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# federal register

TUESDAY, OCTOBER 26, 1976




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| DOT/OPSO | LABOR | | DOT/OPSO | LABOR |
| | HEW/FDA | | | HEW/FDA |

Documents normally scheduled 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.

**ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.**

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# reminders

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## Rules Going Into Effect Today

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## List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 1073..... Pub. Law 94–523
To extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, for an additional three years, ending September 7, 1978
(Oct. 17, 1976; 90 Stat. 2474)

H.R. 1142..... Pub. Law 94–528
To amend the Internal Revenue Code of 1954 to provide for a distribution deduction for certain cemetery perpetual care funds, to modify the effective dates of certain provision of the Tax Reform Act of 1976, and for other purposes
(Oct. 17, 1976; 90 Stat. 2483)

H.R. 1244..... Pub. Law 94–524
"Presidential Protection Assistance Act of 1976"
(Oct. 17, 1976; 90 Stat. 2475)

H.R. 1607..... Pub. Law 94–525
To amend title 18 and title 39 of the United States Code to make parallel the exemption from lottery prohibitions granted to newspapers and to radio and television
(Oct. 17, 1976; 90 Stat. 2478)

H.R. 3605..... Pub. Law 94–529
To amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer)
(Oct. 17, 1976; 90 Stat. 2485)

H.R. 10101..... Pub. Law 94–530
To amend the Internal Revenue Code of 1954 to exempt certain aircraft museums from Federal fuel taxes and the Federal tax on the use of civil aircraft, and for other purposes
(Oct. 17, 1976; 90 Stat. 2487)

H.R. 10826..... Pub. Law 94–526
To amend the Act establishing a code of laws for the District of Columbia to prohibit the unauthorized use of a motor vehicle obtained under a written rental or other agreement
(Oct. 17, 1976; 90 Stat. 2479)

H.R. 11337..... Pub. Law 94–521
To amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes
(Oct. 17, 1976; 90 Stat. 2459)

H.R. 13218..... Pub. Law 94–536
To permit the steamship United States to be used as a floating hotel, and for other purposes
(Oct. 17, 1976; 90 Stat. 2497)

H.R. 13326..... Pub. Law 94–535
To extend until November 1, 1983, the existing exemption of the steamboat Delta Queen from certain vessel laws
(Oct. 17, 1976; 90 Stat. 2496)

H.R. 13585..... Pub. Law 94–531
To amend the Federal Boat Safety Act of 1971
(Oct. 17, 1976; 90 Stat. 2489)

H.R. 13615..... Pub. Law 94–522
To amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes
(Oct. 17, 1976; 90 Stat. 2467)

H.R. 14451..... Pub. Law 94–519
To amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes
(Oct. 17, 1976; 90 Stat. 2451)

H.R. 15276..... Pub. Law 94–533
To amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the United States Park Police force as are given to Federal employees under the General Schedule and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the United States Park Police force
(Oct. 17, 1976; 90 Stat. 2493)

H.R. 15445..... Pub. Law 94–532
Whale Conservation and Protection Study Act
(Oct. 17, 1976; 90 Stat. 2491)

H.R. 15813..... Pub. Law 94–534
To amend the Act of June 3, 1976, relating to the Commission on Security and Cooperation in Europe
(Oct. 17, 1976; 90 Stat. 2495)

S. 400..... Pub. Law 94–518
To authorize the study of certain areas by the Secretaries of Agriculture and the Interior
(Oct. 17, 1976; 90 Stat. 2447)

S. 2112..... Pub. Law 94–527
To amend the National Trails System Act (82 Stat. 919), and for other purposes
(Oct. 17, 1976; 90 Stat. 2481)

S. 2923..... Pub. Law 94–520
To amend title 28 of the United States Code to provide that full-time United States magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of of part-time magistrates
(Oct. 17, 1976; 90 Stat. 2458)

H.R. 5682..... Pub. Law 94–548
To extend the boundary of the Tinicum National Environmental Center, and for other purposes
(Oct. 18, 1976; 90 Stat. 2528)

H.R. 8002..... Pub. Law 94–544
To designate certain lands in the Point Reyes National Seashore, California, as wilderness, amending the Act of September 13, 1962 (76 Stat. 538), as amended (16 U.S.C. 459c–6a), and for other purposes
(Oct. 18, 1976; 90 Stat. 2515)

H.R. 11455..... Pub. Law 94–549
To amend the Act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes
(Oct. 18, 1976; 90 Stat. 2529)

H.R. 11891..... Pub. Law 94–545
To authorize the establishment of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes
(Oct. 18, 1976; 90 Stat. 2517)

H.R. 12939..... Pub. Law 94–546
To amend certain laws affecting personnel of the Coast Guard, and for other purposes
(Oct. 18, 1976; 90 Stat. 2519)

H.R. 12961..... Pub. Law 94–552
To amend the Social Security Act to repeal the requirement that a State's plan for medical assistance under title XIX of such Act include a provision giving consent of the State to certain suits brought with respect to payment for inpatient hospital services
(Oct. 18, 1976; 90 Stat. 2540)

H.R. 14041..... Pub. Law 94–547
To amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes
(Oct. 18, 1976; 90 Stat. 2523)

H.R. 15531..... Pub. Law 94–550
To permit the use of unsworn declaration under penalty of perjury as evidence in Federal proceedings
(Oct. 18, 1976; 90 Stat. 2534)

H.J. Res. 1107..... Pub. Law 94–551
To provide for the printing and distribution of the Precedents of the Houses of Representatives compiled and prepared by Lewis Deschler
(Oct. 18, 1976; 90 Stat. 2537)

S. 865..... Pub. Law 94–541
To amend the Public Buildings Act of 1959 in order to preserve buildings of historical or architectural significance through their use for Federal public building purposes, and to amend the Act of August 12, 1968, relating to the accessibility of certain buildings to the physically handicapped
(Oct. 18, 1976; 90 Stat. 2505)

S. 1659..... Pub. Law 94–540
To provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40–K, and for other purposes
(Oct. 18, 1976; 90 Stat. 2503)

S. 2398..... Pub. Law 94–539
To authorize the establishment of the Eugene O'Neill National Historic Site, and for other purposes
(Oct. 18, 1976; 90 Stat. 2501)

S. 2533..... Pub. Law 94–538
To provide that the lake formed by the lock and dam referred to as the "Jones Bluff lock and dam" on the Alabama River, Alabama, shall hereafter be known as the R. E. "Bob" Woodruff Lake
(Oct. 18, 1976; 90 Stat. 2500)

S. 3063..... Pub. Law 94–543
Designating Ozark Lock and Dam on the Arkansas River as the "Ozark-Jeta Taylor Lock and Dam"
(Oct. 18, 1976; 90 Stat. 2514)

S. 3557..... Pub. Law 94–537
To authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes
(Oct. 18, 1976; 90 Stat. 2498)

S. 3621..... Pub. Law 94–542
To amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic
(Oct. 18, 1976; 90 Stat. 2509)

S. 12..... Pub. Law 94–554
Judicial Survivors' Annuities Reform Act
(Oct. 19, 1976; 90 Stat. 2603)

S. 22..... Pub. Law 94–553
For the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes
(Oct. 19, 1976; 90 Stat. 2541)

S. 64..... Pub. Law 94–556
To provide for the recognition of the States of Alaska and Hawaii at the Lincoln National Memorial, and for other purposes
(Oct. 19, 1976; 90 Stat. 2632)

S. 1026..... Pub. Law 94–557
To designate certain lands as wilderness
(Oct. 19, 1976; 90 Stat. 2633)

S. 2278..... Pub. Law 94–559
The Civil Rights Attorney's Fees Awards Act of 1976
(Oct. 19, 1976; 90 Stat. 2641)

S. 3131..... Pub. Law 94–555
Rail Transportation Improvement Act
(Oct. 19, 1976; 90 Stat. 2613)

S. 3894..... Pub. Law 94–558
To amend the Federal Water Pollution Control Act, as amended
(Oct. 19, 1976; 90 Stat. 2639)

# presidential documents

## Title 3—The President

Executive Order 11942 • October 22, 1976

### Exemption of Ashton C. Barrett From Mandatory Retirement

Ashton C. Barrett, a member of the Federal Maritime Commission, will become subject to mandatory retirement because of age and service as of October 31, 1976, under the provisions of Section 8335 of Title 5 of the United States Code, unless exempted by Executive order.

In my judgment, the public interest requires that Ashton C. Barrett be exempted from such mandatory retirement.

NOW, THEREFORE, by virtue of the authority vested in me by subsection (c) of Section 8335 of Title 5 of the United States Code, I hereby exempt Ashton C. Barrett from mandatory retirement until October 31, 1977.

Gerald R. Ford

THE WHITE HOUSE,
*October 22, 1976.*

[FR Doc.76-31466 Filed 10-22-76;11:28 am]

# rules and regulations

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

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

## Title 9—Animals and Animal Products

### CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

### PART 73—SCABIES IN CATTLE

#### Release of Areas Quarantined

This amendment releases a portion of Fresno County in California and a portion of Graham County in Arizona from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the excluded areas, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the excluded areas. No area in Arizona remains under quarantine.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

1. In § 73.1a, in paragraph (d) relating to the State of California, paragraph (8) relating to Fresno County is deleted.

2. In § 73.1a, paragraph (c) relating to the State of Arizona is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 1941.)

Effective date: The foregoing amendment shall become effective October 19, 1976.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 19th day of October, 1976.

NOTE: The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

E. A. SCHILF,
*Acting Deputy Administrator,*
*Veterinary Services.*

[FR Doc.76–31337 Filed 10–22–76;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15264; Amdt. No. 37–41]

### PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

#### Airborne Interim Standard Microwave Landing System Converter Equipment

The purpose of this amendment to Part 37 of the Federal Aviation Regulations is to add a new Technical Standard Order (TSO) for airborne interim standard microwave landing system (ISMLS) converter equipment (TSO–C93) that prescribes the standards that must be met in order for a manufacturer to identify equipment with the applicable TSO designation.

On December 22, 1972, the Federal Aviation Administration published in the FEDERAL REGISTER (37 FR 28311) an invitation for comments on a policy statement concerning the development of a non-federal low approach landing system. That system, described as an interim standard microwave landing system (ISMLS), was selected by the FAA for "* * * use at locations where a VHF/UHF ILS will not perform in an effective manner, or where the needs for low approach service would be better served by the use of the ISMLS." In determining the suitability for an ISMLS at any given location, the invitation for comments stated that "* * * full consideration will be given to the nature of the operational requirement and to the economics of the situation including the cost of airborne avionics equipment." Furthermore, the invitation for comments announced that the selection of the ISMLS would be based upon a standard performance specification, and requested current and potential ISMLS users to comment on the operational, technical, and economic aspects of such a system.

As a result of the invitation for comments, and a subsequent notice of policy decision (38 FR 14784), wherein the comments were discussed, the FAA proceeded with the development of a performance specification and subsequently issued a request for proposals. That request led to several proposals which the FAA evaluated through flight tests. As a result of the evaluation, the FAA published on August 30, 1974, the selection of the system manufactured by Tull Aviation Corporation, 4 Kaysal Court, Armonk, New York 10504 (Tull), as the interim standard microwave landing system (see 39 FR 31681). That system includes both ground and airborne equipment.

In selecting the ISMLS proposed by Tull, the FAA has concluded an agreement whereby Tull has agreed to grant royalty-free licenses in their technical data for the manufacture, sale, and use of the Tull system only within the United States, its territories and possessions, the District of Columbia, Puerto Rico, and the Canal Zone. Licensees of the technical data only will be required to indemnify purchasers and users of equipment manufactured by the licensee from this data against liability from patent infringement arising from the manufacture or sale of the ISMLS. The data will be available to licensees from Tull for the cost of reproduction and handling. Tull has further agreed with the FAA to grant, on reasonable terms, nonexclusive licenses for the manufacture, use and sale of the ISMLS equipment claimed to be covered by patents, within the United States, its territories and possessions, the District of Columbia, Puerto Rico, and the Canal Zone.

NOTE.—Copies of these agreements are contained in Docket No. 14120 and are available to interested persons upon request to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, D.C. 20591.

Converter equipment that are the subject of this amendment are covered by these agreements.

The FAA takes no position on the scope, coverage, or validity of the patents claimed by Tull for its system, nor on any patents that may result from any pending applications.

This amendment is based on a notice of proposed rulemaking (Notice 75–41) published in the FEDERAL REGISTER on January 5, 1976 (41 FR 776). Six commentators responded to Notice 75–41, three of whom were in favor of the intent of the proposed rule. The more significant of the comments received are discussed below. Based upon the comments and upon further consideration by the FAA, a number of changes have been made to the proposed rule.

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. Except as modified by the following discussion, the reasons for this amendment are set forth in Notice 75–41.

One commentator objected to the proposal and stated that TSOs are usually issued for equipment commonly used by air carriers and that, except for rare circumstances, air carriers will not use ISMLS equipment. The commentator also stated that there existed an apparent intent to apply the proposed requirement to all operators although there existed no proposal to amend Part 91 to include such a requirement. Another commentator, while agreeing with the proposed TSO, objected to any requirement that equipment to be used in Part 91 operations be TSO-approved. The standards set forth in the TSO being adopted are mandatory only for equipment manufacturers who wish to obtain TSO authorizations covering airborne ISMLS converter equipment and are not directed to persons who install or use the equipment. Furthermore, while TSOs often cover equipment used by air carriers, TSOs are also issued, where necessary, for equipment that may be used by other operators, as is the case with airborne ISMLS converter equipment.

A number of commentators expressed concern with respect to the proper operation of VHF/UHF ILS receiving equipment after the installation of airborne ISMLS converter equipment meeting the proposed TSO standards. One of these commentators recommended that the proposed TSO be revised to cover the combined VHF/UHF ILS–ISMLS system. Another commentator suggested that the proposed TSO or TSO–C34c or TSO–C36c, contained in §§ 37.160 and 37.161, that specify TSO standards for ILS receiving equipment, be revised to cover the modifications necessary for the installation of the airborne ISMLS converter equipment.

