. Nutrition education directed at health care professionals will be most effective when this training is incorporated into the context of teaching

clinical management of individual disease states.

The Task Force has incorporated multiple disciplines into key considerations, commentary, and research initiatives in four areas: 1. factors influencing food choices; 2. professional nutrition education systems; 3. patient nutrition education systems; and 4. health care delivery systems.

The discussion of factors influencing food choices identifies environmental considerations which must be incorporated into each of the succeeding sections. In sections 2–4, commentary is followed by the raising of critical questions and possible answers in addition to identifying research initatives.

The question/answer format was selected largely a a means to stimulate discussion at the September National Nutrition Education Conference. Reviewers and conferees have a vital role in sharpening the focus of the following recommendations, in answering the critical questions posed and in assigning priorities to research initiatives.

Recommendations

1. The ultimate objective for nutrition education of persons with DRD should be in compliance with a prescribed diet.

2. Nutrition education for persons with DRD must be tailored to each disease state and variables unique to each patient.

3. Nutrition education for persons with DRD must be in the context of the total clinical management of the patient.

4. Various nutrition education systems must be considered depending upon the availability of support health care personnel.

5. Future nutrition education for persons with DRD should explore and evaluate advances in technology related to education and communication research.

6. A system should be developed to ensure that health care professionals acquire both knowledge of nutrition and ability to use existing nutrition education resources (other personnel, education materials, and community services).

7. Academic training programs for health professionals, specialty societies, review committees, and licensure boards should develop standards that will ultimately enhance the quality of nutrition education for persons with DRD.

8. Efforts to improve the quality of nutrition education for persons with DRD must take into consideration current sources and channels of nutrition information for this population group.

9. The patient and the patient caretaker should be involved in planning and implementing the nutrition education program based on the prescribed diet.

10. A network or clearinghouse for nutrition education materials should be established for use by health care professionals and its availability should be widely publicized.

11. A three-level model for integrating the expertise of various persons on the health team should be considered in future nutrition education planning.

12. Additional recommendations should be considered based on discussion by conferees of the critical questions that follow in this report.

Diet Related Diseases

Diet related diseases are conditions in which control of nutrient intake by whatever route (enterally or parenterally) is an important element in treatment and/or maintenance. A prescribed diet may range from being the sole or critical component of total treatment to being supplementary to a broader therapeutic regimen. Another important variable is that the patient may be an active participant in taking on the responsibility for compliance with diet prescriptions or the patient may have a passive role because someone else decides what diet is offered to the patient or which nutrients are given parenterally.

Many diet related diseases are well-defined entities (e.g., PKU, uremia, cirrhosis, insulin-dependent diabetes). Others (e.g., hyperlipidemias, non-insulin dependent diabetes, hypertension, obesity) fall within a continuous range where the relationship of diet to disease is less well defined. See Figure 1.(1). Our report focuses on DRD at the upper end of this continuum where the role of diet is a major causal (or risk) factor in the disease. Other important considerations related to defining DRDs include prevalence, the seriousness of outcome if left untreated, intensity of the disease, and length of time nutritional management is required.

In terms of the content of nutrition education for various target audiences, it is somewhat difficult to separate persons with such DRDs from persons in the general population who are at high risk for such diseases.

Chart 1 is presented for discussion purposes. Quantitative standards have not been established for qualitative terminology used herein. It has been developed to exemplify the scope of some diseases which fall into the diet related category.

Section I—Factors Influencing Food Choices

Numerous factors have been identified which influence types and quantities of foods chosen by the individual throughout life. These factors may be divided into broad categories of physiological, psychological and cultural factors, and immediate environmental factors. The significance of each factor must be taken into consideration when developing nutrition education programs for persons with DRD. (See Chart 2). (2, 3)

Marketing techniques and methods of disseminating information influence food choices. Future nutrition education programs should explore and evaluate advances in technology related to nutrition education and communication research. The following are examples of potential means for incorporating innovative techniques in communicating food and nutrition information to persons with DRD:

—nutritional labeling;
—advertising;
—bedside or waiting room teaching methodologies;
—shoppers' guides;
—computer banks and other uses of computer data;
—special diets for travelers;
—videotapes;
—closed loop tapes (audio and video) in waiting rooms of clinics, health services, food service areas, hospital television, and local cable television;
—special DRD programs made for local cable television;
—computer programs which could be accessed to obtain nutrition information on DRD; and
—Dial-A-Dietitian programs whereby professionals working with and persons with DRD can readily get their questions answered
—directories of nutrition education materials (4), and resources and community health services related to nutrition.

Research Initiatives

—To investigate and document the relationship between the level of compliance and: physiological factors; psychological and cultural factors; and factors in the immediate environment.
—To validate and disseminate advances in technology related to nutrition science, education, and communication research which might influence the most appropriate

ways of providing nutrition education to various groups of patients during the 1980s.

—To investigate how to ensure that existing materials and programs incorporate the environmental considerations outlined in this section.

—To investigate communication models based on the behavior of persons with DRD.

Section II—Professional Nutrition Education Systems

The nutrition management of the patient with a DRD is an integral part of the total management of that person's health care. Therefore, the individual in charge of the health care of the patient must direct the nutrition component of the therapeutic regimen. Most often an M.D. or D.O. is in this pivitol role of directing and coordinating efforts of health care professionals involved with the patient. It is critical that the physician be aware of and utilize the expertise of registered dietitians (R.D.s) and other trained individuals (e.g., nurse practitioners and nutritionists) in the management and nutrition education of their patients (5, 6).

The appropriate involvement of the doctor in actual delivery of nutrition education to the patient depends upon the availability of support professionals trained in nutrition. In densely populated areas, the health care team approach is preferable. However, in underserved areas, the doctor often lacks adequate professional nutrition support personnel and must therefore be more personally involved in nutritional management of the patient.

At present, the science of nutrition is taught in a piecemeal fashion in the basic science courses of most medical schools (7). This Task Force recommends that a system be developed which permits, encourages, and demands that physicians:

1. Are presented a knowledge base in applied clinical nutrition during their medical education (emphasis on residency training);

2. Are offered continuing education in clinical nutrition;

3. Are acquainted with a method for obtaining additional knowledge and professional support (e.g., other health professionals trained in nutrition, relevant references, community health services, and information clearinghouses); and

4. Are trained to use a system and/or set up a system (if none exists in their locality) to effectively and efficiently incorporate patient nutrition education into their practice.

Applied clinical nutrition knowledge must be integrated or reinforced in the residencies and postgraduate programs of M.D.s and D.O.s. This is the point in their educations where future clinical practices are molded.

The Task Force further recommends that more R.D.s and related health care professionals be trained to effectively disseminate nutrition information for persons with DRD. At present, approximately 1,500 R.D.s are graduated annually. This creates a tremendous limitation in assuring that nutrition education is available to persons with DRD, thus impeding compliance with diet prescriptions. Training for such personnel should emphasize skills necessary for both communicating with patients and for complementing the therapeutic management of the patient by the doctor.

Critical Questions

1. How can the above recommendations be implemented?

A. Working with and through specialty societies (e.g., American College of Surgeons, American Academy of Family Physicians, American Dietetic Association, etc.) to encourage emphasis on nutrition education via organizational presentations, activities, publications, and continuing education programs.

B. Work with certifying boards of specialty societies to incorporate appropriate nutrition questions on board qualifying examinations and on Federal and state medical board examinations.

C. Work with residency review committees for each specialty.

D. Ensure that qualifying examinations and continuing education of registered dietitians include assessment of education and communication skills as well as the biomedical aspects of nutrition.

E. Educate patients to distinguish between health professionals with credentials in nutrition versus individuals who deliver nutrition information but lack such specialized training and expertise.

In each of the above cases, selected representatives from the group, society, or committee should be invited and encouraged to attend the Nutrition Education Conference in September.

2. What are the factors which presently impede professionals from being adequately trained?

A. Medical school training.

1. Cost and time in existing curriculum versus other training priorities.

2. Perception that the status quo is adequate.

3. Lack of assurance that nutrition education can alter disease outcome.

4. Lack of training in working effectively in health care teams.

B. M.D.s/D.O.s professional training.

1. No documentation on the need for systems of nutrition education for patients with DRD.

2. No recognized authorities for establishing systems of nutrition education.

3. No orientation to paramedical professionals that are available for referral.

C. Dietitian training.

1. Insufficient time spent on developing communication skills to use with physicians and other paramedical professionals.

2. Lack of integration of education and communication techniques to use in counseling (8).

3. Background in technical and scientific information necessary to communicate condfidently with other professionals.

Research Initiatives

—Investigate outcome of early nutrition education intervention (i.e., any changes in lifestyle, behavior and the resultant change in DRD).

—Document cost effectiveness of training programs on future medical practices which integrate applied clinical nutrition education.

—Develop a model system for nutrition education at a variety of levels (in physician's offices, hospitals, community clinics, etc.).

—Document cost/benefit of counseling in relation to various disease states (9).

—Identify and validate methods to access relevant existing community services and to establish necesary services which do not exist.

Section III—Patient Nutrition Education Systems

People with DRD currently obtain nutrition information from a variety of sources other than trained health professionals. These include:

—family members and caretakers of persons with DRD;

—persons who have been cured or learned how to manage their diseases;

—traditional advice givers (e.g., herbal doctors, medicine men);

—authors of books or articles related to disease states;

—radio, television, newspaper, journals, magazine, and newsletter writers;

—"natural or health food" store managers or salespersons, drugstore managers or salespersons;

—door-to-door salespersons of nutrient supplements and nonprescription drugs; and
—other person with similar related disorders.

Although these types of information delivery may not be in the best interest of the patient, they must be acknowledged and dealt with by patient educators and health planners.

The health professional has a critical role in enhancing the delivery of nutrition information to patients. This role may be as simple as an initial introduction of the dietitian to the patient by the physician, thus strengthening the patient's perception of the importance of dietary counseling and compliance. Whatever mode, it should be a recognized responsibility of the primary health provider to assure the patient that adherence to the diet plan is an important part of their treatment.

The persons providing the diet instruction and the practical techniques for following the diet plan need to be particularly sensitive to the factors affecting food choices of the patient. In addition, the information presented must be consistent with sound medical management. When appropriate, the patient and/or family should be active participants in formulating and implementing the diet plan. Finally, the diet related program should be continually evaluated and modified to meet changing patient and patient caretaker needs.

Critical Questions

1. How might existing materials (print and audiovisual) be utilized more effectively?

—Establish resource centers across the country where professionals can easily locate materials they need for themselves and for their patients.
—Integrate the materials into existing health care delivery programs with adequate support and follow-up.
—Increase publicity and dissemination of such materials.
—Evaluate more critically whether new materials are developed to meet information gaps versus duplication of existing materials.
—Reevaluate and modify existing materials when necesary.
—Involve patients in the presentation and evaluation of material.
—Adapt presentation and content of general materials to the specific environmental, cultural and economic factors of each patient.
—Train persons to disseminate diet related information using the most effective communication concepts and skills.

2. What factors affect the success of nutrition education efforts?

—Involvement of the patient in the planning and presentation.
—Presentation of material by deliverer.
—Clarity and relevance of educational material to economic, cultural, psychological and physical factors of the patient at the particular time.
—Cost (time/money/comfort) of compliance versus cost of noncompliance.
—Assessibility of obtaining diet recommendations.
—Practicality of compliance (financial means for acquiring foods for diet recommended, intellectual ability to follow dietary instructions for complex multiple disease management, etc.).

3. What are the major impediments in patient education?

—Educator's level of understanding of the sociocultural and economic factors affecting patients' ability to comply.
—Lack of understanding of motivational factors behind food habits.
—Psychological barriers that contrast with intellectual comprehension of factors affecting disease states.
—The educator's lack of perception of the client's selfperceived needs.
—Lack of appropriately trained personnel.
—Lack of coordination of information delivered from various sources.
—Timeliness of presentation and the amount of information presented per session.
—Lack of appropriate follow-up, evaluation and modification.
—Lack of appropriate cost/benefit documentation for justification of funding for diet counseling in health care programs.

Research Initiatives

—To develop or access existing innovative ways to disseminate valid information to persons with diet related diseases (e.g., cable television and bedside and waiting room techniques).
—To develop and implement practical methodologies to: evaluate effectiveness of existing programs; disseminate validated procedures; and document cost/benefit of nutritional counseling.
—To investigate the possibility of having a national clearinghouse for diet related educational materials.
—To study the feasibility of a national Dial-A-Doctor/Dietitian service.

Section IV—Health Care Delivery System

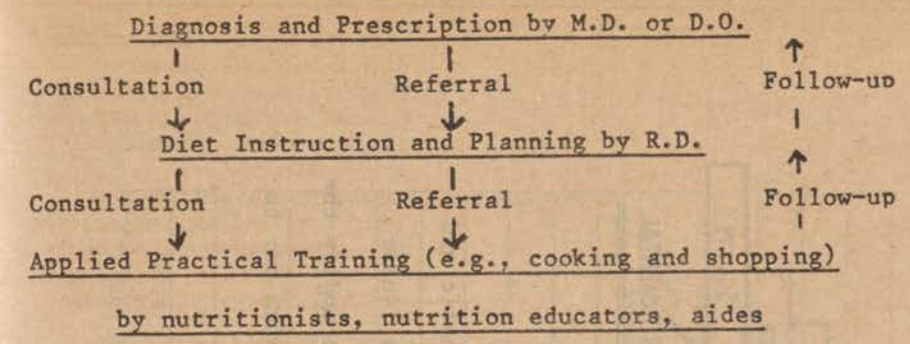
Coordination of existing resources is a crucial factor in upgrading the nutrition education of persons with DRD. This is important because of the extreme diversities in health manpower training in nutrition within our current health care delivery system. Improved channels for utilizing existing human and material resources should be stressed. A clearinghouse system or network for nutrition information and education materials is needed (10).

The clearinghouse should contain two types of materials: 1. Technical and biomedical information; and 2. Materials to be used by health professionals in patient counseling.

Health care professionals must be made aware that this resource is available and easy to use. The second category of materials within the network should be accessible to persons with DRD under the supervision or introduction by the primary health professional and/or a person trained in nutrition who is supervising the clinical management of the patient.

Existing legislation and regulations should be reviewed and if necessary modified to incorporate incentives for improving delivery of health care to persons with DRD. For example, policies could include reimbursement mechanisms for physicians or primary health care deliverers who expand their staff to include a trained nutrition health professional who provides diet instruction, nutrition education, and follow-up.

Although nutrition education of persons with DRD must be closely integrated with clinical management by health professionals, persons with nonclinical training may have an appropriate role in the total nutrition education process. The following three-level integrated model is proposed:



The consultation, referral and follow-up system varies with each level of delivery.

Pilot projects and evaluations should be conducted on such a three-level health care delivery system for persons with DRD.

Critical Questions

1. What existing (or potential) statutory and regulatory mandates should be examined as means for improving delivery of health care to persons with DRD?

—Staffing patterns in health care delivery systems.
—Health manpower training (funding, geographical distribution, etc.).
—Licensure of health care professionals.
—Accreditation of hospitals and extended care facilities.
—Reimbursement mechanisms for increased staffing or referrals to health care personnel trained in nutrition.
—Authorization for insurance coverage for nutrition education for person with DRD (Medicar, Blue Cross, etc.)
—Continuing education requirements for health care professionals.
—Mandates for evaluations and assessments of nutrition education and services.

2. How will changes in the health care delivery system "in the eighties" influence the need for and opportunities to educate persons with DRD in nutrition?

—Advances in screening and diagnostic technology.
—Increasing role of "physician extenders".
—National Health Insurance coverage.
—Increasing use of interdisciplinary training and functioning of health professionals.
—Use of public air-waves for health education.
—Expansion of rural health care delivery programs.
—Use of satellite training.
—Health maintenance organizations.
—Increased consumer participation in health planning.

3. How can the impact of nutrition education on the overall cost of health care delivery be quantified?

—Greater reliance on methodologies developed by education research professional.
—More futuristic and pragmatic routine surveillance and data collection.
—Emphasis on prospective rather than retrospective studies.
—Increased funding for research in nutrition education.

Research Initiatives

—Set up a clearinghouse system or network for nutrition information and education materials; evaluate various means for easily retrieving materials and promoting usage of the system under various circumstances.
—Investigate adequate or appropriate reimbursement mechanisms for nutrition education for persons with DRD.
—Develop measurable standards for assessing effectiveness of nutrition education programs for persons with DRD.
—Examine local and regional needs and resources to develop coordination and continuing education efforts for health care professionals providing nutrition education to persons with DRD.
—Initiate pilot projects and appropriate assessments on a three-level health care delivery system (as identified in text of this section).

BILLING CODE 4110-85-M

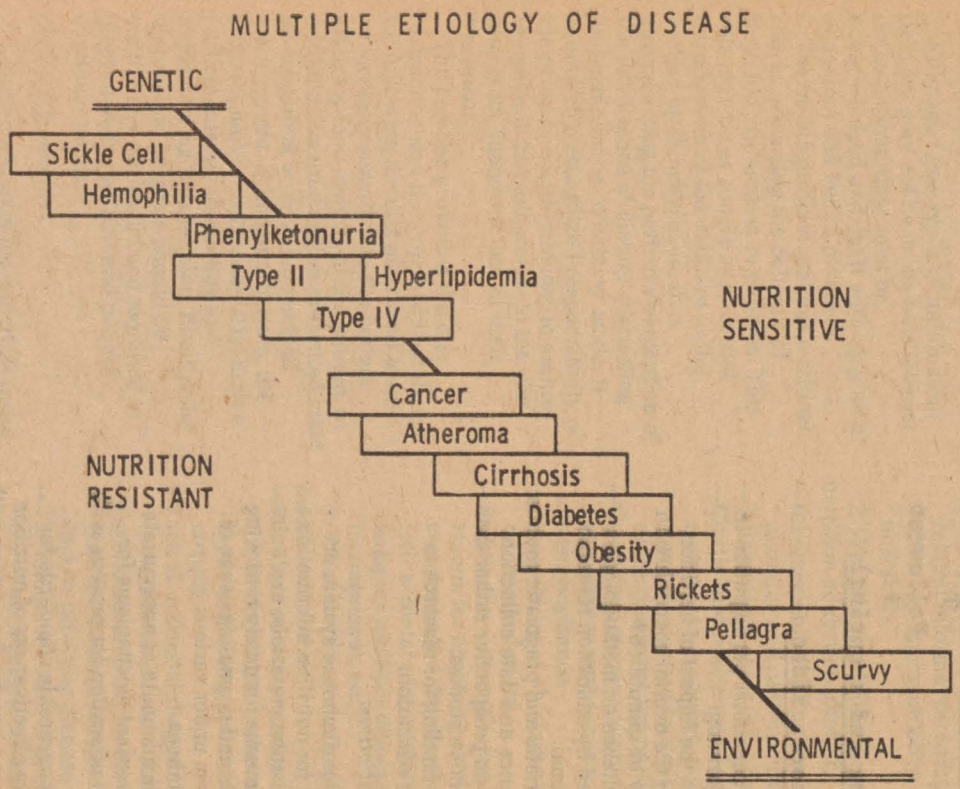


Figure 1. Multiple etiology of disease. Reciprocal genetic and environmental determinants of 13 diseases are shown on a linear scale. The extent to which nutritional intervention can modify the diseases is indicated by the degree of displacement of each bar to the right of the line.

Chart 1

DIET RELATED DISEASE - PREVALENCE - OUTCOME

	Prevalence	Fatal	Non-Fatal	Duration
High Catabolic Response	Low	X		Short-term
Diabetes	Moderate	X or	X	Long
Non-Insulin Dependent Diabetes (Obese Subtype)	High	X or	X	Long
Cancer	High	X		Variable
Cirrhosis	Moderate	X		Long
Uremia	Low	X		Long
Malabsorptions	Low		X	Long
Cystic Fibrosis	Low		X	Long
Hyperlipidemia	High		X	Long
Physically Handicapped	Low		X	Long
Iron-Deficiency Anemia	High		X	Variable
Drug-Induced Nutrient Deficiencies	High		X	Short/Long Variable
Vitamin Deficiencies	Low		X	Variable
Chemo-Radiation	Common	X		Short
Periodontal Disease	High		X	Short
PKU	Low	X		Long
Food Allergies	?		X	Var. or Long

FOR DISCUSSION PURPOSES - SEE TEXT

Chart 2

EXAMPLES OF FACTORS INFLUENCING FOOD CHOICES

Physiological Factors

- -Basic health problems (degree and type)
- -Other health problems and handicaps
- -How symptomatic are the patients?
- -Chewing and swallowing ability
- -Taste perception
- -Physical activity

Psychological and Cultural Factors

- -Demographics
- -Economic Status
- -Social Status
- -Personal goals, values and attitudes of patients
- -Education level
- -Language skills
- -Previous instruction and general information (conflicting information and misinformation)
- -Ethnic influences
- -Food preferences or taboos
- -Repetitive habits (e.g. smoking)
- -Clients perceptions of:
  - -threat (e.g. of the disease, the educational program)
  - -barriers of action (e.g. mental, physical, monetary)
  - -benefits from action (e.g. likelihood that improvement in state of health will occur)
  - -personal susceptibility of disease
  - -likelihood of financial reimbursement for care
- -Clients preferred method of learning (e.g. T.V., cassette, posters, printed matter, large group talk sessions)

Factors in the Immediate Environment

- -Geographic area (access to health care personnel and facilities)
- -Lifestyle in general
- -Cost of food
- -Cost of counseling
- -Rapport with provider
- -Food supply - location and type of accessibility (e.g. utilization of restaurants or convenience foods, gardening ability, etc.)
- -Time constraints
- -Household environment
- -Number of persons in household
- -Cooking facilities and capabilities
- -Person who shops and cooks
- -Skills and attitudes of other persons in household
- -Other problems (e.g. elderly patient living at home, other person on special diet)
- -Peer and group pressure
- -Advertising (saturation and susceptibility)

BILLING CODE 4110-85-C

References

1. Olson, R., Is there an optimum diet for the prevention of coronary heart disease? In: Nutrition, Lipids, and Coronary Heart Disease. Levy, R. I., Rifking, B. M., Dennis, B. H. and Ernst, N. D. New York: Raven Press, 1979, p. 354

2. Jordan, H. A. and Levitz, L. S. A Behavioral approach to the problem of obesity, Obesity/Bariatric Medicine, 1975, 4 (2):58

3. Mason, M., Wenberg, B. G. and Welsch, P. K., The Dynamics of Clinical Dietetics, New York: John Wiley and Sons, Inc. 1977, p. 132–134

4. Index of Nutrition Education Materials, Washington, D.C., Nutrition Foundation, Office of Education and Publications, 1977

5. Schneider, H. A., Anderson, C. E. and Coursin, D. B. eds., Nutritional Support of Medical Practice, Hagerstown, Md: Harper and Row, 1977

6. New York Academy of Medicine, Physicians in practice and referrals to consultant dietitians, 1979

7. Olson, R. E., Nutrition as a theme for the study and practice of medicine, Nutrition Reviews, 37 (1):1, 1979

8. Zifferblatt, S. M. and Wilbur, C. S., Dietary Counseling: Some realistic expectations and guidelines. J. Am. Diet. Assoc., 1977, 50:591

9. O'Connell, W. K. and Smith, F. Studying the benefit-cost relationship of ambulatory nutrition care services: ADA's approach to the problem. Presentation to the Illinois Diet. Assoc., Chicago, Illinois, 1979

10. Lipsett, L. F. Birth of a clearinghouse, Diabetes Care, 1978, 1 (5):308

[FR Doc. 79-24516 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-85-M

Office of Education

Emergency School Aid Act; Closing Date for Transmittal of Applications for the Special Projects Program for Fiscal Year 1979

Applications are invited under the Emergency School Aid Special Projects program. In particular, the Commissioner invites applications from local educational agencies (LEAs) that adopted desegregation plans (or other plans described in section 706(a) of the statute) for initial implementation in the 1979–80 school year on or after May 11, 1979, and therefore too late to apply for ESAA assistance relating to those plans in the most recent Special Projects funding cycle.

The Commissioner has determined that projects to meet needs arising from the implementation of those plans will make substantial progress toward achieving the purposes of the statute.

Authority for this program is contained in section 708(a)(2) of the Emergency School Aid Act ("ESAA"; Title VII of Pub. L. 92–318, as amended (20 U.S.C. 1601–1619)).

This program provides financial assistance to public agencies for activities related to school desegregation.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by September 14, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application, Control Center, Attention: 13.532B, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education. Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: The Commissioner anticipates that approximately $10 million will be available to support projects submitted in response to this notice.

Application forms: Application forms and program information packages may be obtained by writing to the Special Projects Branch, Equal Educational Opportunity Programs, Office of Education, 400 Maryland avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 40 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Project period: Grant awards made under this notice will be for projects beginning no earlier than October 1, 1979 and ending no later than September 30, 1980.

Resubmitted applications: As required by section 710(d)(2) of the Emergency School Aid Act (20 U.S.C. 1609(d)(2)), applications from local educational agencies which are not approvable in whole or in part will be returned to applicants for modification and resubmission, within a reasonable period of time, at the applicants' option.

Applicable regulations: The regulations applicable to this program are:

(a) Regulations relating generally to programs under the Emergency School Aid Act (45 CFR Part 185) and in particular 45 CFR 185.94 through 185.94–4, relating to Other Special Projects; and

(b) The Office of Education general provisions regulations (45 CFR Parts 100 and 100a and appendices), except to the extent that those regulations are inconsistent with 45 CFR Part 185.

Further information: For further information contact David Lerch, Branch Chief, Special Projects Branch, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202, Telephone: (202) 245–2465 or 245–0931.

(20 U.S.C. 1601–1619)

[Catalog Number: Catalog of Federal Domestic Assistance Number 13.532; Emergency School Aid—Special Projects.]

Dated: August 2, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

[FR Doc. 79-24535 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-02-M

Emergency School Aid Act; Announcement of (ESAA)–TV Programming Categories for Fiscal Year 1979

AGENCY: Office of Education, DHEW.

ACTION: Announcement of Emergency School Aid Act (ESAA)–TV

programming categories for Fiscal Year 1979

SUMMARY: The Commissioner of Education announces the Fiscal Year 1979 programming categories for production of integrated children's television series.

Solicitation of proposals for all categories is through a single Request For Proposals (RFP) that was published in the *Commerce Business Daily* on May 7, 1979. This will be the only RFP for ESAA–TV series production to be issued this fiscal year.

ADDRESSES: A copy of the RFP can be obtained by contacting Geraldine McCormick, Grant and Procurement Management Division, U.S. Office of Education, Room 5917, ROB–3, Seventh and D Streets, SW, Washington, D.C. 20202. Phone (202) 245–1766.

FOR FURTHER INFORMATION CONTACT: Geraldine McCormick, (202) 245–1766.

SUPPLEMENTARY INFORMATION: In accordance with the requirement in 45 CFR 185.72(a), the Commissioner of Education announces, that proposals for television series authorized under the Emergency School Aid Act (ESAA) Are being solicited for 1979 in the following categories:

(1) A new, non-bilingual national series to foster interracial and inter-ethnic understanding among elementary school age children (45 CFR 185.72 (a) (4));

(2) A national children's bilingual series of cognitive and/or affective education value (45 CFR 185.72(a)(6));

(3) Up to three new "regional" series meeting the special needs of subgroups of minority groups as defined in 45 CFR 185.02(f) which may be unique to a particular geographic region (45 CFR 185.72(a)(7));

(4) Additional programs from up to two "regional" series previously funded under ESAA meeting those needs (45 CFR 185.72(a)(8)).

(Catalog of Federal Domestic Assistance No. 13.530, Emergency School Aid Act—Educational Television)

Dated: August 2, 1979

Mary F. Berry,

Acting U.S. Commissioner of Education.

[FR Doc. 79-24536 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-02-M

Guaranteed Student Loan Program; Special Allowance for Quarter Ending June 30, 1979

The Commissioner announces that for the three-month period ending June 30, 1979, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at an *annual rate* of four percent will be paid to holders of eligible loans in the Guaranteed Student Loan Program.

Using the statutory formula, the special allowance for this *three-month* period would normally have been computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (9.78 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (6.28) upward to the nearest one-eighth of one percent (6.375), and by dividing the resultant percent by four (1.59375).

However, the statutory formula also provides that the annual rate of the special allowance for a three month period shall be reduced to the highest one-eighth of one percent which would not result in a rate in excess of 5 percent for any twelve month period. For the three previous quarters the special allowance at the annual rate has been as follows: 4⅛ percent for the quarter ending September 30, 1978; 5⅝ percent for the quarter ending December 31, 1978; and 6¼ percent for the quarter ending March 31, 1979. Therefore, in order not to exceed the rate of 5 percent for the twelve month period ending June 30, 1979, the special allowance for the quarter ending June 30, 1979 will be at an annual rate of four percent. The special allowance to be paid for this 3 month period will be 1.00 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

The public is advised that the Administration has proposed a statutory change to increase the present special allowance limit of 5 percent for any twelve month period. Congress is considering legislation which would alter the special allowance ceiling. If any statutory changes are enacted, the interested public will be promptly notified.

(20 U.S.C. 1087–1(b))

(Catalog of Federal Domestic Assistance No. 13.460, Guaranteed Student Loan Program.)

Dated: August 2, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

[FR Doc. 79-24537 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-02-M

Health Education Assistance Loan Program; Variable Interest Rate for Quarter Ending September 30, 1979

The Commissioner announces that for the three month period ending September 30, 1979, the variable interest rate on loans in the Health Education Assistance Loan (HEAL) Program shall be at the annual rate of 11 percent.

Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), the Commissioner normally would compute the variable rate for this three month period by adding the fixed annual rate (7 percent) plus a variable component which is calculated by determining the average of the bond equivalent rates of the 91-day Treasury bills for the preceding calendar quarter (9.78 percent), by subtracting 3.5 percent from that average, and by rounding the resultant percent (6.28) upward to the nearest one-eighth of one percent (6.375).

However, the regulatory formula also provides that the annual rate of the variable interest rate for a three month period shall be reduced to the highest one-eighth of one percent which would result in a rate not in excess of 12 percent for any twelve month period. For the three previous quarters the variable interest at the annual rate has been as follows: 11⅛ percent for the quarter ending December 31, 1978; 12⅝ percent for the quarter ending March 31, 1979; and 13¼ percent for the quarter ending June 30, 1979. Therefore, in order not to exceed the rate of 12 percent for the twelve month period ending September 30, 1979, the variable interest rate for the quarter ending September 30, 1979, will be at an annual rate of eleven percent.

(Catalog of Federal Domestic Assistance No. 13.574, Health Professions Educational Assistance Act Insured Loans)

Dated: August 2, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

[FR Doc. 79-24538 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-02-M

Health Resources Administration

Application Announcement for Grants for Graduate Training in Family Medicine

August 3, 1979.

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1980 Grants for Graduate Training in Family Medicine are now being accepted under the authority of section 786(a) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484).

Section 786(a) authorizes the award of grants to public or non-profit private hospitals, schools of medicine or osteopathy, and other public or private

non-profit entities located in a State to assist in meeting the cost of planning, developing and operating or participating in approved graduate training programs in the field of family medicine.

To receive support, programs must meet the requirements of the Interim-Final regulations, published in the **Federal Register** on October 16, 1978 (42 FR 47694).

In the funding of approved applications, preference will be given to projects in which:

(1) Substantial training experience is in settings which exemplify interdependent utilization of physicians and physician assistants and/or nurse practitioners; and/or

(2) Substantial portions of a project are conducted in a health manpower shortage area(s) designated under section 332 of the PHS Act, or in an Area Health Education Center, funded at least in part, under section 781 of the Act.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D–15), Bureau of Health Manpower, HRA, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436–6564.

Questions regarding the programmatic aspects of these grants should be directed to: Primary Care Education Branch, Division of Medicine, Bureau of Health Manpower, HRA, Center Building, Room 4–50, 3700 East-West Highway, Hyattsville, Maryland 20782, (301) 436–6427.

To be considered for Fiscal Year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, HRA, at the above address no later than September 4, 1979. Approximately $16 million is expected to be available in FY 1980 for competitive awards.

Dated: August 3, 1979.

Henry A. Foley,

Administrator, Health Resources Administration.

FR Doc. 79–24573 Filed 8–8–79; 8:45 am]

BILLING CODE 4110–83–M

Application Announcement for Health Careers Opportunity Program

August 3, 1979.

The Office of Health Resources Opportunity, Health Resources Administration, announces that applications for fiscal year 1980 Health Careers Opportunity Program grants are now being accepted under the authority of Section 787 of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484). Based on projected requirements for currently active projects requiring continued support, an estimated $2,400,000 will be available for competitive awards in fiscal year 1980.

Section 787 authorizes the Secretary to make grants to public or nonprofit private health or educational entities for the purpose of assisting individuals from disadvantaged backgrounds to undertake education to enter a health profession. The proposed fiscal year 1980 program funding preference for the Health Careers Opportunity Program will be for admissions/retention projects in medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health and other health professions, e.g., health care administration, and health planning.

Questions regarding the programmatic aspects of these grants should be directed to: Director, Division of Program Coordination, Office of Health Resources Opportunity, Health Resources Administration, Center Building, Room 10–50, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436–7230.

All fiscal year 1980 applications must be submitted to the Grants Management Officer, Bureau of Health Manpower, *postmarked on or before January 4, 1980.* In addition, requests for application packets and questions regarding grants management policy should be directed to: Grants Management Officer (D–18), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436–7418.

Dated: August 3, 1979.

Henry A. Foley,

Administrator.

[FR Doc. 79–24572 Filed 8–8–79; 8:45 am]

BILLING CODE 4110–83–M

Health Care Financing Administration

Medicare Program; Schedule of Limits on Hospital Inpatient General Routine Operating Costs for Cost Reporting Periods Beginning on or After July 1, 1979

AGENCY: Health Care Financing Administration, (HCFA), HEW.

ACTION: Request for Additional Comment.

SUMMARY: This notice requests additional comment on one part of the methodology used to set limits on the hospital inpatient general routine operating costs that may be reimbursed under Medicare. Specifically, we are requesting comments about whether these limits should be set at the 80th percentile of costs of each comparison group, at 115 percent of the mean of these costs, or by some other method.

We are also publishing a revised schedule of limits which replaces the schedule published in the **Federal Register** on June 1, 1979. This schedule differs from the June 1, 1979 schedule only in that it provides limits set at the 80th percentile rather than at 115 percent of the mean. This new schedule will be an interim one, effective for cost reporting periods beginning on or after July 1, 1979.

DATES: Closing date for receipt of comments: September 10, 1979.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013.

Please refer to file code MAB–122–NC. Agencies and organizations are requested to submit comments in duplicate.

Beginning two weeks from today, the public may review the comments on Monday through Friday of each week, from 8:30 a.m. to 5:00 p.m. Comments will be available in Room 5231 of the Department's offices at 330 C Street SW., Washington, D.C., (202) 245–0950.

FOR FURTHER INFORMATION CONTACT: Carl Slutter, (301) 594–9344.

SUPPLEMENTARY INFORMATION: On March 1, 1979, we published a proposed schedule of limits on hospital inpatient general routine operating cost in the **Federal Register** for public comment (44 FR 11612). As a result of the comments received, we made several changes in the proposed schedule and published a final schedule in the **Federal Register** on June 1, 1979 (44 FR 31806). The changes included: (1) Basing the wage index on hospital wages, rather than service industry wages; (2) adding an upward adjustment for presumed higher intensity resulting from lower utilization; (3) adding a cost of living adjustment for Alaska and Hawaii; (4) using a per diem cost inflation rather than the market basket index to project increases for the years 1976 through June, 1979; and (5) setting the group limits at 115 per cent of the mean rather than at the 80th percentile.

In our view, publication of the final notice was valid under the Administrative Procedure Act because they were consistent with and grew out

of the basic structure in the proposed notice and were intended to respond to comments we received on that notice.

However, we have received several comments on the June 1 publication, expressing concern about the impact on certain hospitals of the change in the limits from the 80th percentile to 115 per cent of the mean of the comparison group. Our primary reason for making this change was to respond to comments that setting the rate at the 80th percentile necessarily implied that 20 per cent of the hospitals would be judged inefficient, even where actual variations of costs in the group are insignificant. Changing the methodology to use a percentage of the mean results in a limit which 100 per cent of the hospitals could meet if the variations in costs were small enough.

The change to 115 per cent of the mean resulted in cost limits roughly equivalent to those in the proposed notice with respect to six of the seven categories. Only for the category of large urban hospitals did the net result of all the changes differ substantially from the proposed notice.

In order to obtain the benefit of all useful comments and analysis on this issue, we have decided to have a further period of public comment on whether the limits should be set at the 80th percentile, at 115 per cent of the group mean, or by some other methodology. We are providing 30 days for additional comment, rather than the 60 days we normally use for notices of proposed rulemaking, because we think that will be adequate for all interested parties to give us views on this single issue and because we wish to reach a resolution, announce it in the **Federal Register**, and implement it with respect to hospital cost reporting periods beginning on or after October 1, 1979.

For hospitals with cost reporting periods starting on or after July 1, 1979, but before the effective date of our final decision on this issue, we will use the schedule of cost limits for inpatient general routine operating costs listed below. This schedule of limits (higher in all cases than those announced on June 1,) was derived by using the 80th percentile, rather than 115 per cent of the mean, but otherwise incorporating all of the other changes made between the proposed notice and the final notice, as explained in the final notice (44 FR 31806).

Hospitals Located in Urban Areas

Bed Size:	*Limit*
Less than 100	$128.99
100–404	127.54
405–684	125.39
685 and above	156.11

Hospitals Located in Non-Urban Areas

Bed Size:	*Limit*
Less than 100	$103.79
100–169	104.61
170 and above	100.83

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance.)

Dated: July 25, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

July 31, 1979.

Approved:

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24521 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Lower Cook Inlet/Shelikof Strait Outer Continental Shelf Oil and Gas; Intent To Prepare an Environmental Impact Statement for OCS Sale No. 60

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management's Alaska Outer Continental Shelf Office intends to prepare an environmental impact statement (EIS) on the offshore oil and gas leasing proposal known as OCS Sale No. 60, scheduled for September 1981. A list of 153 lease blocks on the OCS, totalling 345,858 hectares (864,646 acres), has been selected for futher environmental study in this environmental impact statement.

Alternatives to be considered in the environmental statement will include options to delay, modify, or withdraw the proposed lease offering.

A scoping meeting for affected Federal agencies was held May 14, 1979, at the Alaska OCS Office. A second scoping meeting for the State of Alaska agencies was held on May 18, 1979, at the State Office Building, Juneau, Alaska. A third scoping meeting for interested persons was held May 23, 1979, at the Fine Arts Museum, Anchorage, Alaska.

Additional meetings have been scheduled to promote public participation in defining significant issues that relate to the proposed leasing action. These meetings will generally adhere to the following agenda:

1. Introduction. Purpose of meeting. Brief history of OCS Oil and Gas leasing and the EIS process. Information products the Alaska OCS Office makes available to the public to facilitate the leasing process. Previously defined issues to be considered in the EIS.

2. Presentation of public comment and recommendations on other issues of major concern.

3. Alternatives to the sale, as presently considered in the EIS process.

Interested persons are encouraged to attend and present their views at the following locations: August 14, 1979, 7:00 p.m. at the Borough Assembly Chambers, Kodiak, Alaska; August 16, 1979, 7:00 p.m. at the Elk's Lodge Conference Room, Olsen Lane, Homer, Alaska.

Supplemental information or additional comments not presented at the meetings should be sent to the Alaska OCS Office no later than August 31, 1979.

For futher information regarding the public meetings on the Sale No. 60 leasing proposal, contact Ward Hastings, Sale No. 60 EIS Coordinator, Environmental Assessment Division, Alaska OCS Office, 800 A Street (P.O. Box 1159), Anchorage, Alaska 99510, telephone (907) 276–2955.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved: August 6, 1979.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 79-24589 Filed 8-8-79; 8:45]

BILLING CODE 4310-84-M

Bureau of Reclamation

Public Notice of Off-Road Vehicle (ORV) Use at American Falls Reservoir, Minidoka Project, Idaho

In accordance with authorities and requirements of Title 43, Part 420 of the Code of Federal Regulations, Executive Order Nos. 11644 and 11989 and the Department of the Interior's Final Environmental Impact Statement (FES) 78–5 of April 21, 1978, and following intensive study of the potentials and impacts of ORV use at American Falls Reservoir, a decision has been made to open most of the lands around this reservoir, including the exposed lakebed, to ORV use. Three areas at the northwest end of the reservoir will remain closed to ORV use for the protection of wildlife.

Copies of the proposal and environmental assessment for ORV use at American Falls Reservoir, drawing numbers 17–100–225 and 17–100–226, which show the areas to be opened and closed may be inspected at:

Bureau of Reclamation, Pacific Northwest Regional Office, Box 043, 550 West Fort Street, Boise, ID 83724
Bureau of Reclamation, Box 549, 1359 Hansen Avenue, Burley, ID 83318
American Falls City Hall, American Falls, ID
Pocatello City Hall, Pocatello, ID

For further information contact: Mr. Mike Misner, Outdoor Recreation Planner, Division of Water and Land Operations, Pacific Northwest Region, Bureau of Reclamation, P.O. Box 043, 550 West Fort Street, Boise, ID 83724, Phone (208) 384–1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 79-24533 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

Public Notice of Off-Road Vehicle (ORV) Use at Black Canyon Reservoir, Boise Project, Idaho

In accordance with Title 43, Part 420 of the Code of Federal Regulations, Executive Order Nos. 11644 and 11989, the Department of the Interior's Final Environmental Impact Statement of April 21, 1978 (FES) 78–5 on ORV use, and following intensive study of potential specific environmental impacts of the proposed ORV use at Black Canyon Reservoir, the Bureau of Reclamation has decided to open the reservoir area to ORV use only on designated and existing roads and trails on lands within the boundaries of Black Canyon Reservoir. All roads and trails opened to ORV use will be so designated on the ground.

The ORV proposal and environmental impact assessment along with a map, drawing number 3–OZ–100–308, which shows the areas opened and closed to ORV use are on file and may be inspected at:

Bureau of Reclamation, Pacific Northwest Regional Office, Box 043, 550 West Fort Street, Boise, ID 83724.
Central Snake Projects Office, 214 Broadway Avenue, Boise, ID 83702.

For further information contact: Mr. Mike Misner, Outdoor Recreation Planner, Pacific Northwest Region, Bureau of Reclamation, P.O. Box 043, 550 West Fort Street, Boise, ID 83724, Phone (208) 384–1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 79-24531 filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

Public Notice of Off-Road Vehicle (ORV) Use at Little Wood Reservoir, Little Wood River Project, Idaho

In accordance with provisions of Title 43, Part 420, Code of Federal Regulations, Executive Order Nos. 11644 and 11989, the final Department of the Interior's Environmental Impact Statement on ORV use (FES) 78–5 of April 21, 1978, and following intensive evaluation of the specific environmental impacts of the proposed ORV usage, the Bureau of Reclamation has decided to open all lands at Little Wood River Reservoir except those in the recreation area to use by ORV's. ORV's may only use existing roads in the recreation area for ingress and egress to the remaining lands.

Copies of the ORV use proposal and environmental assessment along with a map (drawing number 81–100–6) showing the lands opened and closed to ORV use are available and may be examined at:

Bureau of Reclamation, Pacific Northwest Regional Office, Box 043, 550 West Fort Street, Boise, ID 83724; Blaine County Courthouse, Bellevue, ID.
Bureau of Reclamation, Box 549, 1359 Hansen Avenue, Burley, ID 83318; Carey City Hall, Carey, ID.