The FAA recognizes that modification of VHF/UHF ILS receiving equipment may be necessary to ensure proper operation of the combined VHF/UHF ILS–ISMLS system. The FAA believes that the installation approval associated with the incorporation of airborne ISMLS equipment will ensure proper system functioning. In this connection, the FAA is considering the issuance of advisory material with information related to the installation of airborne ISMLS converter equipment. However, the FAA, at this time, does not believe it necessary or appropriate to promulgate specific technical standards relating to the installation of the airborne ISMLS equipment or relating to the overall VHF/UHF ILS–ISMLS airborne system.

Section 37.203(d)(3), as proposed, would have required the manufacturer to submit test reports. However, as one commentator pointed out, the proposal did not specify the particular test reports to be submitted. Proposed § 37.203(d)(3) has been revised to make it clear that the only test reports to be submitted are those related to the tests conducted to show complance with the TSO standards.

One commentator questioned the use of the Radio Technical Commission for Aeronautics (RTCA) Document No. DO–138 as an environmental standard under the TSO since it has been superseded by RTCA Document No. DO–160. The FAA does not agree. While DO–160 is the most current RTCA environmental standard, the FAA has determined that the conditions specified in either DO–138 or DO–160 provide an adequate environmental standard for this TSO. In this connection, proposed § 37.203(d)(4) has been revised to require the manufacturer to indicate the paragraphs of DO–160 used to determine compliance with paragraph 4.0 of the FAA standard specified at the end of § 37.203 in order to facilitate administration of the provision.

The notice proposed to require that the equipment manufacturer provide certain data with each TSOed article manufactured. It was recommended by one commentator that the provision be revised to require that only one set of such data be provided to each customer. The FAA agrees, and proposed § 37.203(e) has been revised accordingly.

Based on a comment that indicated that it was unclear whether a manufacturer would be required to test to show compliance with each of the TSO performance standards, an introductory sentence is being added to paragraph 3.0 and 4.0 of the proposed FAA standard to clearly indicate that equipment must be tested to show compliance with each of the standards specified in those paragraphs.

With respect to signal level for performance, a commentator stated that performance requirements should be stated in such a way as to indicate maximum cable losses permitted. Based on this comment a note has been added to paragraph 3.1 of the proposed FAA standard indicating the maximum cable losses considered in developing the standard; however, since the cables in question are not a part of the TSOed equipment, a maximum cable loss standard has not been adopted.

One commentator recommended that paragraphs 3.1, and 3.2 of the proposed FAA standard be revised to require compliance over the assigned ISMLS frequency band. However, the FAA believes that compliance with these requirements need only be shown over the frequency range for which the equipment has been designed and the standard has been revised to make this clear. Compliance, as recommended by the commentator, over the entire assigned ISMLS frequency band would impose an undue burden on the manufacturer.

The same commentator also recommended that the ISMLS frequency plan be specified in the standard and that a showing of frequency stability of the converter over the entire range of channels should be required under paragraph 3.4 of the proposed FAA standard. Since the frequency plan is not a performance standard its inclusion in the TSO would not be appropriate. In addition, since there exists no need for converter equipment to be operable over the entire ISMLS frequency band, there exists no need for the equipment to meet the requirements of paragraph 3.4 of the FAA standard over that range. Proposed paragraph 3.4 has been revised to clearly indicate that only design frequencies need be considered in showing compliance with the provision.

At the time Notice 75–41 was developed, it was believed the maximum ISMLS signal for the localizer could be as high as −43 dbm and the maximum ISMLS signal for the glide slope could be as high as −27 dbm. The requirements of paragraphs 3.2, 3.3, and 3.5 of the proposed FAA standard were, in part, based on this belief. Subsequent review of the ISMLS signal strengths has revealed that threshold signals from the localizer will not exceed −54 dbm and threshold signals from the glide slope will not exceed −43 dbm. Paragraphs 3.2, 3.3, and 3.5 of the proposed FAA standard have been revised accordingly.

It was suggested by a commentator that the response limits in the table in proposed paragraph 3.3 of the FAA standard be better defined. The FAA agrees, and the heading in the right hand column of the table has been revised to indicate that the response limits specified are relative to center response. The same commentator recommended that the lower frequency limit in the table be increased from 0 to 100 MHz and that the response limit for the lower frequency band response limit from −100 to −60 db and an increase in the lower frequency limit from 0 to 0.09 MHz, would make the proposal consistent with the present VHF/UHF–ILS TSOs, TSO–C34c and –C36c. The proposed rule has been revised accordingly. However, the FAA believes that an increase in the lower frequency limit above 0.09 MHz, as suggested by the commentator, would be excessive.

Two commentators recommended a change to the table of paragraph 3.3 of the proposed FAA standard to make it clear that a 35 db attenuation of the operating band is not required. The FAA agrees, and the table has been revised to specifically exclude the input frequency operating band from consideration with respect to the 35 db attenuation standard.

The FAA does not agree with comments received that recommended that a maximum permitted signal distortion be specified and that limits on course accuracy effects of distortion be established. The FAA believes that the provisions of paragraph 3.5 of the proposed FAA standard are sufficient to define distortion limits, and that the maximum effects on course accuracy of signal distortion cannot be measured directly on the converter.

It was recommended by a commentator that a broader horizontal antenna coverage provision than contained in paragraph 3.6(b) of the proposed FAA standard was needed to permit normal ILS intercepts during crosswinds. A value of ±90 degrees was suggested. Based on further review, in light of this comment, the proposal has been revised to provide for horizontal coverage of ±60 degrees in lieu of the value of ±37.5 degrees proposed. Any increase in horizontal antenna coverage in excess of ±60 degrees

would necessitate a reevaluation of the entire ISMLS and is not needed. As pointed out in another comment, the change to ±60 degrees necessitates changes to the proposed standard relating to permissible variations in field strength of the radiated signal for test purposes also specified in paragraph 3.6 (b), and those changes have been incorporated into the adopted standard.

One commentator stated that the proposed antenna polarization requirements of the proposed FAA standard should be considerably less if it is to apply to an installed antenna. Since the TSO standard covers only uninstalled antennas, the provision has been adopted as proposed. The FAA also does not agree with the commentator's suggestion that the standard be revised to avoid confusion with respect to the direction of horizontal polarization. The proposal is clear in this regard.

The need for the proposed antenna voltage standing wave ratio (VSWR) standard of paragraph 3.8 of the proposed FAA standard was questioned by a commentator since it could lead to increased equipment complexity and cost. The FAA does not agree. The performance of the system is dependent upon the equipment sensitivity, gain, and losses, the latter of which varies with VSWR. Any relaxation of the VSWR for the antenna over that proposed would require corresponding changes to the other standards and would be more likely to increase the equipment complexity and costs. It was also stated by the commentator that if the system is sensitive to VSWR, the system is too sensitive for reliable operations. All systems using antennas will be sensitive to VSWR conditions. However, a system meeting the proposed standards will not be overly sensitive. This same commentator also stated that it should be made clear whether or not the receiver to antenna transmission lines are covered in the VSWR standards. The FAA believes that aside from the need to provide a proper connection between the antenna and the equipment receiving the signal, transmission lines will not affect VSWR measurements. Consequently, there is no need for the requested clarification.

Another commentator questioned the value of the voltage standing wave ratio (VSWR) on the transmission line connecting the converter input and the signal source as specified in paragraph 3.9 of the proposed FAA standard. The commentator stated that the value of 1.7:1 could be increased to 2.2:1 with no adverse effect on system operation with a resultant decrease in equipment cost. The FAA agrees and paragraph 3.9 has been revised accordingly. In addition, the reference to receiver in the heading of this paragraph has been corrected to refer to converter input. Another change has been made to make the requirement of paragraph 3.9 applicable over the frequency range for which the equipment is designed rather than over the entire frequency band from 5000 MHz to 5250 MHz. Coverage of the entire frequency band is unnecessary.

One commentator stated that the antenna and transmission line characteristics of paragraphs 3.6 through 3.9 of the proposed FAA standard are ambiguous and should be either clarified or eliminated. The FAA does not agree. The paragraphs referenced by the commentator clearly concern antenna and converter impedances and not transmission line characteristics, and the FAA finds no ambiguity.

The same commentator stated that a specific antenna design was considered in the development of the TSO and that the antenna may be difficult or costly to install. The TSO being adopted contains minimum performance standards specifying antenna gain and coverage. While it is possible that some antennas may not meet these performance standards, any antenna meeting the standards would be acceptable. The FAA is aware of no data to indicate that complying antennas will be difficult or costly to install.

When subjected to the temperature variation tests under paragraph 4.5 of the FAA standard, it was proposed to permit a deterioration in the converter noise figure from 20 to 26 db. A commentator asserted that there was no need to permit a deterioration in the noise figure under this environmental condition, but that some deterioration in converter output stability should be allowed. Since the ISMLS equipment will perform satisfactorily with a less severe sensitivity requirement during the temperature variation test, the proposed requirement has not been changed in this regard. However, the recommendation to permit a deviation from the stability requirements during the temperature variation tests, will eliminate an unnecessary design restriction, and, therefore, proposed paragraph 4.5 has been revised to permit a frequency drift from ± 5 kHz to ± 7.5 kHz.

Two commentators stated that the degree of degradation in performance allowed under the low voltage condition of paragraph 4.7(a) of the proposed FAA standard should be defined. The FAA agrees, and a change has been made to specify limits for sensitivity and gain losses during the tests.

Paragraph 4.7(b)(2) of the proposed FAA standard has been revised to make it clear that paragraph 2.3 of the standard applies to the equipment after the test specified in paragraph 4.7(b)(1).

One commentator recommended that the proposed converter output signal strength requirement of paragraph 3.2 of the FAA standard be lower than specified in the notice to ensure that VHF/UHF ILS receivers will not be overloaded in service. The same commentator also suggested that an ILS switching requirement be added to the FAA standard. While the FAA believes the changes recommended by the commentator may be desirable, they can not be incorporated as a part of the new TSO within the scope of Notice 75-41. The FAA will consider the institution of additional rule making in this regard in the future.

This amendment is made under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Part 37 of the Federal Aviation Regulations is amended by adding a new § 37.203 to read as follows; effective November 26, 1976:

**§ 37.203 Airborne interim standard microwave landing system converter equipment—TSO–C93.**

(a) *Applicability.* This technical standard order prescribes the minimum performance standards that airborne interim standard microwave landing system converter equipment must meet in order to be identified with the applicable TSO marking. Equipment that is to be so identified must meet the requirements of the "Federal Aviation Administration Standard, Airborne Interim Standard Microwave Landing System Converter Equipment" set forth at the end of this section.

(b) *Environmental standards.* Radio Technical Commission for Aeronautics (RTCA) Document No. DO–138, titled "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments", dated June 27, 1968, including Change Number 2, dated October 29, 1969, or RTCA Document No. DO–160, dated February 28, 1975, having the same title, must be used to determine the environmental conditions over which the equipment has been designed to operate.

(c) *Markings.* In addition to the markings specified in § 37.7(d), the equipment must be marked as follows:

(1) The environmental categories over which it has been designed to operate, as set forth in Appendix B of RTCA Document DO–138 or Appendix A of RTCA Document DO–160 must be permanently and legibly marked on the equipment. Where an environmental test procedure is not applicable and the test is not conducted, an "X" must be placed in the space assigned for that category.

(2) Each separate component of the equipment must be permanently and legibly marked with at least the name of the manufacturer, model or part number, the TSO number, and the environmental categories over which it has been tested. Where an environmental test procedure described in DO–138 or DO–160 is not applicable to that component and the test is not conducted, an "X" must be placed in the space assigned for that environmental category.

(d) *Data requirements.* In accordance with § 37.5, the manufacturer must furnish to the Chief, Engineering and Manufacturing Branch, Flight Standards Division (or in the case of the Western Region, the Chief, Aircraft Engineering Division), Federal Aviation Administration, in the region in which the manufacturer is located, one copy of the following technical data, except that additional copies must be furnished upon request:

(1) Manufacturer's operating instructions and equipment limitations.

(2) Installation procedures with applicable schematic drawings, wiring diagrams, and specifications. Any limitations, restrictions, or other conditions pertinent to the installation must be included.

(3) Manufacturer's test reports of the tests conducted to show compliance with the requirements of this TSO.

(4) Equipment data sheets specifying, within the prescribed range of environmental conditions, the actual performance of equipment of that type with respect to each performance factor prescribed in the standard. If RTCA Document No. DO-160 is used under paragraph (b) of this section, the data sheets must identify the paragraph of DO-160 used to show compliance with each of the requirements of paragraphs 4.1 through 4.10 of the standard set forth at the end of this section.

(5) A drawing list enumerating all the drawings and processes that are necessary to define the article design.

(e) *Data to be furnished with each manufactured unit.* A copy of the instructions specified in paragraphs (d)(1) and (d)(2) of this section must be furnished to each person receiving for use one or more articles manufactured under this TSO.

(f) *Availability of Documents.* RTCA Document Nos. DO-138, including Change Number 2, and DO-160 are incorporated herein in accordance with 5 U.S.C. 552(a)(1) and § 37.23 of the Federal Aviation Regulations and are available for inspection as indicated in § 37.23. Additionally, RTCA Document Nos. DO-138 and DO-160 may be examined at any FAA Regional Office of the Chief, Engineering and Manufacturing Branch (or in the case of the Western Region, the Chief, Aircraft Engineering Division). RTCA Document Nos. DO-138 and DO-160 may also be obtained from the RTCA Secretariat, Suite 655, 1717 H Street, NW., Washington, D.C. 20006, at a cost of $16.00 per copy for DO-138 and $20.00 per copy for DO-160.

FEDERAL AVIATION ADMINISTRATION STANDARD

AIRBORNE INTERIM STANDARD MICROWAVE LANDING SYSTEM CONVERTER EQUIPMENT

1.0 PURPOSE. This standard contains minimum performance and test requirements for Airborne Interim Standard Microwave Landing System Converter Equipment (Converter equipment).

2.0 GENERAL STANDARDS.

2.1 *Operation of Controls.* The operation of controls intended for use during flight must not, in any possible combination or sequence, result in a condition whose presence or continuation would be detrimental to the proper functioning of the equipment.

2.2 *Accessibility of Controls.* Controls not intended for in-flight adjustment must be located so as not to be readily accessible to flight personnel.

2.3 *Effects of Tests.* Except as expressly provided in this standard, the design of the equipment must be such that subsequent to the application of the specified tests, no condition may exist which would be detrimental to the proper functioning of the equipment.

3.0 MINIMUM PERFORMANCE STANDARDS UNDER STANDARD CONDITIONS. The equipment must be tested to show compliance with the following minimum performance requirements under standard conditions.

3.1 *Sensitivity.* The noise figure of the equipment must not be more than 20 db over the frequency range for which the equipment is designed.

NOTE: Maximum cable attenuations of 3db between the antenna and converter and 3db between the converter and ILS receivers were considered in developing this provision.

3.2 *Conversion Gain.* Input signals of not more than −54 dbm for localizer and −43 dbm for glide slope must produce outputs of at least −23 dbm for localizer and −17 dbm for glide slope. This standard must be met over the frequency range for which the equipment is designed.

3.3 *Spurious Response.* Spurious responses in the outputs must not exceed the values in the following table when input signals of −54 dbm for localizer and −43 dbm for glide slope are applied throughout the frequency bands specified.

| Frequency Band (megahertz) | Response Limit Relative to Center Response (db) |
|---|---|
| 0.09–4599.99 | −60 |
| 4600–4899.99 | −45 |
| 4900–4998.99 | −30 |
| 4999–5249.99 * | −35 |
| 5250–5298.99 | −40 |
| 5299–10,000 | −60 |

* Exclusive of assigned input frequency band.

3.4 *Stability.* The frequency of the output must be within ±5 kHz of the assigned VHF localizer/UHF glide slope frequencies when assigned microwave frequencies are applied throughout the frequency range for which the equipment is designed.

3.5 *Intermodulation.* When equal level two-tone test signals within the bands 5,000 MHz to 5,030 MHz for localizer and 5,220 MHz to 5,250 MHz for glide slope are applied at input signal levels of −54 dbm for localizer and −43 dbm for glide slope, intermodulation products must be down at least 30 db from the desired output signals.

3.6 *Antenna Efficiency.*—(a) Over the frequency band from 5,000 MHz to 5,250 MHz, the desired component of the radiated signal in the forward direction must be at least +8.5 db when compared to an isotropic source.

(b) At any frequency from 5,000 MHz to 5,250 MHz, the desired component of the radiated signal must not be less than 0 db when compared to an isotropic source at any point in the principal horizontal plane from 60 degrees left to 60 degrees right of directly forward of the antenna nor less than 5.5 db above an isotropic source at any point in the principal elevation plan from 17.5 degrees below to 17.5 degrees above directly forward of the antenna.

3.7 *Antenna Polarization.* Over the frequency range from 5,000 MHz to 5,250 MHz, the reception of signals with horizontal (H plane) polarization from the forward direction with respect to the antenna must be at least 20 db below the reception of signals with the vertical (E plane) polarization from the same direction.

3.8 *Voltage Standing Wave Ratio (Antenna).* The voltage standing wave ratio on the transmission line connecting the antenna and a signal source may not exceed a value of 1.7:1 over the frequency range from 5,000 MHz to 5,250 MHz.

3.9 *Voltage Standing Wave Ratio (Converter Input).* The voltage standing wave ratio on the transmission line connecting the receiver and a signal source may not exceed a value of 1.7:1 over the frequency range for which the equipment is designed.

4.0 MINIMUM PERFORMANCE REQUIREMENTS UNDER ENVIRONMENTAL CONDITIONS. The equipment must be tested to show compliance with the following minimum performance requirements under environmental conditions. Unless otherwise specified in this standard, the measurement procedures applicable to a determination of the performance of the equipment under the environmental conditions specified are those set forth in either RTCA Document DO-138 titled "Environmental Conditions and Test Procedures for Electronic/Electrical Equipment and Instruments" dated June 27, 1968, including Change Number 2, dated October 29, 1969, or RTCA Document No. 160 dated February 28, 1975, having the same title. Performance testing may be done following a series of environmental exposures. However, the order of tests must be in accordance with paragraph 3.2 of Document Nos. DO-138 or DO-160.

4.1 *Temperature—Altitude.*—(a) *Low Temperature.*—(1) When the equipment is subjected to this environment, the requirements of paragraphs 3.1, 3.2, and 3.4 of this standard must be met. All mechanical devices must perform their intended functions.

(2) After subjection to this environment, the requirements of paragraph 3.8 of this standard must be met.

(b) *High Temperature.*—(1) When operated at the High Short-Time Operating Temperature, the equipment must operate both electrically and mechanically.

(2) When the equipment is exposed to the High Operating Temperature, the requirements of paragraphs 3.1, 3.2, and 3.4 of this standard must be met.

(3) After the equipment is subjected to the environments specified in subparagraphs (1) and (2) of this paragraph, the requirements of paragraph 3.8 of this standard must be met.

(c) *Altitude.*—(1) When the equipment is subjected to this environment, the requirements of paragraphs 3.1, 3.2, and 3.4 of this standard must be met.

(2) After subjection to this environment, the requirements of paragraph 3.8 of this standard must be met.

4.2 *Humidity.*—After subjection to the humidity environment and—

(a) Within 15 minutes after the time primary power is applied, the noise figure may not be more than 26 db; and

(b) Within 4 hours from the time primary power is applied, the requirements of paragraphs 3.1, 3.2, and 3.4 of this standard must be met.

4.3 *Shock.*—(a) Following the application of the operational shocks, the requirements of paragraphs 3.1, 3.2, and 3.4 of this standard must be met.

(b) The equipment must remain in its mounting, and no part of the equipment or its mounting may become detached and free of the shock test table or the equipment under test during or following the application of the crash safety shocks. Paragraph 2.3 of this standard does not apply to the crash safety shock environment.

4.4 *Vibration.*—(a) When the equipment is subjected to this environment the requirements of paragraph 3.2 of this standard must be met.

(b) After subjection to this environment, the requirements of paragraphs 3.1, 3.2, 3.4, and 3.8 of this standard must be met.

4.5 *Temperature Variation.* When subjected to this environment—

(a) The noise figure may not be more than 26 db;

(b) The requirements of paragraph 3.2 of this standard must be met; and

(c) The stability requirement of paragraph 3.4 of this standard must be met within ±2.5 kHz (7.5 kHz total).

4.6 *Electrical Input Variation.* When subjected to this environment, the requirements of paragraphs 3.1, 3.2, and 3.4 of this standard must be met.

4.7 *Low Voltage.*—(a) *AC and DC Equipment.* When the primary power voltages of DC operated equipment is 80 percent of the design voltages, and when that of AC operated equipment is 87½ percent of the design voltages, the equipment must operate both mechanically and electrically, the requirements of paragraph 3.1 of this standard must be met within 3 db, and the signal output requirements of paragraph 3.2 of this standard must be met within 3 db.

(b) *DC Equipment.*—(1) DC operated equipment must meet the requirements of paragraphs 3.1, 3.2, and 3.4 of this standard within 2 minutes after the primary power voltages are returned to the design voltages after operating at 50 percent of the design voltages for at least 10 minutes.

(2) The reduction of the primary power voltages of DC operated equipment from 50 percent of design voltages to zero volts may not produce fire or smoke. Paragraph 2.3 of this standard does not apply after the exposure to zero volts.

4.8 *Conducted Voltage Transients.*—(a) *DC Equipment.*—(1) *Intermittent Transients.* Following the application of the intermittent transients, the requirements of paragraphs 3.1, 3.2, and 3.4 of this standard must met.

(2) *Repetitive Transients.* While the repetitive transients are being applied, the requirements of paragraph 3.1 of this standard must be met.

(b) *AC Equipment.* While the transients are being applied, the requirements of paragraph 3.1 of this standard must be met.

4.9 *Radio-Frequency Susceptibility.* When subjected to this environment, the requirements of paragraph 3.1 of this standard must be met.

4.10 *Emission of Spurious Radio Frequency Energy.* The levels of conducted and radiated spurious radio frequency energy emitted by the equipment may not exceed those levels specified in Appendix A to RTCA Document No. DO-138 or paragraph 21 of Document No. DO-160.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on October 18, 1976.

R. P. SKULLY,
*Director,*
*Flight Standards Service.*

[FR Doc.76-31195 Filed 10-22-76;8:45 am]

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[Docket No. 76-GL-19; Amdt. 39-2751]

## PART 39—AIRWORTHINESS DIRECTIVES

### Applies to All Aircraft Equipped With Rupert Models 50, N50, 80, and S-2194 Safety Belts

AD 61-8-2 issued May 16, 1961 requires inspection of Rupert Model 50, N50, 80, and S-2194 safety belts for proper buckle dimension. After issuing AD 61-8-2 new buckle hardware was added which should not be subject to the requirements of this AD. Therefore, the AD is being amended to exclude safety belts containing revised hardware.

Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697), Article 39.13 of Part 39 of the Federal Aviation Regulations, AD 61-8-2 is amended by adding the following to the applicability paragraph:

, except those that contain Cam Clasps marked Cummings & Sander, Division of American Safety Equipment Corporation, P/N M 4090.

This amendment becomes effective October 26, 1976.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Ill., on October 13, 1976.

JOHN M. CYROCKI,
*Director, Great Lakes Region.*

[FR Doc.76-30989 Filed 10-22-76;8:45 am]

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[Airspace Docket No. 76-RM-20]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area

On August 26, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 36036) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the transition area at St. George, Utah.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted with the following editorial change. The correct location of the St. George VOR should read: latitude 37°05'17" N., longitude 113°35'30" W.

*Effective date.* This amendment shall be effective 0901. G.m.t., December 30, 1976.

(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)))

Issued in Aurora, Colo., on October 15, 1976.

M. M. MARTIN,
*Director, Rocky Mountain Region.*

In § 71.181 (41 FR 440) the description of the St. George, Ut. transition area is amended to read:

ST. GEORGE, UT.

That airspace extending upward from 700 feet above the surface within 9.5 miles northeast and 6 miles southwest of the St. George, Ut. VOR (latitude 37°05'17" N., longitude 113°35'30" W.) 131 radial extending from 7 miles northwest to 18.5 miles southeast; and within 5 miles each side of the St. George VOR 183 radial extending from the VOR to 15.5 miles south; that airspace extending upward from 1200 feet above the surface within an arc of a 23 mile radius of the St. George VOR extending clockwise from the 058 radial to the 239 radial; and within 10 miles east and 6.5 miles west of the St. George VOR 183 radial extending from the 23 mile arc to 37.5 miles south of the VOR.

[FR Doc.76-30990 Filed 10-22-76;8:45 am]

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## PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

### Extension and Designation of Jet Routes

*Correction*

In FR Doc. 76-29853, appearing in the issue for Tuesday, October 12, 1976, at page 44688, in the third column, the first jet route, the Jet route number which now reads "J-39", should read "J-36".

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# Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2836]

## PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

### E. & J. Gallo Winery

Subpart—Controlling, unfairly, seller-suppliers: § 13.530 Controlling, unfairly, seller-suppliers. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records; 13.533-65 Renegotiation and/or amendment of contracts. Subpart—Cutting off access to customers or market: § 13.535 Contracts restricting customers' handling of competing products; § 13.560 Interfering with distributive outlets; § 13.580 Organizing and controlling seller-suppliers. Subpart—Cutting off supplies or service; § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart—Enforcing dealings or payments wrongfully: § 13.1045 Enforcing dealings or payments wrongfully. Subpart—Maintaining resale prices: § 13.1140 Cutting off supplies; § 13.1155 Price schedules and announcements; § 13.1160 Refusal to sell. Subpart—Subsidizing business: § 13.2260 Subsidizing business.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

*In the matter of E. & J. Gallo Winery, a corporation*

Consent order requiring a Modesto, Calif., winery, among other things to cease, for a ten-year period, establishing and maintaining exclusionary marketing policies and enforcing them through coercion of wholesalers. The order diminishes respondent's involvement in the operations of its wholesalers by limiting its ability to obtain financial information from its wholesalers and prohibits respondent from becoming involved in the

financial obligations of such wholesalers. Further, respondent is prohibited from imposing certain conditions which could operate to the exclusion of competing wineries.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER

I. It is ordered that respondent, its subsidiaries, divisions, affiliates, successors, assigns, officers, directors, agents, representatives or employees, directly or indirectly on behalf of respondent or through any corporate or other device acting on behalf of respondent in connection with the distribution, offering for sale or sale of its wines within any or all of the fifty (50) states of the United States of America and the District of Columbia, for a period of ten (10) years from the date of issuance of this order shall cease and desist from:

1. Requiring the submission of financial statements from any wholesaler, except for credit or management services purposes; or conditioning the granting or extension of credit to any wholesaler on such wholesaler's submitting of financial statements which disclose the operating results and financial position specifically attributable to any segment of such wholesaler's business. *Provided however,* Respondent may require financial statements from an applicant not then purchasing wine from respondent, who desires to become a wholesaler of respondent's wines.

2. Guaranteeing all (or any part) of any loan for any wholesaler, assuming all (or any part) of the capital expenses of any wholesaler, or assuming all (or any part) of the operating costs of doing business of any wholesaler.

3. Prohibiting any wholesaler from, or punishing such wholesaler for: (1) selling respondent's wines in any area in which such wholesaler is permitted to operate by state license, or (2) dealing in wines produced by other companies.

4. Requiring any wholesaler to distribute any of respondent's wines in order to obtain any other wine produced or imported by respondent.

5. Entering into distribution agreements or other contracts with its wholesalers with a provision(s) for crediting or charging the wholesaler with respect to respondent's wines in such wholesaler's warehouse or in transit to such wholesaler to reflect any new price(s) charged by respondent. Respondent agrees to offer to all its wholesalers operating pursuant to a contract having such a provision(s) on the date of issuance of this order an amended contract without such a provision(s) and request that it be accepted.