For further information contact: Mr. Mike Misner, Outdoor Recreation Planner, Pacific Northwest Region, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, ID 83724, Phone (208) 384–1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 79-24530 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M]

Public Notice of Off-Road Vehicle (ORV) Use at Mann Creek Reservoir, Mann Creek Project, Boise, Idaho

In accordance with provisions of Title 43, Part 420 of the Code of Federal Regulations, Executive Order Nos. 11644 and 11989, the Department of the Interior's Final Environmental Impact Statement (FES) 78–5 of April 21, 1978, on ORV use and following an intensive study of potential environmental impacts of the proposed ORV use, the Bureau of Reclamation has decided to open designated roads and trails at Mann Creek Reservoir to ORV use, as well as lands in the area between elevation 2,889 and 2,825 which are exposed during reservoir drawdown, except those adjacent to and forming the dam.

A copy of the ORV use proposal and environmental impact assessment, along with a map, drawing number 354–100–58, which shows the areas opened and closed to ORV use are on file and available for inspection at:

Bureau of Reclamation, Pacific Northwest Regional Office, Box 043, 550 West Fort Street, Boise, ID 83724.
Central Snake Projects Office, 214 Broadway Avenue, Boise, ID 83702.

For further information contact: Mr. Mike Misner, Outdoor Recreation Planner, Pacific Northwest Region, Bureau of Reclamation, P.O. Box 043, 550 West Fort Street, Boise, ID 83724, Phone (208) 384–1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 24529 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

Public Notice of Off-Road Vehicle (ORV) Use at Owyhee Reservoir, Owhyee Project, Boise, Idaho

The Bureau of Reclamation, in accordance with provisions of Title 43, Part 420 of the Code of Federal Regulations, Executive Order Nos. 11644 and 11989 and the Department of the Interior's Final Environmental Impact Statement (FES) 78–5 of April 21, 1978, and following an intensive evaluation of potential environmental impact has decided to open designated established roadways only at Owhyee Reservoir to ORV use. All nondesignated areas will remain closed.

Copies of the environmental assessment, evaluation document, and maps of the reservoir area showing the specific areas designated for ORV use, drawing numbers 48–100–34 and 48–100–35, are on file and available for inspection at:

Bureau of Reclamation, Pacific Northwest Regional Office, Box 043, 550 West Fort Street, Boise, ID 83724.
Bureau of Reclamation, Central Snake Projects Office, 214 Broadway Avenue, Boise, ID 83702.
Malheur County Courthouse, Vale, OR 97918.

For further information contact: Mr. Mike Misner, Outdoor Recreation Planner, Division of Water and Land Operations, Pacific Northwest Region, Bureau of Reclamation, P.O. Box 043, 550 West Fort Street, Boise, ID 83724, Phone (203) 384–1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 79-24532 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

Public Notice of Off-Road Vehicle (ORV) Use at Warm Springs Reservoir, Vale Project, Oreg.

In accordance with provisions of Title 43, Part 420 of the Code of Federal Regulations, Executive Order Nos. 11644 and 11989, and the Department of the Interior's Final Environmental Impact Statement (FES) 78-5 of April 21, 1978, on ORV use, and after an intensive study of specific impacts at Warm Springs Reservoir of proposed ORV use, the Bureau of Reclamation opened designated roads and trails above the high water line at Warm Springs Reservoir to ORV use (FR, Vol. 43, No. 173, page 36910 for Wednesday, September 6, 1978).

Additional studies have been conducted by the Bureau of Reclamation which indicate that the area of the reservoir exposed between the high water mark and low water during drawdown could be utilized by ORV's with no significant adverse environmental impact. As a result of this study and under the provision cited above, the Bureau of Reclamation has decided to open Warm Springs Reservoir to ORV use on designated roads and trails as well as those lands in the lakebed which are exposed during drawdown except for those adjacent to and used for the dam.

Copies of the proposal and environmental impact assessment for the ORV use, along with a map showing the areas of reservoir lands open and closed to ORV use are on file and may be examined at:

Bureau of Reclamation, Pacific Northwest Regional Office, 550 West Fort Street, Boise, ID 83724.
Bureau of Reclamation, Central Snake Projects Office, 214 Broadway Avenue, Boise, ID 83702.
Malheur County Courthouse, Vale, OR 97918.
State of Oregon, Department of Fish and Wildlife, Southeast Regional Office, Hines, OR 97783.

For further information contact: Mr. Mike Misner, Chief, Recreation Branch, Division of Water, Power, and Land, Pacific Northwest Region, Bureau of Reclamation, P.O. Box 043, 550 West Fort Street, Boise, ID 83724, Phone (203) 383-1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 79-24534 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

Bureau of Indian Affairs

Big Lagoon Rancheria, Calif.; Revocation of Plan for the Distribution of Assets and of Continuance of Federal Trust Relationship

August 1, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 and by the Commissioner to the area Director by 10 BIAM 3.1 and special memorandum of July 6, 1977. Notice is hereby given that at the request of all persons who were determined to hold rights, claims or interests in the Big Lagoon Rancheria, Humboldt County, California, under a Plan for the Distribution of Assets drafted pursuant to the Act of August 18, 1958 (72 Stat. 619), as amended by the Act of August 11, 1964 (78 Stat. 390), and approved January 3, 1968, by the Commissioner, Bureau of Indian Affairs, and on November 4, 1977, the Joint Distributees constituting the general membership of the Big Lagoon Rancheria adopted a petition rescinding its approval for the removal of Federal supervision over the affairs and property of the rancheria, said Plan for Distribution of Assets of the Big Lagoon Rancheria is hereby revoked.

All individuals affected by the revocation of the Plan for Distribution of Assets are eligible for all services performed by the Federal Government for Indians because of their status as Indians and are subject to all statutes which affect Indians because of their status as Indians. Those individuals include the following persons and the dependent members of their immediate families:

Thomas Williams, Star Route, Trinidad, California 95570.
Lila Williams, Star Route, Trinidad, California 95570.
Thomas Williams, Jr., Star Route, Trinidad, California 95570.
Franklin Lara, Star Route, Trinidad, California 95570.
Dale Lara, Star Route, Trinidad, California 95570.
Ted Moorehead, Star Route, Trinidad, California 95570.
Beverly Moorehead, Star Route, Trinidad, California 95570.
Peter Lara, Star Route, Trinidad, California 95570.
Roger Moorhead, Star Route, Trinidad, California 95570.
Virgil Moorehead, Star Route, Trinidad, California 95570.
Holly Moorehead, Star Route, Trinidad, California 95570.

William E. Finale,

Area Director.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79-24503 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Statement for OCS Sale No. 56]

South Atlantic Outer Continental Shelf Oil and Gas; Intent To Prepare an Environmental Impact

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management's New Orleans Outer Continental Shelf Office intends to prepare an environmental impact statement (EIS) on the offshore oil and gas leasing proposal known as OCS Sale No. 56. This proposed sale is tentatively scheduled for August 1981, and may include OCS lease blocks offshore North Carolina, South Carolina, Georgia and Florida. A list of 286 lease blocks (approximately 658,944 hectares; 1,628,251 acres) has been tentatively selected for leasing consideration and further environmental study.

Alternatives to be considered in the environmental statement will include options to modify, delay, or cancel the proposed lease offering.

A series of meetings has been scheduled to promote public participation in defining the significant issues that relate to the proposed leasing action. These meetings will generally adhere to the following agenda:

1. Introduction—

Purpose of meeting.

Brief history of OCS oil and gas leasing and the EIS process.

Information products the New Orleans OCS Office makes available to the public to facilitate the leasing process.

Previously defined issues to be considered in the EIS.

2. Presentation of public comment and recommendations on other issues of major concern.

3. Alternatives to the sale, as presently considered in the EIS process.

Interested persons are encouraged to attend and present their views at one of the following locations:

Date, Time and Location

August 14, 1979; 8:00 p.m.: Charleston County Library, Lecture Room, Charleston, South Carolina.

August 15, 1979; 8:00 p.m.: Brunswick Junior College Science Lecture Room, Brunswick, Georgia.

August 16, 1979; 8:00 p.m.: Daytona Beach, City Commission Chambers, City Hall, Daytona Beach, Florida.

August 21, 1979; 7:00 p.m.: North Carolina, Marine Resources Center/ Roanoke Island located on Airport Road on Roanoke Island off Highway 64, Manteo, North Carolina.

August 22, 1979; 7:00 p.m.: North Carolina, Marine Resources Center/ Bogue Banks located 6 miles west of Atlantic Beach on Bogue Banks near the Iron Steamer Fishing Pier. Atlantic Beach, North Carolina.

August 23, 1979; 7:00 p.m.: New Hanover County Courthouse located at the corner of 3rd. and Princess Street, Wilmington, North Carolina.

Individuals wishing to comment orally at the meetings are asked to provide written copies of their remarks. Supplemental information or additional comments not presented at the meetings should be sent to the New Orleans OCS Office no later than August 31, 1979.

For further information regarding the public meetings or the Sale No. 56 leasing proposal, contact Douglas J. Elvers, Chief, Environmental Assessment Division, New Orleans OCS Office, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130, Telephone (504) 589–6541 (FTS 682–6541).

Dated: August 1, 1979.

H. P. Sieverding,

Acting Manager, New Orleans Outer Continental Shelf Office.

[FR Doc. 79–24506 Filed 8–8–79; 8:45 am]

BILLING CODE 4310–84–M

Canon City District Grazing Advisory Board; Postponement of Meeting

Notice is hereby given that the meeting of the Canon City District Grazing Advisory Board originally scheduled for August 17, 1979, notice of which was published in the **Federal Register**, Thursday, July 12, 1979, is postponed until Wednesday, October 3, 1979, due to conflicting schedules of Bureau of Land Management personnel and conflicting public meetings.

The rescheduled meeting will begin at 10:00 a.m. at the Four-Mile Community Hall adjacent to the BLM District Office in Canon City, Colorado.

The agenda for the meeting will include: (1) Expenditure of range betterment funds for range improvements; (2) Discussion of Allotment Management Plans implementation in the San Luis Valley; (3) Proposed Allotment Management Plan development in the Royal Gorge Resource Area; (4) Discussion of the rechartering process and elections.

The meeting is open to the public. Interested persons may make oral statements to the board between 10:00 a.m. and 12:00 noon on October 3, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 3080 East Main Street, Canon City, Colorado 81212, by September 26, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction during regular business hours (Monday through Firday, 7:45 a.m.–4:30 p.m.) within 30 days following the meeting.

Melvin D. Clausen,

District Manager.

FR Doc. 79–24504 Filed 8–8–79; 8:45 am]

BILLING CODE 4310–84–M

[Colorado 28056]

Invitation for Coal Exploration License; Kerr Coal Co.

July 31, 1979.

Members of the public are hereby invited to participate with Kerr Coal Company, a Colorado corporation, in a program for the exploration of coal deposits owned by the United States of America, in the following described lands located in Jackson County, Colorado:

T. 9 N., R. 78 W., 6th P.M.
Sec. 15: W½SE¼, SE¼SE¼
Sec. 22: NE¼, E½NW¼, N½SE¼, SE¼SE¼
Sec. 23: W½NW¼, SE¼NW¼, S½
Sec. 25: NW¼, NE¼SW¼
Sec. 26: N½, E½SW¼, NW¼SE¼
Containing 1,560.00 Acres.

Any party electing to participate in this exploration program must send written notice of that election to the Bureau of Land Management and to Kerr Coal Company, directed to the following persons at the addresses shown:

Leader, Craig Team, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202

and

James A. Larson, President, Kerr Coal Company, Three Park Central, Suite 900, 1515 Arapahoe Street Denver, CO 80202

Such written notice must be received by the above named persons at the addresses shown not later than thirty calendar days after the publication of this Notice in the **Federal Register** or ten calendar days after the last publication of the counterpart of this notice in a newspaper or newspapers of general circulation in the area where the above described lands are located, whichever is the later date.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan, as it is approved by the U.S. Geological Survey and the Bureau of Land Management, agencies of the Department of the Interior. Copies of the Exploration Plan, as submitted by Kerr Coal Company, are available during normal business hours in the following offices for public review.

Bureau of Land Management, 455 Emerson, Craig, CO 81625.

Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

The foregoing notice is published in the **Federal Register** pursuant to 43 Code of Federal Regulations, Section 3410.2–1 (d)(1), as published in 44 FR 42584 at 42614 (No. 140, July 19, 1979). A counterpart of this notice will be published by Kerr Coal Company in a newspaper(s) circulating in the area where the lands described above are located.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79–24505 Filed 8–8–79; 8:45 am]

BILLING CODE 4310–84–M

[M 21209(ND)]

Stanton, N. Dak.; Coal Lease Offering by Sealed Bid

August 21, 1979.

U.S. Department of the Interior, Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107. Notice is hereby given that 2 p.m., Friday, August 31, 1979, in the Conference Room on the 6th Floor of the Granite Tower Building, the coal resources in the tract described below will be offered for competitive lease by sealed bid to the qualified bidder of the highest cash amount per acre or fraction thereof. No bid will be

considered which is less than $25/acre. This offering is being made as a result of an application filed by Consolidation Coal Company in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101).

Bids received after 2 p.m. on the day of the sale will not be considered. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received at the above address before 2 p.m., August 31, 1979. The successful bidder is obligated to pay for the newspaper publication of this Notice.

Coal Offered. The tract is located in Mercer County south of Stanton, North Dakota.

T. 144 N., R. 84 W., 5th P.M.
Sec. 18: Lot 4
Sec. 20: SW¼SE¼
Sec. 30: Lots 3, 4, E½SW¼, SE ¼
Sec. 32: N½N½
T. 144 N., R. 85 W., 5th P.M.
Sec. 14: S½N½, S½
Sec. 22: N½NE¼
Sec. 24: N½, SW¼, N½SE¼
Containing 1,668.08 acres.

The coal resources offered are limited to all strippable reserves of the Stanton and any overlying coal beds. The Conservation Division, Geological Survey, has reported that the tract contains 17.7 million tons of coal recoverable by surface mining methods under a maximum overburden depth of 110 feet at 85 percent recovery. Multiple coal beds exist over the proposed leasehold. Coal beds being mined include, in ascending order, the Stanton which averages 8 feet thick, the Hagel which averages 7 feet thick, and the Upper Hagel which averages about 4 feet in thickness. The heating value of the noncoking coal is about 6700 BTU's per pound with a sulfur content of about .7 percent. The coal resources are within the Knife River Known Recoverable Coal Resource Area.

Rental and Royalty. The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States at the rate of 12.5 percent of the value of coal mined by strip mining methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

Public Comments. The public is invited to submit written comments concerning the fair market value of the offered coal reserves to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be reviewed and taken into consideration in the determination of fair market value for the offered lands. Comments should address specific factors related to fair market value including: the quantity and quality of the coal resource, the estimated market value of the coal, the estimated cost of producing the coal, the expected rate of industry return, the appropriate discount rate for use in calculating present value along with probable timing and rate of production, the value of the surface estate, and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions may also be submitted at this time.

These comments will be considered in the final determination of fair market value. Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to the State Director, Montana State Office, Bureau of Land Management, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than August 24, 1979.

Detailed Statement of Sale. A detailed statement of the sale, including bidding instructions and the terms of the lease, is available at the office listed above. All case file documents and written comments submitted by the public on fair market value or royalty rates, except those portions identified as proprietary which meet the exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management Office at the address given above.

Edgar D. Stark,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-24507 Filed 8-8-79; 8:45 am]
BILLING CODE 4310-84-M

Intent To Apply Coal Unsuitability Criteria in the Alton, Kaiparowits, and Eastern Kolob Field, Utah

The Cedar City District, Bureau of Land Management intends to apply the final approved criteria for assessing lands unsuitable for all or certain stipulated methods of coal mining (coal unsuitability criteria) for coal lands under its jurisdiction pursuant to 43 CFR Subpart 3461 (**Federal Register** Vol. 44, No. 140, July 19, 1979). The standards are discussed in the Final Environmental Statement on the Federal Coal Management Program dated April 1979. The criteria and exceptions are to be part of the comprehensive land use plans for the Escalante, Paria, and Zion Planning Units.

Draft coal unsuitability criteria have previously been applied as part of Escalante, Paria, and Zion land use plans. However, because the final, approved criteria differ from the draft criteria and because studies are now under way to gather more information concerning certain criteria, these land use plans will be updated and revised as to coal unsuitability criteria.

Anyone who has data which can be used in determining coal unsuitability criteria in the Alton, Kaiparowits, and Eastern Kolob Fields should send it to District Manager, Cedar City District Office, P.O. Box 724, Cedar City, Utah 84720.

After the criteria are applied, a notice will be published in the **Federal Register** pursuant to 43 CFR 3461.3-1(a)(2) announcing the results of the application of each of the unsuitability criteria and the availability of maps displaying the criteria.

Dated: August 3, 1979.

Morgan S. Jensen,
District Manager.

[FR Doc. 79-24508 Filed 8-8-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Contract Negotiations With the El Dorado Irrigation District; Availability of the Proposed Amendatory Contract for Public Review and Comment

The Department of the Interior, through the Bureau of Reclamation, has completed the negotiation of the proposed amendment to contract No. 14-06-200-1357A, between the United States and the El Dorado Irrigation District, Placerville, California. The proposed amendatory contract was prepared pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187) and the American River Basin Development Act (63 Stat. 852).

The existing contract provides municipal and industrial water service from Folsom Reservoir, Central Valley Project, California, to El Dorado Hills, a residential subdivision located within the El Dorado Irrigation District in the lower foothills of the Sierra Nevada mountains. El Dorado Hills did not experience the population growth originally anticipated in the existing contract, however, the population of El Dorado Hills is beginning to increase

dramatically. The population is currently 4,356 and is expected to reach 52,000 (high) to 21,000 (low) by the year 2000.

Pursuant to the existing contract, the district must purchase projected average annual use quantities during specified periods in order to retain its maximum annual entitlement of 6,166 acre-feet. The projected average annual use for the period 1975–1979 is 4,100 acre-feet; however, total water purchases during the first 4 years of this period have been 7,754 acre-feet. The district must purchase 12,467 acre-feet of water for calendar year 1979 in order to meet the 1975–1979 projected annual average.

The proposed amendatory contract deletes the payment buildup period from 1979 to 1984 and requires payment of the maximum annual quantity beginning immediately in 1979 for the remaining contract term. The maximum annual quantity of water the district is entitled to purchase and use under the proposed amendatory contract is 6,500 acre-feet. The water rate in the proposed amendatory contract is $9.00 per acre-foot with provisions for adjustment beginning in 1981 and every 5 years thereafter. The proposed amendatory contract will not change the service area established in the existing contract.

For further information and copies of the proposed contract, please contact Mrs. Betty Riley, Division of Water and Power Resources Management, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, telephone No. (916) 484–4620.

Comments on the proposed contract will be received up to 15 days from the date of this notice. All written correspondence concerning the proposed contract is available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: August 1, 1979.

David R. Schuster,

Acting Assistant Commissioner of Reclamation.

[FR Doc. 79-24292 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[TA-201-40]

Leather Wearing Apparel; Investigation and Hearing

Investigation instituted. Following receipt of a petition on July 24, 1979, filed on behalf of The National Outerwear and Sportswear Association, Amalgamated Clothing and Textile Workers Union, International Ladies' Garment Workers' Union, United Food and Commercial Workers' Union, and Tanners' Council of America, Inc., the United States International Trade Commission on August 3, 1979, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether wearing apparel not specially provided for, of leather (described in item 791.76 of the Tariff Schedules of the United States (TSUS)), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Public hearing ordered. A public hearing in connection with this investigation will be held in New York, N.Y., beginning on Tuesday, November 6, 1979. The time and place of the hearing will be announced later. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington not later than noon, Thursday, November 1, 1979.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City office of the U.S. International Trade Commission, located at 6 World Trade Center.

By order of the Commission.

Issued: August 6, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-24607 Filed 8-8-79; 8:45 am]

BILLING CODE 7020-02-M

[TA-201-39]

Nonelectric Cooking Ware; Postponement of Public Hearing

Notice is hereby given that the United States International Trade Commission has postponed its public hearing in connection with investigation No. TA-201-39, nonelectric cooking ware, scheduled for Tuesday, August 14, 1979. The public hearing will be held Thursday, September 6, 1979, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, N.W., Washington, D.C., at 10:00 a.m., e.d.t. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington not later than noon, Friday, August 31, 1979.

By order of the Commission.

Issued: July 31, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-24608 Filed 8-8-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment in United States v. Medusa Aggregates Company, et al., and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b) through (h), that a proposed Final Judgment and a Competitive Impact Statement as set out below have been filed with the United States District Court for the Western District of Kentucky in *United States* v. *Medusa Aggregates Company, et al.*, Civil No. 77–0109–0–(G). The Complaint in this case alleges that four corporations (Medusa Aggregates Company; Owensboro River Sand & Gravel Co., Inc.; Kapco, Inc.; and Fort Hartford Stone Company, Inc.) and one partnership (Daviess County Sand & Gravel Co.) violated the Sherman Act by conspiring to fix, raise, stabilize, and maintain prices of stone and sand in Daviess County, Kentucky, and to allocate the sales of stone, sand, asphalt mixture and asphalt paving services in Daviess County, Kentucky.

The proposed Judgment enjoins the defendants from engaging in the alleged conspiracy and prohibits them from communicating certain pricing information to any producer, distributor, or seller of stone, sand, asphalt mixture or asphalt paving services.

Public comment is invited on or before October 9, 1979. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

Dated: August 3, 1979.

Charles F. B. McAleer,

Special Assistant for Judgment Negotiations.

United States District Court for the Western District of Kentucky

Civil Action No. 77–0109–0

United States of America, Plaintiff, v. *Medusa Agggregates Company; Owensboro River Sand & Gravel Co., Inc.; Kapco, Inc.; Fort Hartford Stone Company, Inc.; and*

Daviess County Sand & Gravel Co.,
Defendants: stipulation; filed: July 30, 1979.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgement in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgement is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to Plaintiff and Defendants in this and any other proceeding.

For the Plaintiff:

United States of America.

Donald L. Flexner,

Acting Assistant Attorney General.

William E. Swope,

Charles F. B. McAleer,

John A. Weedon,

Attorneys, Department of Justice.

J. Albert Jones,

United States Attorney.

Donald S. Scherzer,

Paul L. Binder,

Robert M. Dixon,

Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199. Telephone: 216–522–4082.

For the Defendants:

Medusa Aggregates Company.

Green, Connor & Carroll.

Jack A. Connor,

700 Frederica Street, Owensboro, Kentucky 42301.

Dated: May 3, 1979.

Owensboro River Sand & Gravel Co., Inc.

Burke, Haber & Berick.

Myron N. Krotinger,

1500 Central National Bank Bldg., Cleveland, Ohio 44114.

Dated: May 14, 1979.

Wilson, Wilson & Plain.

William L. Wilson, Sr.,

414 Masonic Building, Owensboro, Kentucky 42301.

Dated: May 14, 1979.

Kapco, Inc., and Fort Hartford Stone Company, Inc.

Sandidge, Holbrook & Craig, P.S.C.

William E. Gary, III,

100 St. Ann Building, Owensboro, Kentucky 42301.

Dated: May 1, 1979.

Daviess County Sand & Gravel Co.

Rummage, Kamuf, Yewell & Pace.

Charles J. Kamuf,

Lincoln Federal Building, 322 Frederica Street, Owensboro, Kentucky 42301.

Dated: May 10, 1979.

United States District Court for the Western District of Kentucky

Civil Action No. 77–0109–0–(G)

United States of America, Plaintiff, v. *Medusa Aggregates Co.; Owensboro River Sand & Gravel Co., Inc.; Kapco, Inc.; Fort Hartford Stone Co., Inc.; and Daviess County Sand & Gravel Co.,* Defendants; Final Judgment.

Plaintiff, United States of America, having filed its Complaint herein on July 22, 1977, and defendants, having appeared and responded to the Complaint, and the plaintiff and defendants by their respective attorneys having consented to the making and entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or any admission by any party with respect to any issue of fact or law herein:

Now, therefore, before any testimony or evidence has been taken herein and upon said consent of the parties hereto, it is hereby

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The Complaint states claims against the defendants upon which relief may be granted under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "person" means any indidividual, corporation, partnership, firm, association or other business or legal entity;

(B) "asphalt mixture" means paving material composed of a combination of derivatives of crude petroleum and various mineral aggregates, especially limestone;

(C) "asphalt paving services" means those services using asphalt mixtures which are used in the construction and maintenance of paved surfaces, including, but not limited to, highways, playgrounds, sidewalks, parking lots, and driveways;

(D) "stone" means untreated crushed aggregate material, generally limestone, used in the construction and maintenance of paved surfaces;

(E) "sand" means naturally occurring sand used in the construction and maintenance of paved surfaces; and

(F) "product" means asphalt mixture, asphalt paving services, stone or sand;

(G) "common ownership" means at least 50 percent of the ownership is in the same person or persons.

III

The provisions of this Final Judgment applicable to each of the defendants shall also apply to each of its officers, directors, agents, employees, while acting in such capacity and its subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination or conspiracy with any person to:

(A) Determine, fix, raise, stabilize or maintain prices or other terms or conditions for the sale of any product to any third person in the Commonwealth of Kentucky;

(B) Submit collusive or rigged bids or quotations for the sale of any product in the Commonwealth of Kentucky;

(C) Allocate any sales of any product in the Commonwealth of Kentucky.

V

Each defendant is enjoined and restrained from, directly or indirectly:

(A) Communicating to any producer, distributor, or seller of any product prices at which, or terms or conditions upon which, such product is then being sold or offered for sale by said defendant;

(B) Communicating to any producer, distributor, or seller of any product information concerning:

(1) Future prices at which, or terms or conditions upon which, any product will be sold or offered for sale by said defendant;

(2) Consideration by said defendant of changes or revisions in the prices at which, or the terms or conditions upon which, said defendant sells or offers to sell any product;

(C) Requesting from any producer, distributor, or seller of any product any information which said defendant could not communicate without violating subparagraphs (A) and (B) of this Section V.

VI

Nothing in this Final Judgment shall prohibit any defendant from:

(A) Formulating or submitting with any producer, distributor, or seller of any product a bona fide joint bid or quotation, when the submission of such joint bid or quotation has been requested by or is known to the purchaser;

(B) Communicating information to another producer, distributor, or seller of any product in the course of, and related to, negotiation for, or entering into, or carrying out a bona fide purchase or sale transaction with such other producer, distributor, or seller of any product.

(C) Dealing or communicating with a parent or subsidiary corporation or a corporation under common ownership with such defendant.

(D) Advertising to the public or trade generally present or future prices at which, or terms or conditions upon which any product is then being, or will be sold or offered for sale.

VII

Each defendant is ordered and directed for a period of five (5) years from the date of entry of this Final Judgment to affix to every written bid or quotation submitted in the Commonwealth of Kentucky by said defendant for any product or any combination thereof a written certification, in substantially the form set forth in Appendix A attached hereto, signed by an officer or employee of such defendant having authority to determine the price or prices bid or quoted and responsible for the preparation of bids or quotations, that said bid or quotation was not the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between such defendant and any other person, which is prohibited by the provisions of this Final Judgment.

VIII

Each defendant is ordered and directed to:

(A) Within thirty (30) days after the date of entry of this Final Judgment, furnish a copy thereof to each of its officers and directors, and also to any employee having pricing authority or responsibility in connection with the sale of any product in the Commonwealth of Kentucky;

(B) Furnish a copy of this Final Judgment to each new officer, director, and also to any employee having pricing authority or responsibility in connection with the sale of any product in the Commonwealth of Kentucky within thirty (30) days after employment;

(C) Attach to each copy of this Final Judgment furnished pursuant to subsections (A) and (B) of this Section VIII a statement, in substantially the form set forth in Appendix B attached hereto, advising each person of his obligations and of such defendant's obligations under this Final Judgment, and of the penalties which may be imposed upon him and/or upon such defendant for violation of this Final Judgment; and

(D) To file with this Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subsections (A) and (C) of this Section VIII.

IX

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any of the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant, and without restraint or interference from it, to interview officers, employees, directors, partners or agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under the Federal Rules of Civil Procedure", then ten (10) days' notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

X

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, or for the enforcement of compliance therewith, and punishment of violations thereof.

XI

This Final Judgment shall terminate and cease to be effective ten (10) years from the date of its entry.

Entry of this Final Judgment is in the public interest.

Entered:————————

United States District Judge.

Appendix A

The undersigned hereby certifies that, to his best knowledge and belief, that, except as specifically permitted by Section VI of this Final Judgment, the attached bid has not been prepared in collusion with any other producer, distributor, or seller of any product, and that the prices and other terms and conditions thereof have not been communicated by or on behalf of the bidder to any such producer, distributor, or seller of any product other than the recipient of this bid and will not be communicated to any such producer, distributor, or seller of any product prior to the official opening of said bid.

Dated: ————————

Signature of Official Having Authority To Determine the Price or Prices Bid or Quoted.

Appendix B

Notice

Re: *United States* v. *Medusa Aggregates Company, et al.*

Attached hereto is a copy of a Final Judgment entered ————————, 1979, in the captioned case. We are required to provide this to you, and you should read it carefully. The provisions of the Final Judgment contained in paragraphs IV, V and VII apply to you, and violation of these provisions by you may subject both you and the Company to fines and/or imprisonment.

United States District Court for the Western District of Kentucky

Civil Action No. 77-0109-0-(G)

United States of America, Plaintiff, v. Medusa Aggregates Co.; Owensboro River Sand & Gravel Co., Inc.; Kapco, Inc.; Fort Hartford Stone Co., Inc.; and Daviess County Sand & Gravel Co., *Defendants;* Filed: 7-30-79.

Competitive Impact Statement

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), the United States filed this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On July 22, 1977, the United States filed a civil antitrust Complaint alleging that four corporations and one partnership conspired to fix prices in violations of Section 1 of the Sherman Act, 15 U.S.C. § 1.

The Complaint alleges that beginning some time in about 1973 and continuing thereafter at least until May 1976, the defendants engaged in a combination and conspiracy: (a) to fix, raise, stabilize, and maintain the prices of stone and to allocate the sales of stone in Daviess County, Kentucky; (b) to fix, raise, stabilize, and maintain the prices of sand and to allocate the sales of sand sold for use in asphalt paving mixture in Daviess County, Kentucky; (c) to allocate the sales of asphalt mixture in Daviess County, Kentucky; and (d) to allocate the sales of asphalt paving services in Daviess County, Kentucky.

The Complaint seeks a judgment by the Court declaring that defendants engaged in an unlawful combination and conspiracy in

restraint of trade in violation of the Sherman Act. It also seeks an order by the Court to enjoin and restrain the defendants from such activities in the future.

The four corporations named in the Complaint are: Medusa Aggregates Company; Owensboro River Sand & Gravel Co., Inc.; Kapco, Inc.; and Fort Hartford Stone Company, Inc. The partnership defendant is Daviess County Sand & Gravel Co.

All of the defendants to this action have previously pleaded *nolo contendere* to criminal felony charges with respect to this alleged conspiracy. A fine of $303,000 was levied against Medusa Aggregates Company; a fine of $50,000 was levied against Owensboro River Sand & Gravel Co., Inc.; a fine of $22,500 was levied against Kapco, Inc.; a fine of $22,500 was levied against Fort Hartford Stone Company, Inc.; and a fine of $15,000 was levied against Daviess County Sand & Gravel Co. This civil action has been held in abeyance until the criminal felony charge was resolved.

II

Description of the Practices Giving Rise to the Alleged Violations of the Antitrust Laws

For the purpose of this case, the Complaint defines "asphalt mixture" as paving material composed of a combination of derivatives of crude petroleum and various mineral aggregates, especially limestone. The Complaint defines "asphalt paving services" as those services using asphalt mixtures which are necessary for the construction and maintenance of paved surfaces, including, but not limited to, highways, playgrounds, sidewalks, parking lots, and driveways.

During the period covered by the Complaint the following defendants sold stone in Daviess County, Kentucky: Medusa Aggregates Company; Owensboro River Sand & Gravel Co., Inc.; and Fort Hartford Stone Company, Inc. During the period covered by the Complaint the following defendants sold sand: Owensboro River Sand & Gravel Co., Inc.; Fort Hartford Stone Company, Inc.; and Daviess County Sand & Gravel Co. During the period covered by the Complaint the following defendants sold asphalt mixture: Medusa Aggregates Company; Owensboro River Sand & Gravel Co.; Kapco, Inc.; and Daviess County Sand & Gravel Co. During the period covered by the Complaint the following defendants provided asphalt paving services: Medusa Aggregates Company; Owensboro River Sand & Gravel Co., Inc.; and Daviess County Sand & Gravel Co. Significant amounts of the stone, sand, and asphalt mixture sold by the defendants during the period covered by the Complaint were used on public construction projects. Significant amounts of the asphalt paving services provided by the defendants involved public highway construction projects.

The Complaint alleges that the defendants engaged in a combination and conspiracy beginning some time in about 1973 and continuing thereafter at least until May 1976 that consisted of a continuing agreement, understanding, and concert of action among themselves and co-conspirators, the substantial terms of which were:

(A) To fix, raise, stabilize, and maintain the prices of stone and to allocate the sales of stone in Daviess County, Kentucky;

(B) To fix, raise, stabilize, and maintain the prices of sand and to allocate the sales of sand sold for use in asphalt mixture in Daviess County, Kentucky;

(C) To allocate the sales of asphalt mixture in Daviess County, Kentucky; and

(D) To allocate the sales of asphalt paving services in Daviess County, Kentucky.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

(A) Prices of stone, sand, asphalt mixture, and asphalt paving services in Daviess County, Kentucky, were fixed, raised, stabilized, and maintained at artificial and non-competitive levels;

(B) Competition in the sale of stone, sand, asphalt mixture, and asphalt paving services in Daviess County, Kentucky, was restrained; and

(C) Customers were deprived of the benefits of free and open competition in the markets for stone, sand, asphalt mixture, and asphalt paving services in Daviess County, Kentucky.

III

Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Final Judgment states that it constitutes no admission by any party with respect to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest. (See Section XII of the proposed Final Judgment.)

For the purpose of this case, the Final Judgment defines "product" as asphalt mixture, asphalt paving services, stone or sand.

The proposed Final Judgment enjoins any direct or indirect renewal of the type of conspiracy alleged in the Complaint. Specifically, Section IV provides that the defendants are enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any person to:

(A) Determine, fix, raise, stabilize or maintain prices or other terms or conditions for the sale of any product to any third person in the Commonwealth of Kentucky;

(B) Submit collusive or rigged bids or quotations for the sale of any product in the Commonwealth of Kentucky;

(C) Allocate any sales of any product in the Commonwealth of Kentucky.

Section V further enjoins each defendant from communicating the defendant's present or future prices, terms or conditions for any product to any producer, distributor, or seller of any product.

Section VII requires that, for a period of five (5) years from the date of entry of the Final Judgment, each defendant affix to every written bid or quotation submitted in the Commonwealth of Kentucky by said defendant for any product or any combination thereof a written certification signed by an officer or employee of such defendant having authority to determine the price or prices bid or quoted and responsible for the preparation of bids or quotations, that said bid or quotation was not the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between such defendant and any other person, which is prohibited by the provisions of the Final Judgment.

Section VIII of the proposed Final Judgment orders and directs each defendant to:

(A) Furnish a copy of the Judgment, within thirty (30) days after the entry of the Judgment, to each of its officers and directors, and also to any employee having pricing authority or responsibility in connection with the sale of any product in the Commonwealth of Kentucky;

(B) Furnish a copy of the Judgment to each new officer, director, and also to any employee having pricing authority or responsibility in connection with the sale of any product in the Commonwealth of Kentucky within thirty (30) days after employment;

(C) Attach to each copy of the Judgment furnished pursuant to subsections (A) and (B) of Section VIII of the Judgment a statement advising each person of his obligations and of such defendant's obligations under the Judgment, and of the penalties which may be imposed upon him and/or upon such defendant for violation of the Judgment;

(D) To file with the Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Judgment, an affidavit as to the fact and manner of its compliance with subsections (A) and (C) of Section VIII.

There are several limited exceptions to the prohibitions against exchange of information set forth in Section V of the Judgment. These exceptions, found in Section VI of the Judgment, relate to possible bona fide joint bids or quotations, bona fide purchases and sales, communications with a parent or subsidiary corporation or corporations under common ownership, and advertisements.

Section XI of the proposed Final Judgment sets the effective period of the Judgment as ten years from the date of its entry.

The proposed Final Judgment is applicable to each defendant and to the subsidiaries, successors, assigns, officers, directors, agents and employees of each defendant, and to all other persons in active concert or participation with any of them who shall have received actual notice of the Judgment. (See Section III of the proposed Judgment.)

Standard provisions similar to those found in other antitrust consent judgments are contained in Section I, concerning jurisdiction of the Court, Section IX, concerning investigation and reporting requirements, and Section X, concerning retention of jurisdiction by the Court over this action.

IV

Remedies Available to Potential Private Plaintiffs

After entry of the proposed Final Judgment, any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which he may have had if the Judgment had not been entered. The proposed Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

V

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216–522–4070), within the 60-day period provided by the Act. These comments and the Department's responses to them will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of it is necessary. Section X of the proposed Judgment provides that the Court retains jurisdiction over this action and that the parties may apply to the Court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

VI

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the proposed Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief against the violations charged in the Complaint.

In reaching an agreement on the proposed Final Judgment, three matters were the principal subjects of negotiation. These matters were the following questions:

1. Whether the scope of Section IV of the Judgment should be nationwide or local;

2. Whether the period during which the Judgment should be effective would be in perpetuity;

3. Whether the injunctive provisions of Section V of the Judgment should apply to defendants' communications with all "persons" as defined in Section II of the Judgment, or only to each defendant's communications with its competitors.

The first matter, concerning the geographic scope of the Judgment, arose because defendants had proposed limiting the Judgment to only those sales occurring in the Owensboro, Kentucky area. The government had originally proposed coverage of all sales regardless of location. A compromise was reached whereby the coverage of the Section includes all sales occurring in the Commonwealth of Kentucky.

The second matter, relating to the effective period of the Judgment, was raised because the defendants proposed limiting the injunctive provisions of the Judgment to five (5) years. The government rejected the defendants' proposal. Subsequently, however, the government proposed, and the defendants agreed, to limit the effective period of the entire Judgment to ten (10) years. This proposal by the government was a reflection of a change in policy by the Antitrust Division. Previously, the Antitrust Division had insisted in cases of this type that negotiated judgments to which it was a party would last in perpetuity. During the time when the proposed Judgment was being negotiated in this case, however, this policy was changed. The present policy is to use an effective period of ten (10) years for judgments in civil cases, like this one, that are filed as companions to criminal indictments, unless there is a particular reason to extend the effective period beyond ten (10) years.

The third matter, relating to whether the injunctive provisions of Section V should apply to each defendant's dealings with all "persons" as defined in Section II of the Judgment or to its dealings with a smaller group, arose because defendants proposed limiting Sections IV and V to only those dealings with competitors. The government proposed a compromise which the defendants accepted. Paragraph IV of the Judgment remains as proposed by the government whereby each defendant is enjoined from engaging in the stated activity with any person. The provisions of Section V, however, were limited to the defendants' dealings with producers, sellers, or distributors of any product as defined in Section II of the Judgment.

VII

Determinative Materials and Documents

No other material or document of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) was considered in formulating this proposed Judgment. Consequently, none is submitted pursuant to that Section.

David F. Hils,

Attorney, Department of Justice.

Donald S. Scherzer,

Paul L. Binder,

Attorneys, Department of Justice Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, Telephone: (216) 522–4082.

[FR Doc. 79-24509 Filed 8-8-79; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-69]

NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC); Meeting

The *Ad Hoc* Informal Advisory Subcommittee on Agriculture, Land Cover and Hydrology of the NAC–STAAC will meet on August 28 and 29, 1979, at NASA Headquarters, Room 226A, Federal Office Building 10B, 600 Independence Avenue SW., Washington, DC 20546. The meeting is open to the public. Members of the public will be admitted to the meeting on both days on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

This Subcommittee, chaired by Dr. Robert M. Ragan, is comprised of ten members of the NAC–STAAC and will review and discuss the research activities in the renewable resources area.

The approved agenda for the meeting is as follows:

August 28, 1979

Time and Topic

9:00 am—Chairperson's Remarks
9:30 am—NASA Response to Subcommittee Recommendations on: land resources plan update, integrated soil moisture plan and hydrology plan update
1:30 pm—Review FY 80 Proposed Research Activities (AGRISTARS implementation plan)
5:00 pm—Adjourn

August 29, 1979

8:30 am—Review proposed SR&T program for renewable resources (including hydrology, water resources, coastal zone, interpretative techniques, sensors, land use and applications pilot test)
1:00 pm—Conclusions and Recommendations
3:00 pm—Adjourn

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, DC at (202) 755–7450.

Frank J. Simokaitis,

Acting Deputy Associate Administrator for External Relations.

August 3, 1979.

[FR Doc. 79-24493 Filed 8-8-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Subcommittee for Ocean Sciences Research; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Ocean Sciences Research of the Advisory Committee for Ocean Sciences.
Date and time: August 27–30, 1979, 9 a.m. to 5 p.m. each day.
Place: Room 628, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. M. Grant Gross, International Decade of Ocean Exploration Section, Room 606, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–7356.
Purpose of subcommittee: To provide the IDOE with additional expertise in the review and evaluation of proposals relating to oceanographic research related to the Coastal Dynamics Experiment and the Vertical Transport and Exchange of Materials in the Upper Waters of the Ocean (VERTEX) Projects.
Agenda: August 27–28: Coastal Dynamics Experiment, Room 628. August 29–30: Vertical Transport and Exchange of Materials in the Upper Waters of the Ocean (VERTEX), Room 628.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

[FR Doc. 79-24539 Filed 8-8-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Availability of Supplement 1 to the Final Environmental Statement on Routine Use of Plutonium-Powered Cardiac Pacemakers

Noticer is hereby given that Supplement 1 to the Final Generic Environmental Statement (NUREG–0060, issued in July 1976) on the routine use of plutonium-powered cardiac pacemakers has been prepared by the Commission's Office of Standards Development.

Supplement 1, prepared in 1978, updates the Final Generic Environmental Statement (FES) with respect to power sources for pacemakers. Particular attention is given to non-nuclear lithium batteries as alternatives to Pu-238 power sources in cardiac pacemakers. Supplement 1 also considers the current extent of pacemaker use and the makeup of the patient population. The Supplement's conclusion is that the conclusion of the Final Generic Environmental Statement is still valid, that is, that the distribution of plutonium-powered pacemakers for routine use should be authorized subject to specific conditions, which are listed in the Summary and Conclusions of the FES, NUREG–0060.

The Supplement and the Final Generic Environmental Statement are available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Requests for single copies of Supplement 1 and the FES should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated.

Interested persons may submit comments on the FES and Supplement 1 for the Commission's consideration. Comments received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. The comments submitted will be considered by the Commission in its deliberations concerning a final rulemaking proceeding on the regulation of plutonium-powered cardiac pacemakers. Comments are due by October 10, 1979.

Comments on the FES and Supplement 1 from interested members of the public should be sent to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Mr. Ralph J. Jones, Chief, Transportation and Product Standards Branch, Office of Standards Development.