II. It is further ordered that:

1. For a period of ten (10) years from the date of issuance of this order, respondent shall maintain a separate file in Modesto, California, that will be available to employees of the Federal Trade Commission for inspection and copying upon ten (10) days written notice. The file shall contain the following and the enumerated items will be retained in the file during the period covered by this order.

(a) A written description of the facts surrounding each instance in which respondent did not comply with any of the provisions in this order because of a conflict with federal or state laws and/or regulations as well as copies of any applicable documentation.

(b) A written description of the facts surrounding each instance in which respondent, as permitted by Order Provision I, reviewed a wholesaler's financial data in order to provide management services. A copy of such wholesaler's request for services must be attached as well as copies of any documents prepared by respondent in performing the services.

(c) A list containing an itemized listing of the financial statements respondent received from wholesalers and the name and address of each such wholesaler. Respondent shall retain copies of such financial statements during the period covered by this order.

(d) A list of all terminated wholesalers. In addition to the name and address of each wholesaler, the list shall include a written description of the reason(s) for termination. Respondent shall retain copies of any relevant documents relating to terminated wholesalers during the period covered by this order.

(e) A list of all new wholesalers, including each wholesaler's name and address.

2. If no other provision of this order or state or federal law is violated thereby, respondent: (1) may appoint one or more additional duly licensed wholesaler(s) to distribute one or more of its wines in any geographical area in which another wholesaler is then distributing respondent's wines; (2) shall not be required to sell any of its wines to a wholesaler who is purchasing other wines from respondent; or (3) may terminate any wholesaler for cause or in accordance with the terms and conditions of the agreement of distributorship between respondent and that wholesaler.

3. Within fifty (50) days after service upon it of this order, respondent shall distribute a copy of such order to each of its existing wholesalers. All wholesalers appointed by respondent within ten (10) years after the date of this order are to be furnished copies of this order. If this order is modified, all then existing wholesalers are to receive copies of the modification.

4. For a period of ten (10) years respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries, if such change may affect compliance obligations arising out of this order.

5. Within sixty (60) days after service upon it of this order, respondent shall file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order, including a list of all wholesalers to whom it has sent a copy of this order, and shall file such other reports as may, from time to time, be required in order to assure compliance with the terms and conditions of this order.

The Decision and Order was issued by the Commission August 26, 1976.

CHARLES A. TOBIN,
*Secretary.*

[FR Doc.76-31231 Filed 10-22-76;8:45 am]

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

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[Docket C-2835]

## PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

### Levitz Furniture Corporation

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.15 Business status, advantages or connections; 13.15–235 Producer status of dealer or seller; 13.15–235(m) Manufacturer; 13.15–260 Retailer as wholesaler, jobber, factory distributor; § 13.30 Composition of goods; § 13.70 Fictitious or misleading guarantees; § 13.125 Limited offers or supply; § 13.135 Nature of product or service; § 13.155 Prices; 13.155–15 Comparative; 13.155–35 Discount savings; 13.155–40 Exaggerated as regular and customary; 13.155–60 List or catalog as regular selling; 13.155–70 Percentage savings; 13.155–100 Usual as reduced, special, etc.; § 13.160 Promotional sales plans; § 13.175 Quality of product or service; § 13.185 Refunds, repairs, and replacements; § 13.205 Scientific or other relevant facts; § 13.235 Source or origin; 13.235–60 Place; 13.235–60(a) Domestic products as imported; § 13.240 Special or limited offers. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosure; 13.533–45 Maintain records; 13.533–45(k) Records, in general; 13.533–75 Warranties. Subpart—Delaying or withholding corrections, adjustments or action owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Failing to maintain records: § 13.1051 Failing to maintain records; 13.1051–20 Adequate. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections; § 13.1550 Retailer as wholesaler, jobber, or factory distributor. Subpart—Misrepresenting oneself and goods—Goods: § 13.1590 Composition; § 13.1647 Guarantees; § 13.1725 Refunds; § 13.1740 Scientific or other relevant facts; § 13.1745 Source or origin; 13.1745–70 Place; 13.1745–70(a) Domestic products as imported; § 13.1747 Special or limited offers; § 13.1760 Terms and conditions. Subpart—Misrepresenting oneself and goods—Prices: § 13.1785 Comparative; § 13.1805 Exaggerated as regular and customary; § 13.1825 Usual as reduced or to be in-

creased. Subpart—Misrepresenting oneself and goods—Services: § 13.1835 Cost. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 Composition; § 13.1855 Identity; § 13.1882 Prices; § 13.1895 Scientific or other relevant facts. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal; § 13.1980 Guarantee, in general; § 13.2030 Repair or replacement guarantee; § 13.2063 Scientific or other relevant facts. Subpart—Using misleading name—Goods: § 13.2280 Composition; § 13.2315 Nature; § 13.2345 Source or origin; 13.2345–65 Place; 13.2345–65(a) Domestic product as imported.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719; as amended; 15 U.S.C. 45.)

*In the matter of Levitz Furniture Corporation, a corporation*

Consent order requiring a Miami, Fla., furniture retailer, among other things to cease misrepresenting and/or failing to disclose pertinent information regarding prices, sales, limited offers, warranties, construction, composition and use of its products; failing to make timely repairs, adjustments, and refunds; and failing to maintain appropriate records. Additionally, respondent must provide its advertising agencies with copies of the FTC's news release concerning this order for a one-year period.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER

It is ordered that respondent, Levitz Furniture Corporation, a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale and distribution of household furniture, or of any other products or services, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

(1) Using the words "sale", "reductions", or other words of similar import or meaning, in conjunction with the offering of multiproducts in advertisements where all of the items are not reduced from respondent's former price, unless the words "sale", "reductions", or other words of similar import or meaning are clearly and conspicuously qualified by a statement which indicates that all items offered are not reduced, and unless the items that are not reduced are clearly, and conspicuously set off and identified.

(2) Representing, directly or by implication, orally or in writing, that respondent has reduced its prices on all or part of its merchandise, unless the price of such merchandise being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondent for a reasonably substantial period of time in the recent, regular course of its business, and unless the dollar or percentage amount of each reduction is clearly and conspicuously disclosed on tags or labels affixed to such merchandise.

(3) Representing, directly or by implication, orally or in writing, that a reduced sale price is applicable to certain goods, unless such representation is true and unless, for all advertised goods:

(a) said goods have not been advertised at the same or substantially the same price during the thirty (30) days preceding the first day of such sale, or

(b) respondent clearly and conspicuously discloses in said advertisements (in immediate conjunction with any specifically advertised goods) and on tags or labels affixed to said goods that the advertised sale price is a repeat sale price.

(4) Representing, directly or by implication, orally or in writing, that respondent has lowered prices as a result of some unusual circumstances, unless said representation is true.

(5) Representing, directly or by implication, orally or in writing, that, to take advantage of an offer, customers must act within a limited period of time, unless said representation is true.

(6) Failing to maintain and produce for inspection or copying, on demand by the Federal Trade Commission or its representatives, for a period of two (2) years, adequate records which disclose the facts upon which any savings claims, sales claims and other similar representations as set out in Paragraphs One through Five of this order are based. This record keeping requirement shall cease to be in effect five (5) years after the effective date of the order.

(7) Representing, directly or by implication, orally or in writing, that any of respondent's products or merchandise are warranted or guaranteed unless the nature, extent and duration of the warranty or guarantee, the identity of the warrantor or guarantor, and the manner in which the warrantor or guarantor will perform thereunder, are clearly and conspicuously disclosed in immediate conjunction therewith, and unless respondent has the bona fide intention to promptly and fully perform all of its obligations and requirements represented under the terms of each such warranty or guarantee.

(8) Using the words "direct to the public," or any other words of similar import and meaning, in any advertisements or any other material soliciting orders, or on signs in or affixed to any of respondent's places of business open to the public, or representing, directly or by implication, orally or in writing, that respondent is a manufacturer or wholesaler.

(9) Representing, directly or by implication, orally or in writing, that respondent's merchandise is offered for sale at a specified price, unless said price is a bona fide selling price of respondent.

(10) Representing, directly or by implication, orally or in writing, that by purchasing any merchandise or services of respondent, customers are afforded savings amounting to the difference between respondent's stated price and the price of others in respondent's trade areas or a manufacturer's suggested list price, unless, at the time of such representation, respondent has a reasonable basis for making such comparison.

Such reasonable basis shall consist of a determination of prices in respondent's trade area.

In making such determination, respondent must ascertain that:

(a) A substantial quantity of the compared product or service is being offered for sale or sold in the trade area at or above the represented price; and

(b) The compared product or service is the same and is offered with the same services, unless respondent's representations clearly and conspicuously disclose the differences in the product and in the services offered.

(11) Making any comparison, directly or by implication, orally or in writing, between a price at which a product or service is offered for sale and some other higher reference price, unless both the product or service and the nature of the reference price are clearly and conspicuously disclosed in immediate conjunction therewith.

(12) Using the terms "Walnut", "Pecan", "Maple" or any other wood name, or any other terms of similar import or meaning, to describe furniture not having all exposed surfaces constructed of solid wood of the type named; *Provided, however,* That wood names may be nondeceptively used to describe the type of wood used in wood veneer surfaces of furniture if clear and conspicuous disclosure is made in immediate conjunction with the wood name that the wood name refers to the veneer composition; *And provided,* That, when the described furniture also has exposed surfaces of solids or veneers of wood other than the type named, an additional clear and conspicuous disclosure is made in immediate conjunction with the wood name (a) of the composition of the other exposed veneered and solid parts or, in the alternative, (b) of the exact locations of the wood name veneers.

(13) Using the terms "Walnut Finish", "Pecan Finish", "finished in rich oak" or any other wood name, or any other terms of similar import or meaning to describe furniture not having all exposed surfaces constructed of solid wood of the type named; Provided, however, that wood names may be nondeceptively used to describe the grain design, color of a stain finish or other type of simulated finish which has been applied to a surface composed of something other than solid wood of the type named if clear and conspicuous disclosure is made in immediate conjunction therewith that the wood name used is descriptive of the grain design, color or other simulated finish.

(14) Using the term "foam" or any other terms of similar import or meaning to describe furniture stuffing or mattresses, or parts thereof, not composed of latex foam rubber; *Provided, however,*

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

That the word "foam" may be nondeceptively used to describe furniture stuffing or mattresses, or parts thereof, composed of foam of a composition other than latex rubber if clear and conspicuous disclosure is made in immediate conjunction therewith of the kind of foam used.

(15) Using the terms "Spanish", "Italian" and "French", or other terms indicative of foreign origin, as descriptive of furniture manufactured in the United States unless in immediate conjunction therewith it is clearly and conspicuously disclosed that such terms apply to the style of the furniture and not the country or region of its origin; *Provided, however,* That nothing in this paragraph shall prohibit respondent from using the terms "French Provincial", "Italian Provincial" and similar terms which have acquired a secondary meaning descriptive of the style of furniture and considered to be nondeceptive by the Commission's Guides for the Household Furniture Industry.

(16) Advertising, displaying, offering for sale, selling, or placing in the hands of others for display or sales purposes any furniture having the appearance of being made of solid wood, but containing exposed surfaces of veneered construction, without clear and conspicuous disclosure of such veneered construction in all advertising wherein said furniture has the appearance of being made of solid wood, and on such furniture or on tags or labels attached thereto.

(17) Advertising, displaying, offering for sale, selling, or placing in the hands of others for display or sales purposes any furniture having the appearance of being made of wood, but containing exposed surfaces composed in whole or in part of plastic, or other materials not possessing a natural wood growth structure, without clear and conspicuous disclosure that such exposed surfaces are made of plastic, or other materials simulating wood, or in the alternative, without clear and conspicuous disclosure that such exposed surfaces are not wood; such disclosures to be made (a) in all advertising wherein said furniture has the appearance of being made of wood, and (b) on such furniture or on a tag or label attached thereto.

(18) Misrepresenting, in any manner, or by any means, directly or indirectly, the kind or nature of the wood or other materials used in the manufacture of furniture or any part thereof.

(19) Failing to inform all customers at the time of sale that if furniture is delivered in a defective, damaged or incomplete condition, and the customer so notifies respondent within three business days of the receipt thereof, and respondent does not, within five business days thereafter, remedy such defect, damage or condition, the customer has the right to obtain a refund of all monies by permitting respondent to reclaim such merchandise in the condition in which it was delivered. Written notice of this right will be clearly and conspicuously furnished on the front of each customer's sales receipt. *Provided, however,* That this paragraph shall not apply to merchandise sold "as is" if those words conspicuously appear on the sales receipt.

(20) Failing to refund promptly all monies paid by customers entitled to such refund under the provisions of Paragraph Nineteen hereof.

(21) Failing to maintain and produce for inspection and copying, on demand by the Federal Trade Commission or its representatives, for a period of two (2) years, adequate records to disclose the facts pertaining to the receipt, handling and disposition of each communication from a customer, oral and written, requesting contract cancellation, refund, replacement or repair, pursuant to Paragraphs Nineteen and Twenty hereof. This recordkeeping requirement shall cease to be in effect five (5) years after the effective date of the order.

(22) Failing to, if for any reason respondent refuses to cancel a contract, repair or replace an item, or refund monies when requested by a customer pursuant to Paragraphs Nineteen and Twenty hereof, specify in writing with particularity the reason(s) for denial of the request and place copies of the written reason(s) for denial of the request in a separate file set up for this purpose along with copies of all documents related to the transaction in question, including correspondence to and from the customer and notes relating to phone conversations with the customer. This file will be maintained and produced for inspection and copying upon demand by the Federal Trade Commission or its representatives for a period of two (2) years. This recordkeeping requirement shall cease to be in effect five (5) years after the effective date of the order.

(23) Failing, in connection with the offering for sale or sale of used merchandise, to clearly and conspicuously disclose the fact that such merchandise has been previously used:

(a) In all advertising, sales and promotional literature;

(b) On the used merchandise, with sufficent permanency as likely to remain thereon until sale to the ultimate consumer; and

(c) On customer sales receipts utilized for the sale of such used merchandise.

(24) Misrepresenting, in any manner, the nature, extent or degree of use of any merchandise offered for sale by respondent.

(25) Failing to maintain and produce for inspection and copying, on demand by the Federal Trade Commission or its representatives, for a period of two (2) years, adequate records which will show:

(a) All communications to or from respondent concerning the processing, offering for sale and sale of used furniture; and

(b) All records prepared in the processing of, offering for sale and sale of used merchandise.

This record keeping requirement shall cease to be in effect five (5) years after the effective date of this order.

*It is further ordered,* That respondent shall maintain, for at least a one (1) year period following the effective date of this order, copies of all advertisements, including newspaper, radio and television advertisements, direct mail and in-store solicitation literature, and any other such promotional material utilized for the purpose of obtaining leads for the sale of household furniture or utilized in the advertising, promotion or sale of household furniture and other merchandise.

*It is further ordered,* That respondent, for a period of one (1) year from the effective date of this order, shall provide each advertising agency utilized by respondent, in connection with the sale of household furniture and other merchandise, with a copy of the Commission's News Release setting forth the terms of this order.

*It is further ordered,* That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent engaged in the offering for sale, sale of any product or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

*It is further ordered,* That the respondent shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent, such as dissolution, assignment or sale resulting in the emergency of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation, which may affect compliance obligations arising out of the order.

*It is further ordered,* That respondent shall within sixty (60) days after service of this order upon respondent file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Commissioner Clanton not participating; Commissioner Dole not participating by reason of absence.

The Decision and Order was issued by the Commission August 30, 1976.

CHARLES A. TOBIN,
*Secretary.*

[FR Doc.76-31232 Filed 10-22-76;8:45 am]

## Title 17—Commodity and Securities Exchanges

### CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5738, Release No. IC-9426]

### PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

### PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

### Procedures for Filing and Processing Registration Statements and Post-Effective Amendments Filed by Registered Investment Companies

*Correction*

In FR Doc. 76-26833 appearing in the FEDERAL REGISTER of Tuesday, September 14, 1976 on page 39013, the following corrections should be made:

1. In the first column, the third full paragraph entitled "Check Lists", the fifth line should read, "Act Release No. 4955 are intended to as—".

2. In the 3rd column, the fourth paragraph, the 7th line, "filming" should read "filing".

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## Title 21—Food and Drugs

### CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 76N-0360]

### PART 17—BAKERY PRODUCTS

### Enriched Raisin Bread; Standard of Identity

The Food and Drug Administration is establishing a standard of identity for enriched raisin bread to permit: (1) Enrichment of raisin bread, (2) production and introduction into interstate commerce of raisin bread in compliance with the mandatory enrichment requirements of certain states, and (3) optional use of enriched flour in raisin bread. Except for any provisions that may be stayed by the filing of proper objections, compliance with this final regulation may begin on December 27, 1976. All enriched raisin bread initially introduced into interstate commerce on or after January 1, 1978, shall comply; objections by November 26, 1976.

A proposal to establish a standard of identity for enriched raisin bread under § 17.60 (21 CFR 17.60) was published in the FEDERAL REGISTER of February 12, 1976 (41 FR 6269). Interested persons were given 60 days to comment on the proposal.

Seven comments were received in response to the proposal. Six comments favored establishment of the standard as proposed; one comment opposed establishment of the standard on the ground that additional controls are not needed and can only cause an increase in the cost of the product and an increase in taxes to pay for supervision and controls.

In response to the comment opposing establishment of the standard, the Commissioner of Food and Drugs points out that, since some states require that all flour used within those states be enriched, a Federal standard for enriched raisin bread would permit bakers in those states to produce such food for interstate commerce. Inasmuch as identity standards are presently in effect for both enriched bread and raisin bread, there is no reason to believe that extension of the regulations to embrace enriched raisin bread would raise the cost of the product or cause an increase in taxes. Because of these reasons and also because a demand for enriched raisin bread exists, the Commissioner is promulgating the standard of identity for enriched raisin bread under § 17.60 as proposed.

By order published in the FEDERAL REGISTER of October 15, 1976 (41 FR 45540), certain portions of §§ 17.10 and 17.20 were stayed because of objections and requests for hearings. Accordingly, any requirements provided for in § 17.60 by cross reference to the stayed provisions of § 17.10 or § 17.20, either directly or through § 17.40, will not be effective while the involved issues remain unresolved. Specifically, the following provisions that are cross-referenced either directly or indirectly by § 17.60 are stayed pending resolution of the issues:

1. Section 17.10(c)(5)(i) as it pertains to egg bread, egg rolls, and egg buns.

2. Section 17.10(c)(5)(ii): Pending resolution of the issue, § 17.1(a)(1)(ii) of the superseded standard applies.

3. Section 17.10(c)(16) as it pertains to spices, spice oil, and spice extract that impart a color simulating that of egg to a standardized bakery product not represented on the label as containing egg or egg product and not purporting to contain egg or egg product.

4. Section 17.10(c)(17) beginning with "except that which may be present in butter if the intensity of the butter color does not exceed 'medium high' (MH) when viewed under diffused light (7400 Kelvin) against the Munsell Butter Color Comparator. The MH designation corresponds to the Munsell renotation of 3.8Y 7.9/7.6." Pending resolution of the issue, coloring may not be added as such or as part of another ingredient.

5. Sections 17.10(e), 17.20(b), and 17.40(b) as they pertain to the use of the word "egg" in the name of the food.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1)) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 17 is amended by adding a new § 17.60 to read as follows:

**§ 17.60 Enriched raisin bread, enriched raisin rolls, enriched raisin buns; identity; label statement of ingredients.**

(a) Each of the foods enriched raisin bread, enriched raisin rolls, and enriched raisin buns conforms to the definition and standard of identity and is subject to the requirements for label statement of ingredients prescribed for raisin bread, raisin rolls, and raisin buns by § 17.40, except that the specifications in § 17.20 (a) (1) through (7) shall apply.

(b) The name of the food is "enriched raisin bread," "enriched raisin rolls," or "enriched raisin buns," as applicable. When the food contains not less than 2.56 percent by weight of whole egg solids, the name of the food may be "enriched raisin and egg bread," "enriched raisin and egg rolls," or "enriched raisin and egg buns," as applicable, accompanied by the statement "Contains _____ medium-sized egg(s) per pound" in the manner prescribed by § 102.1(c)(3) of this chapter, the blank to be filled in with the number which represents the whole egg content of the food expressed to the nearest one-fifth egg but not greater than the amount actually present. For purposes of this regulation, whole egg solids are the edible contents of eggs calculated on a moisture-free basis and exclusive of any nonegg solids which may be present in standardized and other commercial egg products. One medium-sized egg is equivalent to 0.41 ounce of whole egg solids. The term "milk" may be included in the name of the food if the food complies with the requirements for milk and/or other dairy products in § 17.30.

NOTE. Since the provisions of § 17.60 relating to the use of the word "egg" in the name of the food are predicated on stayed provisions of §§ 17.10, 17.20, and 17.40, none of paragraph (b) of § 17.60, except the first and last sentences, will be effective while the issues remain unresolved.

After the issues have been resolved, the Commissioner will publish a notice in the FEDERAL REGISTER as to the effect of the decisions on this standard.

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 26, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Five copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.* Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin Decem-

ber 27, 1976, and all products initially introduced into interstate commerce on or after January 1, 1978, shall fully comply. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371 (e))).

Dated: October 19, 1976.

JOSEPH P. HILE,
*Acting Associate Commissioner for Compliance.*

[FR Doc.76-31201 Filed 10-22-76;8:45 am]

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SUBCHAPTER D—DRUGS FOR HUMAN USE

## PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

## PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

### Provisions for an Additional Ophthalmic Drug Dispenser

The Food and Drug Administration is providing for use of a spray-pump dispenser to administer an ophthalmic solution, effective October 26, 1976.

In the current antibiotic regulations, droppers are the only kind of dispenser referred to in the discussion of items packaged in combination with sterile antibiotic drugs.

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of an antibiotic ophthalmic solution packaged in combination with a spray-pump dispenser. He concludes that the data supplied by the manufacturer concerning the combination package are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for its certification. Accordingly, he is replacing the present references to "droppers" in the regulations with the more general term "dispensers."

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner is amending Chapter I of Title 21 of the Code of Federal Regulations as follows:

1. Part 431 is amended in § 431.1 by amending paragraph (c)(8)(iv) by revising the last sentence therein and by revising paragraph (c)(11) to read as follows:

**§ 431.1 Requests for certification, check tests and assays, and working standards; information and samples required.**

* * * * *

(c) * * *

(8) * * *

(iv) * * * In the case of sterile drugs packaged in combination with sterile dispensers, the sample shall be collected by taking 20 dispensers from each sterilizer load, and each dispenser shall be taken from a different part of such sterilizer load.

* * * * *

(11) If such batch or any part thereof is to be packaged with a sterile diluent or sterile dispenser, such request shall also be accompanied by a statement that such diluent or dispenser is sterile and conforms to the requirements prescribed therefor by specific regulations.

2. Part 436 is amended as follows:

a. In § 436.1, by revising paragraph (b) to read as follows:

**§ 436.1 Sterility requirements of items packaged with sterile antibiotic drugs.**

* * * * *

(b) *Dispensers packaged in combination with sterile antibiotic drugs.* If a sterile antibiotic drug is packaged in combination with a dispenser, such dispenser shall be sterile when tested by the method prescribed in § 436.20(e)(1).

b. In § 436.20, by revising paragraph (e)(1)(i)(c) to read as follows:

**§ 436.20 Sterility test methods and procedures.**

* * * * *

(e) * * *

(1) * * *

(i) * * *

(c) *Sterile dispensers packaged in combination with a sterile drug.* Prepare 20 clean, empty containers of approximately the same size as those in which the sterile antibiotic drug is packaged. To each container add diluting fluid A in a volume approximately the same as that of the sterile drug when it is prepared for dispensing. Cap the containers, sterilize by autoclaving at 121° C for 20 minutes, and then allow to cool to room temperature. Aseptically open each dispenser package and remove each dispenser in turn. Use each aseptically to remove 1 milliliter of the fluid from a separate sterile container prepared as described above. Aseptically transfer the fluid to a 500-milliliter Erlenmeyer flask containing approximately 200 milliliters of diluting fluid A. Stopper the flask and proceed as directed in paragraph (e)(1)(ii) of this section.

* * * * *

As the conditions prerequisite to providing for certification of this drug have been complied with and as the matter is noncontroversial in nature, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Effective date: These amendments are effective October 26, 1976.

Dated: October 19, 1976.

MARY MCENIRY,
*Assistant Director for Regulatory Affairs.*

[FR Doc.76-31202 Filed 10-22-76;8:45 am]

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2134]

## PART 1916—HOUSING AND URBAN DEVELOPMENT

### Notice of Changes Made in Determinations of El Reno, Oklahoma, Base Flood Elevations

On June 25, 1976, at 41 FR 26414, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of El Reno.

The Federal Insurance Administration, after consultation with the Chief Executive Office of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in El Reno. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 405377A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mr. Gene Watts, City Manager, City of El Reno, Post Office Drawer 700, El Reno, Oklahoma 73036.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the El Reno Flood Insurance Rate Map make it administratively infeasible to publish in

this notice all of the base flood elevation changes contained on the El Reno map.

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

Issued: September 29, 1976.

J. ROBERT HUNTER,
*Federal Insurance Administrator.*

[FR Doc.76-31216 Filed 10-22-76;8:45 am]

## Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20489]

### PART 31—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS A AND CLASS B TELEPHONE COMPANIES

ERRATA (40 FR 52725)

Released: October 19, 1976.

In the Matter of Amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, and Part 33, Uniform System of Accounts for Class C Telephone Companies, of the Commission's Rules to provide for deferral accounting for income tax differentials occasioned by the use of Depreciation based on Class Lives and Asset Depreciation Ranges for Income Tax Purposes and to provide for below-the-line accounting in certain instances for investment credits made available by the Revenue Act of 1971.

1. In the Appendix of the Report and Order, FCC 75–1217, released November 6, 1975, and published in the FEDERAL REGISTER on November 12, 1975, 40 FR 52725 section 31.01–3 of Part 31 is revised so that present references in paragraphs (k), (x), (y) and (ee) to paragraphs (x), (d), (j) and (t), respectively, are changed to (y), (e), (k), and (u).

2. In § 31.02–80 of Part 31, the reference in paragraph (c) to § 31.01–3(k) is changed to 31.01–3(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.76-31224 Filed 10-22-76;8:45 am]

[FCC 76–898; Docket No. 20815]

### PART 89—PUBLIC SAFETY RADIO SERVICES

### PART 91—INDUSTRIAL RADIO SERVICES

### PART 93—LAND TRANSPORTATION RADIO SERVICES

**Report and Order; Correction**

Released: October 19, 1976.

In the Matter of Amendment of Parts 89, 91, and 93 of the Commission's Rules to expand the secondary fixed use of base/mobile frequencies in the 450–470 MHz band.

Paragraph 13 of the Commission's Report and Order (FCC 76–898) in Docket 20815 adopted September 28, 1976, published at 41 FR 44180, October 7, 1976, is corrected as follows:

A sentence officially terminating the Docket is added as follows:

13. Accordingly, *it is ordered*, That Parts 89, 91, and 93 of the Commission's Rules and Regulations are amended effective October 29, 1976, as set forth in the attached Appendix B. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.76-31225 Filed 10-22-76;8:45 am]

## Title 49—Transportation

### CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

### PART 217—RAILROAD OPERATING RULES AND PRACTICES

**Civil Penalties**

The Federal Railroad Administration (FRA) is adding a new Appendix A to Part 217 to reflect a policy determination made by FRA in carrying out the duties and responsibilities contained in section 209 of the Federal Railroad Safety Act (45 U.S.C. 438) and delegated to the Federal Railroad Administrator by the Secretary of Transportation (49 CFR 1.49 (n)). Section 209(b) provides, in pertinent part, "(t)he Secretary (Administrator) shall * * * make applicable to any railroad safety rule, regulation, order or standard issued under this title a civil penalty for violation thereof * * * in such amount, not less than $250 nor more than $2,500, as he deems reasonable." Each day a violation continues is a separate offense pursuant to the provisions of section 209(c) (45 U.S.C. 438 (c)).