Dated at Rockville, Maryland, this 1st day of August 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 79-24562 Filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 40 and 22 to Facility Operation Licenses Nos. DPR–53 and DPR–69 issued to Baltimore Gas & Electric Company, which revised Technical Specifications for operation of the Calvet Cliffs Nuclear Power Plant, Units Nos. 1 and 2 (the facility) located in Calvert County, Maryland. The amendments are effective as of the date of issuance.

The amendments revise the Appendix A Technical Specifications of both Calvert Cliffs Nuclear Power Plant units to (1) implement the degraded grid voltage condition requirements and (2) allow battery capacity testing during operation of the facilities.

The applications for the amendments 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 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 applications for amendments dated June 17, 1977 (as supplemented March 12, 1979) and August 5, 1977, (2) Amendments Nos. 40 and 22 Licenses Nos. DPR–53 and DPR–69, 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, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. 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 31st day of July 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors, Branch #4, Division of Operating Reactors.

[FR Doc. 79-24564 Filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8452]

Bear Creek Uranium Co.; Negative Declaration Regarding Issuance of an Amendment to License SUA-1310 for Operation of the Bear Creek Uranium Mill in Converse County, Wyo.

The U.S. Nuclear Regulatory Commission (the Commission) is issuing a license amendment authorizing a uranium mill expansion by Bear Creek Uranium Company at their Bear Creek Uranium Mill in Converse County, Wyoming.

The Commission's Division of Waste Management has prepared an environmental impact appraisal for the proposed action. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted for there will be no significant environmental impact attributable to the action. The environmental impact appraisal is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Silver Spring, Maryland, this 27th day of July, 1979.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 79-24565 Filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-3, 50-247, and 50-386]

Consolidated Edison Co. of New York, Inc., Power Authority of the State of New York; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 26 and 57 to Provisional Operating License No. DPR-5 and Facility Operating License No. DPR-26, respectively, issued to Consolidated Edison Company of New York, Inc. and Amendment No. 27 to Facility Operating License No. DPR-64 issued to Power Authority of the State of New York (the licensees), which revised Technical Specifications for operation of the Indian Point Station, Unit No. 1 and Indian Point Nuclear Generating Unit Nos. 2 and 3 (the facilities) located in Buchanan, Westchester County, New York. These amendments are effective as of the date of issuance.

These amendments revised the Technical Specifications to consolidate all references to thermal plume mapping into Section 4.1.1.a which, in turn, refers to the conditions of the New York State Certification issued by the Department of Environmental Conservation pursuant to Section 401 of the Clean Water Act.

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 amendment dated April 12, 1979; (2) Amendment Nos. 26, 57, and 27 to DPR-5, DPR-26, and DPR-64, respectively; and (3) the Commission's letter dated July 11, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. 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 11th day of July, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch 1, Division of Operating Reactors.

[FR Doc. 79-24566 Filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, MP 711-4, is entitled "Standard Format and Content for a Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance" and is intended for Division 5, "Materials and Plant Protection." It identifies the information required in the physical security plan submitted as part of an application to possess, use, or transport special nuclear material (SNM) of moderate strategic significance or 10 kg or more of low strategic significance and recommends a standard format for presenting the information. Further, this guide explains the intent of various provisions of regulations governing these categories of SNM adopted on June 21, 1979.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention:

Docketing and Service Branch, by September 21, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 30th day of July 1979.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Siting, Health and Safeguards Standards, Office of Standards Development.

[FR Doc. 79-24563 Filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 68 to Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

The amendment consists of changes to the Fire Protection Systems to reflect the addition of newly installed systems as required by Amendment No. 60 dated October 4, 1978.

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 1, 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 Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 29, 1979, (2) Amendment No. 68 to License No. DPR-57, and (3) the Commission's letter dated July 31, 1979. 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 Appling County Library, Parker Street, Baxley, Georgia 31513. A copy of item (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, this 31st day of July 1979.

For The Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-24567 Filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-S9, "Site Survey for Nuclear Power Plants," has been developed. The Working Group, consisting of Mr. Y. Belot of France; Messrs. H. F. Eggert and H. J. Lade of the Federal Republic of Germany; Mr. L. Venkatesh of India and Mr. J. A. Halpern (Dames & Moore) of the United States of America, developed the initial draft of this Safety Guide from an IAEA collation during meetings on Janaury 8-19 and April 2-6, 1979. The initial Working Group draft was modified by the IAEA Technical Review Committee in a meeting on May 21-25, 1979. We are soliciting comments on revision 1 of this Safety Guide dated June 6, 1979. Comments on this draft received by September 24, 1979, will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Md., this 30th date of July 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 79-24561 Filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Operating License No. DPR-59, issued to the Power

Authority of the State of New York, which revised the license for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, New York. The amendment will become effective twenty days after issuance, unless a hearing has been requested.

The amendment adds a license condition pertaining to the completion of facility modifications to improve the fire protection program.

The licensee's submittals comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated October 23, October 27, and December 21, 1978, and February 8, March 7, and May 7, 1979, (2) Amendment No. 47 to License No. DPR-59, 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, N.W., Washington, D.C., and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126. 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 1st day of August 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-24568 filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 50 and 49 to Facility Operating License Nos. DPR-32 and DPR-37 issued to Virginia Electric and Power Company, which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2 (the facilities) located in Surry County, Virginia. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to allow removal of all part-length control rods from both reactors.

The application for the 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.

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 amendment dated February 21, 1978 (2) Amendment Nos. 50 and 49 to License Nos. DPR-32 and DPR-37, 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, N.W., Washington, D.C., and at the Swem Library, College of William and Mary, Williamsburg, Virginia. 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 July.

For the Nuclear Regulatory Commission.

Marshall M. Grotenhuis,

Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-24569 Filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-32]

Safety Recommendations and Responses; Availability

Aviation Safety Recommendation Letter

A-79-61.—During the National Transportation Safety Board's investigation of the Allegheny Airlines BAC 1-11 accident which occurred at Rochester, N.Y., July 9, 1978, postcrash medical examinations became necessary when a review of the available medical information revealed that the captain had a history of recent, marked changes in visual acuity as well as neurological problems. Because the conduct of the approach was so unusual for an experienced captain and because of this captain's medical history, the Board requested that the captain submit to complete ophthalmologic and neuro-ophthalmologic examinations. The examinations were not completed until 5 months after the accident.

Other recent airline transport accidents in which appropriate medical examinations would have been invaluable to the investigation include: Alaska Airlines at Ketchikan, Alaska, April 5, 1976, when the review of the captain's recent medical history revealed a glucose metabolism disturbance; and National Airlines at Pensacola, Fla., May 8, 1978, when there was an apparent communication problem between the flightcrew and a questionable misinterpretation of the altimeter. Air taxi and air charter accidents in which the need existed to medically evaluate surviving pilots are too numerous to mention.

In response to earlier Safety Board recommendations A-77-24 and 25 relating to need for "implied consent" testing of blood specimens after an accident, the Federal Aviation Administration has begun a regulatory project aimed at "promulgating rules for implied consent to alcohol tests by airmen." In view of these recent accidents, the Safety Board now believes that alcohol tests are only part of the solution and that other medical tests are essential to rule out the possibilities of physiological causes of performance decrements. Currently, the

Board cannot require medical examinations after a survivable accident. Dependence on the willingness and discretion of the crewmember often results in no medical examination or in findings that are untimely or useless.

In view of the above, the Safety Board on July 30 recommended that the Federal Aviation Administration:

Amend 14 CFR 61.3 to include an implied consent clause which would be a condition for the issuance of Class I and Class II airman medical certificates. The implied consent clause should require the holder to submit to any nonpsychiatric medical evaluation included in 14 CFR Part 67 if deemed necessary by the National Transportation Safety Board following any accident/incident and to such biochemical testing essential to establish the absence of alcohol, drugs, or suspected metabolic disorders. The medical examination should be performed by a Regional Flight Surgeon or by an Aviation Medical Examiner designated by a Regional Flight Surgeon. (Class II, Priority Action) (A-79-61)

Railroad Safety Recommendation Letters

R-79-42 through 52, R-79-53, R-79-54 and 55.—About 6:06 p.m. last January 17, the fifth and sixth cars of the seven-car westbound train No. 117 of the Bay Area Rapid Transit District (BART) caught fire while moving through the tunnel under the San Francisco Bay between Oakland and San Francisco, Calif. Forty passengers and two BART employees were evacuated from the burning train through emergency doors into a gallery walkway located between the two single-track tunnels and then into a waiting train in the adjacent tunnel. One fireman died when the gallery suddenly filled with heavy black toxic smoke. Twenty-four firemen, 17 passengers, 3 emergency personnel, and 12 BART employees were treated for smoke inhalation. Property damage was estimated to be $2,450,000.

Investigation disclosed that a poorly fastened undercar equipment cover fell from train No. 363 causing damage and fire to following train No. 117. The investigation also disclosed inadequate inspection procedures, vehicle materials with low flame resistance that produce toxic fumes when burning, and emergency procedures that did not properly coordinate the rescue and firefighting efforts of BART and the Oakland and San Francisco Fire Departments.

Accordingly, on August 2 the Safety Board by three separate letters directed the following safety recommendations to:

Bay Area Rapid Transit Authority

Revise emergency procedures to clarify the necessity of unloading passengers immediately from a stopped burning train in the Transbay Tube and other long tunnel locations. (R-79-42)

Revise emergency procedures to prevent sending rescue trains with other than emergency personnel into tunnel fire and/or accident areas. (R-79-43)

Revise Transbay Tube emergency fan and damper procedures to prevent smoke from engulfing an entire train and/or entry into the gallery. (R-79-44)

Revise emergency procedures to require notifiation of both the San Francisco and Oakland Fire Departments in the event of smoke and/or fire in the Transbay Tube. (R-79-45)

Determine and designate the most effective department or personnel to act as coordinator of rescue efforts involving train fires and/or emergency evacuations. (R-79-46)

Provide a means for fire departments to use their own radio equipment in the Transbay Tube and other long tunnel location. (R-79-47)

Train and equip employees who may be involved in tunnel rescue efforts to manage a smoke and/or fire environment. (R-79-48)

Provide an additional Central Train radio frequency for emergency communications. (R-79-49)

Upgrade the flame resistance of vehicle seat assemblies and other plastic components. (R-79-50)

Provide means of preventing entry of fire through the vehicle floor in areas susceptible to fire. (R-79-51)

Redesign and modify car uncoupling from within the cars in the event of an electrical short or malfunction. (R-79-52)

American Public Transit Association

Review and revise as necessary vehicle inspection procedures and emergency evacuation guidelines for Association members to correct deficiencies noted in this investigation. (R-79-53)

Urban Mass Transportation Administration

Promulgate regulations establishing minimum fire safety standards for the design and construction of Rapid Transit Vehicles. (R-79-54)

Establish overview of Bay Area Rapid Transit District procedures to ensure that the emergency deficiencies noted in this investigation received appropriate remedial action. (R-79-55)

All of the above recommendations are designated "Class II, Priority Action," with the exception of No. R-79-55 which is designated "Class I, Urgent Action." Printed copies of the Safety Board's formal investigation report on this accident are being prepared for distribution and copies will be available in the near future.

Responses to Safety Recommendations

Aviation

A-74-114.—On July 26 the Federal Aviation Administration advised the Safety Board that action with respect to this recommendation (one of ten recommendations issued January 5, 1975, in connection with the Board's special study "Safety Aspect of Emergency Evacuation of Aircraft") has been completed. The recommendation asked FAA to amend 14 CFR 121.417(c)(4) to eliminate the provision which permits carriers to use demonstrations alone to train crewmembers for certain emergency situations, thus requiring performance of drills in the operation and use of emergency exits.

FAA now advises that Amendment 121-148, effective September 29, 1978, revised § 121.417(c) of the Federal Aviation Regulations to require that each crewmember actually operate certain emergency equipment, including emergency exits, during initial training and once each 24 calendar months during recurrent training on each type of aircraft in which they are to serve. FAA provides a copy of revised § 121.417(c) and Operations Review Program Amendment No. 6.

A-75-31 and 32.—FAA's letter of July 26 concerns recommendations issued following investigation of the Air East, Inc., Beechcraft 99A, accident at Johnstown, Pa., January 6, 1974, and supplements FAA's response dated August 5, 1975.

Recommendation A-75-31 asked FAA, when certificating or recertifying a replacement operator, to apply standards equivalent to those applied in authorizing Part 121 operators to use small airplanes in scheduled service as provided by 14 CFR 121.9. In response, FAA stated that the revisions to 14 CFR Part 135, effective December 1, 1978, are compatible with 14 CFR 121.9 and ensure an equivalent level of safety.

Recommendation A-75-32 asked FAA to increase the effectiveness of procedures for surveillance of commuter airline operations by adopting procedures now employed in surveillance of scheduled air carriers, including assignment of responsibility to the appropriate air carrier district offices. FAA notes that with implementation of revised Part 135, the responsibility for all air taxis has also changed. At Washington Headquarters, the air taxi function was transferred from the General Aviation Division, AFS-800, to the Air Carrier Division, AFS-200. Regional responsibility for the air taxi program in those regions which

have both a General Aviation Branch and an Air Carrier Branch was assigned to the Air Carrier Branch. The regions have been advised to assign the air taxi operator to the field office that can best serve the operator and fulfill FAA responsibilities when considering the type of equipment operated. These changes were made in recognition of the impact of the Deregulation Act and the increasing size and complexity of aircraft operated under Part 135. FAA also notes that revisions of 14 CFR Part 135 substantially revised and upgraded requirements for air taxi operations. As a result, Notice N8000.176, "Increased Surveillance for Operators Under New Part 135," was issued April 25, and FAA believes that this will result in an appropriate level of surveillance.

A–77–10.—FAA's letter of July 26 updates status of actions taken to implement this recommendation, issued after investigation of a midair collision between a Cessna 414 and a USAF F4E, near Brighton, Fla., September 13, 1976. FAA reports that in accordance with the recommendation each FAA region that does not have UHF guard-transmitting and receiving capabilities at all control positions where air traffic control services are provided routinely to military tactical flights has been asked to comply with the recommendation and to advise FAA as to the expected implementation date. FAA notes that while all facilities that routinely control military tactical flights do have the capability to transmit and receive on UHF guard frequency, 243.0 MHz, the installation of additional transceiver equipment at *all* control positions, as recommended, has not been fully implemented in total due to other operational priorities and/or budgetary restraints.

FAA reports that, as of July 1, the status of implementation is as follows:

The New England, Eastern, Southern, Western and Pacific Regions are fully implemented.

The Northwest Region is exploring the possibility of acquiring additional equipment through local, FY–79, project funds.

The Alaskan Region expects to be fully implemented by July 1, 1980.

The Central Region's FY–81 budget submission includes funds to complete the project.

The Rocky Mountain Region requested additional remote control air-to-ground channels in the FY–81 F & E budget.

The Southwest Region expects to be fully implemented by March 1982.

The Great Lakes Region's FY–81 and FY–82 F & E budget submission includes requests for funds to complete the project.

A–79–11.—On July 26 FAA responded to this recommendation, issued as a result of investigation into the crash of an Antilles Air Boats, Inc., Grumman G–21A last September 2 near St. Thomas, V.I. Recommended action was that FAA require that all aircraft maintenance logbook sheets be numbered consecutively. (See 44 FR 27509, May 10, 1979.)

FAA notes that Title IX, section 902(e) of the Federal Aviation Act of 1958 concerns the falsification of records and lists certain penalties. FAA recently amended 14 CFR Part 43 by adding a new § 43.12 which prohibits alteration and falsification of maintenance records. Section 121.701, FAR, requires each certificate holder to have an approved procedure in its manual for keeping adequate copies of aircraft maintenance log entries, and § 121.709 requires that an airworthiness release or an aircraft log entry be signed by an authorized certificated mechanic or repairman. The requirements of §§ 135.439 and 135.443 are similar.

FAA has recently surveyed 18 air carrier and air taxi operators to review their maintenance logbook procedures. Fourteen operators have numbering systems for logbook pages. All have procedures which require logbook accountability. A search by FAA's Safety Data Branch for the period January 1977 to May 1979 revealed one violation filed for falsification of an aircraft maintenance logbook record. FAA does not consider this a problem area. FAA does not believe that consecutively numbered logbook pages will deter persons from altering or falsifying records if they have an intent to do so. FAA is preparing and expects to issue within the next 30 days a maintenance bulletin which will request principal airworthiness inspectors to review their assigned operators' manuals to ensure maintenance logbook page accountability.

A–79–12 through 15.—FAA's letter of July 27 responds to recommendations issued following investigation of the February 19, 1978, Columbia Pacific Airlines Beechcraft model B–99 accident at Richland (Wash.) Airport. (See 44 FR 27509, May 10, 1979.)

Recommendation A–79–12 asked FAA to issue an Airworthiness Directive to require compliance with Beechcraft Service Instruction Notice No. 0956, and A–79–13 called for evaluation of the safety of removing door safety chains from other aircraft so equipped and used in passenger revenue operations with a view toward simplified exit of passengers and entry by crash/fire/rescue personnel. FAA reports that it will evaluate the safety of removing door safety chains from all aircraft concerned that are engaged in passenger operations. The evaluation, expected to be completed by mid-November 1979, will include passenger egress and crash/rescue/fire entry aspects.

Recommendation A–79–14 called for amendment of 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, and A–79–15 asked FAA to amend 14 CFR Part 135 Appendix A (paragraph 32) by incorporating the general provisions of 14 CFR Part 25.811(f)(1), (2), and (3) with regard to exit conspicuity and operability. FAA reports on a survey made during the latter part of 1978 to determine if there is a need to open emergency exits from outside the aircraft and if there is any difficulty in finding the exits. FAA analyzed 561 accidents occurring in 1977 and 1978 and found no mention of any difficulty in egress or in finding exits. FAA is, however, continuing to investigate and expects to make a decision relative to the rulemaking effort by December 1 this year.

A–79–16 through 20.—Another letter dated July 27 provides FAA's response to recommendations issued as a result of Safety Board investigation of the Continental Airlines DC–10 which on March 1, 1978, overran the departure end of a runway at Los Angeles International Airport. (See 44 FR 27510, May 10, 1979.)

In response to recommendation A–79–16, which asked FAA to fund and give highest priority to an evacuation slide fabric test project to develop and certificate fire-resistant materials for these devices, FAA reports that a research and development (R&D) project has been initiated to assess the performance of slide materials which can provide significant improvement in fire protection. FAA expects the R&D project to be completed by July 1, 1980, and regulatory action will be contingent on the R&D findings.

With respect to A–79–17, calling for an Airworthiness Directive requiring the strengthening of the girt fabric of the PICO 26-foot slide/raft to insure its reliability when the unit is deployed at its most critical angle, FAA states that the PICO slide/raft is not considered unique with respect to girt designs of other approved slide/rafts. FAA plans to begin reviewing, by the end of September 1979, the need for upgraded loading requirements applicable to all slide/raft devices. Regulatory action will be contingent on the findings of the review.

FAA reports that it is preparing a revision to Technical Standard Order TSO–C69 to include requirements for dual-lane evacuation slides and critical length performance testing, as recommended by A–79–18. A notice of proposed rulemaking will be issued as soon as possible. Also, standards for slide/raft devices, called for by A–79–19, will be included in the revision of TSO–C69.

Recommendation A–79–20 asked FAA to amend 14 CFR 25.809 to require a secondary means of escape at all floor-level cabin exits currently requiring emergency escape slides; the secondary escape means could be ropes or other means demonstrated to be suitable for evacuation pruposes. FAA notes that TSO–C69 now requires that inflatable slides be constructed to permit their use as noninflatable hand-held slides in the event of puncture or other cause which may render the slide incapable of inflation. Also, certification of the aircraft emergency evacuation system requires that the aircraft be evacuated within 90 seconds with the use of only 50 percent of the emergency exits and slides. This provides latitude for use of an alternate exit if a slide fails to inflate. While escape aids, such as ropes and inertia reel devices, are currently approved for use by trained flight crewmembers, FAA does not believe that these devices are suitable for use by evacuating passengers. FAA says that use of these devices, in lieu of inflatable or hand-held slides, could result in a significant reduction in evacuation rate and could be extremely hazardous to persons not trained to use a rope or similar device. Further, it would be difficult, if not impossible, for certain persons such as elderly persons, children, or handicapped individual to safely use these devices. FAA has no evidence at present to support rulemaking as recommended.

Highway

H–78–10.—The Federal Highway Administration on July 24 forwarded to the Safety Board copies of the executive summary and the full report entitled "Safety-Related Information Needs," as referenced in FHWA's formal response of January 12, 1979, to this recommendation. (See 44 FR 5216, January 25, 1979.) The recommendation was issued in conjunction with the Safety Board's 1978 report, "Safety Effectiveness Evaluation of the National Highway Traffic Safety Administration's National Accident Sampling System" (NASS). FHWA reports that since January 1979, the basic material in this report has been used by the joint FHWA/NHTSA committee concerned with revision of NASS to address FHWA needs. The Board on February 1 acknowledged FHWA's January 12 letter and said that recommendation H–78–10 would be held in open acceptable-action status until the task force completed its work.

H–79–8.—The Governor of the State of Michigan on July 19 responded to a recommendation issued last March 22 following investigation of the schoolbus-type bus accident which occurred near Tifton, Ga., April 11, 1978. The bus, operated by the Ypsilanti (Mich.) Boys Club, was en route to Disney World, Fla., at the time of the accident. The recommendation asked the State of Michigan to provide at least an annual motor vehicle inspection program for vehicles that seat 10 or more persons and buses that are not presently required to be inspected. (See 44 FR 18748, March 29, 1979.)

In response, the Governor stated that he signed into law on December 28, 1978, Act No. 547 of the Public Acts of 1978 which makes it mandatory for every bus or vehicle of 12 passengers or more to be inspected by the Michigan State Police annually, or more frequently when violations are found. This will help ensure the safety of all persons in Michigan who are transported in vehicles owned by or leased by a school, religious organization, nonprofit youth organization, nonprofit rehabilitation facility, or senior citizen center. The Governor also said that the mechanical condition of a bus on the highway is still the sole responsibility of the owner, organization, driver or designated person in charge of the vehicle. It is not the responsibility of the inspecting authority. Further the Governor stated:

> In our program, the Department of State Police will, in addition to inspection, provide expertise and guidance to establish preventive maintenance programs and record keeping. This will assist in the maintenance of vehicles and serve as a major step toward preventing recurrence of such incidents. I am also concerned regarding the driver qualifications for operating a bus. I have asked the Michigan State Safety Commission to review this issue and provide recommendations.

Marine

M–79–8.—On July 19 the National Oceanic and Atmospheric Administration (NOAA) responded to the Safety Board's May 29 letter which commented on NOAA's response of May 3 (44 FR 31333, May 31, 1979). The recommendation was developed as a result of Board investigation of the capsizing of the charter fishing boat DIXIE LEE II on June 6, 1977, and suggested that the National Weather Service (NWS) include more detailed information as to the severe weather condition for which a severe thunderstorm warning is issued.

The Board agreed that the issue at hand is awareness of the meaning of a severe thunderstorm warning. The Board is convinced that many NWS information users are not aware that a severe thunderstorm designation means wind speeds of 50 kns. or greater, which is why the Board recommended including wind speed in the warning. The Board noted that NOAA will encourage its forecasters to mention wind speed thresholds where possible and asked to be provided with a copy of any directive or notice to NOAA forecasters which comments on the use of wind speed factors. The Board also asked for a detailed description of NOAA's program of public awareness to aid in evaluating the proposed solution to the problem of misinterpretation of the NWS severe thunderstorm warnings.

In response, NOAA provided a copy of NWS instructions for the preparation of marine forecasters and warnings which are contained in the Weather Service Operations Manual Chapter D–51. NOAA said that additional instructions, to mention wind speed in severe thunderstorm warnings when possible, will be included in the next printing of D–51. Meanwhile, NOAA relayed this instruction to its regions by means of a copy of its May 3, 1979, response. NOAA also provided a copy of a warning message issued by the Weather Service Forecast Office at New Orleans which indicates that this instruction is being applied. NOAA plans to publicize the meaning of severe thunderstorm warnings by having a definition of this warning published in Coast Guard's Local Notice to Mariners and taped spot announcements to be aired over NOAA Weather Radio (NWR). In addition to Local Notice to Mariners and NWR, opportunities to promote public awareness of NOAA's programs are afforded by NWS participation in National Boat Shows, Safe Boating Week activities, National Boating Organizations and Fisherman's Cooperatives.

M–79–55.—The Crescent River Port Pilots Association on July 13 responded to a recommendation issued on May 3 following investigation into the collision between the U.S. Navy submarine tender L. Y. SPEAR and Liberian tanker ZEPHYROS in the lower Mississippi River, February 22, 1978. The recommendation asked the Association to reassess its practices and those 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. (See 44 FR 27511, May 10, 1979.)

The Association notes its acute awareness of the need for extreme care and extraordinary cuation in the movement of vessels laden with crude oil or other hazardous bulk cargoes. The problem is under study and consideration is being given to the need for a comprehensive program dealing with such cargoes in the Port of New Orleans. The Association is examining the Federal regulations, particularly Title 46, which define such hazardous cargoes and give some guidance as to their care and shipment. The Association will work closely with the Board of Commissioners for the Port of New Orleans and with the New orleans Steamship Association, both in promulgating and effectuating necessary precautionary procedures. The Association asked for copies of any Safety Board publications relative to the transportation of dangerous cargoes in congested waters, such as those of the Port of New Orleans.

Pipeline

P–79–14 and 15.—The U.S. Department of the Interior on July 27 acknowledged receipt of recommendations issued July 13 during investigation of the June 10 and June 15 oil leaks resulting from wrinkles in the Alyeska Service Company's 48-inch crude oil pipeline in Alaska. (See 44 FR 43825, July 26, 1979.) Interior advises that the recommendation letter has been forwarded to the authorized officer of the Alaska Pipeline Office for review, with the request that the continued necessity be kept in mind to implement effective measures to prevent oil leaks and other accidents whenever possible.

Railroad

R–79–1 and 2.—The New York City Transit Authority (NYCTA) on June 28 provided additional comments in response to recommendations issued last January 19 during the Safety Board's investigation of the derailment of an eight-car subway train in New York City last December 12. The recommendations urged NYCTA to immediately inspect all their rapid transit cars to determine if wheels had been subjected to above normal heat and to remove from service any wheel that shows evidence of thermal damage (R–79–1) and to immediately equip handbrakes on NYCTA rapid transit cars with a positive indicator so that an operator can determine if the brake is applied or fully released (R–79–2). (See 44 FR 6537, February 1, 1979.) NYCTA's initial response was provided under date of March 8 (44 FR 24659, April 26, 1979).

NYCTA now reports that it has acted to materially reduce the risk of broken rail derailments on the subway and that the most recent monthly inspection of wheels revealed only one wheel with a flaw in it. NYCTA says that enforcement of prescribed checking by motormen for proper handbrake release and other preservice inspections has contributed to the major reduction of thermal damage to wheels. Installation of handbrake application indicator lights is planned to begin in March 1980 and the program is expected to be completed in February 1981. Refining of design and parts procurement have set back NYCTA's schedule. Also, NYCTA reports that a consultant is reviewing its practices and procedures in detail.

After reviewing NYCTA's response letters and considering facts developed in the public hearing of May 10–11, 1979, the Safety Board on July 25 advised NYCTA that recommendation R–79–1 was being closed out, "acceptable action." The Board noted with reference to R–79–1 that the initial inspection of all wheels of the NYCTA fleet fulfilled the primary objective of the recommendation and that the validity of the recommendation has been established in that the initial inspection and subsequent inspections have disclosed flawed wheels. The Board stated that it has been conclusively demonstrated that a partially applied handbrake can cause rapid thermal damage to a wheel. The Board is pleased to note that the requirement for motormen to inspect for proper handbrake release is being enforced. This procedure, as well as preservice inspections, has sharply reduced the thermal-damaged wheel problem.

The Board stated on July 25 with reference to recommendation R–79–2 that although the first schedule of retrofitting has been set back one year, the measures being taken by NYCTA are in accord with the intent of this recommendation. The Safety Board wishes to be informed of other schedule changes, if any, and advised when the handbrake indicator program has been completed. Until the entire fleet has been modified, the Board will continue to classify recommendation R–79–2 in an open status.

Note.—Copies of recommendation letters issued by the Safety Board, response letters, 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)).)

Dated: August 6, 1979.

Margaret L. Fisher,

Federal Register Liaison Officer.

[FR Doc. 79–24591 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–58–M

[Docket Nos. SA–469 (Downeast) and SA–470 (Air New England)]

Aviation Accident Investigation Hearing: Boston, Massachusetts

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9 a.m. (local time) September 11 through September 14, 1979, in the first floor conference room of the Transportation Systems Center, Kendall Square, Cambridge, Massachusetts.

The public hearing will be held in connection with the Safety Board's investigation of the Downeast Airlines, Inc., deHavilland DHC–6, N68DE accident which occurred at Rockland, Maine, on May 31, 1979, and the Air New England, Inc., deHavilland DHC–6, N383EX accident which occurred at Hyannis, Massachusetts, on June 19, 1979.

Dated: August 3, 1979.

James W. Kuehl,

Senior Hearing Officer.

[FR Doc. 79–24592 Filed 8–8–79; 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, extensions, or reinstatements. 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 E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6202

Revisions

Economics, Statistics, and Cooperatives Service
Pesticide survey—Vegetables
Annually
Vegetable growers; 5,000 responses, 3,750 hours
Off. of Federal Statistical Policy & Standard, 673–7974
Economics, Statistics, and Cooperatives Service
Cost of production survey
Annually
Selected dairy and crop producers; 1,980 responses, 4,482 hours
Off. of Federal Statistical Policy & Standard, 673–7974
Economics, Statistics, and Cooperatives Service
*Papaya acreage survey
Monthly
Papaya growers; 1,596 responses, 213 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245–7488

Extensions

Social Security Administration
*Request for withdrawal or application
SSA–521
On occasion
Disinterested person withdrawing application; 100,000 responses, 8,333 hours
Barbara F. Young, 395–6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John T. Murphy—755–5190

Revisions

Housing production and mortgage credit
Development program of public housing agency
Development cost budget/cost statement
HUD 52483 & HUD 52484
On occasion
Public housing agencies; 500 responses, 1,000 hours
Budget Review Division, 395–4775

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Alyce Harding—377–6025

Revisions

Lender's schedule of housing opportunity allowances
FHLBE–647
Monthly
Banking institutions; 1,440 responses, 1,440 hours
Susan B. Geiger, 395–5867

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389–2282

New Forms

Service connected priority program
Single time
603 vets in an outpatient clinic
David P. Caywood, 395–6140

Service connected priority program
Single time
603 vets in an outpatient clinic
David P. Caywood, 395–6140

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-24564 Filed 8-8-79; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM–8/210]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The working Group on International Multimodal Transport and Containers of the Subcommittee on Safety of Life at Sea (SOLAS) will hold an open meeting at 9:30 A.M. on August 28, 1979 in Room 4234 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purposes of the meeting is to discuss matters germane to multimodal transport and containers. The following specific issues will be addressed during the meeting:

1. Debriefing of the meeting of the 20th session of the IMCO Subcommittee on Containers and Cargoes held in London, March 5–9, 1979;

2. Discussion of the U.S. position for the meeting of the Group of Experts on Combined Transport (GECT), formerly the Group of Rapporteurs on Container Transport, to be held September 10–14, 1979, in Geneva, including the following items:

a. *Convention on International Multimodal Transport:* Preparation for the UN Conference on a Convention on International Multimodal Transport.

b. *Taxation of Containers:* Report on the U.S. Supreme Court decision that the County of Los Angeles may not tax foreign-owned containers used in foreign commerce.

c. *Refreigerated Containers:* discussion of ATP Convention which came into force in 1976 and an exchange of information and views on the transportation of refrigerated containers.

d. *Piggy-back Transportation:* discussion of studies on movement of truck trailers by rail in light of shortages and steep price increases for diesel fuel and of the competitive impact on truck transport.

e. *Container Standards:* discussion of container standards based on report of UNCTAD ad hoc Intergovernmental Group on Container Standards for International Multimodal Transport.

f. *Convention for Safe Containers:* discussion of implementation procedures and other problems.

g. *Ocean Bills of Lading:* Report on the Hamburg Rules and its ratification and implementation.

h. *Carriage of Dangerous Goods in Containers:* discussion of possible international regulation for the carriage of dangerous goods in containers.

i. *Combined Transport Freight Terminals:* description of U.S. Government work on terminal and interphase factors in modal and combined freight transport operations.

j. *Domestic Intermodal Containerization:* discussion of U.S. Government work on initiation of a domestic intermodal container programs.

3. Other Business.

Requests for further information should be directed to Mr. John Lloyd, Department of State, telephone (202–632–0703) or Mr. Charles Hochman, U.S. Coast Guard, telephone (202–426–1577).

The Chairman will entertain comments from the public as time permits.

Dated: August 1, 1979.

John Lloyd, III,

Acting Director, Office of Maritime Affairs, Department of State.

[FR Doc. 79-24510 Filed 8-8-79; 8:45 am]

BILLING CODE 4710-07-M

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Cases Pending Under Section 301 of the Trade Act of 1974; Initiation of Investigations

This notice is to advise the public of the status of cases pending under Section 301 of the Trade Act of 1974 (Pub. L. 93–618) on the date of enactment of the Trade Agreements Act of 1979. Pursuant to Section 903 of the Trade Agreements Act of 1979, (Pub. L. 96–39) such cases are to be treated as initiated under section 301 of the Trade Act of 1974, as amended by the Trade Agreements Act.

The petitions covered by this notice were publised in the **Federal Register** as follows:

Doc. No. 301–3, Seymour Foods, Inc., 40 FR 34649, August 18, 1975.
Doc. No. 301–5, Great Western Malting Co., 40 FR 54311, November 21, 1975.
Doc. No. 301–6, Millers National Federation, 40 FR 57249, December 8, 1975.
Doc. No. 301–7, National Canners Association, 41 FR 15385, April 12, 1976.
Doc. No. 301–11, Florida Citrus Commission, California-Arizona Citrus League, Texas Citrus Mutual, Texas Citrus Exchange, 41 FR 52567, November 30, 1976.
Doc. No. 301–13, Tanners Council of America, 42 FR 42413, August 23, 1977.
Doc. No. 301–15, Certain U.S. Television Licenses, 43 FR 39617, September 6, 1978.
Doc. No. 301–16, Great Plains Wheat, 43 59935, December 22, 1978.
Doc. No. 301–17, Cigar Association of America, Inc., 44 FR 19063, March 30, 1979.
Doc. No. 301–18, American Institute of Marine Underwriters, 44 FR 32057, June 4, 1979.

These petitions will be treated as investigations initiated on July 26, 1979, the date of enactment of the Trade Agreements Act of 1979, under Section 302(b)(2) of the Trade Act of 1974 and any information developed by, or submitted to, the Special Representative before such date under the review shall be treated as part of the information developed during such investigation.

With respect to the issues raised in each of these complaints, the Special Representative has requested consultations with the foreign country or instrumentality concerned. Accordingly, the requirements of Section 303 of the Trade Act of 1974, as amended, have been fulfilled.

The semiannual report on the status of pending Section 301 petitions may be obtained on request from the Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations, Room 715, 1800 G Street, N.W., Washington, D.C. 20506.

Michael Gadbaw,

Chairman, Section 301 Committee.

[FR Doc. 79-24575 Filed 8-8-79; 8:45 am]

BILLING CODE 3190-01-M

Special Tariff Treatment for Least Developed Developing Countries; Notice of Proposed Action

AGENCY: Office of the Special Representative for Trade Negotiations.

ACTION: Notice of Proposed Action.

SUMMARY: This notice is issued in accordance with Section 503 of the Trade Agreements Act of 1979 (Pub. L. 96–39), to advise the public of, and to request public comment regarding, proposed action under Section 503(a)(2) of the Trade Agreements Act of 1979 to implement on the effective date of the first reduction (in most cases January 1, 1980) the full tariff reduction agreed to in the Multilateral Trade Negotiations (MTN) for products which the President determines are not import sensitive and which are the product of a least developed developing country.

DATE: Comments must be received in writing on or before September 5, 1979.

ADDRESS: Comments should be provided in 20 copies and should be addressed to: Secretary, Trade Policy Staff Committee, Office of the Special Representative for Trade Negotiations, Room 729, 1800 G Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Doral Cooper, Office of the Special Trade Representative, Room 711, 1800 G Street, N.W., Washington, D.C. 20506. 202–395–6971.

SUPPLEMENTARY INFORMATION: Section 503(a)(2)(A) authorizes the President to exceed the limitations in section 109 (a) of the Trade Act of 1974 (19 U.S.C. 2119(a)) to the extent necessary to give least developed developing countries the benefit of the total tariff reduction agreed to in the MTN immediately as soon as any part of the concession becomes effective, although in most cases other supplying countries of the same article would benefit from tariff reductions only in stages.

The tariff reductions agreed to in the MTN are recorded in Schedule XX of the United States to the General Agreement on Tariff and Trade annexed to the June 30, 1979 (Geneva) Protocol. Copies of Schedule XX are available for inspection in reading rooms at the Office of the Special Trade Representatives, Room 721, 1800 G Street, N.W., Washington, D.C. and the U.S.

International Trade Commission, 701 E St, N.W., Washington, D.C.

Least developed developing countries are defined in Section 503 (a)(2)(A) as those countries in the United Nations General Assembly list of "Least Developed Countries" and which are beneficiary developing countries of the Generalized System of Preferences under Section 502 of the Trade Act of 1974 (19 U.S.C. 2462). The following countries currently meet this criteria:

Afghanistan, Bangladesh, Benin, Bhutan, Botswana, Burundi, Cape Verde, Central African Empire, Chad, Comoros, Ethiopia, Gambia, Guinea, Haiti, Lesotho, Malawi, Maldives, Mali, Nepal, Niger, Rwanda, Somalia, Sudan, Western Samoa, United Republic of Tanzania, Upper Volta, Democratic Yemen.

It is proposed that the following TSUS items not be subject to designation under this proposed action pursuant to Section 503(a)(2)(A).

370.04 through 383.95.

700.75, 702.06, 702.12, 702.54, 702.56, 702.60, 702.65, 702.70, 702.75, 702.80, 703.05, 703.10, 703.15, 704.05, 704.10, 704.15, 704.20, 704.25, 704.30, 704.32, 704.55, 704.56, 704.60, 704.65, 704.70, 704.85, 704.90, 706.20, 706.22, 727.82.

William B. Kelly,

Chairman, Trade Policy Staff Committee.

[FR Doc. 79-24586 Filed 8-8-79; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-79-15]

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: August 29, 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 August 3, 1979.

Carl B. Schellenberg,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19420	Huntington Beach Police Dept. (HBPD)	14 CFR Part 45	To allow petitioner to delete bottom registration marks from three (3) HBPD Bell 47 helicopters.
19332	Soaring Society of America	14 CFR 91.42(a)(1)	To allow petitioner to operate aircraft that have an experimental certificate, for other than the purpose for which the certificate was issued.
19428	Metro Airlines	14 CFR 135.171	To allow petitioner to operate their aircraft without the shoulder harnesses required by section 135.171.
19426	Robert Kevin Flom	14 CFR 135.243(a)	To permit petitioner to serve as pilot-in-command for Commuter Airlines without holding an airline transport pilot certificate (ATPC).
19425	Garret E. Taylor	14CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19427	Kal Aero, Inc	14 CFR 135.149(c)	To permit petitioner to operate its Cessna Citation without a third attitude gyroscopic indicator for a period of 180 days.
19432	Edwin F. Herr, Jr	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19433	Edward R. Watson, Jr	14 CFR 121.383(c)	To permti petitioner to continue to serve as a pilot in air carrier operatins after having reached his 60th birthday.
19434	William B. Moody	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19435	Wayne E. Cook	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19436	Edward E. Wood	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
19150	Mr. Jack Valenti	14 CFR § 135.149(c)(1)	To permit operation of its Citation aircraft N 50WM without a third attitude gyroscopic indicator. *Denied 7/26/79.*
18109	Midwest Air Charter	14 CFR §§ 121.371(a) and 121.378.	To allow petitioner to extend Exemption No. 2581 which expires on July 31, 1979, to permit it to use foreign certificated repair stations to contract for inspecton, repair and overhaul of Caravelle SE-210 aircraft components. *Granted 7/18/79.*
18743	Charles F. Willis III	14 CFR Pt. 121	To allow the petitioner an amendment of Exemption No. 2683, as amended, to add one leased DC-8-33 aircraft N903CL and to delete B-707-320B aircraft N-402PA. *Granted 7/20/79.*

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
16137	Viking Intl. Airlines	14 CFR 121.59(a)	To permit petitioner to employ Mr. Douglas Mattson as its Chief Inspector without meeting the full-time employment requirements. *Granted 7/18/79.*
19163	Shawano Flying Service, Inc	14 CFR § 135.243(a)	To provide relief from the requirement that Pilots-in-Command possess an Airline Transport Pilot Certificate in "Commuter Air Carrier" operations. *Denied 7/18/79.*
19306	Philippine Airlines	14 CFR Pts. 61, 63, and 91	To permit petitioner to use its flight crewmembers to operate B-727 aircraft N725RW and N726RW using the master minimum equipment list for its scheduled service on 8/1/79. *Granted 7/30/79.*
19243	Allegheny Airlines	14 CFR § 121.291(a)(1) and Part 121 App. D.	To allow petitioner to place in passenger-carrying service a B-727-200 with 142 passengers without first conducting a full seating capacity emergency evacuation demonstration. *Granted 7/27/79.*
19171	Air New England	14 CFR 135. 243	To allow James J. Karukas to serve as pilot in command on air New England multi-engine aircraft without being the holder of an Airline Transport Pilot Certificate and not being able to obtain such a certificate for approximately three years because he is under age. *Denied 7/27/79.*
17922	Air Midwest, Inc	14 CFR § 135.136(b)	For an extension of Exemption No. 2582 which permits Air Midwest to assign a flight crew member for duty without his having had at least 10 hours of rest during the preceding 24 hours. *Granted 7/31/79.*

[FR Doc. 79-24522 Filed 8-8-79; 8:45 am]
BILLING CODE 4910-13-M

Office of the Secretary

[Notice No. 79-15]

Advance Notice of Proposed Policy on Citizen Participation in Transportation Planning

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Request for Public Comment on Advance Notice of Proposed Policy.

SUMMARY: The purpose of this advance notice is to solicit comments and opinions on citizen participation in transportation planning. Comments will be reviewed and considered by the Department in developing an overall policy statement. Subsequent proposals on this subject will be preceded by a similar opportunity for comment.

DATES: In order to be considered, comments must be received on or before October 9, 1979.

ADDRESS: U.S. Department of Transportation, Office of Consumer Affairs, Room 9402, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR MORE INFORMATION CONTACT: Lee Gray, Office of Consumer Affairs, Room 9402, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-4520.

SUPPLEMENTARY INFORMATION: State and local agencies using U.S. Department of Transportation (DOT) funds to provide transportation facilities or services are required by laws and regulations to provide for public involvement in the transportation planning and project development process. The Department plans to review and evaluate citizen participation in transportation planning and is soliciting comments and suggestions for improvements.

It is Departmental policy to encourage effective citizen participation early in and throughout the transportation planning and project development process.

This policy has the following objectives:

1. To assure citizens timely access to the process;
2. To assure citizens adequate opportunity to be informed about transportation issues and to become involved in the process;
3. To assure citizens that their comments receive consideration.

The DOT is particularly interested in comments on the following aspects of the transportation planning process related to citizen participation.

1. What opportunities do citizens in your area have to become involved in transportation planning? Are they adequate? How can they be improved?
2. How are citizens informed about transportation systems and facilities that are being planned in your area? Is this process adequate? How can it be improved?
3. What resources are provided to facilitate citizen participation in your area? Are they adequate? How can they be improved?
4. What methods are used to recognize and incorporate citizens' views into your area's decisionmaking process? How can these methods be improved?
5. What should be the DOT role in fostering public participation at the state and local level?

Comments should be submitted on or before October 9, 1979, to the address above. All comments received will be available for review at that address. Based on the Department's review, a draft citizen participation policy will be proposed and offered for public comment. (49 U.S.C. 1651 et seq.)

Issued in Washington, D.C. on August 1, 1979.

Susan J. Williams,

Acting Assistant Secretary for Governmental and Public Affairs.

[FR Doc. 79-24606 Filed 8-8-79; 8:45 am]
BILLING CODE 4910-62-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions Applications; Decision-Notice

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the

method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 106

Decided: July 5, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Joyce not participating in part. Member Jones not participating in part.

MC 119741 (Sub-145F), filed February 13, 1979, previously notice in the **Federal Register** issue of May 11, 1979. Applicant GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Omaha, NE, to points in CO, IL, IN, IA, KS, MI, MN, MO, ND, OH, SD, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Omaha, NE.)

Note.—This republication states the correct restruction.

Volume No. 121

Decided: July 18, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton and Liberman.

MC 106603 (Sub-183F), filed August 29, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles and construction materials* (except commodities in bulk), (a) between Kokomo and Fort Wayne, IN, Joliet and Blue Island, IL, Columbus and Toledo, OH, and Grand Rapids and Lansing, MI, and (b) from Kokomo and Fort Wayne, IN, Joliet and Blue Island, IL, Columbus and Toledo, OH, and Grand Rapids and Lansing, MI, to points in AL, IL, IN, IA, KY, MI, MS, MO, OH, PA, TN, and WI, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from points in AL, IL, IN, IA, KY, MI, MS, MO, OH, PA, TN, and WI to Kokomo and Fort Wayne, IN, Joliet and Blue Island, IL, Columbus and Toledo, OH, and Grand Rapids and Lansing, MI, restricted in (1) and (2) above, to the transportation of traffic originating at or destined to the facilities of Penn Dixie Steel Corporation. (Hearing site: Washington, DC or Chicago, IL.)

Note.—The sole purpose of this application is to eliminate the performance reports condition and the limited term of the duplicating authority currently held by applicant in MC 106603 Sub 133. Issuance of a certificate is subject to the coincidental cancellation, at applicant's written request, of the outstanding certificate in No. MC 106603 Sub 133, issued August 11, 1977.

MC 112713 (Sub-244F), (correction), filed January 31, 1979, published in the **Federal Register**, issue of May 31, 1979, and republished, as corrected, this issue. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign

commerce, over regular routes, transporting *general comodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders under 49 U.S.C. 10102(8), (formerly section 402(a)(5) of the Interstate Commerce Act), (1) Between Marietta, GA, and Miami, FL: From Marietta over Interstate Hwy 75 to junction U.S. Hwy 319, then over U.S. Hwy 319 to junction U.S. Hwys 19 and 27, then over U.S. Hwys 19 and 27 to junction U.S. Hwy 19, then over U.S. Hwy 19 to junction U.S. Hwy 41, then over U.S. Hwy 41, to Miami, and return over the same route, serving all intermediate points in FL; (2) Between Marietta, GA and Key West, FL: From Marietta over Interstate Hwy 75 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction U.S. Hwy 1 at Coral Gables, FL, then over U.S. Hwy 1 to Key West, and return over the same route, serving all intermediate points in FL; (3) Between Lake City and Miami, FL: From Lake City over Interstate Hwy 75 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Miami, and return over the same route, serving all intermediate points; (4) Between Fort Myers and West Palm Beach, FL: From Fort Myers over FL Hwy 80 to junction U.S. Hwy 441, then over U.S. Hwy 441 to West Palm Beach, and return over the same route, serving all intermediate points; (5) Between Tampa and Daytona Beach; FL over Interstate Hwy 4, serving all intermediate points; (6) Between Tallahassee, FL, and the junction of Interstate Hwys 10 and 75; From Tallahassee over Interstate Hwy 10 to junction Interstate Hwy 75, and return over the same route, serving all intermediate points; (7) Between Marietta, GA, and Pensacola, FL: From Marietta over Interstate Hwy 75 to junction Interstate Hwy 85, then over Interstate Hwy 85 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction U.S. Hwy 31, then over U.S. Hwy 31 to junction U.S. Hwy 29, then over U.S. Hwy 29 to Pensacola, and return over the same route, serving all intermediate points in FL; (8) Between Mobile, AL, and Tallahassee, FL, over Interstate Hwy 10, serving all intermediate points in FL; (9) Between Pensacola, FL, and the junction of U.S. Hwy 231 and Interstate Hwy 10: From Pensacola over U.S. Hwy 98 to junction U.S. Hwy 231, then over U.S. 231 to junction Interstate Hwy 10, and return over the same route, serving all intermediate points; (10) Between Marietta, GA and Jacksonville, FL: From Marietta over Interstate Hwy 75 to junction Interstate Hwy 16, then over Interstate Hwy 16 to junction U.S. Hwy 17, then over U.S. Hwy 17 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Jacksonville, and return over the same route, serving Savannah, GA, as an intermediate point and serving all intermediate points in FL; (11) Between Richmond, VA, and Savannah, GA, over Interstate Hwy 95, serving no intermediate points. (Hearing site: Kansas City, MO, or Chicago, IL) The purpose of this republication is to add the freight forwarder bill of lading restriction previously omitted.

Notes.—Common control may be involved. The person or persons who appear to be engaged in control of applicant and other regulated carriers must either file an application under 49 U.S.C. 11343(a) (formerly section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

Volume No. 122

Decided: July 18, 1979. By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 142352 (Sub-5F), (correction) filed February 26, 1979, published in the **Federal Register**, issue of May 8, 1979, and republished, as corrected, this issue. Applicant: HAUSMAN TRUCKING, INC., 607 D Avenue, Vinton, IA 52349. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houes*, as describerd 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 Wilson Foods Corporation at Cedar Rapids, IA, to points in AL, AR, GA, IL (except Chicago, IL, and its commercial zone), TN, and MO, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Oklahoma City, Ok, or Washington, DC) The purpose of this republicatin is to add the destination state of TN, previously omitted.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24545 Filed 8-8-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions Applications; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules Of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Permanent Authority Decisions

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to

timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, and applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (September 10, 1979) (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 106

Decided: July 5, 1979
By the Commission, Review Board Number 1, Members Carleton, Joyce and Jone. Member Joyce not participating in part. Member Jones no participating in part.

MC 200 (Sub-342F), filed March 22, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Proctor & Gamble, at Lima, OH, as an off-route point in connection with applicant's otherwise authorized regular-route operations on U.S. Hwys 68, 40, and 30. (Hearing site: Kansas City, MO.)

MC 200 (Sub-343F), filed March 22, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from St. Joseph, MO, to points in IN and TX. (Hearing site: Kansas City, MO.)

MC 531 (Sub-381F), filed March 26, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *adhesives, adhesive products, and adhesive plasticizers*, in bulk, in tank vehicles, from Hayward, CA, to points in KS. (Hearing site: San Francisco, CA)

MC 531 (Sub-383F), filed March 26, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Belle, WV, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, and WA. (Hearing site: Washington, DC.)

MC 531 (Sub-384F), filed March 27, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products and chemicals*, in bulk, in tank vehicles, from Robinson, IL, to points in AR, LA, and TX. (Hearing site: New Orleans, LA, or Houston, TX.)

MC 1041 (Sub-1F), filed March 19, 1979. Applicant: B. N. CORKUM TRANSPORTATION COMPANY, a Corporation, 326 Ballardvale St., Wilmington, MA 01887. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, and retail and discount department stores, (except commodities in bulk), from Andover, Lawrence, and Wilmington, MA, to points in VT. (Hearing site: Boston, MA.)

MC 2900 (Sub-365F), filed March 27, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the Honda of America Mfg., Inc., at or near Pottersburg, OH, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Columbus, OH, or Washington, DC.)

MC 2960 (Sub-28F), filed March 22, 1979. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, a Corporation, 2301 McKinney St., Houston, TX 77023. Representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Oklahoma City, OK, and Houston, TX, from Oklahoma City over Interstate Hwy 35 to Dallas, TX, and then over Interstate Hwy 45 to Houston, and return over the same route, serving Pauls Valley and Ardmore, OK, and Dallas, TX, as intermediate points and serving Gainesville, TX, for the purpose of joinder only, (2) between Gainesville, TX, and Shreveport, LA, from Gainesville, over U.S. Hwy 82 to Texarkana, AR, and then over U.S. Hwy 71 to Shreveport, LA, and return over the same route, serving Texarkana, AR, as an intermediate point, and serving Gainesvile, TX, for purpose of joinder only, and (3) between Dallas, TX, and Texarkana, AR, over Interstate Hwy 30. (Hearing site: Oklahoma City, OK, or Houston, TX.)

MC 2960 (Sub-29F), filed March 28, 1979. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, a Corporation, 2301 McKinney St., Houston, TX 77023. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic rubber*, from the facilities of Firestone Synthetic Rubber and Latex Company, at or near Lake Charles, LA, to Houston, TX. (Hearing site: Houston or Dallas, TX.)

MC 29990 (Sub-14F), filed March 22, 1979. Applicant: BADGER LINES, INC., 3109 West Lisbon Ave., Milwaukee, WI 53208. Representative: William C. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, in transporting *malt beverages*, from the facilities of C. Schmidt & Sons, Inc., at Cleveland, OH, to points in IL, and those points in IN located in the Chicago, IL, commercial zone as defined by the Commission. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 35320 (Sub-249F), filed March 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrer*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Nu-Cushion Products Company, at or near Keene, TX, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Ft. Worth, TX, or Washington, DC.)

MC 35320 (Sub-250F), filed March 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilties of Dreamline Manufacturing Co., at or near Cabot, AR, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing Site: Little Rock, AR, or Washington, DC.)

MC 35320 (Sub-251F), filed March 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Lasko Metals, at or near Franklin, TN, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing Site: Nashville, TN, or Washington, DC.)

MC 35320 (Sub-252F), filed March 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Diversitech Corporation, at or near Conyers, GA, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing Site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-253F), filed March 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Nash Engineering Company, at or near St. Peters, MO, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing Site: St. Louis, MO, or Washington, DC.)

MC 59680 (Sub-226F), filed March 27, 1979. Applicant: STRICKLAND TRANSPORTATION CO., INC., 11353 Reed Hartman Hwy, Cincinnati, OH 45241. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Amarillo, TX, and the facilities of Wilson Freight Company, at or near Oklahoma City, OK, over Interstate Hwy 40, serving no intermediate points, restricted against the transportation of traffic originating at or destined to points in OK. (Hearing Site: Cincinnati, OH, or Washington, DC.)

Note.—Applicant intends to interline at Amarillo, TX, and Oklahoma City, OK and intends to tack the authority sought herein with other authority held by applicant.

MC 84450 (Sub-2F), filed March 29, 1979. Applicant: S.R.T. MOTOR FREIGHT, INC., 1801 South Pennsylvania Ave., Morrisville, PA 19067. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of United States Steel

Corporation, at Falls Township, Bucks County, PA, to points in MA and RI, restricted to the transportation of traffic originating at the named origin. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 94350 (Sub-427F), filed March 22, 1979. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell Kings, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trailers*, designed to be drawn by passenger automobiles, in initial movements, and (2) *buildings*, in sections, mounted on wheeled undercarriages, from Grand Island, NE, to points in CO, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, UT, and WY. (Hearing site: Omaha, NE.)

MC 95540 (Sub-109F), filed March 26, 1979. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, 1144 West Griffin Road, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *textiles and textile products*, from points in AL, GA, NC, and SC, to Wilmington, DE, and points in MD, PA, NY, NJ, CT, RI, and MA. (Hearing site: New York, NY, or Washington, DC.)

MC 104430 (Sub-54F), filed March 29, 1979. Applicant: CAPITAL TRANSPORT CO., INC., P.O. Box 408, Highway 24 West, McComb, MS 39648. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products, vehicle body sealer, sound deadener compounds, and acoustical control items*, in bulk, in tank vehicles, from points in Warren County, MS, to points in AL, AR, FL, GA, IN, KY, LA, MO, OH, NC, SC, and TN, restricted to the transportation of traffic originating at the facilities of Quaker State Oil Refining Corp., at Warren County, MS. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 113651 (Sub-299F), filed March 29, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *buffing and polishing compounds, cleaning, washing and scouring compounds, softeners and disinfectants* (except medicinal) from Greenville and Mauldin, SC, to points in FL. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 115001 (Sub-8F), filed March 6, 1979. Applicant: WESTERN OIL TRANSPORTATION COMPANY, INC., 2000 South Post Oak, Houston, TX 77001. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *water and oils* used in the completion or repair of gas wells and oil wells, in bulk, in tank vehicles, between points in Chaves, Eddy, and Lea Counties, NM, on the one hand, and, on the other, thos points in TX on and west of U.S. Hwy 281. (Hearing site: Dallas or Houston, TX.)

MC 115311 (Sub-347F), filed March 29, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, 1200 Gas Light Tower, 235 Peachtree Street, NE., Atlanta, Ga 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *limestone*, in bulk, in tank vehicles, from points in FL and GA, to points in AL, AR, FL, GA, KY, MS, MO, NC, OH, OK, SC, TN, TX, VA, and WV. (Hearing site: Atlanta, GA, or Jacksonville, FL.)

MC 115931 (Sub-83F), filed March 22, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, and wood products*, from points in ID, MT, OR, and WA, to points in ND. (Hearing site: Billings, MT.)

MC 116710 (Sub-37F), filed March 27, 1979. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., 2001 East Texas Street, P.O. Box 6176, Bossier City, LA 71010. Representative: Joe T. Lanham, 801 Vaughn Building, 807 Brazos Street, Austin, TX 78701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid molten polypropylene*, in bulk, from the facilities of N. L. Kimes Associates, Inc., at or near Cedar Bayou and Arlington, TX, to points in the United States (except AK and HI), under continuing contract(s) with N. L. Kimes Associates, Inc., of Allison Park, PA. (Hearing Site: Houston, TX, or Washington, DC.)

MC 117730 (Sub-47F), filed March 29, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flux compounds* (except in bulk), from Cleveland, OH, to points in IL, IN, and WI. (Hearing site: Chicago, IL.)

MC 117940 (Sub-316F), filed March 21, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of containers (except commodities in bulk, in tank vehicles), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Amoco Chemicals Corporation. (Hearing site: Chicago, IL.)

MC 119741 (Sub-150F), filed March 26, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, and hardware and discount stores, from the facilities of A. E. Staley Manufacturing Company, at Chicago, IL, to points in IA, KS, MN, MO, NE, ND, and SD, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing Site: Chicago, IL.)

MC 119741 (Sub-154F), filed March 29, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave. NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, 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, in tank vehicles), between the facilities of Mid-Country

Meats, Inc., at Fort Dodge, IA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Fort Dodge, IA.)

MC 127840 (Sub-92F), filed March 29, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: WILLIAM H. TOWLE, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal fats, animal oils, vegetable oils;* and (2) *products* of animal fats, animal oils, and vegetable oils, in bulk, in tank vehicles, from Denison, TX, to points in CA, WA, and OR. (Hearing Site: Dallas TX.)

MC 135611 (Sub-9F), filed March 29, 1979. Applicant: WALKER & WHITTED TRANSPORTATION CO., INC., 320 North Eighth St. Brawley, CA 92227. Representative: Thomas M. Loughran, 100 Bush St., 21st Floor, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in bulk, in tank vehicles, from points in Los Angeles and Orange Counties, CA, to points in Yuma County, AZ. (Hearing site: Los Angeles, CA.)

MC 136720 (Sub-6F), filed March 22, 1979. Applicant: APEX BULK COMMODITIES, a Corporation, P.O. Box 872, Whittier, CA 90608. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soda ash*, in bulk, from points in WY to the facilities of Thatcher Glass Manufacturing Co., Division of Dart Industries, at Saugus, CA. (Hearing site: Los Angeles, CA.)

MC 139821 (Sub-5F), filed March 26, 1979. Applicant: HAUGEN TRANSIT, INC., Rural Route 2A, Madelia, MN 56062. Representative: William L. Libby, 8214 West 34½ Street, St. Louis Park, MN 55426. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *soybean protein* (except liquid commodities in bulk, in tank vehicles), from Mankato, MN, to points in Plymouth and Woodbury Counties, IA, those in IA south of Interstate Hwy 80, those in SD west of U.S. Hwy 83, and points in IL and ND; and (2) *soybean meal, sunflower seed meal, linseed meal and flax screenings meal*, from Fridley, MN, to points in IA, ND, and SD, under continuing contract(s) with Honeymead Products Co., division of Farmers Union Grain Terminal Association, of Mankato, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 142831 (Sub-14F), filed March 23, 1979. Applicant: HAMRIC TRANSPORTATION, INC., 3318 E. Jefferson, Grand Prairie, TX 75051. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *standard steel tubing* handled in bundles, from Chicago, IL, Milwaukee, WI, Beaver Falls and Pittsburgh, PA, and Lorain, OH, to points in OK and TX. (Hearing site: Dallas, TX.)

MC 142891 (Sub-6F), filed March 26, 1979. Applicant: A & H, INC., P.O. Box 346, Footbille, WI 53537. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese and cheese products*, from Juda, Linden, and Monroe, WI, to points in NH, VT, CT, MI OH, MA, RI, DE, MD, NJ, NY, PA, ME, and DC. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 143691 (Sub-20F), filed March 26, 1979. Applicant: PONY EXPRESS COURIER COPRORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commercial papers, documents and written instruments* as are used in the business of banks and banking institutions (except currency and negotiable securities), (1) between Cincinnati, OH, on the one hand, and, on the other, points in KY, and (2) between Cincinnati, OH on the one hand, and, on the other, points in OH, under continuing contract(s) with banks banking institutions and data processing centers. (Hearing site: Cincinnati, OH.)

Note.—Dual operations may be involved.

MC 144140 (Sub-26F), filed March 29, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from the facilities of J. H. Filbert, Inc., at (a) points in Cobb, Fulton, DeKalb, and Clayton Counties, GA, to points in AL, FL, IN, KY, LA, MD, MS, NC, OH, SC, TN, TX, VA, WV, and DC, and (b) Batimore, MD, and points in Prince Georges, Anne Arnudel, Howard, and Balitimore Counties, MD, to points in CT, DE, GA, IL, IN, MA, ME, MI, NH, NY, OH, PA, RI, VA, VT, WV, and DC. (Hearing site: Baltimore, MD, or Washington, DC.)

Note:—Dual operations may be involved.

MC 144330 (Sub-52F), filed March 27, 1979. Applicant: UTAH CARRIERS, INCORPORATED, P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of North Star Steel Co., at or near Newport and St. Paul, MN, to points in AR, CO, OK, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Paul or Minneapolis, MN.)

MC 144330 (Sub-58F), filed March 26, 1979. Applicant: UTAH CARRIERS, INCORPORATED, P.O. Box 1218, Freeport Center, Clearfield, UT 84106. Representative: Charles D. Midkiff (same address as applicant.) To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber mill products* (except commodities in bulk), from points in AZ, NM, and UT, to points in AR, IL, KY, MI, OH, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated points. (Hearing site: Phoenix, AZ, or Albuquerque, NM.)

MC 144630 (Sub-15F), filed March 29, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corrugated paper products*, from the facilities of Akers Packaging Service, Inc., at Chicago, IL, to Muncie, IN and Dayton, Cincinnati, and Middletown, OH. (Hearing site: Washington, DC.)

Note:—Dual operations may be involved.

MC 145441 (Sub-27F), filed March 29, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic beverages*,

(except in bulk), from points in CA, to points in CO, CT, DE, IL, IN, KY, MA, MD, MI, MN, NJ, NY, OH, PA, RI, VA, WI, and WV. (Hearing site: San Francisco, CA, or Little Rock, AR.)

Note.—Dual operations may be involved.

MC 145441 (Sub-31F), filed March 26, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except in bulk), from Frankfort, IN, and Hazelton and York, PA, to points in CA (except Salinas). (Hearing site: Little Rock, AR, or New York, NY.)

Note.—Dual operations may be involved.

MC 145441 (Sub-32F), filed March 27, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe and fittings*, from Cleveland, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Little Rock, AR, or Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 145481 (Sub-7F), filed March 28, 1979. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, 302 Cedar Lodge Road, Thomasville, NC 27360. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *playground and park equipment;* (2) *mall furniture;* (3) *park buildings and shelters;* and (4) *athletic and recreation equipment* (except those commodities described in (1) above), from the facilities of Game Time, Inc., at or near Litchfield, MI, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY. (Hearing site: Chicago, IL, or Indianapolis, IN.)

Note.—Dual operations may be involved.

MC 145950 (Sub-14F), filed March 27, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76710. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of M & M Mars, East Coast Division, at or near Elizabeth, NJ, to Denver, CO, Arlington and Waco, TX, Salt Lake City, UT, Vernon and Milpitas, CA, Chicago, IL, Detroit, MI, Foxboro, MA, Morrow and Albany, GA. (Hearing site: Atlanta, Ga.)

Note.—Dual operations may be involved.

MC 145950 (Sub-15F), filed March 27, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76710. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of M & M/Mars, Snack Master Division, at or near Albany, GA, to Elizabeth, NJ, Detroit, MI, Chicago, IL, Arlington and Waco, TX, Salt Lake City, UT, Foxboro, MA, Milpitas and Vernon, CA, and Denver, CO. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 146001 (Sub-2F), filed March 27, 1979. Applicant: BOB MARGOSIAN, doing business as BOB MARGOSIAN TRUCKING, 6885 Avenue 416, P.O. Box 395, Dinuba, CA 93618. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic beverages*, from points in CA, to Reno and Las Vegas, NV. (Hearing site: Los Angeles, CA.)

Passenger Authority

MC 116140 (Sub-9F), filed March 23, 1979. Applicant: CAPITAL TRANSIT, INC., doing business as CONCORD COACH LINES, S. Main St., Concord, NH 03301. Representative: J. G. Dail, Jr., Post Office Box LL, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Glen, NH, and Boston, MA. From Glen, NH over NH Hwy 16 to junction NH Hwy 25 at West Ossipee, NH, then over NH Hwy 25 to Meredith, NH, then over US. Hwy 3 to junction NH Hwy 104 near Meridith, NH, then over NH Hwy 104 to junction Interstate Hwy 93 near New Hampton, NH, then over Interstate Hwy 93 to Boston, MA, and return over the same route, serving all intermediate points north of Manchester, NH. (Hearing site: Concord, NH.)

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Decided: July 10, 1979.

By the Commission, Review Board Number 2, Members Liberman, Boyle and Eaton.

MC 2253 (Sub-91F), filed April 17, 1979. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, NC 28021. Representative: J. S. McCallie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electrical switch gears*, from Sanford, FL to points in AL, GA, IL, IN, KY, LA, MI, MS, MO, NJ, NY, PA, and TX. (Hearing site: Orlando, FL.)

MC 4963 (Sub-63F), filed March 28, 1979. Applicant: JONES MOTOR CO., INC., Bridge Street and Schuylkill Road, Spring City, PA 19475. Representative: Roland Rice, Esq., 501 Perpetual Building, 1111 E Street, N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting (1) *automobile parts, and* (2) *equipment and supplies* used in the manufacture of motor vehicles, between Adrian, MI and Keokuk, IA. (Hearing site: Chicago, IL or Washington, DC.)

MC 14252 (Sub-56F), filed April 23, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) (a) *buffing pads, cleaning cloths, polishing compounds, cleaning compounds, tools, putty, and paint* (except commodities in bulk), and (b) *parts and accessories for polishing and cleaning machinery*, from Canton, OH, to points in VA, WV, PA, KY, IN, IL, MO, and IA; and (3) *materials and supplies used in the manufacture or distribution of the commodities named in (1)* (except commodities in bulk), in the reverse direction. (Hearing site: Columbus, OH, or Washington, DC.)

MC 25562 (Sub-34F), filed April 17, 1979. Applicant: A. R. GUNDRY, INC., 85 Stanton Street, Rochester, NY 14611. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid asphalt*, in bulk, in tank vehicles, from Philadelphia, PA, to points in NY. Hearing site: Washington, D.C.

Note.—Dual operations may be involved.

MC 61592 (Sub-450F), filed April 17, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerece, over irregular routes, transporting (1) *treated poles, crossarms, cross ties, switch ties, lumber, and piling*, from the facilities of American Creosote Works, Inc., at or near (a) Jackson, TN, and (b) Louisville, MS, to points in IA, IL, IN, KS, KY, ME, MI, MO, NE, OH, and WI; (2) *lumber and lumber products* (except commodities in bulk), from points in Weston and Crook Counties, WY, to points in AR, IL, IN, IA, MI, MN, MO, NE, and WI; and (3) *cross ties, switch ties, lumber, piling, and posts* (a) from points in IN, KY, MI, MO, and TN, to Terre Haute, IN, and (b) from Terre Haute, IN, to points in IL, IA, MI, MO, OH, and WI. (Hearing site: Louisville, KY.)

MC 71593 (Sub-26F), filed April 23, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second St., Scotch Plains, NJ 07076. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MI and OH, on the one, and, on the other, points in AZ, CA, LA, OK, and TX, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8) (formerly section 402 (5) of the Interstate Commerce Act). (Hearing site: New York, NY.)

MC 71593 (Sub-27F), filed April 23, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second St., Scotch Plains, NJ 07076. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MI and OH, on the one, and, on the other, Chicago, IL, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8) (formerly section 402 (5) of the Interstate Commerce Act). (Hearing site: New York, NY.)

MC 71642 (Sub-33F), filed April 16, 1979. Applicant: CONTRACTUAL CARRIERS, INC., Harmony Industrial Park, Newark, DE 19711. Representative: Samuel W. Earnshaw, 833 Washington Building, Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products* (except commodities in bulk), between Newark, DE, on the one hand, and, on the other, Milford, CT, Montgomery, IL, Leominster, MA, Des Moines, Mt. Pleasant, and Iowa City, IA, and Pittsburgh, PA, under continuing contract(s) with Westvaco Corporation, of New York, NY. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 103993 (Sub-961F), filed April 20, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Gregory Galvanizing and Metal Processing, Inc., at or near Canton, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Cleveland, OH.)

MC 107012 (Sub-355F), filed April 18, 1979. Applicant: NORTH AMERICAN VAN LINES, INC. 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *water heaters, house heating boilers, and glass-lined tanks*, and (2) *parts* for the commodities named in (1) above, from the facilities of A.O. Smith Corporation, at or near Newark, CA, to points in MN, AR, LA, ND, SD, KS, OK, TX, MT, WY, CO, NM, ID, UT, AZ, WA, OR, and NV. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107012 (Sub-357F), filed April 18, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *heating and air conditioning ducts and fittings*, from the facilities of Gary Steel Products Corporation, at or near Gary, IN, to points in MN, WI, IA, IL, MO, KY, OH, MI, PA, NE, and SD. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107012 (Sub-359F), filed April 18, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tires, tire tubes, and wheels*, from the facilities of Carlisle Tire and Rubber Company, at or near Carlisle, PA, to Indianapolis, IN. (Hearing site: Baltimore, MD or Washington, DC.)

MC 107012 (Sub-360F), filed April 20, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail department stores (except commodities in bulk and those which because of size or weight require the use of special equipment), from North Bergen, NJ, to Indianapolis, IN. (Hearing site: Newark, NJ, or Washington, DC.)

MC 107012 (Sub-362F), filed April 20, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *artificial Christmas trees*, and (2) *lights and decorations* for artifical Christmas trees, from the facilities of Liberty Bell Christmas, Inc., at or near Hicksville, NY, to points in the United States (except AK, HI, and NY). (Hearing site: New York, NY, or Washington, DC.)

MC 107403 (Sub-1192F), filed April 17, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, between Nashua, NH, and Acton and Cambridge, MA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, OK, and TX. (Hearing site: Washington, DC.)

MC 107162 (Sub-51F), filed March 6, 1979. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route No. 1, Brimley, MI 49715. Representative: John Duncan Varda, 121 South Pinckney Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the port of entry on the international boundary line between the United States and Canada, at or near Sault Ste. Marie, MI, to points in the United States (except AK and HI); (2) *steel casings and pipe*, from the facilities of Algoma Tube Corporation, at or near Dafter, MI, to points in the United States (except AK and HI); and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) and (2) above, from points in the United States (except AK and HI), to the origins in (1) and (2) above. (Hearing site: Chicago, IL, or Grand Rapids, MI.)

Note.—Dual operations may be involved.

MC 108382 (Sub-37F), filed April 18, 1979. Applicant: SHORT FREIGHT LINES, INC., 459 S. River Rd., Bay City, MI 48706. Representative: Richard L. Poirier (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper, paper products and cellulose products*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities named in (1) (except commodities in bulk), between Cheboygan and Sault Ste. Marie, MI, and Fond du Lac, Green Bay, Marinette, and Oconto Falls, WI, on the one hand, and, on the other, points in IL, IN, MI, MN, OH, WI, and ND. (Hearing site: Detroit, MI.)

MC 109533 (Sub-111F), filed April 20, 1979. Applicant: OVERNITE TRANSPORTATION COMPANY, a corporation, 1000 Semmes Avenue, Richmond, VA 23209. Representative: Eugene T. Liipfert, Suite 1000, 1660 L Street, NW, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Louisville, KY, and Chicago, IL: from Louisville over Interstate Hwy 65 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Chicago, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Louisville, KY, or Washington, DC.)

MC 111812 (Sub-625F), filed April 18, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Lawn and garden equipment, and snow removal equipment*, and (2) *parts* for the commodities named in (1) above, from the facilities of Ariens Co., at or near Brillion, WI, to Sioux Falls, SD. (Hearing site: Sioux Falls, SD, or Washington, DC.)

MC 112713 (Sub-266F), filed April 17, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Las Vegas, NV as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Los Angeles, CA, or Kansas City, MO.)

Note.—The person or persons who it appears may be engaged in common control between applicant and other regulated carriers must either file an application under 49 U.S.C. 11343 (Formerly of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 114273 (Sub-590F), filed April 18, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural implements and parts* for agricultural implements, from Grinnell, IA, to Chesapeake, VA, Louisville, KY, points, in NY, PA, IN, OH, WI, the Lower Peninsula of MI, and those in IL on and north of U.S. Hwy 36. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114552 (Sub-210F), filed April 23, 1979. Applicant: SENN TRUCK COMPANY, a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, SC 29201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *modular mausoleum crypt systems*, from Bluffton, OH, Dade City, FL, and Laurel, MD, to those points in the United States in and east of WI, IL, MO, OK, and TX (except WI). (Hearing site: Columbia, SC, or Charlotte, NC.)

MC 114632 (Sub-214F), filed April 20, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from the facilities of Fearn International, Inc., at Franklin Park, IL, to points in MO and OK. (Hearing site: Chicago, IL, or Milwaukee, WI.)

Note.—Dual operations may be involved.

MC 114632 (Sub-218F), filed April 23, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery and machinery parts*, from Watertown, SD, to those points in the United States in and east of MT, WY, CO, and NM; and (2) *materials, equipment, and supplies used in the manufacture or distribution of machinery*, from those points in the United States in and east of MT, WY, CO, and NM, to Huron and Watertown, SD. (Hearing site: Sioux Falls, SD, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 115162 (Sub-478F), filed April 23, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *charcoal, charcoal briquets, vermiculite, active carbon, hickory chips, charcoal lighter fluid, and charcoal grills*, between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Husky Industries, Inc. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 117303 (Sub-17F), filed April 17, 1979. Applicant: HUDSON VALLEY CEMENT LINES, INC., Route 23B, Claverack, NY 12513. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting *cement* from Allston, East Cambridge, and Framingham, MA, to points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT. (Hearing site: New York, NY.)

MC 118202 (Sub-111F), filed April 19, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, NM 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *capacitors*, (2) *parts and components* for capacitors, and (3) *materials, equipment, and supplies* used in the manufacture of capacitors, (a) between Ogallala and McCook, NE, on the one hand, and, on the other, Laredo, TX, and (b) from Denver, CO, to McCook, NE. (Hearing site: Denver, CO, or Minneapolis, MN.)

MC 118202 (Sub-112F), filed April 19, 1979. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge Street, P.O. Box 406, Winona, MN 55987. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods* from the facilities of Stouffer Foods, at or near Cleveland and Solon, OH, to points in CT, IL, IN, MA, MN, NJ, NY, PA, and WI. (Hearing site: New York, NY.)

MC 11802 (Sub-113F), filed April 23, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, crated, from Arcadia, WI, to points in AR, CT, DE, LA, ME, MA, MS, NH, OK, RI, TN, TX, VT, and WV. (Hearing site: Minnespolis, MN.)

MC 119493 (Sub-281F), filed April 19, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles*, and *materials and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk), between points in Geneva County, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Birmingham, AL, or Little Rock, AR.)

MC 119632 (Sub-99F), filed April 23, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers, container ends, and closures*, (2) *such commodities as are dealt in by manufacturers or distributors of containers* (except container ends and closures), in mixed loads with containers, and (3) *materials, equipment, and supplies used in the manufacture of distribution of the commodities named in (1)* (except commodities in bulk), between those points in the United States in and east MN, IA, MO, AR, and LA. (Hearing site: Columbus, OH.)

MC 123272 (Sub-29F), filed April 17, 1979. Applicant: FAST FREIGHT, INC., 9651 Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar, in packages*, from Louisville, KY and Cincinnati, OH, to points in IL, IN, OH, MI, KY, TN, MO, IA, MN, NY, WI, PA and WV. (Hearing site: Chicago, IL.)

MC 125352 (Sub-2F), filed April 20, 1979. Applicant: JAN TRANSPORT, INC., 16 Central Avenue, Tenafly, NJ 07670. Representative: Donald E. Cross, 918 16th Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New Haven, CT, and Avon, MA: from New Haven over Interstate Hwy 95 to junction MA Hwy 128, then over MA Hwy 128 to junction MA Hwy 28, then over MA Hwy 28 to Avon (also over MA Hwy 128 to junction MA Hwy 24, then over MA Hwy 24 to Avon), and return over the same route, serving the intermediate point of Providence, RI, New Haven, CT, for the purpose of joinder only with service at Avon, MA, and Providence, RI, restricted to the transportation of traffic moving to or from the facilities of Knickerbocker Despatch, Inc., and with all of the above authority restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. Section 10102(8) (formerly Section 402(a)(5) of the Interstate Commerce Act). (Hearing site: Washington, DC, or New York, NY.)

MC 125433 (Sub-242F), filed April 19, 1979. Applicant: F–B TRUCK LINE COMPANY, a Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *new furniture, household goods, and appliances*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1)(a) above, and (2) *such commodities* as are dealt in or used by manufacturers of recreational vehicles (except self-propelled vehicles and commodities in bulk), between the facilities of Gladney Bros., Inc., and the Light Works, at or near Costa Mesa, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 125433 (Sub-244F), filed April 19, 1979. Applicant: F–B TRUCK LINE COMPANY, a Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air pollution control equipment*, (2) *bulk storage systems*, (3) *baghouse collectors, and bags and cages for baghouse collection*, (4) *parts, attachments, and accessories* for the commodities in (1), (2), and (3) above, and (5) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), (2), (3), and (4) above, between Glasgow and Slater, MO, Leavenworth, KS, Memphis, TN, and Lansing, MI, on the one hand, and, on the other, points in the United States (except AK and HI), restricted in (1) through (5) above against the transportation of commodities in bulk. (Hearing site: Kansas City, MO.)

MC 126243 (Sub-29F), filed April 17, 1979. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271 South, Poteau, OK 74953. Representative: Prentiss Shelley, P.O. Drawer G, Poteau, OK 74953. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, from the facilities of Midland Glass Co., at or near Henryetta, OK, to Eden, NC, and Martinsville, VA. (Hearing site: Washington, DC or Oklahoma City, OK.)

Note.—Dual operations may be involved.

MC 126822 (Sub-56F), filed April 17, 1979. Applicant: WESTPORT

TRUCKING COMPANY, a Corporation, 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith (same address as applicant). To operate as a *common carrier*, by motor carrier, in interstate or foreign commerce, over irregular routes, transporting (1) *air conditioning and heating ducts and registers*, and (2) *equipment, materials, and supplies* used in the installation of the commodities in (1) above, from the facilities of Goodman Manufacturing Corporation, at or near Houston, TX, to points in the United States, (except AK and HI). (Hearing site: Houston, TX.)

MC 127042 (Sub-263F), filed April 23, 1979. Applicant: HAGEN, INC., P.O. Box 98-Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, 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), (1) from Sioux City, IA, to points in CA, NV, OR, and WA, (2) from Albert Lea, MN, to points in CA, OR, and UT, (3) from Omaha, NE, to points in CA, OR, and WA, (4) from Cherokee and Council Bluffs, IA, Hopkins, St. Paul, and Worthington, MN, West Point, NE, Sioux Falls, SD, and Chippewa Falls, Cudahy, Green Bay, Kenosha, Madison, Milwaukee, New London, and Seymour, WI, to points in CA.

Note.—The purpose of this application is to substitute a single-line service for existing joint-line operations.

MC 127303 (Sub-59F), filed April 24, 1979. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, from Lincoln, IL, to points in MI, OH, IN, and KY. (Hearing site: Chicago, IL.)

MC 128273 (Sub-345F), filed April 20, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *refrigerant gas*, in containers, from the facilities of Kaiser Aluminum and Chemical Corporation, at Gramercy, LA, to points in the United States (except AK, AZ, CA, HI, LA, OR, and WA), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: San Francisco, CA, or Washington, DC.)

MC 128302 (Sub-11F), filed April 19, 1979. Applicant: THE MANFREDI MOTOR TRANSIT CO., A Corporation, 11250 Kinsman Road, Newbury, OH 44065. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *can-coating compounds, paint, and paint products*, in bulk, in tank vehicles, from the facilities of SCM Corporation, at or near Chicago, IL, to points in GA, IN, IA, MN, MO, OH, PA, TN, TX, and WI. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 128302 (Sub-12F), filed April 19, 1979. Applicant: THE MANFREDI MOTOR TRANSIT CO., A Corporation, 11250 Kinsman Road, Newbury, OH 44065. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid concrete admixtures*, in bulk, in tank vehicles, from Gurnee, IL, to points in the United States (except AK and HI). (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 129282 (Sub-45F), filed April 16, 1979. Applicant: BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, TX 75601. Representative: Fred S. Berry (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters*, (except commodites in bulk, in tank vehicles), from points in Warren County, MS, to points in AR, LA, OK, and TX; (2) (a) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters*, (except commodities in bulk, in tank vehicles), and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from points in OK to points in Warren County, MS, restricted in (1) and (2) above, to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS. (Hearing site: Pittsburgh, PA or Washington, D.C.)

MC 129563 (Sub-7F), filed April 19, 1979. Applicant: ONONDAGA BEVERAGE TRANSPORT, INC., 345 Spencer Street, Syracuse, NY 13204. Representative: Freeda Harvey (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, (1) in foreign commerce only, transporting *malt beverages*, in containers, from the port of entry on the international boundary line between the United States and Canada at Buffalo, NY, to Baltimore, MD, under continuing contract(s) with Carling National Breweries, of Baltimore, MD, and (2) in interstate and foreign commerce, transporting *malt beverages*, in containers, (a) from Baltimore, MD, to Syracuses, NY, under continuing contract(s) with Onondaga Beer Imports, Inc., of Syracuse, NY, and (b) from Baltimore, MD, to Buffalo, NY, under continuing contract(s) with Buffalo Beverage Corp., of Buffalo, NY. (Hearing site: Syracuse or Albany, NY.)

MC 138882 (Sub-239F), filed April 19, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing materials and supplies*, and *accessories* for roofing materials, (1) from the facilities of Warrier Sales and Distributions of Alabama, Inc., in Gwinnett County, GA, to points in FL, NC, SC, and TN, and (2) from points in Tuscaloosa County, AL, to points in GA, FL, TN, MS, and KY. (Hearing site: Montgomery or Birmingham, AL.)

MC 138902 (Sub-13F), filed April 16, 1979. Applicant: ERB TRANSPORTATION COMPANY, INC., P.O. Box 65, Crozet, VA 22932. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic film*, in vehicles equipped with mechanical refrigeration, from the facilities of Reynolds Metals Company, at or near Grottoes, VA, to points in AL, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NC, NJ, NY, OH, OK, PA, RI, SC, TN, TX, and WI. (Hearing site: Richmond, VA, or Washington, DC.)

MC 139973 (Sub-76F), filed March 15, 1979, and previously published in the **Federal Register** on July 3, 1979 as Sub-

66F. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical appliances, electrical equipment, and poleline hardware*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Centralia, MO, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: St. Louis, MO.)

Note.—The purpose of this republication is to correctly identify the application as Sub-76F.

MC 139982 (Sub-3F), filed April 19, 1979. Applicant: WILLIAMSON DELIVERY SERVICE, INC., Box 22032 AMF, Tampa, FL 33622. Representative: Travis W. Williamson, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Tampa International Airport, at or near Tampa, FL, on the one hand, and, on the other, points in Charlotte, DeSoto, Hardee, Highlands, Lee, Manatee, Pinellas, and Sarasota Counties, FL, restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (Hearing site: Tampa, FL.)

MC 140612 (Sub-60F), filed March 19, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, in tank vehicles, and those requiring special equipment), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities used by Ralston Purina Company. (Hearing site: St. Louis, MO.)

MC 141733 (Sub-4F), filed April 18, 1979. Applicant: UNION TRANSIT COMPANY, INC., 276 Pasco Rd., Springfield, MA 01151. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper articles, and materials and supplies* used in the manufacture or distribution of paper and paper articles, (except commodities in bulk), between the facilities of American Pad & Paper Company, at or near (a) Holyoke, MA, (b) Mattoon, IL, (c) Salt Lake City, UT, and (d) Grapevine, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with American Pad & Paper Company, of Holyoke, MA. (Hearing site: Boston, MA, or Washington, DC.)

MC 144442 (Sub-3F), filed April 9, 1979. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Road, Pompano Beach, FL 33060. Representative: Don A. Allen, 2550 M Street, NW, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *residential heating units and air conditioners*, in containers, and (2) parts for the commodities in (1) above in containers, from the facilities of General Electric Company, at Trenton, NJ, to the facilities used by General Electric Company, at Jacksonville, Miami, Orlando, Bradenton, Chattahoochee, Daytona Beach, De Land, Eustis, Fort Myers, Fort Pierce, Fort Walton Beach, Naples, Micanopy, Palm Beach, Pensacola, Plantation Key, Port Charlotte, Sarasota, Stuart, Tallahassee, Tampa, Venice, and Vero Beach, FL, under continuing contract(s) with General Electric Company, of Trenton, NJ. (Hearing site: Washington, DC, or Miami FL.)

Note.—Dual operations may be involved.

MC 144642 (Sub-1F), filed April 17, 1979. Applicant: LEOPOLD CHATIGNY, St. Isidore, Dorchester County, Quebec, Canada JOS 2SO, Representative: William H. Shawn, Esq., 1730 M St., N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *soy meal*, in bulk, in dump vehicles, from Rouses Point, NY, and Swanton, VT, to the ports of entry on the international boundary line between the United States and Canada located at or near Rouses Point, NY, and Highgate, VT. (Hearing site: Boston, MA, or New York, NY.)