Section 217.5 (49 CFR 217.5) provides that a violation of any requirement of Part 217 is subject to a civil penalty of at least $250 but not more than $2,500. The addition of Appendix A is based upon a consideration by FRA of the seriousness of noncompliance by a railroad with one or more of the requirements of the particular sections established by Part 217.

The basic penalty which will be a assessed for failure to comply with the requirements of Part 217 ranges from $500 to $1,500 depending upon the section for which a violation is submitted. Additionally, each rule or part of a rule is subject to a penalty of between $750 and $2,500 for an intentional violation. For the purposes of this section, an intentional violation is defined as a violation caused by the knowing and willful failure of the carrier, its officers or agents to comply with the provisions of this Part. The Administrator also specifically reserves the authority to assess the maximum penalty of $2,500 for a violation of any section or subsection of Part 217.

As provided in section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438), the FRA will attempt to settle these claims administratively, using procedures similar to those established under the Federal Claims Collection Act (31 U.S.C. 951–953), before transmitting the case to the Attorney General. H.R. Rep. No. 1194, 91st Cong., 2d Sess. (1970). In no case, however, will a claim be compromised for less than $250, with again each day the violation continues constituting a separate offense, pursuant to the provisions of 45 U.S.C. 438.

As indicated above, the addition of Appendix A is a statement of policy by the FRA. Therefore, in accordance with the provisions of section 553 of the Administrative Procedure Act (5 U.S.C. 553), notice and public procedures are not required and this amendment may be made effective in less than 30 days after publication.

In 49 CFR, Chapter II, Part 217 is amended by adding a new Appendix A to the Part as follows:

APPENDIX A.—*Schedule of civil penalties*

| Section | Violation | Intentional violation [1] |
|---|---|---|
| 217.7 Filing of operating rules: | | |
| (a) | $750 | $1,000 |
| (b) | 500 | 750 |
| 217.9 Program of operational tests and inspections; recordkeeping: | | |
| (a) | 1,500 | 2,500 |
| (b) and (c) | 500 | 750 |
| (d) | 500 | 1,000 |
| 217.11 Program of instruction on operating rules: | | |
| (a) | 1,000 | 2,000 |
| (b) | 750 | 1,000 |
| (c) | 500 | 750 |
| 217.13 Annual report: | | |
| (a) and (c) | 500 | 750 |
| (b) | 1,000 | 2,500 |

[1] For the purposes of this schedule, an intentional violation is the knowing and willful failure of a carrier, its officers or agents to comply with the provisions of this part. The Administrator reserves the authority to assess the maximum penalty of $2,500 for a violation of any section or subsection contained in pt. 217.

(Sec. 209, 84 Stat. 975 (45 U.S.C. 438); § 1.49(n), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).)

In consideration of the foregoing, effective immediately Part 217 of Title 49 of the Code of Federal Regulations is amended as set forth above.

Issued in Washington, D.C., on October 15, 1976.

ASAPH H. HALL,
*Administrator.*

[FR Doc.76-31210 Filed 10-22-76;8:45 am]

## PART 218—RAILROAD OPERATING RULES

### Civil Penalties

The Federal Railroad Administration (FRA) is adding a new Appendix A to Part 218 to reflect a policy determination made by FRA in carrying out the duties and responsibilities contained in section 209 of the Federal Railroad Safety Act (45 U.S.C. 438) and delegated to the Federal Railroad Administrator by the Secretary of Transportation (49 CFR 1.49(n)). Section 209(b) provides, in pertinent part, "(t)he Secretary (Administrator) shall * * * make applicable to any railroad safety rule, regulation, order or standard issued under this title a civil penalty for violation thereof * * * in such amount, not less than $250 nor more than $2,500, as he deems reasonable." Each day a violation continues is a separate offense pursuant to the provisions of Section 209(c) (45 U.S.C. 438(c)).

Section 218.9 (49 CFR 218.9) provides that a violation of any requirement of Part 218 is subject to a civil penalty of at least $250 but not more than $2,500. The addition of Appendix A is based upon a consideration by FRA of the seriousness of noncompliance by a railroad with one or more of the requirements of the particular sections established by Part 218.

The basic penalty which will be assessed for failure to comply with the requirements of Part 218 ranges from $500 to $750 depending upon the section for which a violation is submitted. Additionally, each rule or part of a rule is subject to a penalty of between $1,000 and $2,000 for an intentional violation. For the purposes of this section, an intentional violation is defined as a violation caused by the knowing and willful failure of the carrier, its officers or agents to comply with the provisions of this Part. The Administrator also specifically reserves the authority to assess the maximum penalty of $2,500 for a violation of any section or subsection of Part 218.

As provided in section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438), the FRA will attempt to settle these claims administratively, using procedures similar to those established under the Federal Claims Collection Act (31 U.S.C. 951–953), before transmitting the case to the Attorney General. H.R. Rep. No. 1194, 91st Cong., 2d Sess. (1970). In no case, however, will a claim be compromised for less than $250, with again each day the violation continues constituting a separate offense, pursuant to the provisions of 45 U.S.C. 438.

As indicated above, the addition of Appendix A is a statement of policy by the FRA. Therefore, in accordance with the provisions of section 553 of the Administrative Procedure Act (5 U.S.C. 553), notice and public procedures are not required and this amendment may be made effective in less than 30 days after publication.

In 49 CFR, Chapter II, Part 218 is amended by adding a new Appendix A to the Part as follows:

APPENDIX A.—*Schedule of civil penalties*

| Section | Violation subpt. B | Intentional violation [1] |
|---|---|---|
| 218.23 Blue signal display | $750 | $2,000 |
| 218.25 Workmen on a track other than a hump-yard track | 750 | 2,000 |
| 218.27 Workmen on hump-yard track | 750 | 2,000 |
| 218.29 Remotely controlled switches: | | |
| (a) and (b) | 750 | 2,000 |
| (c) | 500 | 1,000 |

[1] For the purposes of this schedule, an intentional violation is the knowing and willful failure of a carrier, its officers or agents to comply with the provisions of this part. The Administrator reserves the authority to assess the maximum penalty of $2,500 for a violation of any section or subsection contained in pt. 218.

(Sec. 209, 84 Stat. 975 (45 U.S.C. 438); § 1.49(n), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).)

In consideration of the foregoing, effective immediately Part 217 of Title 49 of the Code of Federal Regulations is amended as set forth above.

Issued in Washington, D.C., on October 15, 1976.

ASAPH H. HALL,
*Administrator.*

[FR Doc.76-31209 Filed 10-22-76;8:45 am]

## Title 50—Wildlife and Fisheries

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

### SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

## PART 20—MIGRATORY BIRD HUNTING

### Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds; Amendment

In FR Doc. 76-27463 appearing at page 43170 in the FEDERAL REGISTER of September 30, 1976, the Canada goose harvest quota for the Lac Qui Parle Zone of southwestern Minnesota is set at 5,000 birds. Due to extreme fire hazard and emergency fire closure action by State regulations, the duck and goose hunting seasons in the northern part of Minnesota, defined as the Counties of Traverse, Stevens, Pope, Todd, Morrison, Benton, Sherburne, Isanti, and Chisago, and all counties north thereof, did not open on October 2, 1976, as allowed. As of noon, October 19, 1976, the State emergency closure was still in effect. As a consequence, no geese have been legally taken in many northern Minnesota areas where substantial harvests would normally occur by this time. Justification exists for increasing the Lac Qui Parle quota according to the estimated number of geese which otherwise would have been taken in the area of Minnesota closed to hunting.

Therefore, Footnote 2 of the Mississippi Flyway regulations appearing on page 43170 is changed by substituting "8,000 birds" for the "5,000 birds" previously stated as the Canada goose quota for the Lac Qui Parle area. The remainder of the footnote remains unchanged.

It has been concluded that the quota change for Canada geese in the Lac Qui Parle Zone will not result in a diminution of the abundance of Canada geese to any greater extent than that contemplated for the original hunting seasons, daily bag limits, and quota set under the regulations for Minnesota.

Pursuant to 2 D. M. 013.2.4A, it is the conclusion of the U.S. Fish and Wildlife Service that the issuance of a proposed rulemaking of this amendment is clearly impractical and contrary to the public interest. Therefore, no opportunity for public comment shall be provided.

Because of the time limitations involved, specifically the imminent achievement of the 5,000 bird quota and the desirability of continuing the season without interruption until the 8,000 bird quota is achieved, the U.S. Fish and Wildlife Service has concluded that "good cause" exists within the meaning of § 553(d)(3) of the Administrative Procedure Act to expedite the implementation of this rulemaking. Therefore, this rulemaking will become effective immediately upon publication.

Dated: October 20, 1976.

LYNN A. GREENWALT,
*Director,*
*U.S. Fish and Wildlife Service.*

[FR Doc.76-31238 Filed 10-22-76;8:45 am]

## PART 20—MIGRATORY BIRD HUNTING

### Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds; Correction

In FR Doc. 76-27463 appearing at page 43163 in the FEDERAL REGISTER of September 30, 1976, the following correction is made in order to bring the geographical description into agreement with the final frameworks relevant to the State of Missouri:

In § 20.105(e) on page 43170 under the entry for "Missouri: Geese," the designation "east of Interstate Highway 55" should be corrected to read "east of U.S. Highway 67."

Also, in the same document, there is need to more clearly specify that the Florida duck in the Atlantic Flyway is also assigned 70 points. In § 20.105(g) under the 70 points column for the Atlantic Flyway, "(or Florida)" is added after "mottled" so that the list of species reads "Female mallard, black duck, mottled (or Florida) duck, wood duck, redhead (except in closed areas), hooded merganser."

Dated: October 20, 1976.

LYNN A. GREENWALT,
*Director,*
*U.S. Fish and Wildlife Service.*

[FR Doc.76-31239 Filed 10-22-76;8:45 am]

## Title 32—National Defense

## CHAPTER VII—DEPARTMENT OF THE AIR FORCE

### SUBCHAPTER I—MILITARY PERSONNEL

### PART 889—DESERTION AND UNAUTHORIZED ABSENTEEISM

Part 889, Subchapter I of Chapter VII of Title 32, Code of Federal Regulations, is amended to expand the statements of responsibility for action at all echelons (§ 889.10); and to add a new listing of CBPO action (§ 889.13).

1. Section 889.10 is amended as follows:

**§ 889.10 Responsibilities.**

* * * * *

(a) *HQ USAF responsibilities.* (1) HQ USAF, Directorate of Personnel Plans (HQ USAF/DPX) as the focal point for personnel policy is responsible for initiating and fostering those policies that will minimize the occurrence of unauthorized absence and desertion.

(2) HQ USAF, Chief of Security Police (HQ USAF/SP) is the focal point for apprehension of absentees and deserters. HQ USAF/SP:

(i) Maintains direct liaison with law enforcement agencies;

(ii) Develops and disseminates policies and procedures for apprehension of absentees; and

(iii) Establishes guidelines and monitors use of escorts in moving members returned to military control.

(3) The Inspector General of the Air Force, Office of Special Investigations (AFOIS/IVG):

(i) Makes entries in the NCIC; and

(ii) When requested by commanders, makes inquiries into the circumstances of unauthorized absences involving security considerations.

(4) Air Force Military Personnel Center, Directorate of Personnel Program Actions (AFMPC/DPMAKE):

(i) Coordinates and disseminates procedures for management of unauthorized absences;

(ii) Monitors disposition of absentees returned to military control and provides necessary guidance in unusual cases;

(iii) Is the Air Force Deserter Information Point; and

(iv) Maintains statistical data concerning unauthorized absences.

(b) Base Commanders and higher echelon commanders. Commanders at all echelons will insure that continuing emphasis is placed on the Air Force position regarding unauthorized absenteeism and desertion. Development of management practices and programs to deter and minimize absenteeism and desertion is necessary. Major commands will insure that CBPOs and units comply with this part.

2. Section 889.13 is revised to read as follows:

**§ 889.13 Actions required when a member is absent.**

| Step | Time following absence | Responsibilities | | | |
|---|---|---|---|---|---|
| | | Immediate supervisor will— | Unit commander will— | Servicing security police will— | Servicing CBPO will [1]— |
| | A | B | C | D | E |
| 1 | Immediately | Notify unit commander of member's absence; make inquiries among associates and other subordinates as to whereabouts and habits of absent member; and attempt to contact the member at his or her local residence. | Interview all personnel who may have information relative to member's absence; use all available resources in an attempt to locate and return member to military control; accomplish special processing when necessary as required by paragraph 14; and notify security police and request assistance.[2] [3] | Assist unit commander in attempting to locate member and return to military control. | |
| 2 | 24 hr | Recheck member's residence, associates, and other sources for possible contact with absent member. | Prepare AF Form 2098 reflecting member's duty status from time and date of absence and forward to servicing CBPO; GSU will take action IAW AFM 30-130, vol II; and continue maximum efforts to locate and return members, using own resources.[4] | Followup on any new leads developed by commander or supervisor. | Process AF Form 2098 from unit commander, input duty status code 40, annotate AF Form 1226, and forward duty status documentation to the servicing AFO. |
| 3 | Within 72 hr | Assist the commander in preparing the inquiry. | Prepare the inquiry and forward copies to the security police and CBPO for dissemination. | Followup on any new leads developed by the commander's inquiry. | Provide next of kin information to unit commander. |
| 4 | On 10th d | | Notify security police and CBPO of member's continued absence; assist CBPO in determining the distrubition of DD Form 553; and prepare and forward letter to next of kin (see note to par. 12b(2)(b)). | Assist CBPO and commander in determining proper distribution of DD Form 553. | Prepare and distribute DD Form 553 according to par. 12 and attach copies of the unit commander's inquiry to the DD Form 553 sent to AFMPC/DPMAKE and the MAJCOM of assignment. |
| 5 | On 15th d | | | Contact security police, Armed Forces police detachments or civil authorities, as applicable, in the local area of addresses shown on DD Form 553, items 31, 32, 34, and 37, and ask assistance in locating and apprehending member; and assist CBPO in documenting authority to apprehend absent member. | |
| 6 | On 31st d | | Notify security police and CBPO of member's continued absense; (see par. 12e); and retrieve dependent ID cards as required by AFR 30-20 and AFR 168-9, par. 3-4c. | Notify all agencies contacted on 15th d to confirm deserter status; and report actions taken to CBPO. | Contact unit commander to verify continued absense, initiate AF Form 2098 changing member's status to desertion, dispatch message confirming status (attachment 3), consolidate field record group and file separately from active records, and annotate AF Form 1226. |
| 7 | On 60th d | | See par. 12e | Review case file, contact police agencies near member's home of record, recheck any local leads; and forward final notice of actions taken to unit commander and CBPO. | |
| 8 | On 180th d | | Notify security police of status change; and IAW par. 12e indicate that these actions have been accomplished. | | Initiate AF Form 2098 to drop member from unit rolls, input PTI 904/code 490, dispose of field record group according to AFR 35-44. |

[1] AFM 30-130, vol. 1, contains additional instructions for CBPO's.