MC 144622 (Sub-67F), filed April 24, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products, vehicle body sealers, and sound deadener compounds* (except commodities in bulk), from New Kensington, North Warren, Emlenton, and Farmers Valley, PA, and Congo and St. Marys, WV, to points in AR, MO, MS, LA, and TX. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144713 (Sub-4F), filed April 23, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities as are dealt in or used by drug, variety, and food stores*, (except commodities in bulk), between Chicago, IL, Hammond, IN, Baltimore, MD, Lakewood and Secaucus, NJ, and St. Louis, MO, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA, under continuing contract(s) with Lever Brothers Company, of New York, NY. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 144743 (Sub-1F), filed April 2, 1979. Applicant: CHARLES M. SWINFORD, d.b.a. SWINFORD TRUCKING, 108½ South Main, Cynthiana, KY 41031. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Lexington, and Owingsville, KY, (a) over U.S. Hwy 60, and (b) over Interstate Hwy 64, serving all intermediate points in (1)(a) and (1)(b); (2) between Cynthiana, KY, and Cincinnati, OH, over U.S. Hwy 27, serving all intermediate points between Falmouth and Cynthiana, KY, including Falmouth; (3) between Lexington, KY, and Cincinnati, OH, (a) over U.S. Hwy 25, (b) over Interstate Hwy 75, serving junction KY Hwy 620 and U.S. Hwy 25, and junction KY Hwy 620 and Interstate Hwy 75, and all intermediate points between said junctions and Lexington, KY; (4) between junction Interstate Hwy

75 and U.S. Hwy 62 and Cynthiana, KY. over U.S. Hwy 62, serving all intermediate points; (5) between junction KY Hwy 620 and Interstate Hwy 75 and junction KY Hwy 620 and U.S. Hwy 62, over KY Hwy 620, serving all intermediate points; (6) between Paris and Winchester, KY, over KY Hwy 627, serving all intermediate points; (7) between Paris and Georgetown, KY, over U.S. Hwy 460, serving all intermediate points; (8) between Cynthiana KY, and juction KY Hwy 1284 and U.S. Hwy 27, from Cynthiana over U.S. Hwy 62 to junction KY Hwy 1284, then over KY Hwy 1284 to junction U.S. Hwy 27, and return over the same route, serving all intermediate points. (Hearing site: Lexington, KY.)

MC 145102 (Sub-23F), filed April 18, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, 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 Green Bay, WI, to points in AZ, CA, NV, OR, UT, and WA. (Hearing site: Madison or Milwaukee, WI.)

Note.—Dual operations may be involved.

MC 145102 (Sub-26F), filed April 23, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, P.O. Box 56387, Atlanta, GA 30343. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, 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 used by Armour & Company, at or near St. Paul and Worthington, MN, to points in CA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Paul, MN, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 145102 (Sub-27F), filed April 18, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, P.O. 1200 Gas Light Tower, 235 Peachtree St., NE, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, 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 Dubuque Packing Co., at or near (a) Denison, Vinton, and Dubuque, IA, and (b) Omaha, NE, to points in AZ, CA, CO, CT, DE, IL, IN, MA, MD, ME, MI, MN, NE, NH, NJ, NV, NY, OH, OK, OR, PA, RI, TX, UT, VA, WA, WI, and DC. (Hearing site: St. Paul, MN, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 145252 (Sub-6F), filed April 19, 1979. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, 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 used by John Morrell & Co., at or near (a) Sioux Falls, SD, (b) Estherville and Sioux City, IA, and (c) Worthington, MN, to points in AL, AZ, CA, CT, FL, GA, LA, ME, MA, MD, MS, MO, NC, NH, NJ, NM, NY, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origins facilities. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 146173 (Sub-2F), filed April 9, 1979. Applicant: PROFESSIONAL CARGO SERVICES, INC., 1611 South Eisenhower, Suite 213, Wichita, KS 67209. Representative: Bruce L. Dusenberry, 177 North Church Avenue, Suite 1008, Tucson, AZ 85701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aircraft components, parts, and systems*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above between the facilities of Gates Learjet Corporation, at or near Wichita, KS, and the facilities of Gates Learjet Corporation, at or near Tucson, AZ, under continuing contract(s) with Gates Learjet Corporation, of Wichita, KS. (Hearing site: Tucson, AZ, or Wichita, KS.)

MC 146293 (Sub-17F), filed April 18, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meat, meat products and meat byproducts, and articles distributed by meat-packing houses*, 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, in tank vehicles), from Roswell, NM, and Memphis, TN, to points in KY, OH, OK, PA, NY, MA, NJ, VA, CT, ME, and RI. (Hearing site: Atlanta, GA.)

MC 146732 (Sub-2F), filed April 10, 1979. Applicant: JOHN LAUBENTHAL, d.b.a. LAUBENTHAL REFRIGERATED TRANSPORT, 1421 Garford Ave., Elyria, OH 44035. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* (except in bulk), from Chicago, IL, to points in OH and KY; and (2) *iron and steel fluxing compound* (except in bulk), from Cleveland, OH, to Chicago, IL. (Hearing site: Chicago, IL.)

MC 146733F, filed April 24, 1979. Applicant: CLAYCAMP, INC., 2904 E. North St., Tampa, FL 33610. Representative: Felix A. Johnston, Jr., 1030 E. Lafayette St., Suite 112, Tallahassee, FL 32301. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting animal feed, poultry feed, fish feed, insecticides, fungicides, and animal medicines, between the facilities of Ralston Purina Company, at Tampa, FL, and points in FL, IN, KY, TN, MS, AL, GA, NC, SC, WI, MN, MO, LA, OH, and IL, under continuing contract(s) with Ralston Purina Company, of Tampa, FL. (Hearing site: Tampa or Tallahassee, FL.)

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Decided: July 10, 1979.

By the Commission, Review Board Number 3, Members Parker, Hill, and Board Member Fortier not participating.

MC 59583 (Sub-171F), filed April 19, 1979. Applicant: THE MASON AND DIXON LINES, INC., East Stone Drive, P.O. Box 969, Kingsport, TN 37662. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dayton and Toledo, OH, over Interstate Hwy 75; (2) between Erie, PA, and Chicago, IL, over Interstate Hwy 90; (3) between Portsmouth and Findlay, OH: from Portsmouth over U.S. Hwy 23 to junction OH Hwy 15, then over OH Hwy 15 to Findlay, and return over the same route; (4) between Cambridge, OH, and junction Interstate Hwy 77 and OH Hwy 7 over Interstate Hwy 77; (5) between Wooster, OH, and Fort Wayne, IN, over U.S. Hwy 30; (6) between Greensburg, PA, and Terre Haute, IN: from Greensburg over U.S. Hwy 119 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Terre Haute, and return over the same route; (7) between Steubenville, OH, and Indianapolis, IN: from Steubenville over U.S. Hwy 22 to Cincinnati, then over U.S. Hwy 52 to Indianapolis, and return over the same route; (8) between St. Marys, OH, and Muncie, IN: from St. Marys over OH Hwy 29 to junction IN Hwy 67, then over IN Hwy 67 to Muncie, and return over the same route; (9) between Conneaut, OH, and Vincennes, IN: from Conneaut over OH Hwy 7 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Cincinnati, then over U.S. Hwy 50 to Vincennes, and return over the same routes; (10) between Toledo, OH, and Kentland, IN, over U.S. Hwy 24; (11) between Athens, OH, and Schererville, IN: from Athens over U.S. Hwy 33 to Fort Wayne, IN, then over U.S. Hwy 30 to Schererville, and return over the same route; (12) between Cincinnati, OH, and Angola, IN, over U.S. Hwy 27; (13) between New Albany, IN, and junction Interstate Hwy 64 and U.S. Hwy 41, over Interstate Hwy 64; (14) between Evansville, IN, and junction U.S. Hwy 41 and U.S. Hwy 52, over U.S. Hwy 41; (15) between Indianapolis and South Bend, IN, over U.S. Hwy 31, serving all intermediate points on routes (1) through (15) above, and serving all points in OH and IN as off-route points. (Hearing site: Washington, DC, or Cincinnati, OH.)

MC 61592 (Sub-441F), filed March 30, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *grates, screens, accessories, and parts* for fireplaces (except commodities in bulk), from Nashville, TN, Decatur, AL, and Bloomington, IL, to points in the United States (except AK and HI); and (2)(a) *safes, vaults, and insulated files*, and (b) *parts, accessories, and components* of safes, vaults, and insulated files, (except commodities in bulk), from Lafayette, IN, to points in WA and OR. (Hearing site: Louisville, KY.)

MC 107012 (Sub-361F), filed April 23, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Ft. Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *floral foam and floral supplies*, from the facilities of S. S. Pennock Company, at or near Finderne, NJ, to points in the United States (except AK and HI). (Hearing site: Philadelphia, PA or Washington, DC.)

MC 124692 (Sub-278F), filed April 23, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *building materials, and fireplace systems*, and (b) *parts* for the commodities in (1) above, from Los Angeles, CA to Greeley and Ft. Morgan, CO, and (2) *building materials* from Greeley, CO, to points in MT. (Hearing site: Denver, CO.)

MC 127042 (Sub-262F), filed April 16, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs, and such commodities* as are dealt in by wholesale and retail food chains, drugstores, hospitals, discount and variety stores, and grocery houses (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Bristol Myers, Inc., at or near Bedford Park, IL, to points in IN, IA, KS, MN, MO, NE, ND, SD, and WI. (Hearing site: Chicago, IL.)

MC 127283 (Sub-19F), filed April 6, 1979. Applicant: SILICA SAND TRANSPORT, INC., Box 208, Routes 47 & 71, Yorkville, IL 60560. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from points in La Salle County, IL, and Berrien County, MI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 128383 (Sub-81F), filed April 20, 1979. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, PA 19079. Representative: Leonard C. Zucker (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electronic calculators, cash registers*, and *parts* for electronic calculators and cash registers, between the facilities of Victor Business Products, a subsidiary of Walter Kidde, Inc., at El Paso, TX, on the one hand, and, on the other, Houston and Dallas, TX, Denver, CO, Los Angeles and San Francisco, CA, Seattle, WA, Chicago, IL, Cleveland, OH, St. Paul, MN, Philadelphia, PA, New York, NY, Little Rock, AR, Birmingham, AL, Memphis, TN, Miami, Orlando, and Jacksonville, FL, Atlanta, GA, and Portland, OR, restricted to the transportation of traffic originating at or destined to the facilities of Victor Business Products, a subsidiary of Walter Kidde, Inc., at El Paso, TX, and further restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Chicago, IL, or El Paso, TX.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. section 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit within 20 days from date of publication indicating why such approval is unnecessary.

MC 128383 (Sub-84F), filed April 27, 1979. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, PA 19079. Representative: Leonard C. Zucker (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Charlotte, NC, Greenville, SC,

and Atlanta, GA, restricted to the transportation of traffic having a prior or subsequent movement by air. Condition: The person or persons who appear to be engaged in common control of applicant and another viable carrier must either file an application under 49 U.S.C. Section 11343(a) (formerly section 5(2) of the Interstate Commerce Act), or submit an affidavit within 20 days from date of publication indicating why such approval is unnecessary . (Hearing site: Washington, DC, or New York, NY.)

MC 133993 (Sub-3F), filed April 23, 1979. Applicant: SAND MOUNTAIN AUTO AUCTION, INC., P.O. Box 638, Goaz, AL 35957. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor vehicles*, between points in the United States (except AK and HI), restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing site: Birmingham, AL or Atlanta, GA.)

MC 134592 (Sub-18F), filed April 20, 1979. Applicant: HERB MOORE AND HAZEL MOORE, d.b.a. H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, OR 97211. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asphalt roofing materials*, from Los Angeles, CA, to Portland, OR; and (2) *lumber*, from points in OR and WA to points in CA. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. Section 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit within 20 days from the date of publication indicating why such approval is unnecessary. (Hearing site: Portland, OR.)

MC 135762 (Sub-1F), filed April 20, 1979. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, 6004 Hwy. 271 South, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *home or office appliances and home entertainment products*, from points in GA, IA, MN, MI, NC, NJ, TN, and TX, to points in AR, under continuing contract(s) with Burney-Neal Distributors, Incorporated, of North Little Rock, AR. (Hearing site: Washington, DC.)

MC 136123 (Sub-5F), filed April 20, 1979. Applicant: MEAT DISPATCH, INC., 2103 Seventeenth Street East, Palmetto, FL 33561. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, 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 Wilson Foods Corporation, at Logansport, IN, to points in OK and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 139482 (Sub-117F), filed April 20, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery*, in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, Division of Mars, Inc., at (a) Hackettstown and Elizabeth, NJ, and (b) Elizabethtown, PA, to points in IL, MN, WI, MO, OH, MI, and IN. (Hearing site: Washington, DC.)

MC 139482 (Sub-122F), filed April 20, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery and bakery goods*, between Milwaukee, WI, Chicago, IL, Philadelphia, PA, Boston, MA, Atlanta, GA, Dallas, TX, New Orleans, LA, and Los Angeles, CA. (Hearing site: Minneapolis or St. Paul, MN.)

MC 140033 (Sub-84F), filed April 16, 1979. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar*, in bags, from New Orleans, LA to Marietta, OK. (Hearing site: Dallas, TX or New Orleans, LA.)

MC 140612 (Sub-67F), filed April 23, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles, expanded cellular plastic products*, and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of Polycell Industries, Inc., at or near Marion, IA, on the one hand, and, on the other, points in the United States in and west of MI, OH, KY, TN, and NC. (Hearing site: Cedar Rapids, IA or Lincoln, NE.)

MC 140612 (Sub-68F), filed April 23, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by retail stores (except foodstuffs, alcoholic beverages, and commodities in bulk, in tank vehicles), from points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OH, OK, SD, TN, TX, and WI, to Northridge, CA. (Hearing site: Northridge, CA.)

MC 142232 (Sub-4F), filed April 20, 1979. Applicant: BARRETT TEXTILE TRANSPORT, INC., P.O. Box 6, Industrial Park, Kings Mountain, NC 28086. Representative: Peter T. Barrett, 2757 Loch Lane, Charlotte, NC 28211. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic fiber yarn* (except commodities in bulk), from the facilities of Fiber Industries, Inc., at Earl, NC, to points in SC, under continuing contract(s) with Fiber Industries, Inc., of Charlotte, NC. (Hearing site: Charlotte, NC.)

MC 144622 (Sub-44F), filed March 23, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in or used by stores (except

commodities in bulk, in tank vehicles), between the facilities of American Olean Tile Company, at Fayette, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 144622 (Sub-75F), filed April 1, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., Suite 301, McLean, VA 22101. Top operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by discount stores (except commodities in bulk) from points in OH to points in AR. (Hearing site: Washington, D.C.)

Note.–Dual operations may be involved.

MC 145603 (Sub-1F), filed April 9, 1979. Applicant: B & H TRUCKING CO., INC., 570 West 17th Street, Indianapolis, IN 46202. Representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages, in containers*, and *materials* and *supplies* used in the sale and distribution of malt beverages, (1) between Newport, KY, and points in IN, and those in the Lower Peninsula of MI, and (2) between Evansville, IN, on the one hand, and, on the other, points in the Lower Peninsula of MI. (Hearing site: Indianapolis, IN.)

MC 145753 (Sub-1F), filed April 4, 1979. Applicant: C & K BROKERAGE, INC., d.b.a. NORTHERN TRANSPORTATION, R.D. #1, Gouverneur, NY 13642. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printing paper*, from Potsdam and Newton Falls, NY, to those points in the United States in and east of MN, IA, MO, AR, and LA; and (2) *materials and supplies* used in the manufacture and distribution of printing paper (except commodities in bulk) in the reverse direction, under a continuing contract(s) in (1) and (2) above with Potsdam Paper Corporation, of Potsdam, NY, and Newton Falls Paper Company, of Newton Falls, NY. (Hearing site: Potsdam, NY.)

MC 146403 (Sub-2F), filed April 20, 1979. Applicant: ROGER LOVE, d.b.a. ROGER LOVE TRUCKING, Route 3, East Grand Forks, MN 56721. Representative: William J. Gambucci, 414 Gate City Bldg., P.O. Box 1680, Fargo, ND 58107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal*, from Duluth, MN, to points in ND. Conditions: (1) Applicant shall conduct separately its for-hire carriage and other business operations. (2) It shall maintain separate accounts and records for each operation. (3) It shall not transport property as both a private and for-hire carrier in the same vehicle at the same time. (Hearing site: Grand Forks, ND.)

MC 146973F, filed April 23, 1979. Applicant: SOUTHERN MOTOR FREIGHT, INC., 575 Great Southwest Parkway, Atlanta, GA 30336. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street, NE, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulating materials and insulating equipment, storm windows and storm doors*, from the facilities of Southern Cellulose, Inc., at or near Atlanta, GA, on the one hand, and, on the other, points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture, installation, and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Atlanta, GA.)

MC 147133F, filed April 17, 1979. Applicant TAMPA BAY MOVING SYSTEMS, INC., 5100 Tampa West Blvd., Tampa, FL 33614. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods*, as defined by this Commission, between points in FL, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, and TX. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. Section 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit within 20 days from the date of publication indicating why such approval is unnecessary. (Hearing site: Tampa, FL.)

MC 147143F, filed April 20, 1979. Applicant: COOPER TRUCKING, INC., 3624 State Route 303, Ravenna, OH 44266. Representative: E.H. Van Deusen, P.O. Box 97, 220 West Bridge Street, Columbus, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting (1) *scrap metals and cullet*, in bulk, in dump vehicles, between points in IN, KY, MI, NJ, NY, OH, PA, and WV; and (2) *kilned shale*, in bulk, in dump vehicles, from Independence, OH, to points in KY, MI, NY, PA, and WV. (Hearing site: Columbus, OH.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24546 Filed 8-8-79; 8:45 am]

BILLING CODE 7035-01-M

[MC 112801 (Sub-203)F]

Transport Service Co., Extension—Corn Syrup (Hinsdale, IL)

Decided: July 19, 1979.

Applicant, a corporation, seeks a certificate of public convenience and necessity authorizing operations substantially as described in the appendix. The evidence has been considered under the modified procedure. The amended application is opposed by motor common carriers Kreider Truck Service, Inc., Liquid Transport Corp., and The Maxwell Co. Applicant filed a rebuttal presentation.

Preliminary Matters

By a motion filed contemporaneously with its opening statements in this proceeding, applicant seeks to amend its application by adding the State of Kentucky to its proposed destination territory. We have accepted a previously filed restrictive amendment which eliminated the interests of some protestants. We will additionally grant this motion. However, as can be seen from the statement of pertinent facts below, even when amended as requested, applicant's operating proposal still is not totally consistent with the supporting firm's avowed transportation requirements. Specifically, the supporting firm also asserts a need for interstate service to points in Ohio, but applicant has not proposed to serve points in that State. We will grant such authority as is proven to be required in this proceeding, and we will order republication in the **Federal Register** because of a finding of a need for broader service than that which was originally proposed. Applicant is admonished in the future more thoroughly to familiarize itself with its supporting shippers' transportation requirements before filing its application.

Following the filing of applicant's rebuttal, protestant Maxwell filed a motion seeking (1) the striking of the supporting firm's verified statement, or,

in the alternative, (2) an oral hearing for the purpose of cross-examination of the shipper witness. Applicant replied to the pleading. Maxwell's pleading will be rejected. Rule 21 of the Commission's General Rules of Practice (49 CFR § 1100.21) provides that, "except that a reply to a reply is not permitted . . . an adverse party may file and serve a reply or motion addressed to any pleading permitted . . . within 20 days after the filing of such pleading with the Commission." Under the Commission's rules, protestant's motion was due January 4, 1979. The pleading was filed March 1, 1979, approximately 2 months late. Further, in large part, the motion is actually an impermissible reply to a reply. In any event, we see no good reason for striking the supporting shipper's statement, and we believe that the material issues involved here can be satisfactorily resolved on the basis of the record before us.

Pertinent Facts

The application is supported by Southdown Sugars, Inc., a purchaser and marketer of sugar. Southdown, which maintains the center of its operations at New Orleans, LA, markets its products on a regional basis and maintains a number of distribution facilities including, as pertinent, a facility at Cincinnati, OH. Southdown receives liquid and dry sugars and corn syrup at its Cincinnati facility, and distributes those commodities, as well as a variety of blended sugar and syrup mixtures from that point. Southdown receives and distributes approximately 35,000 tons of product a year, approximately 70 percent of which moves to points in Ohio, 15 percent to points in Indiana, and 10 percent to points in Kentucky. The remaining traffic moves to points in the other proposed destination States on an irregular basis when, due to seasonal surges, mechanical problems, or other reasons, Southdown is unable to serve such points from its other distribution facilities. The supporting firm names representative destination points in each of the proposed destination States, as well as the point of St. Louis, MO. Southdown points out that there are occasions on which it may have interstate traffic moving to points in Ohio. Such occasions may arise when a shipment is reconsigned or diverted prior to delivery or when a shipment passes through its facility in a movement which is actually interstate in character. Southdown requires the availability of sanitary and clean tank truck trailers in the service of hauling edible commodities. It requires experienced drivers, equipment having the necessary accessorial devices, and expeditious service. The supporting firm emphasizes the latter point, asserting that the key to its Cincinnati operation is the ability expeditiously to move traffic and that timely pickups and deliveries are very important. The time factor is particularly important when transportation is required to points in States not normally served from Cincinnati.

Regarding the services available from existing carriers, Southdown indicates that protestant Maxwell is its principal carrier and that it intends to continue tendering the overwhelming majority of traffic to that carrier. Southdown complains, however, that there are some minor gaps in Maxwell's authority. More important, Southdown believes it is in a precarious position in being completely dependent upon one carrier. Southdown believes that the availability of a second carrier vastly increases its ability to deliver to its customers in accordance with their requirements. Regarding protestant Liquid, the supporting firm asserts that that carrier traditionally has provided substantial service for a competitor, has never solicited Southdown's traffic, and has only reluctantly provided service on request. It is asserted, further, that Liquid has some limitations in its authority. Protestant Kreider was not authorized to provide Southdown service at the time initial statements were filed in the proceeding. In the event of a grant of authority, Southdown proposes to tender to applicant 10 percent of its overall traffic. Shipper maintains that as applicant now makes deliveries of corn syrup at its Cincinnati facility, a grant would place applicant in a good position to provide a coordinated inbound and outbound transportation service.

Kreider has recently been issued permanent authority to transport sugar and corn products, in bulk, in tank vehicles, from the facilities of a named firm (Archer-Daniels) at Cincinnati to points in all of the proposed destination States except Ohio and North Carolina, subject to "originating at and destined to" restrictions. Protestant does not hold authority to serve the supporting firm here, but it fears that, in the event of a grant of unrestricted authority, applicant would be in a position to divert Archer-Daniels' traffic from it. Kreider asserts that Archer-Daniels is one of its prime customers, that it has been serving this shipper pursuant to temporary authority, and that it is already competing with other carriers for this shipper's traffic.

Liquid holds pertinent authority to transport corn syrup to Indianapolis, IN, and sugar to points in Indiana, Kentucky, and West Virginia. It assertedly holds additional authority enabling it to transport liquid sugar and blends thereof and dry sugar to points in Illinois, but protestant does not show that it has complied with appropriate gateway elimination rules or that the 300 mile exception applies so that it might actually be able to provide the described service to points in Illinois. Liquid also recently has been issued authority to transport sugar and corn products from the facilities of a named firm (Archer-Daniels) at Cincinnati to points in all of the proposed destination States, except Ohio, North Carolina, and Missouri. Liquid maintains terminals at Indianapolis and Terre Haute, IN, and at a point near Cincinnati. It operates 79 tractors and 140 trailers, including 117 insulated, stainless steel trailers. Protestant regularly transports commodities of the type involved here, and asserts that it regularly does so within the scope of this application. Protestant serves the supporting firm from the involved Cincinnati origin; it names six points served during a recent 7 month period. Protestant believes that a grant of authority would put applicant in a position to divert traffic it has handled for Southdown and traffic it recently has been authorized to transport for Archer-Daniels. Protestant, like applicant, holds authority to transport corn products, dry sugar, and other related commodities to points in Ohio, and it desires the availability two-way movements.

Maxwell holds various grants of authority which enable it to provide all of the proposed transportation except that it is unable to transport corn syrup to Indianapolis and blends of corn syrup and sugar to points in Indiana and Kentucky. Protestant maintains at Cincinnati a terminal which is open around-the-clock and at which there is a large cleaning facility. Maxwell operates 110 tractors and 177 trailers for the transportation of bulk commodities, and it has 12 units of trailer equipment dedicated to the service of the supporting firm, with an additional 5 trailers on order. Protestant asserts that this equipment represents a substantial investment. Maxwell has been serving the supporting firm at Cincinnati for more than 5 years, and believes that, because of its location, facilities, equipment, and experience, it is able to provide Southdown the timely, direct, and expeditious service it requires. Maxwell asserts that there is available to the supporting firm the services of two additional carriers which have not been used, and protestant avows that a diversion of the traffic Southdown

proposes to tender to applicant would jeopardize the financial stability of protestant's entire operation.

Discussion and Conclusions

The application will be granted as set forth in the appendix. Although protestant Maxwell holds extensive authority to serve Southdown and apparently has provided substantial service for that firm, protestant has presented no specific evidence regarding the number of shipments, volume, or revenues which might be subject to diversion. In any event, Southdown has indicated that the availability of this protestant's service is of much value to it and that it would not act in such a manner as to impair that service. We will give credence to Southdown's statement in this regard as well as to its statements that it competes for equipment with other shippers of the involved commodities and that the stability of its operations require the availability of an additional carrier. While protestant Liquid holds authority which enables it to meet a large portion of the supporting firm's transportation requirements, that carrier has provided little service for Southdown, has not adduced specific evidence regarding revenues derived from such transportation, and has not shown how it would be adversely affected by a grant of authority. Liquid holds additional authority to serve another firm shipping from Cincinnati, as does protestant Kreider, but neither protestant has presented specific evidence regarding transportation provided for that firm, whether under temporary authority or otherwise. The restriction sought by these two protestants has thus not been shown to be warranted. In sum, the benefits which would accrue to the supporting firm as a result of the grant of authority made here will outweight any detriment which might befall the opposing carriers.

Consistent with the supporting firm's demonstrated transportation requirements, we have granted authority beyond that originally published in the **Federal Register.**[1] Accordingly, since it is possible that parties who have relied upon the notice of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the authority granted, a notice of the authority actually granted will be published, and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of publication, during which time any proper party in interest may file an appropriate petition for leave to intervene, setting forth in detail the precise manner in which it has been prejudiced by lack of proper notice.

We find: The present and future public convenience and necessity require operation by applicant, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. An appropriate certificate should be granted. This decision does not significantly affect the quality of the human environment.

It is ordered: The motion to amend the application, filed by applicant, is granted.

The motion to strike the supporting firm's statement or, in the alternative, for oral hearing, filed by protestant The Maxwell Co., is rejected.

The application is granted to the extent set forth in the appendix.

Operations may begin only following the service of a *certificate* which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1310).

Compliance with these requirements must be accomplished within 90 days after the date of service of this decision or the grant of authority shall be void.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman (Board Member Boyle not participating).

Agatha L. Mergenovich,

Secretary.

Appendix

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn syrup, sugar, and blends of corn syrup and sugar*, in bulk, in tank vehicles, from Cincinnati, OH, to St. Louis, MO, and points in Illinois, Indiana, Kentucky, Mississippi, North Carolina, Ohio, Tennessee, Virginia, and West Virginia.

Condition: Issuance of the certificate authorized here shall be withheld for a period of 30 days from the date of publication in the **Federal Register** of a notice of the authority actually granted by this decision.

[FR Doc. 79-24544 Filed 8-8-79; 8:45 am]

BILLING CODE 7035-01-M

[1] Specifically, we have granted applicant authority to serve points in Kentucky and Ohio.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Intercity Passenger Railroad System, Providence, R.I.; Intent To Prepare a Draft Environmental Impact Statement

The Federal Railroad Administration (FRA), U.S. Department of Transportation, hereby notifies all interested parties of its intent to prepare a draft environmental impact statement (EIS) for the proposed relocation of the intercity passenger railroad system in Providence, Rhode Island. This proposed relocation project constitutes a major Federal action with potential impacts on the quality of the human environment, and therefore, must satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 et seq.).

This proposed railroad improvement includes an 800-foot northerly shift of the existing railroad alignment toward the State Capitol and the at-grade construction of the railroad, the construction of a new railroad station over the tracks, relocation of local roadway systems to provide access to the new station and improve circulation in the central business district, and the removal of the existing railroad viaduct. Associated with these railroad improvements is the proposed construction of an Interstate 95/Route 6 (Civic Center) Interchange and the extension of Route 6 along the abandoned railroad right-of-way. Possible alternatives to the proposed action range from a no-build option for possible railroad and highway improvements to various combinations of improvements to the railroad and highway systems either in their present locations or on new alignments.

The proposed highway improvements, which will be administered by the Federal Highway Administration (FHWA) through its Federal-aid highway program, are facilitated by the proposed relocation of the railroad. Therefore, the FRA will be the lead Federal agency in the preparation of this EIS. General scoping sessions with interested Federal, State and local agencies to discuss various concerns and potential impacts will be conducted on August 15 and 16, 1979, in Providence, Rhode Island. A series of public informational meetings will be conducted during the preparation of the

EIS to obtain additional input into the EIS process. The first public meeting will be held at 7:30 p.m., August 23, 1979, at the Old State House, 150 Benefit Street, Providence, Rhode Island.

Additional information regarding the proposed action or the EIS may be obtained by contacting Mr. Donald C. Smith, Environmental Specialist, Northeast Corridor Project, FRA, 400 Seventh Street, S.W., Washington, D.C.; (202) 472-5890.

Submitted this 8th day of August, 1979.

Louis S. Thompson,

Director, Northeast Corridor Project.

[FR Doc. 79-24795 Filed 8-8-79; 11:04 am]

BILLING CODE 4910-06-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 155
Thursday, August 9, 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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1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Friday, August 10, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

Assignment and Transfer—1—Title: Request for an exception to the Top Fifty Market Policy in connection with an application for the transfer of control of the licensee of WDCA-TV, Washington, D.C., to Taft Broadcasting Company; Petition to deny filed by Washington Association for Television and Children (WATCH). Summary: Taft presently controls the licenses of one UHF and five VHF television stations in the nation's top fifty markets. It is requesting an exception to the Top Fifty Market Policy to enable it to acquire its seventh television station and its second independent UHF station.

The prompt and orderly conduct of Commission business requires that less than 7 days notice be given consideration of this matter.

Additional information concerning this matter may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: August 7, 1979.

[S-1588-79 Filed 8-7-79; 3:43 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 1:30 p.m., Thursday, August 2, 1979.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Additional item considered.

After the conclusion of its Closed Meeting on August 2, 1979, the Commission discussed in Open Meeting the rescheduling of Request for an Exception to the Top Fifty Market Policy in connection with an application for the transfer of control of the licensee of WDCA-TV, Washington, D.C., to Taft Broadcasting Company; Petition to deny filed by Washington Association for Television and Children (WATCH). An electronic recording of the discussion will be available for review in Room 222.

The prompt and orderly conduct of Commission business did not permit prior notice of the August 2nd Open Meeting.

Additional information concerning this matter may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: August 7, 1979.

[S-1587-79 Filed 8-7-79; 3:43 pm]

BILLING CODE 6712-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m. on Monday, August 13, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 350—17th Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factor involved in the proposed merger of The Merchants National Bank of Fort Smith, Fort Smith, Arkansas, and Continental Bank and Trust Company, Barling, Arkansas.

Recommedations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Morgan, Lewis & Bockius, Philadelphia, Pennsylvania, in connection with the liquidation of assets acquired by the Corporation from Farmers Bank of the State of Delaware, Dover, Delaware.

Chapman & Cutler, Chicago, Illinois, in connection with the liquidation of North Point State Bank, Arlington Heights, Illinois.

Chapman & Cutler, Chicago, Illinois, in connection with the liquidation of State Bank of Clearing, Chicago, Illinois.

Hughes, Hubbard & Reed, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York (two memoranda).

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Ira L. Hyams, P.C., Jericho, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Sahn, Shapiro & Epstein, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Sweeting, Pons, Gonzalez & Rodriguez, San Juan, Puerto Rico, in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

J. Randolph Pelzer, P.A., North Charleston, South Carolina, in connection with the liquidation of American Bank & Trust, Orangeburg, South Carolina.

Sutherland, Asbill & Brennan, Atlanta, Georgia, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Strasburger & Price, Dallas, Texas, in connection with the receivership of Franklin Bank, Houston, Texas.

Ross & Stevens, S.C., Madison, Wisconsin, in connection with the liquidation of Algoma Bank, Algoma, Wisconsin.

Memorandum proposing the revision of the Delegations of Authority Relating to the Staffing Table.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389-4425.

[S-1580-79 Filed 8-7-79; 10:05 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m. on Monday, August 13, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550—17th Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Merchants and Farmers State Bank, a proposed new bank to be located at 111 Hobson Way, Blythe, California, for Federal deposit insurance.

America Bank in Louisiana, a proposed new bank to be located at 1200 Brashear Avenue, Morgan City, Louisiana, for federal deposit insurance.

Global Union Bank, a proposed new bank to be located at Wall Street Plaza, New York (Manhattan), New York, for Federal deposit insurance.

Community Bank and Trust, a proposed new bank to be located at 505 West Cameron, Rockdale, Texas, for Federal doposit insurance.

First Wyoming Bank—Douglas, a proposed new bank to be located at the corner of Fourth Street and Elm street, Douglas, Wyoming, for Federal deposit insurance.

Application for consent to establish a branch:

Umatilla State Bank, Umatilla, Florida, for consent to establish a branch on Butler Street (State Road 40) near its intersection with Alco Street, Unincorporated Lake County (P.O. Astor), Florida.

Application for consent to establish a banking facility:

Pioneer Bank & Trust Company, Chicago, Illinois, for consent to establish a facility at 1645 North Pulaski Street, Chicago, Illinois.

Application for consent to exercise full trust powers:

Guaranty Bond State Bank, Mount Pleasant, Texas.

Application for consent to merge and establish branches:

Waccamaw Bank and Trust Company, Whiteville, North Carolina, an insured state nonmember bank, for consent to merge with Cape Fear Bank & Trust Company, Fayetteville, North Carolina, also an insured State nonmember bank, and with Capitol National Bank, Raleigh, North Carolina, under the charter of Waccamaw Bank and Trust Company and with the title "United Carolina Bank, Whiteville", and for consent to establish the ten offices of the two banks being acquired as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,988–L—Franklin National Bank, New York, New York.

Case No. 43,998–L—Franklin National Bank, New York, New York.

Case No. 44,002–L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Case No. 44,004–NR—United States National Bank, San Diego, California.

Memorandum re: The Peoples Bank, Willcox, Arizona.

Memorandum re: United States National Bank, San Diego, California.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier partial denial of a request for records.

Reports of committees and officers:

Audit Report: United States National Bank, San Diego, California.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389–4425.

[S–1581–79 Filed 8–7–79; 10:05 am]

BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, August 14, 1979, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Personnel.

DATE AND TIME: Wednesday, August 15, 1979, at 10 a.m.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Any matters not concluded on August 14, 1979.

DATE AND TIME: Thursday, August 16, 1979, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory Opinions: AO 1979–35, Robert F. Bauer, General Counsel, Democratic Senatorial Campaign Committee. AO 1979–39, Marion Edwyn Harrison, Crane for President Committee. AO 1979–40, Paul D. Friedman, Treasurer, Florida for Kennedy Committee.
1980 election and related matters: Convention Financing Regulations.
Clearinghouse: Bilingual Election Study.
Third Quarter Management Report.
Budget Execution Report.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

Portions Closed to the Public

Any matters not concluded on August 14 and August 15, 1979.

PERSONS TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone, 202–523–4065.

[S–1586–79 Filed 8–7–79; 3:16 pm]

BILLING CODE 6715–01–M

6

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: August 3, 1979, 44 FR 45818.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: August 7, 1979, 10 a.m.

CHANGE IN THE MEETING:

Addition of the following item to the closed session:

3. Appeal of denial of access to grand jury documents.

[S–1582–79 Filed 8–7–79; 10:05 am]

BILLING CODE 6730–01–M

7

August 6, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., August 13, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The Commission will consider and act upon the following:

1. Magma Copper Company, DENV 78–574–PM (Petition for Discretionary Review).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–1585–79 Filed 8–7–79; 3:16 pm]

BILLING CODE 6820–12–M

8

FEDERAL RESERVE SYSTEM: Committee on Employee Benefits of the Board of Governors of the Federal Reserve System.

TIME AND DATE: 9:00 a.m., Wednesday, August 15, 1979.

PLACE: Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals relating to the internal personnel procedures of the System and dealing with the Federal Reserve Banks' employee benefits program:

(a) consideration of providing spousal benefits in the event of a member employee's death;
(b) review of the revised 1979 and proposed 1980 budgets for the Office of Employee Benefits;
(c) proposed interpretation of sections of the Retirement Plan to include coverage of prior service with the Board of Governors for Reserve Bank employees; and
(d) consideration of which of several actuarial firms should be named Actuary of the Retirement Plan.

2. Proposed settlement of claim under the Federal Reserve Long Term Disability Income Plan.

CONTACT PERSON FOR MORE INFORMATION: Mr. Theodore E Allison, Secretary of the Board; 202–452–3257.

[S–1584–79 Filed 8–7–79 2:14 pm]

BILLING CODE 6210–01–M

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, August 16, 1979. [NM–79–26]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first six items will be open to the public; the seventh item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONDIDERED:

1. *Aircraft Accident Report*—Swift Aire Lines, Inc., Nord 262, N418SA, Marina Del Rey, Calif., March 10, 1979.
2. *Aircraft Accident Report*—Allegheny Airlines, Inc., Nord 262, Mohawk/Frakes 298, N2984, Benedum Airport, Clarksburg, W. Va., February 12, 1979.
3. *Railroad Accident Report*—Rear-end collision of Union Pacific freight trains at Ramsey, Wyo., March 29, 1979.
4. *Marine Accident Report*—U.S. motor tankship SEALIFT CHINA SEA ramming of the Italian motor cargo vessel LARENZO D'AMICO, Los Angeles Harbor, Calif., January 15, 1978.
5. *Recommendation* to University of Hawaii and University National Oceanographic Laboratory Systems re disappearance of the HOLOHOLO in the Pacific Ocean.
6. *Pipeline Accident Report*—Gas Services Co., Inc., explosion and fire, London, Ky., January 16, 1979.
7. *Opinion and Order*—Administrator v. O'Donnell, Dkt. SE–4069; disposition of respondent's interlocutory appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

August 6, 1979.

[S–1579–79 Filed 8–6–79; 3:46 pm]

BILLING CODE 4910–58–M

10

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 45546 August 2, 1979 and 44 FR 46097 August 6, 1979].

STATUS: Open Meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, July 30, 1979. Wednesday, August 1, 1979.

CHANGES IN THE MEETING: Additional item.

The following additional item will be considered at an open meeting scheduled for Tuesday, August 7, 1979 at 9:30 a.m.:

Consideration of a request made by the Offices of the Chief Accountant and General Counsel and the Division of Corporation Finance that the Commission authorize the issuance of a release proposing for comment two alternative rules either of which, if adopted, would confirm that accountants will not be subject to liability under Section 11 of the Securities Act of 1933 for SAS No. 24 reports. For information, please contact James J. Doyle at (202) 472–3782, Rick Kirby at (202) 376–8057 and Paula L. Chester at (202) 755–1290.

Chairman Williams and Commissioners Evans and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 755–1639.

August 6, 1979.

[S–1589–79 Filed 8–7–79; 4:00 pm]

BILLING CODE 8010–01–M

11

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES.

Information Community Advisory Committee

TIME: 9 a.m.

DATE: August 16, 1979.

PLACE: Marriott Key Bridge Hotel, Rosslyn, Virginia, Windjammer Room (rooftop).

STATUS: Open.

MATTERS TO BE DISCUSSED: Status Report on White House Conference Planning.

Subcommittee meetings:

(a) Program.
(b) Public Relations.
(c) Exhibits.

Assignment of followthrough tasks.

CONTACT PERSON FOR MORE INFORMATION: Barry Jagoda, Coordinator, (202) 342–9300.

Marilyn K. Gell,

Director.

August 1, 1979.

[S–1583–79 Filed 8–7–79; 11:10 am]

BILLING CODE 7527–01–M

federal register

Thursday
August 9, 1979

Part II

Department of Housing and Urban Development

Federal Housing Commissioner, Office of Assistant Secretary for Housing

Public Housing Development; Revision of Requirements

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Commissioner—Office of Assistant Secretary for Housing

24 CFR Part 841

[Docket No. R-79-690]

Public House Development; Revision of Requirements

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim Rule and request for comments.

SUMMARY: This Rule revises the requirements for the development of public housing. Simplification and streamlining of the regulation is urgently needed to facilitate the development of public housing units authorized by Congress. The revisions are intended to achieve savings in both time and cost by eliminating processing delays.

EFFECTIVE DATE: November 7, 1979.

COMMENTS DUE: October 9, 1979.

ADDRESS: Interested persons should file written comments on or before the due date with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Public Housing Development Division, Office of Public Housing, Office of the Deputy Assistant Secretary for Public Housing and Indian Programs, Department of Housing and Urban Development, Washington, D.C. 20410 (202-755-5846). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The public housing development regulation (24 CFR Part 841) was effective in February 1977. Interim amendments effective May 1979 were based on questions that arose in the early stages of implementing this regulation. The Department received a number of comments as a result of publishing these amendments and they have been considered in preparing this general revision to the regulation.

The revised regulation will simplify the development process by eliminating certain processing steps and duplicative reviews, conforming processing procedures to those of other housing programs administered by the Department and creating maximum flexibility in administering the program.

The following is a brief summary of the significant features of the revised regulation. HUD will prepare the development packet instructing PHAs and developers and other interested parties of program requirements. The notice of fund availablility (NOFA) will invite public housing agencies (PHAs) to submit proposals. The elements of the former application for a public housing project have been combined with the development program into a proposal so that only one approval action will be necessary. The PHA will be given responsibility for determining the development method and selecting an architect or developer. The field office will select the best proposals from among those submitted by different PHAs in an allocation area. The proposal, the site, and the site appraisal will be approved in a single step. The field office will be authorized to maintain a pipeline of proposals and to select from among such proposals if additional contract authority becomes available.

Under outstanding procedures, funds are reserved at the application approval (program reservation) stage, when the site and scope of the proposed housing are unknown, on the basis of a formula. Subsequently, when the site has been selected and the scope of the housing has been determined (development program stage), it is typically necessary to provide additional funds. If additional funds are not available, the project must be redesigned and further delayed. This process has contributed to the long delay typically experienced between application approval and the actual start of construction or rehabilitation of public housing projects.

The following is a discussion of the major changes:

(1) The program reservation and preliminary loan have been eliminated. Funds will be reserved and made available to the PHA after proposal approval, when the annual contributions contract (ACC) is executed. At that stage, there will be a reasonable expectation of the scope, design, and nature of the proposed housing. Funds will be reserved for those projects that are most likely to start construction in a reasonable period and, since estimated cost can be more realistically projected, in the amount actually needed for the project.

(2) Under the new procedures, the initial proposal will identify a specific site (two exceptions are discussed in (7) below) as is the procedure under the section 8 program. Funds will not be reserved until the proposal is processed and approved by HUD. Although no front-end (preliminary loan) funds would be provided for planning purposes or for preparation of the proposal under the revised regulation, a number of provisions have been incorporated to minimize the initial expenses of PHA proposal preparation. The field office will prepare the PHA packet stating program requirements which turnkey developers and other interested parties will use in submitting their proposals to the PHA; evidence of site availability may be accepted at the proposal stage in lieu of site ownership or an option to purchase; the initial advance of ACC funds will be made to the PHA for administration and planning; under the conventional or acquisition development methods, advances also will be provided for site control immediately after execution of the ACC; and the proposal design requirements for the different development methods have been kept to a minimum.

(3) Comments are invited as to whether there is a need for front-end funds to prepare proposals and suggestions as to the amounts and criteria for determining when such assistance should be made available to a particular PHA. Funds previously provided to a PHA under a preliminary loan contract or public housing ACC shall not be used for the purpose of preparing a proposal pursuant to this Part; other funds available to a PHA that are not subject to this restriction may be used.

(4) The PHA will determine which of the three development methods is appropriate for developing a project. If a PHA elects to use the turnkey method and more than one developer submits proposals to the PHA, the PHA will select the best proposal for submission to HUD for approval.

(5) To promote a balanced processing workload, field offices will be authorized to maintain a pipeline of proposals that could be processed if additional funds become available, without publication of additional NOFAs. The criteria for review and approval of such proposals will be the same as for proposals approved at initial submission. Under this procedure, PHAs that were unable to submit proposals by the invitation deadline would not have to wait for a subsequent NOFA.

(6) The revised regulation adopts the current site and neighborhood standards applicable to Section 8 projects in lieu of the Project Selection Criteria (a conforming amendment to 24 CFR Part 200, Subpart N will be published). The site related items of Project Selection

Criteria are similar to the section 8 site and neighborhood standards and application of the same standards to both public housing and section 8 will reduce processing time and avoid confusion. Revisions to the section 8 standards were published for public comment; when revised standards are published for effect, they will also replace the standards contained in this regulation.

(7) The PHA will be required to identify a specific site when submitting a proposal, with two exceptions: (a) proposals for substantial rehabilitation of projects consisting of one to four dwelling units per structure in a neighborhood revitalization area could be submitted under the conventional method without specific identification of properties; (b) proposals for acquisition projects consisting of one to four dwelling units per structure also could be submitted without specific identification of properties. Cost estimates for such non-site specific proposals would be based on typical properties in the neighborhoods; the PHAs would be expected to identify sites within six months. These exceptions are included to facilitate acquisition or rehabilitation of low-density, scattered site properties and promote neighborhood revitalization efforts.

The Department has determined that the revised regulation is urgently needed and must be adopted 90 days after publication. The regulation will simplify and streamline the public housing development process and any further delay in the effective date would be impracticable and contrary to the public interest since it is imperative that the revised regulation be effective at the beginning of the Fiscal Year 1980 funding cycle.

If, as a result of the public comments received, the Department determines that changes are appropriate, the effective date will be deferred by publication of a notice in the **Federal Register**. Unless deferred by such publication, the revised regulation will become effective without notification by the Department 30 days after the close of the period allowed for public comment; that is, 90 days after publication of this document.

This regulation will be applicable to all proposals received in response to a NOFA issued after the effective date of this regulation.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding will be available for public inspection during regular business hours at the above cited address.

The Assistant Secretary has determined that regulatory analysis is not needed since no major economic consequences will accrue as a result of this revised regulation which is for the purpose of streamlining and simplifying the development process established in the existing regulation.

The legislative review provisions of Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o) have been met.

Accordingly, 24 CFR Part 841 is amended as follows:

Part 841, is revised in its entirety, including the title of the Part and of the Subparts, to read as follows:

PART 841—PUBLIC HOUSING DEVELOPMENT

Subpart A—General

Sec.

841.101 Purpose and Development Method
841.102 Definitions
841.103 Prototype Cost Limits
841.104 Fund Allocation
841.105 Notification of Fund Availability

Subpart B—Instructions for Preparation of PHA Proposal

841.201 General
841.202 Eligibility of the PHA
841.203 PHA Administration
841.204 Local Government Support
841.205 Site (or Property)
841.206 Relocation
841.207 Project Design and Development
841.208 Development Cost

Subpart C—Proposal Selection and Project Development

841.301 Proposal Review and Selection
841.302 ACC Execution and Advances
841.303 Preparation of Construction Documents and Execution of Contracts
841.304 Construction Requirements
841.305 Completion of Development

Authority: Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d); U.S. Housing Act of 1937, 42 U.S.C. 1437.

Subpart A—General

§ 841.101 Purpose and Development Method.

(a) *Purpose.* The United States Housing Act of 1937 (Act) authorizes HUD to provide financial and technical assistance to public housing agencies (PHAs) for the development and operation of public housing projects financed by loans and annual contributions provided by HUD under Sections 4 and 5 of the Act. This Part states the regulation under which public housing projects are developed. The regulations for development of other types of housing assisted under the Act, including Section 8 and Indian Housing are contained in other Parts of 24 CFR Chapter VIII. The requirements for the administration of a PHA and for the operation and management of public housing projects also are stated in 24 CFR Chapter VIII and in the annual contributions contact (ACC). Some of the regulations in 24 CFR Chapter VIII that should be referred to are:

(1) Part 804—Turnkey III homeownership opportunities;

(2) Part 812—Definition of family and occupancy by single persons;

(3) Part 860—Income limits;

(4) Part 861—Rents;

(5) Part 865—Project management;

(6) Part 866—Lease and grievance procedure;

(7) Part 867—Personnel policies and compensation;

(8) Part 868—Modernization;

(9) Part 890—Operating subsidy; and

(10) Part 891—Application review and fund allocations.

(b) *Development methods.* There are three different methods a PHA may use to develop public housing projects. The following are brief summaries of each development method.

(1) *Conventional method.* The PHA contracts with a contractor to build or rehabilitate a project on a site provided by the PHA. The PHA proposal shall identify a specific site. However, a PHA may propose to purchase a project requiring substantial rehabilitation that consists of one to four dwelling units and is located in a neighborhood revitalization area without specific identification of the properties to be purchased: such a proposal shall identify the neighborhoods and general locations in which properties are expected to be available; shall contain a plan for identification of properties and submission of construction documents within six months of execution of the ACC; and shall include estimated costs for purchase and rehabilitation based on typical costs in the neighborhood. After field office approval of a PHA proposal and execution of the ACC, the PHA purchases the site and contracts with an architect to prepare the construction documents for the project. Following field office approval, the PHA advertises for bids from contractors to build or rehabilitate the project and awards the Construction Contract to the lowest responsible bidder. The contractor is required to provide assurance of completion in the form of a 100 percent performance and payment bond or other security approved by the field office. The contractor receives progress payments from the PHA during construction and a final payment upon

project completion in accordance with the Construction Contract.

(2) *Turnkey method.* The PHA contracts with a developer to sell the PHA a completed project. The turnkey method may be used for either new construction or substantial rehabilitation. The PHA selects a developer prior to submitting a proposal. After field office approval of the proposal, the ACC is executed and the developer prepares the construction documents for construction or rehabilitation. Following field office approval, the developer and the PHA enter into a Contract of Sale. The developer is fully responsible for all development and construction or rehabilitation activities, including the provision of construction financing. The PHA purchases the project from the developer after satisfactory completion of the project in accordance with the Contract of Sale.

(3) *Acquisition method.* The PHA purchases a property that requires little of no repair work. The PHA's proposal shall identify a suitable property and demonstrate that it meets all requirements with only minor repairs to be done after purchase. However, a PHA may propose to purchase a project consisting of one to four dwelling units per structure without specific identification of properties to be purchased: such a proposal shall identify the neighborhoods and general locations in which properties are expected to be available; shall contain a plan for purchase of the properties within six months from execution of the ACC; and shall provide estimated costs for purchase and repair based on typical properties in the neighborhoods. If the cost of repairs exceeds 10 percent of the estimated total development cost of the project, the proposal will be considered as substantial rehabilitation and the project must be developed using either the conventional or turnkey method. The PHA's proposal shall state the extent of repair work to be done after acquisition. Following field office approval of the proposal and execution of the ACC, the PHA obtains field office approval to purchase individual properties. Repair work is done after acquisition either by the PHA contracting to have the work done or having the staff of the PHA perform the work.

§ 841.102 Definitions.

Act. The United States Housing act of 1937 (42 U.S.C. 1437).

Allocation Area. A municipality, county, or group of contiguous municipalities or counties or Indian areas identified by the field office or in an approved Areawide Housing Opportunity Plan for the purpose of allocating housing assitance to support economically feasible housing projects.

Annual Contributions Contract (ACC). A contract (in the form prescribed by HUD) for loans and annual contributions, the execution of which created legal obligations between HUD and a PHA, whereby HUD agrees to provide financial assistance and the PHA agrees to comply with HUD requirements for the development and operation of a public housing project.

Construction Documents. The specifications, drawings or work write-ups that set forth the work to be done for the construction, rehabilitation or repairs to a project.

Contract Authority. The maximum amount authorized for annual payments under the ACC. This amount multiplied by the ACC term (number of years) is the budget authority.

Cooperation Agreement. An agreement (in the form prescribed by HUD) between a PHA and the local governing body which assures tax exemption, provides for local support and services for the development and operation of a public housing project, and provides for payments in lieu of taxes.

Housing Assistance Plan (HAP). A plan approved by HUD as meeting the requirements of 24 CFR Section 570.306.

Household Type. The three household types are (1) elderly and handicapped, (2) family and (3) large family (24 CFR Part 891; 24 CFR Part 812 defines family and related terms).

Housing Type. The three housing types are new construction, rehabilitation and existing housing (24 CFR Part 891).

HUD. The Department of Housing and Urban Development, including the Regional Office and the Area or Service Office (herein called field office) which has been delegated authority to perform functions pertaining to this Part.

Prototype Cost Limit. The ceiling on dwelling construction and equipment costs established by HUD for a specific area and published in the **Federal Register** (Section 6(b) of the Act).

Public Housing Agency (PHA). Any state, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development and operation of low-income housing and is determined by HUD to be eligible to under take projects under this Part.

Total Development Cost. The sum of all HUD-approved costs for planning, administration (including proposal preparation), land acquisition, relocation, demolition, construction and equipment, necessary financing (including interest and carrying charges, if any), on-site streets and driveways, on-site utilities, non-dwelling facilities, a contingency allowance (not to exceed 1 percent for turnkey and acquisition, and 5 percent for conventional), insurance premiums for the first three years, off-site facilities (to the extent includable in development cost), and any other costs necessary in carrying out the development of the project. The estimated total development cost in the PHA's proposal when reviewed and approved by HUD becomes the maximum total development cost stated in the ACC. Upon completion of the project, actual costs are determined and become the approved actual development cost of the project stated in the ACC.

§ 841.103 Prototype Cost Limits.

(a) *Authority.* Section 6(b) of the Act limits the cost of dwelling construction and equipment to 110 percent of the prototype cost limits established by HUD for the area.

(b) *Establishment of areas and limits.* The field office shall recommend prototype cost areas by determining the geographic boundaries within which trade conditions and economic influences tend to make construction costs substantially the same. For each area, the field office shall, after consulting local housing producers, estimate the construction costs of new dwelling units of various sizes and types based on the HUD Minimum Property Standards, additional housing program standards defined by the field office in accordance with Section 6(b) of the Act, and local building practices for privately developed housing. The field office recommendations as to areas and prototype cost limits shall be submitted to the Assistant Secretary for Housing for review and approval. The limits for the different areas are published at least annually in the **Federal Register** as an Appendix to this Part.

§ 841.104 Fund Allocation.

Contract authority for public housing projects is allocated to each field office. The field office suballocates this authority to allocation areas and makes public the amount of contract authority available for each allocation area within its jurisdiction in accordance with 24 CFR Part 891, Subpart D.

§ 841.105 Notification Of Fund Availability (NOFA).

(a) *Pipeline Processing.* (1) The pipeline of proposals will be reviewed to determine whether to resume processing of any or all of them. In making the decision as to whether to resume processing, the field office will consider whether the pipeline proposals are of high quality relative to the standards and requirements of this Part, whether publication of a NOFA will improve the quality of proposals available for selection, and whether pipeline proposals comply with the field office allocation plan and the most recently approved HAPs.

(2) The PHAs whose proposals qualify for resumed processing will be sent a letter requesting them to advise the field office within 10 calendar days as to whether or not they request processing to be resumed on their proposals and, if the decision is in the affirmative, to submit within an additional 10 calendar days (for a total of 20 days) any information required to update their proposals. The letter should also state the prototype cost limits that will be applicable to pipeline proposals.

(3) Upon receipt of notification from a PHA requesting that processing be resumed and any updated information, the field office will resume processing the proposal in accordance with § 841.301.

(4) The field office shall determine the amount of contract authority to be used for pipeline proposals.

(5) The PHAs whose pipeline proposals are not to be placed in processing will be notified in writing that their proposals will not be processed further with a statement of the reasons for this decision. One file copy of each proposal will be retained by the field office.

(b) *PHA Packet.* If there is contract authority remaining after pipeline processing has been considered, the field office shall prepare a PHA packet for each allocation area. The packet shall address each of the items described in Subpart B, supplemented to the extent the field office determines to be necessary to assist PHAs in submitting approvable proposals.

(c) *Notification of fund availability.* The field office shall announce the availability of contract authority (excluding the amount to be used for pipeline processing) and invite PHA's by publishing a NOFA to submit proposals. A NOFA shall be published for each allocation area in accordance with the schedule established by the field office. The NOFA shall identify each allocation area for which contract authority is available and shall include the following information:

(1) The amount of contract authority available and the number of units by housing type and by household type that the contract authority is expected to support.

(2) The deadline date by which proposals must be received to be reviewed and selected in competition with all other proposals. Any proposals received after the deadline date will be considered for selection only if contract authority remains after the initial selection or may be held by the field office for later pipeline processing when additional contract authority becomes available.

(3) A statement that proposal requirements and review procedures are explained in the PHA packet which is available at the field office, that information and assistance will be available from the field office, and that public housing funds will not be made available to pay the cost of preparing a proposal unless the proposal is selected and the ACC executed. Developers or other interested parties will be advised that they can obtain PHA packets at the field office and that they should contact the appropriate PHAs for further information.

(d) *Conditional NOFA.* Field offices may issue NOFAs subject to the availability of contract authority at a later date. Proposals received in response to such NOFAs will be processed in accordance with the provisions of § 841.301, but notification of selection will not be sent unless contract authority becomes available.

(e) *Distribution.* Copies of the NOFA will be sent to each PHA, to minority and fair housing organizations and media in the allocation area and to applicable Areawide Planning Organizations.

Subpart B—Instructions for Preparation of PHA Proposal

§ 841.201 General.

The field office shall prepare a PHA packet that includes each of the items stated in this Subpart and any supplementary requirements the field office determines to be necessary to assist PHAs in preparing approvable proposals. A proposal to develop a public housing project shall comply with the requirements of the PHA packet to be considered for approval. A PHA may submit more than one proposal, provided that the total number of units in all proposals submitted by a PHA does not exceed the number of units stated in the NOFA.

§ 841.202 Eligibility Of The PHA.

(a) *Legal authority.* The proposal shall include evidence that demonstrates the PHA has the required legal authority to develop and operate the proposed public housing project.

(b) *PHA resolution.* The proposal shall include a PHA board resolution which authorizes submission of the proposal. The resolution shall state that the PHA has reviewed and will develop and operate the project in accordance with the applicable regulations and the ACC.

§ 841.203 PHA Administration.

(a) *Administrative plan.* The PHA's plan for the development and operation of the project shall include:

(1) A demonstration of the PHA's capability to provide adequate administration for the development and operation of the proposed project, and any other HUD-assisted projects, in compliance with all applicable HUD requirements.

(2) A proposed schedule for each important step in developing the project from proposal selection to completion of development, including the procedures to be used for contract administration during construction or rehabilitation of the project.

(3) A demonstration of the financial feasibility of the project by a showing that the Allowable Expense Level, computed in accordance with 24 CFR Section 890.101 et seq. will be equal to or greater than the estimated average operating expenses (less the cost of utilities and audit costs) for a reasonable operating period as determined by HUD.

(b) *Contracts entered into by the PHA.*

(1) The PHA shall not enter into any contract in connection with the development of a project without the prior written consent of the field office. Any such contract shall expressly state that the parties understand that HUD is under no obligation to provide funds for payments under such contract and that any development funds subsequently approved by HUD will be limited to purposes and amounts specifically approved by HUD as necessary for the development of the project.

(2) The PHA shall not, without the prior written approval of the field office, enter into any contract for services where the term (including renewals) exceeds two years or for any legal or other services in connection with litigation or into any contract for an amount in excess of the amount included for each purpose in the development cost budget or the operating budget for the project.

(3) Any contracts for design and inspection of a project, Construction Contracts or Contracts of Sale to be entered into by the PHA shall be in the form prescribed by HUD and shall receive the written approval of the field office prior to the execution by the PHA.

(4) Contracts entered into by the PHA shall provide that:

(A) Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276), shall be paid to all laborers and mechanics employed in the development of the project.

(B) Not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable state or local law) by HUD, shall be paid to all architects, technical engineers, draftsmen and technicians employed in the development of the project.

(c) *Civil rights and equal opportunity.* The development and operation of a projet shall comply with:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Executive Order 11063, and Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601);

(2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(3) Executive Order 11246 (30 FR 12319), as amended by Executive Order 11375 (32 FR 14303), and applicable implementing regulations (24 CFR Part 130; 41 CFR, Chapter 60), rules and orders of HUD and the Office of Federal Contract Compliance Programs of the Department of Labor;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u);

(5) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101); and

(6) All HUD requirements with respect to discrimination in employment by the PHA or by contractors of the PHA.

§ 841.204 Local government support.

(a) *Cooperation agreement.* The proposal shall include an executed Cooperation Agreement or evidence that there is an outstanding Cooperation Agreement covering the number of units proposed.

(b) *Joint funding.* If applicable, the proposal shall include a commitment from the lcoal governing body or other public or private entity to donate a site or to provide funding or other support to the project from community development block grant funds or other sources.

§ 841.205 Site (or property).

(a) *Location.* The proposal shall identify the location, including a map; describe the site's physical characteristics, size, any unusual features and zoning; describe the current racial and economic composition of the residents of the neighborhood; provide either evidence of present control of the site by the PHA (or turnkey developer) or evidence that the site is available and can be acquired.

(b) *Properties assisted under the Act.* Proposals involving properties already assisted under the Act may not be selected without the prior written approval of the Assistant Secretary for Housing.

(c) *Site and neighborhood standards.* Proposed sites shall comply with the following standards and the proposal shall explain how each site complies with the applicable standard.

(1) *Economy and Efficiency.* Each site shall be adequate in size, exposure and contour to accommodate the number and type of units proposed. Adequate utilities (water, sewer, gas and electricity) and streets must be available at each site prior to commencement of construction. The physical characteristics and cost of the site and the availability of utilities and access roads shall promote economical construction and operation of the project.

(2) *Low-density housing for families with children.* Projects approved under this Part for families with children, including large families (families requiring three or more bedrooms), shall to the maximum extent practicable consist of low-density housing (e.g., non-elevator structures, scattered sites or other types of low-density developments appropriate in the locality.)

(3) *Use of high-rise elevator structures.* High-rise elevator structures shall not be provided for families with children regardless of density unless the PHA demonstrates and the field office determines that there is no practical alternative. High-rise buildings for the elderly may be used if the PHA demonstrates and the field office determines that such construction is appropriate taking into consideration land costs, the safety and security of the prospective occupants, and the availability of community services.

(4) *Equal opportunity and fair housing requirements.*

(A) The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Excecutive Order 11063, and HUD regulations issued pursuant thereto.

(B) The site shall promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(C) For new construction projects only, the site shall not be located in an area of minority concentration unless (i) sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration, or (ii) the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area. (An "overriding need" may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise feasibly be met is that discrimnation on the basis of race, color, religion, creed, sex, or national origin renders sites outside areas of minority concentration unavailable.)

(D) For new construction projects only, the site shall not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

5. *Facilities and services.* The site shall be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services required by the tenants. Travel time and cost via public transportation or private automobile from the site to places of employment providing a range of jobs for lower-income workers must not be excessive.

(6) *Housing Assistance Plan (HAP) requirements.* The site must be consistent with the HAP.

(7) *Environmental requirements.* The site shall be consistent with the requirements of the National Envrionmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the National Historic Preservation Act (Pub. L. 89–665), the Archeological and Historic Preservation Act of 1974 (Pub. L. 93–291), Executive Order 11593 on Protection and Enhancement of the Cultural Environment (including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800), the Clean Air Act (42 U.S.C. 1857 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.) and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.).

§ 841.206 Relocation.

(a) *Uniform Act.* The proposal shall include a statement of the PHA's intent to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) (42 U.S.C. 4601) and related HUD policies and requirements thereunder (24 CFR Part 42).

(b) *Issuance of notices.* For the purposes of 24 CFR 42.65(b), the date of initiation of negotiations shall be:

(1) For the conventional or acquisition method, the date of the PHA's written offer to the owner for the amount determined to be just compensation for the property. The offer shall not be made prior to execution of the ACC.

(2) For the turnkey method, the date of HUD execution of the ACC.

(c) *Relocation requirements.* If relocation is involved, the proposal shall identify the site occupants and shall state the PHA's proposed distribution of notices of displacement and of right to continue in occupancy and the anticipated relocation costs.

(d) *Uniform Act costs.* The cost of compliance with the Uniform Act, as well as the actual reasonable moving expenses of families which are temporarily moved from a project site during construction and returned to the site after completion, may be included in development cost.

§ 841.207 Projects design and development.

(a) *Development method.*

(1) The proposal shall state the development method and housing type (a proposal may not combine new construction, substantial rehabilitation and existing housing). Unless the field office has determined the development method to be used, the proposal shall state the reasons why the PHA has selected the turnkey or conventional method as appropriate for the project, including consideration of such factors as total development cost, sites, construction financing, control over design and construction, size of project, emphasis on use of local contractors and PHA administrative capability.

(2) The qualifications and previous experience of the PHA, the developer, the design and inspecting architects and other known participants shall be stated.

(b) *Project description.*

(1) The proposal shall state the number of units by household type and provide evidence that these are consistent with any applicable HAP.

(2) The proposal shall state the number and types of structures, the number of stories, structural system, exterior finish, utilities, heating system, number of units by bedroom size, living areas and composition for each size unit and any special features. Any non-dwelling facilities or special services to be provided shall be described.

(3) Depending on the development method, the proposal shall incude: (A) For turnkey projects, outline specifications and drawings of the site, buildings and units. (B) For acquisition of existing properties, a statement of the extent of repair work to be done after purchase of the properties. (C) For conventional projects involving substantial rehabilitation, preliminary work write-ups.

(4) The proposal shall describe the equipment to be included, such as ranges and refrigerators, and state whether the equipment will be provided by the PHA.

(c) *Construction and rehabilitation standards.* The proposed design shall comply with the HUD Minimum Property Standards (24 CFR Part 200, Subpart S), HUD Minimum Design Standards for Rehabilitation for Residential Properties, as applicable, any additional housing program standards defined by the field office as prescribed by Section 6(b) of the Act, and applicable state and local requirements.

§ 841.208 Development cost.

(a) *Development cost estimate.*

(1) The proposal shall include an estimate of total development cost in accordance with HUD requirements.

(A) For conventional projects involving substantial rehabilitation, the proposal shall include detailed cost estimates based on the preliminary work write-ups.

(B) For turnkey projects, the developer's proposed price shall be separately stated to include site acquisition and improvements, construction and equipment, construction financing, legal, architectural and engineering fees, and other project work to be included in the Contract of Sale.

(2) The cost of off-site facilities shall be determined as follows: (A) Where the project would be required to bear a part or all of the cost of off-site facilities as if it were a private development, the cost of such facilities may be included in the total development cost; provided that the field office determines that the off-site facilities are a necessary appurtenance to the project and the amount included is limited to the lower of: (i) the HUD-approved estimate of the cost of such facilities, or (ii) the increase in value of the project site because of such facilities. (B) Where the cost of off-site facilities is required to be borne by the local government without cost to the project, whether because of normal practice or because of the Cooperation Agreement, the cost of such facilities may not be included in total development cost, but the field office may arrange for a HUD loan evidenced by an off-site facilities note; provided that the field office determines that the off-site facilities are a necessary appurtenance to the project and the amount is limited to the lower of: (i) the HUD-approved estimate of the cost of such facilities, or (ii) the increase in value of the project site because of such facilities; and provided, that the PHA submits legally enforceable commitments, acceptable to HUD, to repay the cost of such facilities from sources other than annual contributions or project income.

(b) *Cost limits.*

(1) The field office shall include in the PHA packet a statement of maximum dwelling construction and equipment cost that may be included in a proposal. The statement shall be determined as follows:

(A) The prototype cost limit in effect at the date of publication of the NOFA (or at the date pipeline processing is resumed):

(B) Multiplied by a trending factor (designated by the Assistant Secretary for Housing) to reflect cost increases anticipated between publication of the NOFA (or between resumption of pipeline processing) and the date by which the field office anticipates the Construction Contract or the Contract of Sale is to be executed.

(2) A proposal stating estimated dwelling construction and equipment cost that exceeds the stated maximum will not be considered responsive and will be rejected.

(3) At the date of execution of the Construction Contract or the Contract of Sale the dwelling construction and equipment cost of the project may not exceed the prototype cost limits in effect at that date, except that the field office may approve costs that are no more than 110 percent of the prototype cost limits.

Subpart C—Proposal Selection and Project Development

§ 841.301 Proposal review and selection.

(a) *Initial screening.*

(1) The field office shall perform an initial screening of each proposal received prior to the deadline to determine the eligibility of the PHA and whether the proposal is complete and

responsive to the PHA packet. The contents of a proposal shall remain confidential until sent by the field office to the A–95 clearinghouse or local government for review.

(2) The field office shall advise the PHA in writing of any deficiencies in the proposal and that additions or changes will be accepted if they are received on or before a specified date (generally 10 calendar days from the date of the request for additional information). If the deficiencies are not corrected within the specified time, the field office shall notify the PHA that the proposal is rejected.

(b) *Technical processing.*

(1) The field office shall send a copy of each proposal subject to A–95 clearance to the appropriate clearinghouse for review, inviting a response within 30 calendar days from the date of the transmittal letter.

(2) The field office, in compliance with section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301), shall forward a notification to the Chief Executive Officer (or designee) of the unit of general local government and shall invite a response within 30 calendar days from the date of the notification letter.

(3) The field office shall evaluate the proposal to determine compliance with all requirements of the PHA packet, and the comments, if any, received from the appropriate A–95 clearinghouse and the unit of general local government.

(c) *Tentative Selection.* Where there are not sufficient funds in an allocation area to select all proposals determined to be approvable after technical processing, the field office shall select the best proposals (comparing elderly and non-elderly proposals separately) on the basis of the following factors:

(1) Site and location;

(2) Project design;

(3) Ability of the PHA, and the architect or developer to perform;

(4) A–95 and Section 213 comments;

(5) Project cost;

(6) Extent of displacement;

(7) Scattered site family housing;

(8) Housing to be developed in part with local funds;

(9) Proposal for localities which have previously been underfunded relative to their needs; and

(10) If necessary, the adjustments required to reasonably approximate the maximum number of units that can be approved with the available contract authority.

(d) *NEPA and appraisal.* Prior to final selection and notification to PHAs, the field office shall complete an environmental review in accordance with the requirements of the National Environmental Policy Act of 1969 and shall obtain a site or property appraisal for all proposals identified for selection. The review and appraisal may result in a change in the identification of the proposals that were tentatively selected.

(e) *Selection of proposals.*

(1) The field office shall consider the applicable requirements of 24 CFR Part 891 before selecting proposals.

(2) The field office shall send a notification letter to the PHA stating that the proposal has been selected and indicating the approved total development cost and appraised value of the site or property. The letter shall state that the ACC is being prepared for execution and identify actions required to be completed by the PHA prior to execution of the ACC. The PHA also will be advised that funds will not be advanced by HUD prior to execution of the ACC.

(f) *Proposals not selected.*

(1) The field office shall send a notification letter to each PHA whose proposal was not selected with a statement of the reasons for non-selection.

(2) For approvable proposals considered suitable for inclusion in the pipeline, the letter shall state that the PHA may request that the field office hold the proposal in the pipeline for possible future processing in accordance with Section 841.105.

§ 841.302 ACC execution and advances.

(a) *Execution of ACC.* An ACC based on the HUD-approved proposal shall be prepared by the field office and shall be executed by the PHA and HUD. No modifications may be made in the HUD-approved proposal except in accordance with the procedures prescribed by HUD.

(b) *Increase in development cost.* The ACC shall state the estimated total development cost of the project. No increase in the total development cost stated in the ACC may be made at any subsequent stage unless additional funds are allocated to the project in accordance with HUD procedures. The PHA shall not make any commitment to pay costs in excess of the development cost budget prior to amendment of the ACC.

(c) *Development advances.*

(1) No funds are to be advanced prior to execution of the ACC.

(2) For projects being developed under the conventional or acquisition methods, advances for administrative, planning and site control shall be limited to $400 per unit until purchase of the site by the PHA. Where substantial rehabilitation is involved, an additional $600 per unit may be advanced for these costs and for preparation of construction documents.

(3) For projects developed under the turnkey method, advances for administrative and planning purposes shall be limited to $200 per unit until purchase of the project by the PHA.

(4) Subsequent advances will be made in accordance with the HUD procedures as development proceeds.

(d) *Termination of advances.* The HUD-approved proposal shall include a schedule of dates by which the PHA proposes to develop the project and the ACC shall provide that in the event there is a failure to meet this schedule, HUD may terminate advances.

(e) *Repayment.* In the event the PHA defaults on its obligations stated in the ACC with regard to development of the project, the amount of advances made to the PHA shall be repaid by the PHA from any funds or assets available for this purpose.

§ 841.303 Preparation of construction documents and execution of contracts.

(a) *Conventional method.* The PHA shall purchase the site for new construction; for substantial rehabilitation, the purchase of the property shall not occur until field office approval of the construction documents. The PHA's architect shall prepare the construction documents in accordance with HUD criteria for approval by the PHA and the field office. The PHA and the field office shall reach agreement on the estimated total developed cost. The PHA shall advertise for bids and select the lowest responsible bidder, subject to field office approval. The Construction Contract (on a HUD form) shall be executed between the PHA and the contractor. The PHA shall issue a notice to proceed with construction in accordance with the Construction Contract and the construction documents.

(b) *Turnkey method.* The developer shall prepare the construction documents in accordance with HUD criteria for approval by the PHA and the field office. The developer's final price, as negotiated on the basis of the construction documents and appraisal of the site or property, shall not exceed the lesser of the developer's proposed price or the HUD estimates of construction costs. The PHA and the field office shall reach agreement on the estimated total development cost. The Contract of Sale (on a HUD form) shall be prepared and executed between the PHA and the developer. The developer shall proceed to construct or rehabilitate the project in accordance with the Contract of Sale and construction documents.

(c) *Acquisition method.* Where the property was not identified in the PHA proposal, the PHA shall select the individual property and obtain field office approvals of the property prior to purchase. The PHA shall purchase the property, complete the construction documents in accordance with HUD criteria for approval by the field office and reach agreement with the field office as to the method of completing required work. The PHA and the field office shall reach agreement on the estimated total development cost. The PHA shall obtain field office approval prior to execution of contracts for work in excess of $10,000.

§ 841.304 Construction requirements.

(a) *Economy.* The PHA shall complete development of the project at the lowest possible cost consistent with standards for design and construction, not to exceed the total development cost approved by the field office, in accordance with the approved proposal and development schedule.

(b) *Changes in contracts.* The PHA shall not agree to any changes or additions to the work required under the Construction Contract or Contract of Sale or as agreed to under the acquisition method, except as authorized by the provisions of these contracts or with prior field office approval.

(c) *Contract administration.* The PHA shall be responsible for contract administration and shall contract for the services of an architect, or other person licensed under state law, to perform services to assist and advise the PHA in contract administration to assure that the work is being done in accordance with the procedures and schedule in the HUD-approved proposal. The PHA shall forward copies of construction reports on the work to the field office with comments on actions taken to remedy any deficiencies. A field office representative shall periodically visit the site to monitor the PHA's contract administration.

(d) *Acceptance of work and contract settlement.*

(1) The contractor or developer shall notify the PHA in writing when the contract work, including any approved off-site work, will be completed and ready for inspection. No work shall be accepted by the PHA without HUD approval. The final inspection shall be made jointly by representatives of the PHA, the field office and the contractor or developer.

(2) If upon inspection, the PHA and the field office determine that the work is fully complete and satisfactory, except for work that is appropriate for delayed completion, the work shall be accepted. The PHA shall determine any hold-back for items of delayed completion, the amount due and payable for the work that has been accepted and compliance with any conditions precedent to payment that are stated in the Construction Contract or Contract of Sale. The field office shall review and, if acceptable, approve the PHA's determination that the work may be accepted and the amount to be paid to the contractor or developer.

(3) The contractor or developer will be paid for items of delayed completion only after inspection and acceptance of this work by the PHA and the field office.

(e) *Guarantees and warranties.* The Construction Contract or Contract of Sale shall specify the project guaranty period and shall provide for assignment to the PHA of all warranties required by the construction documents. The PHA shall inspect each dwelling unit and the project in general approximately three months after the beginning of the project guaranty period and three months before its expiration and also as may be necessary to exercise rights before expiration of any warranties. The PHA shall require repair or replacement, prior to the expiration of the guaranty or warranty periods, on any defective items.

§ 841.305 Completion of development.

(a) *Initial operating period.* Total development cost shall include an amount for PHA expenses of operation during an initial operating period commencing with the date of execution of the ACC and ending on the date established by the field office.

(b) *Actual development cost.* When all development has been completed and paid for, but not later than 12 months after the end of the initial operating period unless a longer period is approved by the field office, the PHA shall submit a statement of the actual development cost. The Field Office shall review the statement and determine the actual development cost of the project.

Issued at Washington, D.C., July 18, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

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Part III

Department of Housing and Urban Development

Office of the Secretary

Procedure for Floodplain Management and the Protection of Wetlands; Implementation of Executive Orders 11988 and 11990

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 55]

[Docket No. R-79-692]

Procedure for Floodplain Management and the Protection of Wetlands—Implementation of Executive Orders 11988 and 11990

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

ACTION: Proposed Rule—Notice of Draft Procedure.

SUMMARY: This proposed rule prescribes policies and procedures to be used by the Department of Housing and Urban Development for implementing Executive Order 11988 on Floodplain Management and Executive Order 11990 for the Proctection of Wetlands. The Department will consider comments from the public and other governmental agencies in preparing a final rule. The proposal described in the notice may be changed in the light of comments received.

DATE: Comments must be received on or before November 10, 1979.

ADDRESS: All comments should be sent to Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendations. Copies of all written comments received wil be available for examination by interested persons at the above address from 8:45 a.m. to 5:15 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Prybla, Office of Environmental Quality, 202/755-3409.

SUPPLEMENTARY INFORMATION: The U.S. Water Resources Council's Floodplain Management Guidelines for Implementing Executive Order 11988 (43 FR 6063, February 10, 1978).

Background

Executive Order 11988, Floodplain Management

That Order, signed May 24, 1977, revoked and replaced Executive Order 11296 issued August 10, 1966. The new order requires all executive agencies to protect the values and benefits of floodplains and to reduce risks of flood losses by not conducting, supporting or allowing action located in floodplains unless it is the only practicable alternative. Agencies are to use available floodplain maps of the Federal Insurance and Hazard Mitigation Agency (formerly Federal Insurance Administration) or other available floodplain information in order to make these judgments. If the agency determines that its actions must be located in the floodplain then it must minimize potential harm to the floodplain. It must notify state and local governments of its action, state how the action is compatible with state and local floodplain protection laws, and identify the alternatives that were considered. Floodplains must also be taken into account in agency requests for authorization for Federal programs. The Order requires Federal agnecies to manage their property and to floodproof their facilities in accordance with the same standards and criteria that have been adopted under the National Flood Insurance Program.

Executve Order 11990, Protection of Wetlands

That Order, signed May 24, 1977, requires all executive agencies to refrain from supporting construction in wetlands wherever there is a practicable alternative. The Order established a Federal policy for the conservation and protection of wetlands, and directs Federal agencies to take certain steps to avoid to the extent possible the long and short term impacts associated with the destruction or modification of wetlands. If the head of a Federal agency finds that there is no practicable alternative to the use of wetlands for a project, the agency must act to reduce the adverse impacts on the wetlands. Each agency is also required to provide opportunity for early public review of any plans or proposals to alter wetlands. The order applies to direct Federal construction in wetlands, to federally financed or assisted construction in wetlands, and to the uses of wetlands on Federally-owned property.

24 CFR Part 55

HUD proposes to add a new Part 55 to Title 24 of the CFR by this notice of proposed rulemaking. This notice provides the Department's proposed procedure to implement Executive Order 11988 on Floodplain Management and Executive Order 11990 for the Protection of Wetlands, hereinafter referred to as Orders. The Department's previous issuances (44 FR 12857, March 8, 1979; 44 FR 30273, May 24, 1979) made reference to the Orders. Existing regulations, policies, standards, issuances and operating instructions including program handbooks, application and agreement forms of the various HUD programs will be amended to conform with this Part.

Under this procedure, the Department or CDBG recipient will review each proposed action to which this Part applies to determine if it is to be located in or appreciably affects a floodplain or wetland. If it is, the reviewer will notify and involve the public, identify alternatives, identify adverse impacts, develop strategies for minimizing potential impacts, re-evaluate the action in light of information gathered, and notify the public of the decision concerning the project, if approved. The reviewer will consider criteria developed by the Water Resources Council in making a decision. Examples of actions to which these procedures are not applicable include most insurance actions involving single family housing, existing housing assistance payment programs, training, technical assistance and most planning grants, and other primarily procedural or administrative requirements of the Department. The coverage of inapplicable activities shall be accomplished to the extent practicable, through the incorporation of appropriate criteria and standards in the program regulations affecting such activities.

Under this procedure, all actions that are undertaken are to be in accordance with the previously mentioned Orders and with the general principles of the following: (a) Unified National Program for Floodplain Management, Water Resources Council, 1976; (b) Executive Order 11514, Protection and Enhancement of Environmental Quality; and (c) Office of Management and Budget Circular A-95.

The Department has determined that an environmental impact statement and a regulatory analysis are not required with this rule. A copy of these findings is available for inspection in the Office of the Rules Docket Clerk at the address provided above.

Accordingly, it is proposed to add a new Part 55 to Title 24 of the CFR to read as follows:

PART 55—HUD PROCEDURE FOR FLOODPLAIN MANAGEMENT AND THE PROTECTION OF WETLANDS

Sec.

55.1 Purpose and authority.
55.2 Policy and applicability.
55.3 Procedures.
55.4 Responsibilities.
55.5 [Reserved]
55.6 Definitions.

§ 55.1 Purpose and authority.

This part describes the specific means by which the Department of Housing and Urban Development will conduct its programs so as to meet the objectives of Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands. These Orders were issued May 24, 1977 and direct each agency to prescribe procedures to implement the policies and requirements of these Orders.

§ 55.2 Policy and applicability.

It is the policy of HUD programs to apply requirements of the two Executive Orders to all HUD programs and projects in the following manner:

(a) For all projects subject to an environmental review in accordance with "Departmental Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality" (38 FR 19182, July 18, 1973, as amended) (see 24 CFR Part 50), compliance with procedures and other requirements of the Executive Orders shall be accomplished as part of the environmental review and shall be completed prior to the decision points specified in Appendices A–1 and A–2 of the environmental policy.

(b) For all projects subject to the "Environmental Review Procedures: Community Development Block Grant Program" (CDBG) (24 CFR Part 58), compliance with the procedures and other requirements of the Executive Orders shall be accomplished by the applicant as part of the environmental review in accordance with the specifics stated in 24 CFR 58.23, Floodplains and Wetlands.

(c) Coverage of the activities listed below shall be accomplished, to the extent practicable, through the incorporation of appropriate criteria and standards in the program regulations affecting such activities, and this Part shall not apply to them. These include: (1) Section 5.a.(1) (see Footnote No. 1); (2) Section 5.c.(2) (see Footnote No. 2) of the Departmental environmental procedures; (3) multifamily property disposition actions described in Section 5.d.(6)(i) excepting compliance with Section 3(d) of Executive Order 11988; and (iv) types of projects identified in 24 CFR 58.21 (see Footnote No. 3) of CDBG environmental procedures.

(d) New programs not covered by paragraphs (a), (b), or (c) of this section shall be referred to the Assistant Secretary for Community Planning and Development (CPD) for a decision on the appropriate methods of applying the executive orders, until this part can be amended, to take such new programs into account.

(e) Major amendatories to previously-approved projects are subject to the executive orders. Otherwise, projects which have passed the decision points contained in Appendices A–1 and A–2 of "Departmental Policies, Responsibilites and Procedures for Protection and Enhancement of Environmental Quality (38 FR 19188 July 18, 1973, as amended) (see 24 CFR Part 50) and CDBG projects for which HUD has approved the release of funds (24 CFR 58.31) shall not be subject to retroactive review.

(f) Under this procedure, all actions that are undertaken are to be in accordance with the general principles of the following: (1) Unified National Program for Floodplain Management, Water Resources Council, 1976; (2) Executive Order 11514, Protection and Enhancement of Environment Quality; and (3) Office of Management and Budget Circular A–95.

§ 55.3 Procedures.

To the maximum extent feasible, compliance with the executive orders shall be carried out as an integral part of the environmental review procedures identified in § 55.2; separate and duplicative processing shall be avoided wherever possible.

(a) Prior to taking any action which is subject to this Part, HUD or the CDBG applicant shall undertake a decisionmaking process which includes the following:

(1) Determine whether the proposed action is located in a wetland and/or the 100-year floodplain (or a larger floodplain for critical actions); or whether it has the potential to appreciably affect or be appreciably affected by a floodplain or wetland;

(2) In accordance with public notice instructions contained below, notify the public at the earliest possible time of the intent to carry out an action appreciably affecting or appreciably affected by a floodplain or wetland, and involve the broadest affected and interested public in the decisionmaking process;

(3) Identify and evaluate practicable alternatives to locating in a floodplain or wetland (including alternative sites outside the floodplain or wetland; alternative actions which serve essentially the same purpose as the proposed action, but which have less potential to affect the floodplain or wetland adversely; and the "no action" option);

(4) Identify the full range of potentially appreciably direct or indirect adverse impacts associated with the occupancy or modification of floodplains and wetlands and the direct and indirect support of floodplain and wetland development that could reasonably be expected to result from the proposed action, and consider factors relevant to the proposal's effect on wetlands in accordance with Section 5 of the Executive Order 11990. In determining the practicability of alternatives, analyze the following factors: (1) Natural environment (topography, habitat, hazards, etc.); (2) Social concerns (aesthetics, historical and cultural values, land use patterns, etc.); (3) Economic aspects (costs of space, construction, transportation services and relocation); and (iv) Legal constraints (deeds, leases, etc.).