[2] For TDY personnel, notify member's unit of assignment and servicing CBPO of the absence.

[3] A member will not be reported to the servicing security police until it is clear that the member is absent from the unit, as opposed to a member simply failing to repair or being late for duty. Immediate notification of security police is required in cases where the absence is the result of failure on the part of the member to report in from PCS or TDY, only where there is reason to believe that the member is in the local area.

[4] The commander of a base where a member is transferred PCS without PCA for separation has authority to publish AF Forms 2098 reporting the unauthorized absence.

(10 U.S.C. 8012.)

SOURCE: AFR 35-73, May 3, 1976.

By order of the Secretary of the Air Force.

FRANKIE S. ESTEP,
*Air Force Federal Register Liaison Officer, Directorate of Administration.*

[FR Doc.76-31139 Filed 10-22-76;8:45 am]

## Title 7—Agriculture

## CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

## PART 230—NONFOOD ASSISTANCE PROGRAM

### Appendix—Initial Apportionment of Nonfood Assistance Funds Pursuant to Child Nutrition Act of 1966, for Fiscal Year 1977

Pursuant to section 5 of the Child Nutrition Act of 1966, as amended, Pub. L. 89-642, 80 Stat. 887, $28,000,000 nonfood assistance funds contained in the Fiscal Year 1977 Appropriation Act, are apportioned among the States as follows:

| State | Total apportionment | State agency | Withheld for private schools |
|---|---|---|---|
| Connecticut | 434,434 | 434,434 | |
| Maine | 155,879 | 135,655 | 20,224 |
| Massachusetts | 770,335 | 770,335 | |
| New Hampshire | 122,653 | 122,653 | |
| Rhode Island | 92,202 | 92,202 | |
| Vermont | 67,804 | 67,804 | |
| Subtotal | 1,643,307 | 1,623,083 | 20,224 |
| Delaware | 74,340 | 74,340 | |
| District of Columbia | 81,462 | 81,462 | |
| Maryland | 437,132 | 437,132 | |
| New Jersey | 1,507,382 | 1,507,382 | |
| New York | 1,906,476 | 1,906,476 | |
| Pennsylvania | 1,693,999 | 1,693,999 | |
| Puerto Rico | 427,121 | 427,121 | |
| Virginia | 566,045 | 523,010 | 43,035 |
| Virgin Islands | 19,808 | 19,808 | |
| West Virginia | 204,005 | 204,005 | |
| Subtotal | 6,917,770 | 6,874,735 | 43,035 |
| Alabama | 480,244 | 437,030 | 43,214 |
| Florida | 1,024,103 | 1,024,103 | |
| Georgia | 680,313 | 680,313 | |
| Kentucky | 441,276 | 441,276 | |
| Mississippi | 360,803 | 360,803 | |
| North Carolina | 731,207 | 731,207 | |
| South Carolina | 384,981 | 366,769 | 18,212 |
| Tennessee | 458,676 | 447,671 | 11,005 |
| Subtotal | 4,561,603 | 4,489,172 | 72,431 |
| Illinois | 1,720,111 | 1,720,111 | |
| Indiana | 662,479 | 662,479 | |
| Iowa | 375,372 | 375,372 | |
| Kansas | 274,721 | 274,721 | |
| Michigan | 1,222,809 | 1,222,809 | |
| Minnesota | 527,551 | 527,551 | |
| Missouri | 523,824 | 523,824 | |
| Nebraska | 214,352 | 179,054 | 35,298 |
| Ohio | 1,217,512 | 948,977 | 268,535 |
| Wisconsin | 626,486 | 626,486 | |
| Subtotal | 7,365,217 | 7,061,384 | 303,833 |
| Arkansas | 253,688 | 241,949 | 11,739 |
| Colorado | 284,055 | 241,873 | 42,182 |
| Louisiana | 669,220 | 669,220 | |
| Montana | 120,509 | 110,795 | 9,714 |
| New Mexico | 147,787 | 147,787 | |
| North Dakota | 83,838 | 74,714 | 9,124 |
| Oklahoma | 273,442 | 273,442 | |
| South Dakota | 92,202 | 92,202 | |
| Texas | 1,279,875 | 1,163,766 | 116,109 |
| Utah | 160,373 | 160,373 | |
| Wyoming | 50,820 | 50,820 | |
| Subtotal | 3,415,809 | 3,226,941 | 188,868 |
| Alaska | 34,997 | 34,997 | |
| American Samoa | 6,281 | 6,281 | |
| Arizona | 273,703 | 273,703 | |
| California | 2,797,819 | 2,797,819 | |
| Guam | 15,935 | 15,935 | |
| Hawaii | 133,374 | 107,599 | 25,775 |
| Idaho | 97,796 | 97,796 | |
| Nevada | 57,736 | 57,736 | |
| Oregon | 246,034 | 246,034 | |
| Trust Territory | 32,172 | 32,172 | |
| Washington | 400,447 | 298,757 | 101,690 |
| Subtotal | 4,096,294 | 3,968,829 | 127,465 |
| Total | 28,000,000 | 27,244,144 | 755,856 |

Pursuant to Sections 5(b) and 5(e) of the Child Nutrition Act of 1966, as amended, Pub. L. 89-642, 80 Stat. 887, $28,000,900 nonfood assistance funds contained in the Agriculture Appropriation Act for Fiscal Year 1977 are apportioned among the States as follows:

*Section 5(b)*

| State | Total apportionment | State agency | Withheld for private schools |
|---|---|---|---|
| Connecticut | 175,606 | 175,606 | |
| Maine | 99,670 | 94,877 | 4,793 |
| Massachusetts | 527,345 | 527,345 | |
| New Hampshire | 60,933 | 60,933 | |
| Rhode Island | 59,166 | 59,166 | |
| Vermont | 44,671 | 44,671 | |
| Subtotal | 967,391 | 962,598 | 4,793 |
| Delaware | 57,605 | 57,605 | |
| District of Columbia | 49,619 | 49,619 | |
| Maryland | 286,674 | 286,674 | |
| New Jersey | 416,379 | 416,379 | |
| New York | 1,183,816 | 1,183,816 | |
| Pennsylvania | 917,202 | 917,202 | |
| Puerto Rico | 341,847 | 341,847 | |
| Virginia | 528,819 | 523,010 | 5,809 |
| Virgin Islands | 16,200 | 16,200 | |
| West Virginia | 176,321 | 176,321 | |
| Subtotal | 3,974,482 | 3,968,673 | 5,809 |
| Alabama | 444,509 | 436,853 | 7,656 |
| Florida | 718,209 | 718,209 | |
| Georgia | 678,642 | 678,642 | |
| Kentucky | 425,552 | 425,552 | |
| Mississippi | 325,564 | 325,564 | |
| North Carolina | 679,639 | 679,639 | |
| South Carolina | 370,391 | 366,769 | 3,622 |
| Tennessee | 450,857 | 445,608 | 5,249 |
| Subtotal | 4,093,363 | 4,076,836 | 16,527 |
| Illinois | 765,979 | 765,979 | |
| Indiana | 508,190 | 508,190 | |
| Iowa | 342,526 | 342,526 | |
| Kansas | 231,248 | 231,248 | |
| Michigan | 541,593 | 541,593 | |
| Minnesota | 436,164 | 436,164 | |
| Missouri | 450,784 | 450,784 | |
| Nebraska | 143,226 | 129,887 | 13,339 |
| Ohio | 849,727 | 799,227 | 50,500 |
| Wisconsin | 373,831 | 373,831 | |
| Subtotal | 4,643,268 | 4,579,429 | 63,839 |
| Arkansas | 244,885 | 241,023 | 3,862 |
| Colorado | 202,728 | 197,291 | 5,437 |
| Louisiana | 560,706 | 560,706 | |
| Montana | 65,240 | 63,396 | 1,844 |
| New Mexico | 132,324 | 132,324 | |
| North Dakota | 69,605 | 63,460 | 6,145 |
| Oklahoma | 269,343 | 269,343 | |
| South Dakota | 78,049 | 78,049 | |
| Texas | 1,158,276 | 1,137,309 | 20,967 |
| Utah | 152,533 | 152,533 | |
| Wyoming | 31,795 | 31,795 | |
| Subtotal | 2,965,484 | 2,927,229 | 38,255 |
| Alaska | 24,046 | 24,046 | |
| American Samoa | 6,017 | 6,017 | |
| Arizona | 176,752 | 176,752 | |
| California | 1,132,161 | 1,132,161 | |
| Guam | 14,303 | 14,303 | |
| Hawaii | 113,709 | 107,599 | 6,110 |
| Idaho | 72,955 | 72,955 | |
| Nevada | 34,981 | 34,981 | |
| Oregon | 178,999 | 178,999 | |
| Trust Territory | 22,963 | 22,963 | |
| Washington | 245,793 | 242,531 | 3,262 |
| Subtotal | 2,022,679 | 2,013,307 | 9,372 |
| TOTAL | 18,666,667 | 18,528,072 | 138,595 |

*Section 5(e)*

| State | Total apportionment | State agency | Withheld for private schools |
|---|---|---|---|
| Connecticut | 258,828 | 258,828 | |
| Maine | 56,209 | 40,778 | 15,431 |
| Massachusetts | 242,990 | 242,990 | |
| New Hampshire | 61,720 | 61,720 | |
| Rhode Island | 33,036 | 33,036 | |
| Vermont | 23,133 | 23,133 | |
| Subtotal | 675,916 | 660,485 | 15,431 |
| Delaware | 16,735 | 16,735 | |
| District of Columbia | 31,843 | 31,843 | |
| Maryland | 150,458 | 150,458 | |
| New Jersey | 1,091,003 | 1,091,003 | |
| New York | 722,660 | 722,660 | |
| Pennsylvania | 776,797 | 776,797 | |
| Puerto Rico | 85,274 | 85,274 | |
| Virginia | 37,226 | | 37,226 |
| Virgin Islands | 3,608 | 3,608 | |
| West Virginia | 27,684 | 27,684 | |
| Subtotal | 2,943,288 | 2,906,062 | 37,226 |
| Alabama | 35,735 | 177 | 35,558 |
| Florida | 305,894 | 305,894 | |
| Georgia | 1,671 | 1,671 | |
| Kentucky | 15,724 | 15,724 | |
| Mississippi | 35,239 | 35,239 | |
| North Carolina | 51,568 | 51,568 | |
| South Carolina | 14,590 | | 14,590 |
| Tennessee | 7,819 | 2,063 | 5,756 |
| Subtotal | 468,240 | 412,336 | 55,904 |
| Illinois | 954,132 | 954,132 | |
| Indiana | 154,289 | 154,289 | |
| Iowa | 32,846 | 32,846 | |
| Kansas | 43,473 | 43,473 | |
| Michigan | 681,216 | 681,216 | |
| Minnesota | 91,387 | 91,387 | |
| Missouri | 73,040 | 73,040 | |
| Nebraska | 71,126 | 49,167 | 21,959 |
| Ohio | 367,785 | 149,750 | 218,035 |
| Wisconsin | 252,655 | 252,655 | |
| Subtotal | 2,721,949 | 2,481,955 | 239,994 |
| Arkansas | 8,803 | 926 | 7,877 |
| Colorado | 81,327 | 44,582 | 36,745 |
| Louisiana | 108,514 | 108,514 | |
| Montana | 55,269 | 47,399 | 7,870 |
| New Mexico | 15,463 | 15,463 | |
| North Dakota | 14,233 | 11,254 | 2,979 |
| Oklahoma | 4,099 | 4,099 | |
| South Dakota | 14,153 | 14,153 | |
| Texas | 121,599 | 26,457 | 95,142 |
| Utah | 7,840 | 7,840 | |
| Wyoming | 19,025 | 19,025 | |
| Subtotal | 450,325 | 299,712 | 150,613 |
| Alaska | 10,951 | 10,951 | |
| American Samoa | 264 | 264 | |
| Arizona | 96,951 | 96,951 | |
| California | 1,665,658 | 1,665,658 | |
| Guam | 1,632 | 1,632 | |
| Hawaii | 19,665 | | 19,665 |
| Idaho | 24,841 | 24,841 | |
| Nevada | 22,755 | 22,755 | |
| Oregon | 67,035 | 67,035 | |
| Trust Territory | 9,209 | 9,209 | |
| Washington | 154,654 | 56,226 | 98,428 |
| Subtotal | 2,073,615 | 1,955,522 | 118,093 |
| Total | 9,333,333 | 8,716,072 | 617,261 |

Data on schools without the facilities to prepare or receive hot meals will not be available until later in fiscal year 1977 for inclusion in the formula as mandated by P.L. 94–105.

(Secs. 2, 5, 6 and 9 through 16, 80 Stat. 885–890; 42 U.S.C. 1771, 1774, 1775, 1778–1785.)