(5) Minimize the potential impacts affecting floodplains and wetlands that are identified under paragraph (a)(4) of this section, restore and preserve the natural and beneficial values served by floodplains, and preserve and enhance the natural and beneficial values served by wetlands; mitigate in accord with the standards and criteria set forth in Section 3(a) of Executive order 11988;

(6) Re-evaluate the proposed action to determine first, if it is still practicable in light of its exposure to flood hazards and its potential to disrupt floodplain and wetland values and, second, if alternatives rejected at paragraph (a)(3) of this section are practicable in light of the information gained in paragraph (a)(4) and (5) of this section. If, after compliance with the requirements of this Part, new construction of structures or facilities are to be located in a floodplain or wetland, accepted floodproofing and other measures shall be applied to new construction or rehabilitation. To achieve flood protection, wherever practicable structures shall be elevated above the flood level rather than filling in land in compliance with Section 3(b) of Executive Order 11988;

(7) Prepare, and provide the public with, a finding and public explanation of any final decision that there is no practicable alternative to locating an action in or appreciably affecting the floodplain or wetland; and

(8) Review the implementation and post-implementation phase of the proposed action to ensure that mitigation requirements are fully implemented.

(b) In addition to project specific reviews, program managers shall have the option to apply sectoral, areawide, or community reviews in applying the executive orders. These efforts shall be

coupled with areawide environmental impact statements.

(c) In making determinations under paragraphs (a) and (b), of this section, the reviewer shall consider the Floodplain Management Guidelines prepared by the Water Resources Council and published February 10, 1973, at 43 FR 6030.

(d) Program managers shall incorporate these procedures, or suitable variations thereof, in their program processing handbooks and regulations, subject to the review and approval of the Assistant Secretary for CPD.

(e) HUD need not carry out the procedure specified in this Part where another Federal agency has complied with the special procedures required under the Executive Orders on an areawide or project basis, where previous compliance covered the type, character and location of the action proposed by HUD or for HUD approval. Specifically, the HUD proposal must be substantially consistent with the number of units, densities, and uses contemplated as the previous review. Floodplain conditions and data must not have changed appreciably. This paragraph (e) will be effective only where processing has been carried out pursuant to another agency's procedures which have been published as a final rule.

(f) At the earliest possible time HUD and CDBG applicants shall provide adequate information to give the public an opportunity to comment on action appreciably affecting or affected by floodplains or wetlands. Notices for earlier public review pursuant to Section 2(a)(4) of Executive Order 11988 and Section 2(b) of Executive Order 11990 as well as notices of findings and explanation to public of the final decision pursuant to Section 2(a)(ii) and 2(a)(3) of Executive Order 11988 shall be published in a local newspaper of general circulation serving the project area. These notices shall be combined with environmental, A–95, and other notice requirements as much as practicable. For actions having national significance, which should be very infrequent in HUD programs, the Federal Register shall be the minimum means for notice. For actions described in § 55.2(c) and having primarily local importance, notices may entail, as appropriate and practicable, A–95 notification or a range of media notifications, postings, and direct mailings. The A–95 notification process is described in HUD Regulations on the "Implementation of OMB Circular No. A–95 (44 FR 18868 on March 29, 1979).

(g) Prior to the decision point in Appendices A–1 or A–2 of "Departmental Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality (38 FR 19188, July 18, 1973, as amended) (see 24 CFR Part 50) or prior to execution of the certification required by 24 CFR 58.30(c) of the "Environmental Review Procedures for the Community Development Block Grant Program (CDBG), HUD or the CDBG applicant pursuant to Section 4 of Executive Order 11988 shall inform any private party participating in the transaction (such as a homebuyer or redeveloper) of the hazards of locating structures in the floodplain.

(h) Compliance with Section 3(d) of Executive Order 11988 shall be required for disposition of HUD acquired properties and for the disposition of property acquired by CDBG applicants with Federal funds.

§ 55.4 Responsibilities.

(a) The Assistant Secretary for CPD shall have overall responsibility for the application of the executive orders to HUD programs. He shall maintain liaison on these matters with Water Resources Council, the Federal Insurance and Hazard Mitigation Agency of FEMA, and the Council on Environmental Quality. He shall monitor the implementation activities of the HUD program managers. He is responsible for monitoring and compliance activities under the CDBG program and shall provide appropriate technical assistance and advice to CDBG applicants. He shall also have the authority to review and approve any implementing regulations and procedures issued by other units of the Department.

(b) All other program managers shall carry out their programs in a manner consistent with these regulations.

§ 55.5 Definitions.

The following terms and definitions shall apply, as appropriate, to this part and to all program implementing procedures and regulations.

"Base Flood" means the flood that has a one percent or greater statistical chance of being equalled or exceeded in any given year.

"Base Floodplain" means the floodplain area that would be inundated by the selected base flood, typically by the one percent recurrence probability flood.

"CDBG" (Community Development Block Grant Program) means all programs authorized under Title I of the Housing and Community Development Act of 1974 as amended. For example, this includes the Urban Development Action Grant (UDAG) Program.

"Critical Action" means any activity involving structure or facility use or function for which there would be an unacceptable potential for catastrophic loss or risk to human safety.

"Emergency Actions" means emergency work essential to save lives and protect property and public health and safety performed under Sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146).

"Enhance" means to increase, heighten or improve the natural and beneficial values associated with wetlands.

"Executive Orders" means Executive Orders 11988, *Floodplain Management*, and 11990, *Protection of Wetlands* (Signed May 24, 1977).

"Facility" means any man-made or man-placed item other than a structure as defined in this section.

"Flood or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Fringe" means that portion of the floodplain outside of the floodway (often referred to as "floodway fringe").

"Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands. A floodplain, at a minimum, includes that area subject to a one percent or greater statistical chance of flooding in any given year. Based upon the degree of risk present, floodplains involving critical actions may be defined as having a change of flooding that is less than one percent in any given year.

"Floodproofing" means the modification of individual structures and facilities, their sites, and their contents to protect against structural failure, to keep water out, or to reduce adverse effects in the event of water entry.

"Floodway" means that portion of the geologic floodplain defined optimally by consideration of all of the following factors: (1) Needs to convey floodwaters without excessive backwater effects; (2) possibility for excessive flood risk, especially potentially catastrophic risk; (3) unacceptable impedance of potential flood discharges; (4) potential legal liability for induced backwater effects of encroachments onto the floodplain; (5) potential adverse environmental consequences of modifications or encroachments onto the floodplain; (6)

local public needs for open space that might best be fulfilled within the floodplain; (7) existing public and private rights within the floodplain; and (8) the comparative significance of channel and floodplain storage of floodwaters. Locally defined and locally regulated floodways, whether or not optimally defined, must be observed by all site-specific HUD programs.

"Functionally-dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

"Minimize" means to reduce to the greatest extent practicable.

"Natural Values of Floodplains and Wetlands" means the qualities of or functions served by floodplains and wetlands which include but are not limited to: (1) Water resource values (natural moderation of floods, water quality maintenance, groundwater recharge); (2) living resource values (fish, wildlife, plant resources and habitats); (3) cultural resource values (open space, natural beauty, scientific study, outdoor education, recreation); and (4) cultivated resource values (agriculture, aquaculture, forestry).

"Practicable" means capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of all pertinent factors, including environment, cost, benefit, social acceptability and available technology.

"Preserve" means to prevent modification of wetlands or natural floodplain environments, or to maintain them as closely as practicable to their natural or current states.

"Regulatory Floodway" means the area regulated by Federal, State or local requirements to provide for the discharge of the base flood. A regulatory floodway should be defined in accordance with the foregoing definition of Floodway.

"Restore" means to reestablish to the extent practicable a setting or environment in which natural functions of the floodplain can operate.

"Structures" means walled or roofed buildings, including auxiliary buildings, mobile homes and gas or liquid storage tanks.

"Support" means to encourage, allow, serve or otherwise facilitate floodplain or wetland development. Direct support results from actions within a floodplain or wetland, and indirect support results from actions outside of floodplains or wetlands.

"Wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support, and that under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs and similar areas such as sloughs, kettles, prairie potholes, wetmeadows, river overflows, mud flats, and natural ponds.

Issued at Washington, D.C., on July 18, 1979.

Patricia Roberts Harris,

Secretary of Housing and Urban Development.

Footnotes

Footnote #1

Relevant lines of § 5.a.(1) of Chapter 2 of the "Departmental Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality" (38 FR 19185, July 18, 1973, as amended) (see 24 CFR Part 50) read as follows: (1) *Exemptions.* Although HUD's general policy on environmental considerations applies to all HUD actions, the procedural requirements for environmental clearances set forth in this paragraph shall not apply to those HUD actions which have been determined not to be "major Federal actions significantly affecting the quality of the human environment. These shall include an individual action on a one-to-four family dwelling, training grants and, under some conditions, rehabilitation and/or modernization projects. Rehabilitation or modernization projects are exempt from these procedures unless they result in any of the following effects: (1) Increase the number of dwelling units per acre by more than 20%; or (2) change land uses from residential to nonresidential or from nonresidential to residential; or (3) change one class or residential land use to another class or residential land use; or (4) involve a cost of rehabilitation or modernization which exceeds 75% of the replacement cost of the property after rehabilitation or modernization * * * Planning assistance projects (701 Comprehensive Planning Assistance grants and other planning loans and grants) are exempted from the procedural requirements, but in lieu thereof an environmental assessment of the final planning product shall be required as part of the proposed planning program * * * With respect to disaster relief and emergency activities of the Department, procedures for environmental clearance shall not apply to actions designed to meet the temporary housing needs of the affected population. Disaster activities which provide permanent housing and other recovery efforts will follow the environmental clearance procedures. However, where required by the serious nature of the situation and upon the approval of the Assistant Secretary for CPD, activities such as disaster related early land acquisition, clearance of damaged structures and relocation efforts may take place prior to the completion of the environmental review * * * Except for these exemptions, all HUD actions must undergo one or more environmental clearances.

Footnote #2

Relevant lines from Section 5.c.(2) of Chapter 2 of the "Departmental Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality" (38 FR 19186, July 18, 1973, as amended) (see 24 CFR Part 50) read as follows: (2) *Policy actions (legislation, regulations, policy and guidance documents).* Special Environmental Clearance for legislative proposals, proposed regulations, policy issuances such as handbooks, circulars, standards, and proposed revisions to existing program policies, procedures, standards, criteria and other guidance consists of determining whether or not an Environmental Impact Statement shall be required. Certain categories of policy and guidance documents and regulations which are clearly unrelated to environmental concerns need not undergo environmental clearance. These include internal administrative procedures, accounting and fiscal allocation instruction, brochures and pamphlets for public information, internal personnel policies and procedures, and other actions which, in the determination of the program Environmental Clearance Officer designated by the appropriate Assistant Secretary or Administrator, have no potential for significantly affecting the quality of the environment.

Footnote #3

Proposed 24 CFR 58.21 entitled "Exempted Activities and Categorical Exclusions" of "Environmental Review Procedures: Community Development Block Grant Program (CDBG)" (24 CFR Part 58) reads as follows: (a) *Activities exempt by statute.* The following activities, to the extent eligible for assistance under Title I, are exempt from the requirements of this part: (1) Environmental studies or assessments; (2) Activities authorized by Section 105(a)(12) of Title I and 24 CFR 570.205; (b) *Categorical exclusions.* Activities and projects (see definitions § 58.3) and aggregation requirements of § 58.5(d) which consist solely of the following kinds of activities shall be categorically excluded (see definition § 58.3(b)) from the requirements of this Part: (1) Administrative costs as provided by 24 CFR 570.206 and 571.206. (2) The payment, under authority to Section 105(a)(10) of Title I, of principal and interest on outstanding urban renewal project loans as defined in 24 CFR 570.800(b) where such payment is not covered by § 58.20 or where such payment is not associated with a change in the related urban renewal project. (3) The payment, under authority of Section 106(c) of Title I, of principal and interest due on notes or other obligations guaranteed pursuant to Section 108; and the repayment, under authority of Section 108; and the repayment, under authority of Section 108(e), due the United States as a result of guarantees made pursuant to Section 108. (4) The payment of Engineering and design costs associated with an activity eligible under 24 CFR 570.201 through 570.204. (5) Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements eligible under §§ 570.201(c) and 571.201(c) and economic development activities authorized

pursuant to §§ 570.203 and 571.203, subject to the following limitations: (i) Acquisition for continued use. The article to be acquired is in place and will be retained in the same use that existed at the time of acquisition, without change in size, capacity or character. (ii) Acquisition, construction, reconstruction or installation for replacement or upgrading. The article will replace or upgrade a substantially identical original article, without more than a minimal change in its use, size, capacity, or location (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving streets, and modification of buildings to provide access for elderly and handicapped persons).

[FR Doc. 79-24549 Filed 8-8-79; 8:45 am]

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federal register

Thursday
August 9, 1979

Part IV

Department of Housing and Urban Development

Office of Assistant Secretary for Fair Housing and Equal Opportunity

Compliance Procedures for Affirmative Fair Housing Marketing

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 108

[Docket No. R-79-701]

Compliance Procedures for Affirmative Fair Housing Marketing

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This Final Rule establishes a comprehensive review procedure for determining applicant compliance with Affirmative Fair Housing Marketing Plans submitted to HUD, and assuring compliance with the Department's Affirmative Fair Housing Marketing requirements. It makes final, with certain changes, a proposed rule published at 42 FR 5097 on January 27, 1977.

EFFECTIVE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Marianne Freeman, Special Assistant, Assistant Secretary for Fair Housing and Equal Opportunity, room 5240, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone: 202-755-7007.

SUPPLEMENTARY INFORMATION: The purpose of these regulations is to establish a process to implement the Department's Affirmative Fair Housing Marketing (AFHM) Regulations (24 CFR 200.600 et seq.) by establishing a comprehensive compliance procedure which would provide all applicants subject to AFHM requirements advance information as to Departmental procedure to assure compliance with AFHM Regulations. Notice of a proposed amendment to Title 24 to include a new Part 108 was published in the **Federal Register** on January 7, 1977 (42 FR 5097) and comments were received from interested persons and organizations. Consideration has been given to each comment.

In response to a comment received, appropriate revisions in this regulation were made to reflect clearly the amendment of Title VIII to prohibit discrimination based on sex (Housing and Community Development Act of 1974, Public Law 99-383) and the AFHM Regulations as amended on May 8, 1975 (40 FR 20080).

A group of fair housing organizations that filed their comments jointly suggested that the process of evaluating applicants' AFHM plans (Section 108.4 of the proposed regulations) should be initiated earlier, and requested that the regulations be rewritten to require that applicants file a "Notification of Intent to Begin Marketing" and submit evidence at that time of compliance with the plans as approved. These organizations also requested that the show cause procedure to determine compliance be eliminated, and that a full compliance review be conducted when evidence submitted at this time, or in any reports required, would appear to indicate noncompliance.

Although the comments of this group of fair housing organizations were not totally adopted as submitted, most of the comments have been incorporated in the regulation. Notification of the intent to begin marketing units, which is currently required in most Section 8 Housing Assistance Payments Programs, will now, under this regulation, be required from all applicants submitting an AFHM Plan.

The regulation further establishes a regular procedure for reviewing compliance with previously approved Affirmative Fair Housing Marketing plans and for updating such plans when necessary. Additionally, preoccupancy conferences, which have been used in some HUD housing programs, can now be held to review an applicant's AFHM plan prior to the initiation of marketing activities.

The entire proposed compliance procedures have been compressed into: (1) A pre-occupancy conference; (2) a compliance meeting; (3) a compliance review; and (4) initiation of sanctions. The show cause procedure involving the formal presentation of evidence prior to the initiation of a compliance review has been eliminated as being cumbersome, time consuming, and duplicative. Less formal procedures have been developed. These procedures are intended to establish a cumulative process which provides a setting for timely informal resolution of matters prior to the imposition of sanctions. The mechanisms for such informal resolution are the pre-occupancy conference and the compliance meeting. A pre-occupancy conference will be called, as necessary, by the Area Office for resolution of matters prior to initiation of marketing. A compliance meeting is a more formal proceeding to be scheduled by the Director of the Office of Regional FH&EO whenever a complaint, a sales or rental report, a pre-occupancy conference or other information indicates possible noncompliance with the AFHM regulation or this Part or the need to modify the AFHM plan or the implementation of the Plan.

The stages of the AFHM procedures provided in this Part are summarized below:

(1) *Pre-occupancy Conference.* The regulation requires each applicant to submit a Notification of Intent to Begin Marketing to the appropriate Area Office 90 days prior to initiation of marketing. Upon receipt of such notice, the Fair Housing and Equal Opportunity (FH&EO) Division of the Area Office will review the applicant's plan and, if necessary, schedule a pre-occupancy conference. Such a conference will be held prior to initiation of any marketing activities by the applicant.

At the conference the previously approved AFHM plan is reviewed to determine if the plan and/or proposed implementation require modification. The purpose of such modification is to assure, prior to implementation of marketing, that the goals of the AFHM regulations and the plan will be achieved.

(2) *Compliance Meeting.* A compliance meeting is scheduled when a complaint, a sales or occupancy report or other information indicates that the goals of the AFHM plan may not be achieved or that the implementation of the plan should be modified. Compliance meetings also may be scheduled where an applicant has failed to comply with a procedural requirement of this part, such as submission of required reports. The procedures for the meeting have been set forth in a new Section 108.25.

An applicant is requested to bring to the meeting documentation to show how the AFHM plan is being implemented, and other appropriate evidence. If it is determined as a result of the meeting that corrections are needed in the AFHM plan and the applicant refuses to make such necessary corrections, the Department may conduct a comprehensive compliance review or, where appropriate, refer the matter to the Assistant Secretary for Fair Housing and Equal Opportunity for consideration of actions, including the imposition of sanctions.

(3) *Compliance Review.* Procedures for the compliance review are set forth in a new Section 108.40. The purpose of a compliance review is to determine whether or not the applicant is in compliance with the Department's AFHM requirements, the applicant's approved AFHM plan and, when applicable, the provisions of Executive Order 11063 and Title VIII. Compliance reviews may be scheduled routinely or in response to specific complaints or

other information indicating non-compliance.

Applicants are to be given at least five days notice of the time and place set for the compliance review. A review will be made of:

(1) Applicant's sales and rental practices;

(2) Programs to attract minority and majority buyers and renters, of both sexes.

(3) Data on the size and location of units, services provided, prices and rental ranges, and the race and sex of buyers, tenants, and rental and sales staff.

(4) Other matters relating to marketing, sales and rentals of dwellings under HUD affirmative marketing requirements, the AFHM Plan, or this part.

Following a compliance review, a report will be prepared indicating whether a finding of compliance or noncompliance has been made. If it is found that the applicant is in compliance, all parties concerned shall be notified. Where a finding of noncompliance is made, the specific violation(s) will be set forth and a statement made that the Department may consider initiating actions to impose sanctions.

(4) *Initiation of Sanctions*

Whenever a finding of noncompliance is made, the specific violation(s) will be set forth and a statement made that, unless matters raised are resolved, the Assistant Secretary for Fair Housing and Equal Opportunity will make a determination as to whether to initiate actions to impose sanctions. Notice of the referral to the Assistant Secretary will be given to the applicant. The appropriate program officials will also be informed of any compliance actions initiated pursuant to this regulation.

In response to one comment received, a new Section 108.35 has been incorporated to show clearly that individuals and private or public agencies may file complaints alleging violations of an approved AFHM plan.

A recommendation that a complainant be a party to all proceedings was rejected since the complainant who files a complaint of a violation of an AFHM plan is not an aggrieved individual entitled to individual relief under HUD's AFHM regulations. However, where a complaint includes allegations of violations of Title VIII of the Civil Rights Act of 1968, the complainant is an aggrieved person within the terms of Section 810(a) of Title VIII and is a party to all proceedings for enforcement of complaints against discriminatory housing practices.

Other comments were of a general nature and could not be addressed in the regulation. However, various editorial and technical corrections have been made pursuant to the recommendations of commentators and staff.

The Department has determined that this Regulation will not have an environmental impact, as defined in the "Procedures for Protection and Enhancement of Environmental Quality. A copy of this finding is available for inspection and copying in the Office of the Rules Docket Clerk at the above address.

Accordingly, Subchapter A of Chapter I of Title 24 of the Code of Federal Regulations is amended by including a new Part 108 to read as follows:

PART 108—COMPLIANCE PROCEDURES FOR AFFIRMATIVE FAIR HOUSING MARKETING

Sec.

108.1 Purpose and Application.
108.5 Authority.
108.15 Pre-occupancy conference.
108.20 Area Office Responsibility for Monitoring Plans and Reports.
108.21 Regional Office Compliance Responsibility.
108.25 Compliance Meeting.
108.35 Complaints.
108.40 Compliance Reviews.
108.45 Compliance Report.
108.50 Sanctions.

Authority.—Section 7(d) of the Department of Housing and Urban Development Act of 1965, 42 U.S.C. Section 3535(d).

S108.1 Purpose and Application.

(a) The primary purpose of this regulation is to establish procedures for determining whether or not an applicant's actions are in compliance with its approved Affirmative Fair Housing Marketing (AFHM) plan, AFHM Regulation (24 CFR 200.600), and AFHM requirements in Departmental programs.

(b) These regulations apply to all applicants for participation in subsidized and unsubsidized housing programs administered by the Department of Housing and Urban Development and to all other persons subject to Affirmative Fair Housing Marketing requirements in Department programs.

(c) The term "Applicant" includes:

(1) All persons whose applications are approved for development or rehabilitation of: subdivisions; multifamily projects; mobile home parks of five or more lots, units or spaces; or dwelling units, when the applicant's participation in FHA housing programs has exceeded, or would thereby exceed, development of five or more such dwelling units during the year preceding the application, except that there shall not be included in a determination of the number of dwelling units developed or rehabilitated by an applicant, those in which a single family dwelling is constructed or rehabilitated for occupancy by a mortgagor on property owned by the mortgagor and in which the applicant had no interest prior to entering into the contract for construction or rehabilitation. For the purposes of this definition, a person remains an "applicant" from the date of submission of an application through duration of receipt of assistance pursuant to such application.

(2) All other persons subject to AFHM requirements in Departmental programs.

(d) The term "person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives or agents, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries and public entities.

§ 108.5 Authority.

The regulations in this part are issued pursuant to the authority to issue regulations granted to the Secretary by Section 7(d) of the Department of Housing and Urban Development Act of 1965, 42 U.S.C. 3535(d). They implement the functions, powers, and duties imposed on the Secretary by Executive Order 11063, 27 FR 11527 and Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608.

§ 108.15 Pre-occupancy conference.

Applicants shall submit a Notification of Intent to Begin Marketing to the HUD Area Office having jurisdiction over the area in which the housing is located no later than 90 days prior to engaging in sales or rental marketing activities. Upon receipt of the Notification of Intent to Begin Marketing from the applicant, the FH&EO Division of the Area Office Division shall review any previously approved plan and may schedule a pre-occupancy conference. Such pre-occupancy conference shall be held prior to initiation of sales or rental marketing activities.

At this conference, the previously approved AFHM plan shall be reviewed with the applicant to determine if the plan, and/or its proposed implementation, requires modification previous to initiation of marketing in order to achieve the objectives of the AFHM regulation and the plan.

§ 108.20 Area office Responsibility for monitoring plans and reports.

(a) *Submission of Documentation.* Pursuant to initiation of marketing, the applicant shall submit to the Area Office reports documenting of the implementation of the AFHM plan, including sales or rental reports, as required by the Department. Copies of such documentation shall be forwarded to the Director of the Office of Regional Fair Housing and Equal Opportunity by the FH&EO Division of the Area Office as requested.

(b) *Monitoring of AFHM Plan.* The FH&EO Division of the Area Office is responsible for monitoring AFHM plans and providing technical assistance to the applicant in preparation or modification of such plans during the period of development and initial implementation.

(c) *Review of Applicant's Reports.* Each sales or rental report shall be reviewed by the FH&EO Division of the Area Office as it is received. When sales or rental reports show that 20% of the units covered by the AFHM plan have been sold or rented, or whenever it appears that the plan may not accomplish its intended objective, the Area Office FH&EO Division shall notify the Director of the Office of Regional FH&EO.

(d) *Failure of Applicant to File Documentation.* If the applicant fails to file required documentation, the applicant shall be sent a written notice indicating that if the delinquent documentation is not submitted to the Area Office within 10 days from date of receipt of the notice, the matter will be referred to the Director of the Regional FH&EO for action which may lead to the imposition of sanctions.

§ 108.21 Regional Office Compliance Responsibility.

The Director of the Office of Regional FH&EO shall be responsible for determining whether an applicant's actions are in apparent compliance with its approved AFHM plan, the AFHM regulations, and this Part and for determining changes or modifications necessary in the Plan after initiation of marketing.

§ 108.25 Compliance Meeting.

(a) *Scheduling Meeting.* If an applicant fails to comply with requirements under Sections 108.15 or 108.20 or it appears that the goals of the AFHM plan may not be achieved, or that the implementation of the Plan should be modified, the Director of the Office of Regional FH&EO shall schedule a meeting with the applicant. The meeting shall be held at least ten days before the next sales or rental report is due. The purpose of the compliance meeting is to review the applicant's compliance with AFHM requirements and the implementation of the AFHM Plan and to indicate any changes or modifications which may be required in its Plan.

(b) *Notice of Compliance Meeting.* A Notice of Compliance Meeting shall be sent to the last known address of the applicant, by certified mail or through personal service. The Notice will advise the applicant of the right to respond within seven (7) days to the matters identified as subjects of the meeting and to submit information and relevant data evidencing compliance with the AFHM regulations, the AFHM Plan, Executive Order 11063 and Title VIII of the Civil Rights Act of 1968, when appropriate.

(c) *Applicant Data Required.* The applicant will be requested in writing to provide, prior to or at the compliance meeting, specific documents, records, and other information relevant to compliance, including but not limited to:

(1) Copies or scripts of all advertising in the Standard Metropolitan Statistical Area (SMSA) or housing market area, as appropriate, including newspaper, radio and television advertising, and a photograph of any sale or rental sign at the site of construction;

(2) Copies of brochures and other printed material used in connection with sales or rentals;

(3) Evidence of outreach to community organizations;

(4) Any other evidence of affirmative outreach to groups which are not likely to apply for the subject housing;

(5) Evidence of instructions to employees with respect to company policy of nondiscrimination in housing;

(6) Description of training conducted with sales/rental staff;

(7) Evidence of nondiscriminatory hiring and recruiting policies for staff engaged in the sale or rental of properties, and data by race and sex of the composition of the staff;

(8) Copies of applications and waiting lists of prospective buyers or renters maintained by applicant;

(9) Copies of Sign-in Lists maintained on site for prospective buyers and renters who are shown the facility;

(10) Copies of the selection and screeing criteria;

(11) Copies of relevant lease or sales agreements;

(12) Any other information which documents efforts to comply with an approved plan.

(d) *Preparation for the Compliance Meeting.* The Area Office Housing Division will provide information concerning the status of the project or housing involved to be presented to the applicant at the meeting. The Area Manager shall be notified of the meeting and may attend.

(e) *Resolution of Matters.* Where matters raised in the compliance meetings are resolved through revision to the plan or its implementation, the terms of the resolution shall be reduced to writing and submitted to the Regional Office within 10 days of the date of the compliance meeting.

(f) *Determination of Compliance.* If the evidence shows no violation of the AFHM regulations and that the applicant is complying with its approved AFHM plan and this Part, the Director of the Office of Regional FH&EO shall so notify the applicant within 10 days of the meeting.

(g) *Determination of Possible Noncompliance.* If the evidence indicates an apparent failure to comply with the AFHM plan or the AFHM regulation, or if the matters raised cannot be resolved, the Director of the Office of Regional FH&EO shall so notify the applicant no later than ten (10) days after the date of the compliance meeting is held, in writing by certified mail, return receipt requested, and shall advise the applicant that the Department will conduct a comprehensive compliance review or refer the matter to the Assistant Secretary for Fair Housing and Equal Opportunity for consideration of action including the imposition of sanctions. The purpose of a compliance review is to determine whether the applicant has complied with the provisions of Executive Order 11063, Title VIII of the Civil Rights Act of 1968, and the AFHM regulations in conjunction with the applicant's specific AFHM plan previously approved by HUD.

(h) *Failure of Applicant to Attend the Meeting.* If the applicant fails to attend the meeting scheduled pursuant to this section, the Director of the Office of Regional FH&EO shall so notify the applicant no later than ten (10) days after the date of the scheduled meeting, in writing by certified mail, return receipt requested, and shall advise the applicant as to whether the Director will conduct a comprehensive compliance review or refer the matter to the Assistant Secretary for Fair Housing and Equal Opportunity for consideration of action including the imposition of sanctions.

§ 108.35 Complaints.

Individuals and private and public entities may file complaints alleging violations of the AFHM regulations or an approved AFHM plan with any HUD Area Office, HUD Regional Office, or with the Assistant Secretary for FH&EO. Complaints will be referred to the Director of the Office of Regional FH&EO. Where there is an allegation of a violation of Title VIII the complaint also will be processed under Part 105.

§ 108.40 Compliance reviews.

(a) *General.* All compliance reviews shall be conducted by the Director of the Office of Regional FH&EO or designee. Complaints alleging a violation(s) of the AFHM regulations, or information ascertained in the absence of a complaint indicating an applicant's failure to comply with an AFHM plan, shall be referred immediately to the Director of the Office of Regional FH&EO. The Regional Director for Housing and the Area Manager shall be notified as appropriate of all alleged violations of the AFHM regulations or alleged failure to comply with an AFHM plan.

(b) *Initiation of Compliance Reviews.* Even in the absence of a complaint or other information indicating noncompliance pursuant to subsection (a), the Director of the Office of Regional FH&EO may conduct periodic compliance reviews throughout the life of the mortgage in the case of multi-family projects and throughout the duration of the Housing Assistance Payments Contract with the Department in the case of housing assisted under Section 8 of the United States Housing Act of 1937, as amended, 42 U.S.C. S1437.

(c) *Nature of Compliance Reviews.* The purpose of a compliance review is to determine whether the applicant is in compliance with the Department's AFHM requirements and the applicant's approved AFHM plan. Where allegations under this part may also constitute a violation of the provisions of Executive Order 11063 or Title VIII, the review will also determine compliance with the requirements thereof. The applicant shall be given at least five (5) days notice of the time set for any compliance review and the place or places for such review. The compliance review will cover the following areas:

(1) Applicant's sales and rental practices, including practices in soliciting buyers and tenants, determining eligibility, selecting and rejecting buyers and renters, and in concluding sales and rental transactions.

(2) Programs to attract minority and majority buyers and renters regardless of sex, including:

(A) use of advertising media, brochures, and pamphlets;

(B) conformance with both the Department's Fair Housing Poster Regulation (24 CFR 110) and the Advertising Guidelines for Fair Housing (37 FR 6700) and any revisions thereto.

(3) Data relating to:

(A) the size and location of units;

(B) services provided;

(C) sales and/or rental price ranges;

(D) the race and sex of buyers and/or renters;

(E) race and sex of staff engaged in sale or rental of dwellings.

(4) Other matters relating to the marketing or sales of dwellings under HUD affirmative marketing requirements, the AFMH Plan and this Part.

§ 108.45 Compliance report.

Following a compliance review, a report shall be prepared promptly and the Assistant Secretary for FH&EO shall make a finding of compliance or noncompliance. If it is found that the applicant is in compliance, all parties concerned shall be notified of the findings. Whenever a finding of noncompliance is made pursuant to this Part, the report shall list specifically the violations found. The applicant shall be sent a copy of the report by certified mail, return receipt requested, together with a notice that, if the matter cannot be resolved within ten days of receipt of the Notice, the matter will be referred to the Assistant Secretary for FH&EO to make a determination as to whether actions will be initiated for the imposition of sanctions. The Director of the Office of Regional Housing and the Area Director of the Housing Division shall also receive a copy of the report and the notice of intention to refer the matter to the Assistant Secretary for FH&EO for a determination as to whether actions will be initiated to impose sanctions.

§ 108.50 Sanctions.

Applicants failing to comply with the requirements of these regulations, the AFHM regulations, or an AFHM plan will make themselves liable to sanctions authorized by law, regulations, agreements, rules, or policies governing the program pursuant to which the application was made, including, but not limited to, denial of further participation in Departmental programs and referral to the Department of Justice for suit by the United States for injunctive or other appropriate relief.

Issued at Washington, D.C., July 30, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

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federal register

Thursday
August 9, 1979

Part V

Department of the Interior

Heritage Conservation and Recreation Service

Grant Procedure Regulations for Administration of the Urban Park and Recreation Recovery Act of 1978; Interim Rule

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1228

Urban Park and Recreation Recovery

AGENCY: Heritage Conservation and Recreation Service, U.S. Department of the Interior.

ACTION: Interim rule.

SUMMARY: These rules prepared by the Heritage Conservation and Recreation Service, are published to provide Grant Procedure Regulations for the Urban Park and Recreation Recovery Act of 1978. The Heritage Conservation and Recreation Service is publishing these guidelines on grant procedures so that the interested general purpose local governments can begin applying for grants.

DATES: These regulations are effective August 9, 1979. Comments on this interim rule will be accepted and considered. Comments must be received in writing on or before October 9, 1979.

ADDRESSES: Written comments should be addressed to the Chief, Urban Programs Task Force, Heritage Conservation and Recreation Service, 440 G Street, N.W., Box G, Washington, D.C. 20243, 202/343–5971,

FOR FURTHER INFORMATION CONTACT: Mr. Powell Allen or Mrs. Carol Jacobson, Urban Programs Task Force, Heritage Conservation and Recreation Service, 440 G Street, N.W., Box G, Washington, D.C. 20243, 202/343–5971

SUPPLEMENTARY INFORMATION: In his policy message of March 27 1978, President Carter proposed a new federal grant program for urban communities to compete for funds to revive and rebuild parks and recreation facilities. On October 13, 1978, the National Parks and Recreation Act of 1978, P.L. 95–625, was passed by the Congress; and on November 10, 1978, the President signed the bill into law. Title X, the Urban Park and Recreation Recovery (UPARR) Act of 1978, authorized the Secretary of the Interior to establish a five year program to provide Federal grants to economically hard-pressed communities, specifically for the rehabilitation of critically needed recreation areas and facilities, and the development of improved recreation programs. The Secretary of the Interior has delegated the responsibility for developing the Urban Park and Recreation Recovery Program to the Director, Heritage Conservation and Recreation Service. The Heritage Conservation and Recreation Service will provide technical and supervisory grant assistance to applicants.

Recognizing the importance placed on the physical rehabilitation and revitalization of critically needed urban park and recreation areas, both Congress and the Administration had expressed commitment to rapid implementation of the Urban Park and Recreation Recovery Program. Public Law 96–38, enacted on July 25, 1979, provides 20 million dollars for this program; therefore, the Heritage Conservation and Recreation Service must be in a position to obligate these funds through the issuance of Recovery Action Program, Rehabilitation and Innovation Grants as soon as possible, to qualified general purpose local governments. To do so the Heritage Conservation and Recreation Service must publish these guidelines on grant procedures so that interested general purpose local governments can begin applying for grants. If these guidelines are published as proposed rules, interested governments could not begin the application process until publication of the rules as final, which could not occur earlier than November 7, 1979. For these reasons, it has been determined that the emergency character of the responsibility to issue the grants as soon as possible makes it impracticable and contrary to the public interest to publish these guidelines as a notice of proposed rulemaking, or to delay the effective date for these guidelines beyond the date of this publication.

Therefore, in accordance with the exceptions provided for in the Administrative Procedure Act in 5 U.S.C. Sec. 553 (b)(B) and d(3) and the Departmental regulations on rulemaking in 43 CFR 14.3(f), these Grant Procedure requirements are published as interim rules effective immediately. It has been determined that it is in the public interest to allow interested persons to submit written comments pertaining to these regulations. All relevant materials received on or before October 9, 1979 will be considered. Following the close of the comment period, the regulations will be revised, as warranted by public comments received. It is intended that any revision of the regulations arising from these comments will be published again as a final rule 30 days after the close of the comment period, if warranted.

Program Information

The objectives of the Urban Park and Recreation Recovery (UPARR) Program are to assist physically and economically distressed urban jurisdictions revitalize their recreation systems, and to enhance overall recreation opportunities through the use of existing and potential recreation resources. The program is targeted to distressed jurisdictions based upon criteria established by the Secretary, and published in the **Federal Register**, Wednesday, March 14, 1979 (44 FR, 15486–91), as Appendices A and B of this Part.

The intent of the UPARR program is to stimulate ongoing local commitments to system revitalization and operation, in line with overall urban revitalization objectives of the President's urban policy. The program aims to develop linkages between cities and States, between urban recreation, physical resource and human services programs, between the Federal Government and the States, and between the Department of the Interior and other Federal agencies, that will help ensure the long-term success of overall urban revitalization efforts.

To meet the objectives of this program, there are three types of grants available which are discussed in Subparts C & D of this Part.

(a) *Recovery Action Program Grants.* Section 1007(c) of the Act allows the provision of up to 50 percent matching grants to eligible local applicants, as listed in Appendix B to this Part, or to those discretionary applicants within Standard Metropolitan Statistical Areas (SMSAs), for the development of Recovery Action Programs, as described in Subpart B (**Federal Register**, July 5, 1979 [44 FR, 39341–46]).

(1) One of the primary aims of the UPARR program is to encourage systematic planning at the local level. This program should involve building of local capacity for recreation planning in the total context of community-wide development and revitalization. Recovery Action Program grants will contribute to this capacity-building effort by helping to ensure ongoing planning and coordination, involving both park/recreation and community comprehensive planning departments. For this reason, "contracting-out" of Recovery Action Program development will be discouraged, except for elements requiring special expertise, such as citizen surveys or studies of special resource opportunities.

(2) The Recovery Action Program is the paramount document for evaluation of requests for UPARR assistance for matching Rehabilitation and Innovation grants, as provided for in Section 1006 of the Act. An applicant must prepare a Recovery Action Program for its total

local park and recreation system, prior to submission of applications for Rehabilitation or Innovation grants. Until October 1, 1980, this requirement is waived, and may be satisfied by preparation of a Preliminary Action Program which must be reviewed and approved by HCRS. Acceptance of a UPARR grant then obligates the local unit of government to prepare a complete five year Recovery Action Program for its jurisdiction within one year of the approval date of the grant. After October 1, 1980, a full five year Recovery Action Program is required, and no proposals may be approved without an acceptable plan being on file with HCRS.

(b) *Rehabilitation and Innovation grants (combined requirements).* Subject to appropriate requirements as established by OMB Circulars A–102 and A–95, Federal Management Circular 74–4, Executive Orders, and regulations mandated by law, financial assistance is available to eligible general purpose local governments (**Federal Register**, March 14, 1979 [44 FR 51, 15486–91]) for the purpose of rehabilitation and innovation of recreation systems. These grants will be targeted to aid in the rehabilitation of urban recreation facilities which have fallen into disuse or disrepair; to encourage innovations in the delivery of urban recreation services; to stimulate and support local commitments to recreation system recovery and maintenance; and to improve the management and delivery of recreation services to urban residents. The targeting of UPARR assistance will focus on persons and places most in need.

(1) Rehabilitation and Innovation proposals must be designed to provide recreation services for residents within the applicant's identified service area. Proposals, or elements of proposals, which are primarily intended to attract or to provide recreation for visitors from outside of the system's service area, or proposals whose primary objective is the enhancement of the area's economy through the attraction of visitors to the service area, will not be considered high priority. Innovation proposals which may take local residents from their neighborhood to recreation areas or services outside the local system's service area, may be considered eligible for funding.

(2) Proposals which foster the conservative use of energy and natural resources are encouraged; e.g. improvements in accessibility which reduce the need for automobile transportation, efficient use of electrical or other power sources, and water conservation.

(3) A Rehabilitation or Innovation proposal may cover the entire recreation system of a local government, several properties within the system, or a single property. An Innovation proposal may also include non-site elements as listed in the categories for innovation proposals, § (d) below.

(c) *Innovation grants.* The intent of Innovation grants is to test new ideas, concepts and approaches aimed at improving facility design, operations or programming in the delivery of recreation services. They should also contribute to a systems approach to recreation by linking recreation services with other critical community programs; such as transportation, housing, health, water quality programs, etc. Innovation proposals should have demonstration value for the larger community, in addition to their benefits in individual neighborhoods or project sites.

It will be the policy of this program to choose the best quality Innovation proposals which have demonstrative potential and which serve the people who are most in need of the recreation service. Proposal ideas which emanate from people in their respective neighborhoods will be given special consideration in the selection process. Ideas for proposals need not be entirely new to be considered innovative, but must reflect some quality of uniqueness which will increase chances of being selected in a national competition. A community proposal which was considered in the past but was not initiated due to lack of funds or support and coordination, may still be a viable innovation, and thus considered for UPARR assistance. Ideas from successful innovative proposals will be disseminated nationwide through annual progress reports to Congress, as required in Section 1015(b) of the Act, and through the ongoing technical assistance efforts of HCRS. Information seminars, workshops and other techniques may also be used to provide the greatest possible exposure of these ideas for use in other communities.

Innovation grant awards will be concentrated on a larger number of low cost, service and cost-effective proposals, rather than a few higher cost proposals. Some proposals requiring greater funding may be considered if they are high quality, efficient and well-coordinated innovative approaches which relate to the intent of the UPARR program.

(d) *Basic categories of Innovation proposals.* Types of Innovation proposals which can be funded are suggested by, but not limited to, the following categories:

(1) Integration of recreation with other community services; such as transportation, public housing and public safety; either to expand or update current services, or to link programs within the social service structure of a community, or between communities.

(2) New management and cost-saving or service-efficient approaches for improving the delivery of recreation services should be inherent in all the Innovative proposals, but may also be the prime focus of a proposal. Extending hours of operation, increasing the variety of recreation programs, contracting with commercial or private non-profit agencies to supply specific recreation services, or assisting citizens in designing and operating their own programs, are examples of management approaches.

(3) New approaches to facility design which emphasize user needs and preferences, and promote efficient operation and energy conservation.

(4) New fiscal techniques to generate revenue for continuing operation and maintenance, such as tax credits.

(5) Techniques for improving transportation and access to recreation opportunities.

(6) Techniques to facilitate private, private non-profit, and community organization involvement in providing recreation opportunities.

(7) Improved use of land resources; such as utilizing abandoned railroads and highway rights-of-way, waterfronts, street spaces, or derelict land for recreation.

(8) Adaptive re-use or multiple use of public or private facilities and areas. (Private areas must be opened to the public.)

(9) Techniques to prevent or reduce crime, abuse and vandalism; such as better design, non-destructible building materials, or use of community volunteers to supervise areas.

(10) Communications and public awareness of recreation opportunities, including education in leisure services; but excluding research.

Who Is Eligible

(a) *Eligible cities and counties.* Eligible applicants for the UPARR program include those designated cities and counties listed in Subpart B, and as amended. The insular areas are eligible under separate authorized funds (16 U.S.C. 2512).

(b) *Discretionary Eligibility and General Requirements.* Section 1005(b) of the Act states that at the Secretary's (Director's) discretion, up to 15 percent

of the program funds appropriated annually may be granted to general purpose local governments which are located in Standard Metropolitan Statistical Areas, provided that these grants are in accord with the intent of the program. These governments may compete for grants under the program regardless of whether or not they are included on the list of eligible jurisdictions.

(1) Applicants interested in discretionary funding must comply with the same requirements as the listed eligible jurisdictions. An approved Preliminary and/or final Recovery Action Program must be on file with the respective HCRS Regional Office prior to consideration of a grant for funding. Discretionary grants are also competitive; and proposals which meet the intent and criteria of the program will be judged with other proposals on a nationwide competitive basis.

(2) For the Director's review information, discretionary applicants must also submit a narrative statement, signed by the chief community executive, which explains and quantifies the state of physical and economic distress of the applicant's jurisdiction. Statistics and discussion on distress must relate, but are not limited to, the same criteria used to select the listed eligible jurisdictions (Appendix B of this Part).

(3) Rehabilitation, Innovation and Recovery Action Program proposals from discretionary applicants must comply with the respective selection criteria for each type of grant (Subpart D of this Part).

(c) *Pass-Through Eligibility.* Section 1006(a)(1) of the Act states that, at the discretion of the eligible general purpose local governments, and if consistent with an approved application, Rehabilitation and Innovation grants may be transferred in whole or in part to independent general or special purpose local governments, private non-profit agencies (including incorporated community or neighborhood groups), or county or regional park authorities; provided that they offer recreation opportunities to the general public within the jurisdictional boundaries of an eligible applicant. Recovery Action Program grants are for the use of an eligible applicant jurisdiction and, therefore, are not subject to pass-through provisions (Subpart B of this Part).

Fund Levels

(a) *Funding.* A total of $730 million is authorized for five years: $151 million for FY 1979 through 1982 and $126 million for 1983. Grants for all projects in any one State shall not exceed 15 percent of the total funds authorized to be appropriated in any fiscal year.

(1) Insular areas are each authorized the sum of $250,000 for each of the fiscal years 1979 through 1983. These sums will not be subject to the matching provisions of the other grants, and may only be subject to such conditions, reports, plans and agreements, if any, as determined by the Director.

(2) Up to 10 percent of the total funds authorized in any fiscal year may be used for Innovation grants, and up to 3 percent of the total funds authorized in any fiscal year may be used for Recovery Action Program grants.

(3) If no funds are used for Innovation and Recovery Action Program grants within any fiscal year, then the total funds authorized in any fiscal year may be used for Rehabilitation grants.

(4) Grants to discretionary applicants must not exceed, in the aggregate, 15 percent of the funds appropriated in any fiscal year for Rehabilitation, Innovation and Recovery Action Program grants.

(b) *Matching and State Incentive.* As an incentive for State involvement in the recovery of urban recreation systems, the Federal government will match, dollar for dollar, State contributions to the local share of an Innovation or Rehabilitation grant; up to 15 percent of the approved grant. The Federal share will not exceed 85 percent of the approved grant.

(1) The Director shall also encourage States and private interests (businesses, non-profit associations and industries) to contribute to the non-Federal share of project costs. State and local government shares may be derived from any State or local source.

(2) No money from the Land and Water Conservation Fund or any other Federal grant program, other than general revenue sharing and the Community Development Block Grant (CDBG) programs, may be used to match grants under this program.

Delegation of Secretarial Authority

The Director, Heritage Conservation and Recreation Service, has been delegated the program authority by the Secretary of the Interior to develop and implement the Urban Park and Recreation Recovery Program (Part 248 Departmental Manuals 1 and 2, June 8, 1979, and limitations therein, as established by Secretarial Order 3017, January 25, 1978).

Statement of Significance

The Department of the Interior has determined that this document is a significant rule and requires a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. A Draft Regulatory Analysis has been prepared and is available for review. A final regulatory analysis will be prepared after the comment period of this interim rule, and will be available for review upon publication of the final Grant Procedure Regulations. A Grant Manual detailing program guidelines and policies for the administration of the Urban Park and Recreation Recovery Program will be available at a later date.

Authorship Statement

The primary authors of these regulations were Mr. Powell Allen and Mrs. Carol Jacobson of the Heritage Conservation and Recreation Service, 202/343-5971.

Dated: August 6, 1979.

Robert L. Herbst,

Assistant Secretary for Fish and Wildlife and Parks.

In consideration of the foregoing, new Subparts A, C and D, and Reserved Sections of Subpart B are added to 36 CFR Chapter XII Part 1228 to read as follows:

PART 1228—URBAN PARK AND RECREATION RECOVERY ACT OF 1978

Subpart A—General

Sec.

1228.1 Purpose of regulations.
1228.2 Legislative authority.
1228.3 Definitions.
1228.4–1228.9 [Reserved]

Subpart B—Local Recovery Action Programs

* * * * *

1228.18–.29 [Reserved]

Subpart C—Grants for Recovery Action Program Development, Rehabilitation and Innovation

1228.30 General requirements.
1228.31 [Reserved]
1228.32 Funding and matching share.
1228.33 Timing and duration of projects.
1228.34–1228.35 [Reserved]
1228.36 Land ownership, control, and conversion.
1228.37 Pass-through funding.
1228.38–1228.40 [Reserved]
1228.41 Demolition and replacement of existing recreation properties.
1228.42 Expansion and new development.
1228.43 [Reserved]
1228.44 Fundable elements.
1228.45 [Reserved]
1228.46 Citizen participation requirements
1228.47 [Reserved]
1228.48 Federal coordination.
1228.49 [Reserved]

Subpart D—Grant Selection, Approval, and Administration

1228.50 Grant selection criteria.
1228.51 Notice of intent to apply and A–95 clearinghouse requirements.
1228.52 Recovery action program grant applications.
1228.53 Preapplication process for rehabilitation and innovation grants.
1228.54 Rehabilitation and innovation grants—Full application process.
1228.55 [Reserved]
1228.56 Grant program compliance requirements.
1228.57–1228.59 [Reserved]
1228.60 Grant administrative procedures.
1228.61 [Reserved]
1228.62 Amendments to approved grants.
1228.63 Grant payments.
1228.64 [Reserved]
1228.65 Other requirements.
1228.66 [Reserved]

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Authority: Title X, National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 2501–2514.

PART 1228—URBAN PARK AND RECREATION RECOVERY ACT OF 1978

Subpart A—General

§ 1228.1 Purpose of regulations.

The purpose of this rule is to set forth guidelines for awarding and administering the three types of grants and the discretionary funding available through the UPARR program. The three types of grants available are: Rehabilitation, Innovation and Recovery Action Program. The objectives of this rule are to: (1) explain the policies to be followed for awarding grants; (2) list the requirements and criteria to be met for each type of grant and the discretionary funding; (3) discuss fundable uses and limitations; (4) explain how proposals will be selected and funded; and (5) describe the application process and administrative procedures for awarding grants.

§ 1228.2 Legislative authority.

The policies and procedures of this rule are created to implement the Urban Park and Recreation Recovery Act of 1978, Title X of the National Parks and Recreation Act of 1978, Public Law 95–625, 16 U.S.C. 2501–2514. The Act provides Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas and facilities, and for the development of improved recreation services for a period of five years.

§ 1228.3 Definitions.

As used in this Part:

Appropriation: The yearly funding level made available by Congress to implement the UPARR Act.

Assistance: Funds made available by the Service to a grantee in support of a public recreation project.

Direct Expenditures or Direct Costs: Those expenditures or costs that can be associated with a specific project.

Director: The Director of the Heritage Conservation and Recreation Service or any other officer or employee of the Service to whom he delegates the authority involved.

Discretionary Applicants: General purpose local governments in Standard Metropolitan Statistical Areas as defined by the Census but not included in the list of eligible applicants developed and published in accord with Sec. 1005 of the UPARR Act.

Federal Management Circular 74–4 (FMC 74–4): FMC 74–4 establishes principles and standards for determining (administrative) costs applicable to grants and contracts with State and local governments.

General Purpose Local Government: Any city, county, town, township, parish, village, or other general purpose political subdivision of a State, including the District of Columbia, and insular areas.

Grant: The act of providing a specific sum of money for the development of a specific project, consistent with the terms of a signed agreement; also the amount of money requested or awarded.

Grantee: The general purpose local government receiving a UPARR grant for its given use, or for authorized pass-through to another appropriate public or private non-profit agency.

HCRS: Heritage Conservation and Recreation Service.

Indirect Costs: Those costs related to the operation of the grantee's grants program, but which, because of their incurrence for common or joint objectives, are not specifically identified with individual projects (see FMC 74–4).

In-Kind Contributions: In-Kind contributions represent the value of non-cash contributions provided by: (1) the grantee, (2) other public agencies and institutions, and (3) private organizations and individuals. In-Kind contributions may consist of the value of, or use of equipment, supplies or services directly benefiting and specifically identifiable to the project, and can be used as part of the grantee's non-Federal matching share.

Innovation Grants: Matching grants to local governments to cover costs of personnel, facilities, equipment, supplies, or services designed to demonstrate innovative, and cost-effective or service-effective ways to augment park and recreation opportunities at the neighborhood level; and to address common problems related to facility operations and improved delivery of recreation service, excluding routine operation and maintenance activities.

Insular Areas: Guam, the Virgin Islands, American Samoa and the Northern Mariana Islands.

Maintenance: All commonly accepted practices necessary to keep recreation areas and facilities operating in a state of good repair, and to protect them from deterioration resulting from normal wear and tear.

OMB Circular A–95 (A–95): Establishes procedures for the evaluation, review and coordination of Federal and federally assisted programs and projects. This circular defines project notification and review procedures governing Federal grant agencies, State, metropolitan and areawide clearinghouses.

OMB Circular A–102 (A–102): Circular A–102 provides the standard for establishing consistency and uniformity among Federal agencies in the administration of grants to States, localities and federally recognized Indian tribes. The standards covered by the Circular which are applicable to the UPARR program are specified in § 1228.60.

Participant: The grantee, or other agency or organization requesting and/or receiving assistance.

Pass-through: The transfer of funds at the discretion of the applicant jurisdiction, to independent, general or special purpose local government, private non-profit agencies (including incorporated community or neighborhood groups), or county or regional park authorities, who offer recreation opportunities to the general population within the jurisdictional boundaries of an eligible applicant.

Private Non-profit Agency: A community-based, non-profit organization, corporation, or association organized for purposes of providing recreational, conservation and/or educational services directly to urban residents; either on a neighborhood or communitywide basis, through voluntary donations, voluntary labor, or public or private grants.

Project: A single site-specific area or service-specific program proposed or approved for funding.

Project Costs: All necessary charges made by a grantee in accomplishing the objectives of a project, during the project period.

Proposal: An application for UPARR assistance which may contain one or more projects.

Recovery Action Program: A local park and recreation Recovery Action Program (plan) required under Sec. 1007 of the UPARR Act, which contains expressions of continuing local commitment to objectives, priorities and implementation strategies for overall park and recreation system planning, rehabilitation, service, operation and maintenance.

Recreation Areas and Facilities: Parks, buildings, sites, or other indoor or outdoor facilities which are dedicated to recreation purposes and administered by public or private non-profit agencies to serve the recreation needs of community residents. These facilities must be open to the public and readily accessible to residential neighborhoods; they may include multiple-use community centers which have recreation as one of their primary purposes; but major sports arenas, exhibition areas, and conference halls used primarily for commerical sports, spectator, or display activities are excluded.

Rehabilitation Grants: Matching capital grants to local governments for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities; including improvements in park landscapes, buildings, and support facilities; excluding routine maintenance and upkeep activities.

Secretary: The Secretary of the Interior.

SMSA: Standard Metropolitan Statistical Area as defined by the Bureau of the Census.

Special Purpose Local Government: Any local or regional special district, public-purpose corporation or other limited political subdivision of a State: including but not limited to, park authorities; park, conservation, water or sanitary districts; and school districts.

Sponsor: See Participant.

State: Any State of the United States, or any instrumentality of a State approved by the Governor; the Commonwealth of Puerto Rico, and insular areas.

State Recreation Plan: The Statewide Comprehensive Outdoor Recreation Plan (SCORP) required by the Land and Water Conservation Fund Act.

UPARR: Urban Park and Recreation Recovery Act of 1978 or Program.

§§ 1228.4–1228.9 [Reserved]

Subpart B—Local Recovery Action Programs

* * * * *

§§ 1228.18–1228.29 [Reserved]

Subpart C—Grants for Recovery Action Program Development, Rehabilitation and Innovation

§ 1228.30 General requirements.

Applicants must submit a Preliminary or full Recovery Action Program in advance of any proposal or application for Rehabilitation or Innovation grants. Once HCRS has indicated that a Rehabilitation or Innovation proposal is fundable, the applicant must meet all documentation requirements imposed by OMB Circulars A–102, A–95 and A–87 and FMC 74–4. Regional offices of HCRS will provide technical assistance to grantees in complying with these requirements.

§ 1228.31 [Reserved]

§ 1228.32 Funding and matching share.

(a) *Recovery Action Program grant matching.* Up to 50 percent matching grants are authorized for the preparation of Recovery Action Programs (RAP). Local in-kind donations of assistance (salaries, supplies, printing, etc.) for the preparation of a RAP may be used as part of the 50 percent local match. State in-kind donations for the preparation of a RAP may also be used as part of a local match (part of the 50 percent). In addition, Section 1009 of the Act provides that reasonable local costs of Recovery Action Program development may be used as part of a local match for Innovation or Rehabilitation grants only when the applicant has not received a Recovery Action Program grant. Reasonable costs means costs for supplies, salaries, etc., which are not excessive in relation to the normal market value within a geographic area. Any costs for which a Federal match is sought must be well documented to provide adequate accountablity for audit purposes.

(b) *Rehabilitation and innovation grant matching.* The program provides for a 70 percent Federal match for rehabilitating existing recreation facilities and areas. Seventy percent matching funds are also authorized to local governments for innovation grants which will address widespread coordination, management and access problems through innovative and cost-effective approaches; such as, joint use of facilities; contracting for services with other public or private recreation providers; and mobile recreation to serve neighborhoods lacking adequate facilities.

(c) *Sources of matching share.* (1) *Cash.* State, local and private funds may be used as the non-Federal share of project costs. In addition, two types of Federal funds may be used as part of a local match: General Revenue Sharing (Treasury Department) and Community Development Block Grant (CDBG) program funds (Department of Housing and Urban Development). Section 1009 of the UPARR Act prohibits use of any other type of Federal grant to match UPARR grants.

(2) *Non-Cash.* (i) *Material goods.* HCRS encourages in-kind contributions including real property, buildings or building materials, and equipment to applicants by the State, other public agencies, private organizations or individuals. The value of the contributions may be used as all or part of the matching share of project costs, but must be appraised and approved by the Service prior to grant approval. Details regarding these types of donations are covered in OMB Circular A–102.

(ii) *Services.* Any type of service or assistance which relates directly to a project and the provision of a recreation opportunity, can be used as a matching share; e.g., technical and planning services; construction labor; playground supervision or management services for an innovation project.

§ 1228.33 Timing and duration of projects.

Construction activities in either Rehabilitation or Innovation proposals will be limited to three years or three full construction seasons, whichever is greater. UPARR assistance, for staged projects, must be requested in a single application or proposal. Staged or phased projects must be structured in such a manner that each funded stage will increase the recreation utility of the property independently of subsequent stages. Such projects will be funded, along with any others, from the appropriation of the fiscal year in which the entire proposal is approved. If a project selected for funding consists of only one phase or a stage of a larger project, funding of that phase in no way implies that a subsequent phase, not part of the funded project will also be funded. Innovation proposals which consist of service or program stages (e.g., hiring or training personnel, an action/element before actually providing the recreation service) must be initiated within one year from grant approval.

§§ 1228.34–1228.35 [Reserved]

§ 1228.36 Land ownership, control and conservation.

Section 1010 of the Act stipulates that no property improved or developed with assistance through the program shall, without the approval of the Secretary, be converted to other than public recreation use. To minimize such conversions, an applicant must demonstrate that it has adequate tenure and control of the land or facilities for which rehabilitation or innovation is proposed, either through outright ownership or lease.

(a) The rehabilitation of lands or facilities not in public ownership or under other adequate public control will not be considered for funding. If rehabilitation or innovation is to occur on land not publicly owned, a non-revocable lease of at least 25 years must be in effect at the time of application. The lease cannot be revocable at will by the lessor.

(b) The conversion of any UPARR assisted property to non-recreation use must have approval of the Secretary before it occurs. Such conversions must be in accord with the current local park and recreation Recovery Action Program and must assure the provision of recreation properties and opportunities of reasonably equivalent location and usefulness. For leased property which is developed or improved with UPARR funds, the grantee as a condition of the receipt of these funds, must specify in a manner agreed to by the Director, in advance, how the converted property will be replaced once the lease expires.

§ 1228.37 Pass-through funding.

Section 1006(a)(1) of the Act states that at the discretion of the eligible general purpose local governments, and if consistent with an approved application, Rehabilitation and Innovation grants may be transferred in whole or in part to independent general or special purpose local governments, private non-profit agencies (including incorporated community or neighborhood groups), or county or regional park authorities; provided that they offer recreation opportunities to the general public within the jurisdictional boundaries of an eligible applicant. These grants will be made at the discretion of the general purpose local government. The pass-through funding decision is that of the local government's chief executive, not of HCRS. HCRS, under the grant agreement will look to the general purpose local government to assure compliance with the terms and conditions of the regulations, law and grant agreement.

(a) *Pass-through sponsor requirements.* The applicant will bear the primary responsibility for the administration and success of any pass-through grant. The sponsor of a pass-through grant will be responsible for preparation and submission of the application, administration of the grant, and monitoring of grant implementation.

(1) Pass-through applications must include documentation, from the public agency or agencies providing recreation services within the jurisdiction to be serviced, indicating to what extent the proposal is part of an integrated program in the delivery of recreation services within its system, and certifying that the proposal is fully coordinated and compatible with the Recovery Action Program. In the case of default on the part of the pass-through recipient, the pass-through sponsor must certify, in its application, and as part of the grant agreement that it will assume all responsibility for property assisted under UPARR, for the continued delivery of recreation services as intended by the grant, or for full compliance with provisions of the grant agreement.

(2) It is essential that sponsors take precautions to pass-through grants only to reliable and capable agencies or organizations that can reasonably be expected to comply with grant and project requirements.

(b) *Recommended pass-through recipient requirements.* Although the sponsor has primary responsibility for the pass-through grant, it is suggested that pass-through recipients should:

(1) *Demonstrate a history of providing recreation services to the distressed community.* The history of providing recreation services must be commensurate with the amount of UPARR assistance requested. An eligible Innovation grant applicant may be a non-profit or neighborhood organization group which has provided other social services to the community, or a newly formed, but reliable and capable group which can reasonably be expected to comply with grant and project requirements.

(2) *Demonstrate that the existing recreation property which it operates is accessible to residents of distressed areas.* (If an Innovation proposal consists of utilizing recreation facilities or services outside the boundaries of the local jurisdiction, the population served must reside primarily in a distressed area.)

(3) *Be properly incorporated as a non-profit organization with an elected and autonomous board which meets regularly.*

(4) *Be empowered to contract or otherwise conduct the activities to be supported as a result of the grant (in accordance with the organization's governing charter).*

(5) *Demonstrate adequate tenure and control of the site or facility to be rehabilitated or used for innovation, through lease or ownership, in order to justify the costs.*

(6) *Establish a contractural agreement with the general purpose local government which is binding and enforceable to assure that the local government can adequately meet its contractural obligations under the grant.*

(c) *Pass-through property and fee limitations.* Rehabilitation or Innovation assistance on property not in public ownership, operated by a private non-profit organization through a pass-through grant, will be limited to that portion of the property which directly provides recreation services. Such recreation services must be available to the public on a non-membership, non-fee, or reasonable fee basis, and during reasonable prime time. If a fee is charged or is required for the services resulting through the Rehabilitation or Innovation grant, the fee should be comparable to prevailing local rates for similar services. Charges for recreation services will only be permitted if they do not unfairly jeopardize participation in the recreation service by the disadvantaged population.

(d) *Discrimination of basis of residence.* Discrimination on the basis of residence is prohibited, except in the extent that reasonable differences in fees may be maintained on the basis of residence.

§§ 1228.38–1228.40 [Reserved]

§ 1228.41 Demolition and replacement of existing recreation properties.

(a) Demolition will only be supported to the extent that rehabilitation is not feasible or prudent. In the case of demolition, the demolition costs should not exceed 75% of the proposed cost for replacement. The applicant must present a cost analysis (well documented case) for demolition and replacement versus rehabilitation. When assistance for demolition is requested, the sponsor must also indicate how the replacement will increase the site's recreation utility, and if the useable life of the property will be increased.

(b) Buildings, structures, and sites which are deemed to be of historic or cultural significance must be treated in accordance with "The Secretary of the

Interior's Standards for a Historic Preservation Project" (§ 1228.56).

(c) Applicants must certify that any property acquired after January 2, 1971, and to be improved or enhanced by UPARR assistance, was acquired in conformance with P.L. 91–646, the Uniform Relocation and Land Acquisition Policies Act (*See* 41 CFR, Parts 114–50).

§ 1228.42 Expansion and new development.

New developments or expansions as part of the rehabilitation or innovation of existing recreation properties will be limited to additional items which should not substantially increase overall personnel and maintenance costs within the system. Such new developments must increase the useability of a property for recreation by users in the target area. The proposed new developments may include the addition of any items which are compatible with the rehabilitation of the existing recreation property or innovation efforts. Expansions may include enlarging an existing recreation building or facility, if such expansion will increase its recreation utility. An applicant must demonstrate that its long range commitment of resources for operation and maintenance of such expanded developments is adequate.

§ 1228.43 [Reserved]

§ 1228.44 Fundable elements.

(a) *Fundable elements of a Recovery Action Program.* Reasonable and documented costs necessary for preparing a Recovery Action Program may be reimbursed by UPARR funds either from a 50 percent matching grant, or by being used as part of a match for a Rehabilitation or Innovation proposal (16 U.S.C. 2508). These costs may include expenses for professional services; public meetings; data collection and analysis; preparation, editing and printing of appropriate reports, plans, maps, charts and other documents forming a part of the plan; and supporting costs, supplies and approved indirect costs. Costs incurred prior to the approval of a Recovery Action Program grant will not be eligible for cost sharing as part of a local match for the Recovery Action Program grant.

(b) *Fundable elements of rehabilitation and innovation grants.*—(1) *Common fundable and matching elements.* An Applicant may apply for UPARR assistance in only an amount which, together with other public and private resources that will be available, is adequate to complete the proposal. The applicant must document the availability and sources of these resources at the time of application for UPARR assistance. Once a proposal is approved, no increases in the amount of UPARR funding specified in the original proposal will be considered. Fundable elements in both Rehabilitation and Innovation proposals may include, in addition to the actual rehabilitation or construction work; materials and labor, site planning, architectural and engineering fees, and those direct and indirect costs and similar activities necessary to properly conduct the approved project. Reasonable architectural and engineering fees essential to the preparation of a proposal, are reimbursable. Fees to contractors for the direct provision of an innovative recreation service are reimbursable. However, other costs incurred prior to approval of the grant, and fees to consultants for application preparation are not allowable or reimbursable under the UPARR program.

(2) *Elements which may be assisted—rehabilitation grants.* Rehabilitation grants will cover costs of remodeling, expanding or developing existing outdoor or indoor recreation areas and facilities, including improvements in park landscapes, buildings and support facilities. Assistance for the rehabilitation of multi-service facilities will be limited to the costs for rehabilitation of eligible support elements within the proposal on a prorated basis.

(3) *Elements which may be assisted—innovation grants.* Innovation grants will cover costs related to facility operations, and improved delivery of recreation services (including; personnel, training, facilities, equipment and supplies), except those which pertain to routine operation and maintenance.

(i) *Program services.* Innovation grant costs may include those costs which relate to: demonstrations of the improved multiple-use of public buildings (e.g., schools, community centers, libraries and other resources); program expansions (e.g., adding soccer to a football program, increasing services for the elderly or handicapped); purchase of recreation services on a contractual basis; increased access to recreation areas; and cost-effective facility operation and maintenance techniques.

(ii) *Adaptive reuse.* In addition to providing services at areas or facilities already in recreation use, Innovation grants may fund the use of areas not currently in recreation use, or those where mixed community use occurs. Physical rehabilitation of facilities not currently in recreation use (whether public or private) may be funded as part of an innovation proposal, and would be classified as adaptive reuse. An example would be conversion of an abandoned building to a community recreation center. When only a portion of the area or facility will be used for recreation, only that portion will be eligible for funding.

(iii) *Supplies.* Funds may be used to purchase expendable supplies and equipment which relate directly to an Innovation proposal, such as sports equipment, arts and crafts supplies, chairs and tables if needed for an activity, and medical or safety equipment. General office supplies and furniture not used exclusively to provide recreation services as a part of the proposal, or not an inherent component of the proposal, will not be reimbursable.

(iv) *Coordination.* Costs incurred for coordinating proposal activities and programs with other public or private community services will be reimbursable. This will include local coordination with other Federal programs [e.g., Comprehensive Employment and Training Act (CETA)].

(v) *Personnel.* Eligible personnel costs will be limted to salaries of those employees directly engaged in the provision of recreation services. Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Each hour of committed volunteer service may also be counted toward the local matching share of funds, if the service provided is an integral part of an approved proposal. (Rates for volunteers will be consistent with those regular rates paid for similar work in the local jurisdiction, or private labor market). Employee facilities, including residences, appliances, office equipment, furniture and/or utensils are not eligible for funding.

(vi) *Special populations.* A proposal which will provide recreation opportunities primarily for a specific demographic group, such as the elderly, youth or handicapped, may be funded. However, the recreation provided must be open to the public, and address needs as identified in the systemwide Recovery Action Program. Special services for the special populations, such as transportation to recreation facilities, may also be funded.

(4) *Support facilities.* The rehabilitation of support facilities (e.g. heating, plumbing) will only be eligible if such facilities are well defined and contribute primarily to the recreation

utility of the facility's service area. Support facilities designed to assure health, safety, and comfort of users and workers and to enhance the delivery of recreation services, are eligible for assistance. However, support facilities which do not directly contribute to recreation usefulness, such as those providing living accommodations for employees, are not eligible for UPARR assistance.

(5) *Elements excluded from funding.* Section 1004(a) of the Act excludes UPARR assistance for major sport arenas, exhibition areas and conference halls used primarily for commercial sports, spectator, or display activities. Section 1004(b) excludes UPARR assistance for routine maintenance and upkeep activities. Section 1014 states that no funds available under this title shall be used for the acquisition of land or interests in land.

§ 1228.45 [Reserved]

§ 1228.46 Citizen participation requirements.

(a) *Recovery Action Program Grants.* Citizen participation is a required element for implementing a Recovery Action Program (Subpart B), but is not required to obtain a grant to prepare a Recovery Action Program.

(b) *Rehabilitation and innovation grants.* The applicant shall provide citizens with an adequate opportunity to participate in the development of the application, and in implementation, monitoring and evaluation of the activities supported through the grant. The applicant shall also encourage the submission of views and proposals, particularly by residents of blighted neighborhoods and citizens of low and moderate income. The applicant is encouraged to utilize different approaches to ensure public involvement. Nothing in these requirements, however, shall be construed to restrict the legal responsibility and authority of the applicant for the development of its UPARR applications, and the execution of its Recovery Action Program.

§ 1228.47 [Reserved]

§ 1228.48 Federal coordination.

Applicants requesting UPARR assistance under one of the three grant categories shall investigate the possibilities of administrative and/or funding coordination with other Federal programs. (For example, CETA funds could be used to support the training of recreation personnel for an innovative proposal. CETA funds, however, may not be used as a matching share for a UPARR grant.) Proposals should also relate to a comprehensive neighborhood revitalization strategy, which may include programs such as the Department of Housing and Urban Development's (HUD) Livable Cities or Neighborhood Self-Help programs.

§ 1228.49 [Reserved]

Subpart D—Grant Selection, Approval and Administration

§ 1228.50 Grant selection criteria.

(a) *Recovery Action Program Grants.* In the preparation of a Recovery Action Program grant application, applicants are encouraged to discuss with HCRS regional personnel, or State personnel when an agreement between HCRS and the State covers such action, the adequacy of the proposal in meeting the requirements for a Recovery Action Program. Prior to formal submission, the Recovery Action Program proposal should be reviewed with the appropriate HCRS Regional Office which has final authority for approval of Recovery Action Program grants.

(b) *Recovery Action Program Grant selection criteria.* The following criteria will be used in evaluating Recovery Action Program grant applications and in deciding priorities for funding:

(1) Degree of need for funds to develop a Recovery Action Program and an ongoing planning process, including the size and complexity of the community's problems, deficiencies in existing planning, and in the capability of the community to initiate and sustain continuing planning efforts.

(2) Degree of the community's commitment to systematic planning, including financial, personnel and time resources already devoted to planning or committed for the future.

(3) Extent to which current park and recreation planning is integrated with overall community planning or would be better integrated as a result of the grant, including use of other Federal or State funds for related planning purposes.

(4) Appropriateness and efficiency of the planning program's work elements (scope, timing, methodology, staffing and costs) in relation to the basic requirements for Recovery Action Programs contained in § 1228.10–18.

(c) *Rehabilitation grant selection criteria.* The following criteria will be used to evaluate and rank Rehabilitation proposals:

(1) The Federal UPARR investment per person served by the entire system; relationship between the size of the community and the amount of grant funds requested. Highest priority will be given to proposals with the lowest per capita costs in relation to recreation benefits provided.

(2) Providing neighborhood recreation needs. Higher priority will be given to proposals serving close-to-home recreation needs, lower priority to those serving area or jurisdiction-wide needs.

(3) Condition of existing recreation properties to be rehabilitated, including the urgency of rehabilitation and the need to maintain existing services.

(4) Improvement in the quality and quantity of recreation services as a result of rehabilitation, including improvements at specific sites and overall enhancement of the recreation system.

(5) Improvement of recreation service to minority and low to moderate income residents, special populations, and distressed neighborhoods.

(6) Proposal's consistency with local government objectives and priorities for overall community revitalization.

(7) Neighborhood employment opportunities created and involvement of local citizen organizations in voluntary rehabilitation, operation or maintenance of the improved areas and facilities.

(8) State participation in the proposal, including financial and technical assistance.

(9) Private sector participation in the proposal, including contributions of financial assistance.

(10) Jurisdiction's commitment to implementing its overall Recovery Action Program.

(d) *Innovation grant selection criteria.* The following criteria will be used to evaluate and rank Innovation proposals:

(1) Degree to which the proposal provides a new, unique or more effective means of delivering a recreation service that can serve as a model for other communities.

(2) Degree of citizen involvement in proposal conceptualization and implementation.

(3) Degree to which the proposal may lead to a positive, systemic change in how park and recreation services are provided. Extent to which the proposal creates opportunities for new partnerships between the people affected, private interests within the community, and public agencies (e.g., Mayor's Office, Recreation Department, Board of Education, Planning Department, social service agencies).

(4) Degree of commitment of community and proposal participants to continue the long term program objectives, including commitments to continue funding after Federal grant money is no longer available. Extent of

private resources committed to providing funds or in-kind services for continuing operation and maintenance of projects.

(5) Degree to which proposal managers use the Federal funds to leverage greater public or private investments (in the form of services and materials, as well as dollars).

(6) Degree to which the proposal provides potential coordination with other community, State and Federal programs of community development and those providing recreation to the target population (e.g., public and private non-profit, education programs, CETA for employment, HUD programs).

(7) Extent of improvement in the quality and quantity of recreation services as a result of the Innovation project.

(8) Degree to which the proposal ties in with goals, priorities and implementation strategies expressed in the local park and recreation Recovery Action Program.

(9) Degree to which the proposal leads to a transfer of a recreation role traditionally performed by a public entity, to quasi-public or private non-profit interests.

(10) Degree to which a proposal benefits disadvantaged community populations and/or those areas within a distressed community which have the greatest recreation deficiencies.

Note.—Ranking of innovation proposals for the adaptive reuse of non-recreation areas or structures, through rehabilitation for recreation, may also consider rehabilitation selection criteria, particularly the criteria covering Federal investment per person served and the degree to which the proposal would serve close to home recreation needs.

§ 1228.51 Notice of intent to apply and A-95 clearinghouse requirements.

Notices of intention to submit any proposal or application for UPARR funding must be forwarded at the earliest possible time to the State clearinghouse and appropriate metropolitan or areawide clearinghouses, in accordance with OMB Circular A–95 and Interior Department Manual Part 511. In the case of Rehabilitation and Innovation grants, appropriate A–95 notifications must be submitted at both preapplication and full application stages. Standard Form 424 is to be used for these notices unless otherwise specified by the clearinghouse. Comments from clearinghouses, if available, should be included with the preapplication. All A–95 comments will become part of the required application and proposal file which will be retained. A–95 clearances are required for subsequent modifications to approved grants.

§ 1228.52 Recovery action program grant applications.

The application procedure for Recovery Action Program grants differs from the procedure for Rehabilitation and Innovation grants. Ranking and selection for funding of Recovery Action Program grants will be initiated on the basis of a full application, preparation of which will be assisted through meetings with HCRS regional staff.

(a) *Preapplication conference.* In the preparation of a Recovery Action Program grant application, applicants are encouraged to discuss with HCRS regional personnel, or State personnel, when an agreement between HCRS and the State covers such action, the adequacy of the proposal in meeting the requirements for a Recovery Action Program. Prior to formal submission, the Recovery Action Program grant application should be reviewed with the appropriate HCRS Regional Office.

(b) *Submission of applications.* In addition to Standard Form 424 on Federal Assistance notification, applicants for Recovery Action Program grants shall submit the following documents and required attachments to HCRS Regional Offices:

(1) OMB Form 80–RO184, completed as prescribed by OMB Circular A–102. (Application for Federal assistance, for construction programs.)

(2) Grant agreement form.

(3) State, metropolitan and areawide clearinghouse comments, if any.

(4) Narrative statements which will be used in evaluating grant applications in relationship to the selection criteria as defined in § 1228.50(b), including:

(i) The need for the planning grant.

(ii) The jurisdiction's existing or proposed commitments to developing a full Recovery Action Program and an ongoing planning process.

(iii) The relationship of the planning program to overall community plans and programs.

(iv) The proposed planning program's scope, timing and methodology in relation to a community's priority planning needs, and the basic requirements of the UPARR Act as covered in § 1228.10–.18.

(v) Dollars and work years to be devoted to development of each element in the proposed Recovery Action Program, including some indications of the qualifications of staff members who will work on the program.

(vi) If appropriate, a discussion of work elements to be contracted out to other government agencies, private consultants or private non-profit agencies, including the reasons for contracting work elements instead of doing the work within the community's own planning agencies.

§ 1228.53 Preapplication process for rehabilitation and innovation grants.

In order to reduce the amount of time and documentation needed for a formal application, and to foster the competitive aspects of the UPARR program, a preapplication procedure will be used.

(a) The preapplication should provide information adequate to guide proposal selection. Grants will be awarded in accordance with the availability of funds. Funding for an approved grant will not be increased from subsequent yearly appropriations.

(b) Applicants are encouraged to discuss their proposals with their HCRS Regional Office to determine basic eligibility and appropriateness prior to submitting a preapplication. If a State is assisting the applicant in preapplication preparation, providing a source of matching share, or giving technical assistance, the State may wish to assist in submission of the preapplication to the appropriate HCRS Regional Office.

(c) The following procedural guidelines shall apply to submission and approval of Rehabilitation and Innovation proposals.

(1) Preapplications shall be submitted to the appropriate HCRS Regional Office by the chief executive officer of the applicant jurisdiction. Only basic information should be submitted at this time. The preapplication must include those items as set forth in the *Preapplication Handbook*, available from any HCRS Regional Office.

(2) Discretionary applicants must also submit a narrative statement, signed by the chief executive of the applicant's government, which explains and quantifies the degree of physical and economic distress in the community. Statistics and discussion on distress should relate to, but need not be limited to, the criteria used to select eligible jurisdictions contained in Appendix A of this Part.

(3) All grant proposals will first be reviewed by the regional office to assure that they meet all minimum legal standards. When this review has been completed, and if a proposal meets the minimum legal standards, it will be certified as eligible for funding. Proposals not meeting minimum legal standards will be returned to the applicant. Periodically (three times a year once the program is fully operational), all certified proposals will

be evaluated and ranked in the regional offices. The highest priority proposals within established funding limits will be submitted to the HCRS, Washington, D.C. office where they will be judged by panels whose members are knowledgeable in recreation and urban revitalization. Innovation and Rehabilitation proposals will be ranked separately.

(4) An applicant may have no more than one Innovation and one Rehabilitation proposal under consideration in any one funding cycle. However, each proposal may contain more than one project, each of which should be individually addressed within the proposal. Should a project simultaneously include both rehabilitation and innovation aspects, the two components must be addressed separately, and they must stand on their own. Each proposal must be capable of implementation if funding is not available for the other.

(5) Some proposals may require modifications to improve their competitiveness. Sponsors of such proposals will be advised by HCRS of suggested modifications, if any, to increase their chances for funding in future grant rounds.

(6) If an applicant wishes a proposal to remain in the competition, it may be considered for two additional funding cycles with or without modifications before it is returned to the applicant. Applicants who already have a proposal in competition must submit a request for withdrawal of the previous proposal before submitting a new proposal in the same category.

(7) Following review and ranking by the panels, the Director will approve tentative grant offers for those proposals which may be funded. Successful applicants will be notified by the HCRS Regional Offices, and completion of the formal application process will take place. The formal application process must be completed within 120 days of notification of the tentative grant offer, or the tentative grant offer may be withdrawn. Final approval of the grant and obligation of funds will occur when all application requirements have been met and the appropriate documents are on file. No costs may be incurred or reimbursed until final HCRS approval and signing of the grant contract by HCRS officials.

§ 1228.54 Rehabilitation and innovation grants—Full application process.

Once a rehabilitation or innovation proposal has received a tentative grant offer, applicants will be responsible for compliance with all applicable Federal laws and regulations listed in Part V, OMB Circular A–102, including those specific Acts and Executive Orders listed in § 1228.56 of these regulations. The applicant must also complete all documentation and other requirements specified by OMB Circulars A–102, A–95, and FMC 74–4 within 120 days. Regional offices of HCRS will provide technical assistance to grantees in complying with these requirements. A grant will not be approved until the applicant is in compliance with the above requirements.

§ 1228.55 [Reserved]

§ 1228.56 Grant program compliance requirements.

Once a proposal has received a grant offer, applicants will be responsible for compliance with all applicable Federal laws and regulations, including but not limited to:

Title VI of the Civil Rights Act of 1964, Executive Order 11764
Department of the Interior Regulations 43 CFR 17
National Environmental Policy Act of 1969 (Pub. L. 91–190)
Architectural Barriers Act of 1968 (Pub. L. 90–480)
Uniform Relocation Assistance & Land Acquisition Policies Act of 1970 (Pub. L. 91–646)
Executive Order 11288, concerning prevention, control and abatement of water pollution
Executive Order 11296, concerning evaluation of flood hazard
Flood Disaster Protection Act of 1973 (Pub. L. 93–234)
Endangered Species Act of 1973 (Pub. L. 93–205)
Executive Order 11988, Floodplains Management
Executive Order 11990, Protection of Wetlands
National Historic Preservation Act (Pub. L. 89–665)
Archaeological and Historic Preservation Act of 1974
Executive Order 11593, Protection and Enchancement of the Cultural Environment
Clean Air Act and Federal Water Pollution Control Act
Section 504 of the Rehabilitation Action Act of 1973
Executive Order 11246, Equal Employment Opportunity
Executive Order 11625, Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise
Labor Standards in the following Acts:
Davis-Bacon Act
Contract Work Hours and Safety Standard Act
Copeland Anti-kickback Act

§ 1228.57–.59 [Reserved]

§ 1228.60 Grant administrative procedures.

(a) *Administrative requirements for recipients of UPARR assistance.*

For grants under this Program, the requirements are the following attachments listed in the Office of Management and Budget (OMB) Circular A–102 (revised as of August 24, 1977):

Parts

A—Cash Depositions
B—Bonding and Insurance
C—Retention and Custodial Requirements for Records
E—Program Income
F—Matching Share
G—Standards for Grantee Financial Management Systems
H—Financial Reporting Program in Performances
I—Monitoring and Reporting Program in Performances
K—Budget Revision Procedures
L—Grant Close-Out Procedures
M—Standard Forms for Applying for Federal Assistance
N—Property Managment Standards
O—Procurement Standards

(b) *Accounts, audit, inspection.* Adequate financial records must be maintained by the applicant to support all expenditures or costs covered by a Recovery Action Program, Rehabilitation or Innovation project, as specified in Federal Management Circular (FMC) 74–4.

(1) Grant accounts must be maintained by the applicant, even when the project is passed through to a private non-profit group.

(2) A pass-through recipient may be requested to record accounts. Auditing will be conducted by HCRS or its representative.

(3) Any application for a grant under this Part shall constitute the consent of the applicant to inspections of the facilities, and other resources of the applicant, at reasonable times, by the Director and the Comptroller General of the United States or any of their duly authorized representatives. In addition, the acceptance of any grant awarded under this Part shall constitute the consent of the grantee to inspections and fiscal audits, by these persons, of the supported activity and of progress and fiscal records relating to the use of grant funds.

(c) *Records and reports.* (1) Each grant awarded under this program shall be subject to the condition that the grantee shall maintain financial records identifiable by grant number and, file with the Director, financial reports relating to the use of grant funds, which the Director may find necessary to carry

out the purposes of Sections 1006(a) and 1007(c) of the Act and the regulations of this Part.

(2) Financial records, supporting documents, statistical records and other records pertinent to a grant shall be retained for a period of three years after final payment. The records shall be retained beyond the three year period if audit findings have not been resolved. Periodic reports on progress toward completion or implementation of projects may be required; the frequency of progress reports will be related to the scope, complexity, duration and type of grant.

(d) *Additional conditions.* The Director may, with respect to any grant, impose additional conditions prior to, or at the time of, the award when in his or her judgment these conditions are necessary to assure or protect advancement of the grant purposes, the interests of public health or safety, or the conservation of grant funds.

(e) *Remedies for noncompliance.* In appropriate circumstances, the Director may suspend the financial assistance provided under UPARR, upon the formal finding that the Grantee is in violation of the terms of the grant or the provisions of these regulations.

(f) *Limitation on use of funds.* No more than 5 percent of the total grant cost may be used by the grantee or pass-through recipient for administrative costs. The remaining funds shall be made available for projects. Costs for preparation of an application for UPARR assistance will not be shared.

§ 1228.61 [Reserved]

§ 1228.62 Amendments to approved grants.

Changes which alter the scope of any approved UPARR grant must be submitted to and approved by the Service before they occur. No changes involving increases in UPARR funds will be approved; such changes may, however, be the basis of a new proposal or application.

§ 1228.63 Grant payments.

The Director shall from time to time make payments to a grantee of all, or a portion of any grant award, either in advance or by way of reimbursement. The advance payment on approved rehabilitation or innovation grants will be in an amount not to exceed 20 percent of the total grant cost [Section 1006(2)].

§ 1228.64 [Reserved]

§ 1228.65 Other requirements.

(a) *Requirements for operation and maintenance.* Grantees are required to keep all UPARR assisted properties in reasonable repair to prevent undue deterioration, and to encourage public use during reasonable hours and times of the year, according to the type of facility and intended uses.

(b) *Sunset reports.* In compliance with the sunset and reporting provision of the Act, Section 1015(b), an annual report will be prepared on the achievements of the Innovation grant program, with emphasis on the nationwide implications of successful innovation projects. A final report on the overall impact of the program will be prepared within 90 days of an expiration of the authority. Additional project information may be requested from applicants to facilitate the preparation of such reports.

§ 1228.66 [Reserved]

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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/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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 July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

TRANSPORTATION DEPARTMENT

Federal Aviation Agency—

30679 5-29-79 / Alteration of transition area, Fort Rucker, Ala.

30679 5-29-79 / Alteration of VOR Federal Airway

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 August 8, 1979