Dated: October 17, 1976.

P. ROYAL SHIPP,
*Acting Administrator.*

[FR Doc.76–31211 Filed 10–26–76;8:45 am]

## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1976 Crop Barley Supplement]

### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

### 1976 Crop Barley Loan and Purchase Program

*Correction*

The document on page 43160 appearing in the FEDERAL REGISTER of Thursday, September 30, 1976 should be corrected as follows:

§ 1421.75 Loan and purchase rates.

(a) * * *

MINNESOTA

* * * * *

Hubbard ------- .98

* * * * *

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[CCC Grain Price Support Regs., 1976 Crop Oats Supplement]

### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

### 1976 Crop Oats Loan and Purchase Program

*Correction*

In FR Doc. 76–24790 appearing in the FEDERAL REGISTER of August 24, 1976 on page 35698, the county entries for Wisconsin on page 357000 should be corrected by deleting "Douglas".

The table should read:

WISCONSIN

* * * * *

Douglas ------- .59 Dunn ---------- .60

* * * * *

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[CCC Grain Price Support Regs. 1976 Crop. Wheat Supplement]

### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

### 1976 Crop Wheat Loan and Purchase Program

*Correction*

In FR Doc. 76–24792 appearing in the FEDERAL REGISTER of Tuesday, August 24, 1976 on page 35702, § 1421.488(a), should be corrected.

On page 35703, the table should be corrected as follows:

* * * * *

| *County* | *Rate per bushel* |
|---|---|
| ARIZONA | |
| All counties | $1.49 |
| ARKANSAS | |
| All counties | $1.53 |

* * * * *

## Title 27—Alcohol, Tobacco Products and Firearms

## CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-35; Re: Notice No. 299]

## PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

### State-By-State Conversion To Metric Sizes

ATF published a notice of proposed rulemaking in the FEDERAL REGISTER on August 23, 1976 (41 FR 35531). The notice proposed that § 5.47a(d) of Part 5 be amended by requiring the conversion to metric standards of fill on a State-By-State basis. ATF will adopt the regulation as proposed and it will be effective on the date of publication in the FEDERAL REGISTER.

BACKGROUND

Industry members may begin bottling distilled spirits in metric sizes beginning October 1, 1976. To implement the conversion to metric sizes, ATF adopted a "completeness of conversion" provision which requires that the optional conversion to metric sizes during the transition period (October 1, 1976, through December 31, 1979) will be on a permit, brand and size basis.

ATF decided to add a State-by-State aspect to the "completeness of conversion" provision because several State laws and regulations are now in effect which will prevent the sale of some metric-size distilled spirits bottles. Without a State-by-State provision, industry members who wished to convert to metric sizes would face some difficulties.

Wisconsin State law, for example, prevents the sale of distilled spirits in bottle sizes greater than 32 ounces. Since a liter is equivalent to 33.814 fluid ounces, a proprietor who converted to the liter size on October 1, 1976, could not sell that metric size in Wisconsin. Under the current provisions of § 5.47a(d), the same proprietor, once he converted to liters, could no longer bottle quarts of the same brand. The results of this would be that the proprietor would lose an entire market area by converting to the metric standard of fill.

ATF also pointed out in the notice document, that a multiplant company could use one of its plants to supply liters of brand X, for example, to those states allowing metric sizes. It could then use another of its plants to supply quarts of brand X to those states not permitting metric sizes. A single-plant company could not do this and would be at a competitive disadvantage. These were the reasons why ATF proposed a State-by-State conversion to metric sizes.

WRITTEN COMMENTS

ATF received several comments in response to the notice. These comments favored the proposed State-by-State conversion to metric sizes. One comment mentioned the problems a single-plant company would have without a State-by-State conversion aspect. Another industry member pointed out the problems it would face in trying to abide by both Federal and State requirements while converting to metric sizes.

Since ATF has received no information contrary to the proposed change, the State-by-State conversion will be added to § 5.47a(d).

Because it is desirable to issue this Treasury decision to coincide as closely as possible with the effective date of the new metric standards of fill and because this change is liberalizing in nature and will give bottlers more flexibility in converting to metric standards of fill, it is found that it is unnecessary to issue this Treasury decision subject to the effective date limitation of 5 U.S.C. 553(d). Accordingly, this Treasury decision shall become effective on the date of its publication in the FEDERAL REGISTER.

This Treasury decision is issued under the authority contained in 27 U.S.C. 205 (49 Stat. 961, as amended).

In view of the foregoing, 27 CFR Part 5 is amended as follows:

Section 5.47a is amended to read as follows:

**§ 5.47a Metric standards of fill.**

* * * * *

(d) *Completeness of Conversion.* Whenever a permittee or foreign bottler commences bottling a given product in a standard liquor bottle corresponding to a metric standard of fill prescribed by paragraph (a) of this section for distribution to a particular State, he may not thereafter bottle that product in any standard liquor bottle corresponding to a standard of fill prescribed by § 5.47 for distribution to that State. He may, however, continue to use a corresponding standard of fill prescribed by § 5.47 for that product in a bottle of unusual design which has been approved under the provisions of § 5.48. For the purposes of this paragraph, (1) product shall mean a given class and type of distilled spirits bearing a given brand name (e.g., ABC bourbon, ABC gin, XYZ bourbon, and XYZ gin would be four distinct products), and (2) * * *

* * * * *

This Treasury decision shall become effective on October 26, 1976.

Signed: October 14, 1976.

REX D. DAVIS,
*Director.*

Approved: October 21, 1976.

JOHNNY THOMAS,
*Under Secretary of the Treasury.*

[FR Doc.76-31402 Filed 10-22-76;8:45 am]

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[T.D. ATF-34; Re: Notice No. 302]

## IMPLEMENTATION OF METRIC STANDARDS OF FILL FOR DISTILLED SPIRITS

### Miscellaneous Amendments

On August 30, 1976, the Bureau of Alcohol, Tobacco and Firearms published a notice of proposed rulemaking in the FEDERAL REGISTER (41 FR 36499). The notice proposed regulatory changes to implement the new metric standards of fill for distilled spirits. The notice also established a 30-day comment period, during which time interested parties were invited to submit written comments on the proposal.

SUMMARY OF PROPOSALS

Since metric standards of fill became optional on October 1, 1976, ATF found it necessary to revise many recordkeeping and procedural regulations to take into account the new metric sizes. ATF proposed changes in the following areas:

(1) *Recordkeeping.* The recordkeeping changes proposed will, generally speaking, continue to call for amounts in proof gallons where current regulations now call for these amounts and, again generally speaking, will give proprietors the option of recording either wine gallon or liter amounts where current regulations now call for wine gallons. ATF pointed out that proof gallons would be retained because the IRC assesses taxes on a proof gallon basis.

(2) *Conversion factor.* ATF proposed that 0.264172 be used whenever a permittee converted (at his option or where required) from liters to wine gallons. Also, the resulting wine gallon amount would be rounded to the nearest hundredth.

(3) *Strip stamps.* ATF proposed that small size strip stamps be affixed to the 50 ml standard and, during the phase-in period, to all U.S. sizes less than ½-pint.

(4) *Strip stamp records and reports.* ATF proposed amendments in strip stamp recordkeeping requirements. Beginning on October 1, 1976, proprietors would record separately the usage of strip stamps on all bottle sizes. The only exception would be for sizes in U.S. measure that are less than ½-pint. Regulations relating to strip stamp reports would not be amended since the new strip stamp report forms would contain the appropriate, revised instructions.

(5) *Case markings.* ATF proposed that cases of distilled spirits bottled in metric standards of fill, be marked with the total liter contents of the case instead of proof gallons. ATF also proposed an optional "replacement" statement on cases, whereby proprietors could indicate what corresponding U.S. size a particular metric size replaces.

(6) *Other proposals.* ATF also made proposals for the following regulatory changes:

(a) Definition of a liter;

(b) The addition of parenthetical references to metric equivalents of U.S. measurements where appropriate. For example, "20 wine gallons (75.7 liters)";

(c) Changing the use of the ½-pint standard in determining the applicability of certain requirements to the use of the 200 ml standard. For example, statements such as "less than ½-pint capacity" have been changed to "less than 200 ml capacity";

(d) Elimination of the 4-ounce, intrastate size;

(e) Wine metrication changes in Part 201, concerning case markings and recordkeeping;

(f) Proprietor's equipment. Amending § 201.246 to reflect the adoption of metric standards of fill and the possibility that

new equipment may be needed in order to determine metric volumes;

(g) Amending the requirement that bottlers provide the assigned officer with a statement of the equivalent U.S. units (when net contents and proof are in the units of measurement of the foreign country to which the spirits are being exported) by having this statement show the equivalent units as would be required on bottles for domestic consumption. This would then include liters and milliliters;

(h) Updating references and obsolete terms;

(i) and changing the volume limit on samples to reflect the change to metric standards of fill.

WRITTEN COMMENTS

Only two comments were received on our proposal. Of these comments, none were opposed to any of the proposals made in the notice.

It was suggested that ATF consider changing or amending various records and reports forms to reflect metrication. We will, of course, be doing this, but regulations contained in this Treasury decision would not be affected by such changes.

It was also suggested that "instant recognition symbols" be allowed to be placed on metric cases on an optional basis to allow proprietors and their employees to easily differentiate between metric and non-metric cases. This would be in addition to, or in place of, the optional "replacement" statement the Bureau had proposed.

Section 201.530 currently authorizes additional marks being placed on the Government side of cases. ATF feels a regulatory change is not needed to handle situations where a bottler may desire to place some form of commercial mark on the Government side of cases filled according to the new metric standards of fill.

USE OF STRIP STAMPS

In the preamble of the notice of proposed rulemaking, ATF indicated that new small strip stamps were being printed. The notice stated that the new small strip stamps would be required to be used after September 30, 1976. ATF has concluded, however, that it is not practical to go ahead with this requirement. Not only does ATF have a sizeable investment in the old versions still in inventory at the distilled spirits plants, but there is a chance industry members may initially experience delays in receiving supplies of the new stamps. For these reasons, ATF will allow proprietors to use either the old or new versions of the small strip stamps (on 50 ml bottles and on U.S. size bottles of less than ½-pint) between October 1, 1976 and September 30, 1977. After September 30, 1977, only the new version will be allowed.

Because it is desirable to issue this Treasury decision to coincide as closely as possible with the effective date of the new metric standards of fill, in order to provide proprietors with necessary instructions for such things as recordkeeping, case marks, etc., it is found that it is unnecessary to issue this Treasury decision subject to the effective date limitation of 5 U.S.C. 553(d). Accordingly, this Treasury decision shall become effective on the date of its publication in the FEDERAL REGISTER.

The regulations listed below are issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Effective date: October 26, 1976.

Signed: October 14, 1976.

REX D. DAVIS,
*Director.*

Approved: October 21, 1976.

JOHNNY THOMAS,
*Under Secretary of the Treasury.*

## PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUORS

Paragraph 1. Paragraphs (a) and (b) of § 170.60 are revised to read as follows:

**§ 170.60 Record of inventories.**

* * * * *

(a) As to containers (including uncased bottles), the kind, size, and serial number where applicable, of each container, and the kind, and quantity either in proof gallons or in liters and degree of proof, of spirits contained therein;

(b) As to cases of bottled spirits, the kind of spirits therein, the number and size of bottles per case, either the proof gallons per case or the liters per case and degree of proof, and the number of such cases; and

* * * * *

**§ 170.61 [Amended]**

Paragraph 2. Paragraph (b) of § 170.61 is amended by inserting the phrase "or liters" between the words "gallons" and "per".

Paragraph 3. A new Section, § 170.64, is added to read as follows:

**§ 170.64 Conversion between metric and U.S. units.**

Whenever it is necessary to convert liters to wine gallons on any required record or report, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. The resulting wine gallon figure is to be rounded to the nearest one-hundredth.

## PART 173—RETURNS OF SUBSTANCES, ARTICLES OR CONTAINERS

**§§ 173.31, 173.41, 173.42, and 173.43 [Amended]**

Paragraph 4. Sections 173.31, 173.41, 173.42, and 173.43 are amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears in those sections.

## PART 194—LIQUOR DEALERS

Paragraph 5. Section 194.11 is amended by adding, in alphabetical order, a definition of "liter" to read as follows:

**§ 194.11 Meaning of terms.**

* * * * *

*Liter.* A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

* * * * *

Paragraph 6. Sections 194.28 and 194.188 are amended (a) by inserting the phrase "(75.7 liters)" immediately after the phrase "20 wine gallons" wherever the latter term appears and (b) by revising the statutory citations at the end of each section. As amended, §§ 194.28 and 194.188 read as follows:

**§ 194.28 Sales of 20 wine gallons (75.7 liters) or more.**

Any person who sells or offers for sale distilled spirits, wines, or beer, in quantities of 20 wine gallons (75.7 liters) or more, to the same person at the same time, shall be presumed and held to be a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be, unless such person shows by satisfactory evidence that such sale, or offer for sale, was made to a person other than a dealer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1413 (26 U.S.C. 5691).)

**§ 194.188 Persons making casual sales.**

* * * * *

(a) Administrators, executors, receivers, and other fiduciaries who receive distilled spirits, wines, or beer in their fiduciary capacities and sell such liquors in one parcel, or at a public auction in parcels of not less than 20 wine gallons (75.7 liters);

(b) Creditors who receive distilled spirits, wines, or beer as security for, or in payment of, debts and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons (75.7 liters);

(c) Public officers or court officials who levy on distilled spirits, wines, or beer under order or process of any court or magistrate and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons (75.7 liters); or

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340 (26 U.S.C. 5113).)

Paragraph 7. Section 194.221 is amended (a) by inserting the phrase "or liters" between the words "wine gallons" and "if" and (b) by revising the statutory citation at the end of the section. As amended, § 194.221 reads as follows:

**§ 194.221 General requirements as to distilled spirits.**

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall, daily, prepare records of the physical receipt and disposition, as prescribed in §§ 194.225 and 194.226, respectively, of distilled spirits by him, and shall, daily, prepare a recapitulation record, as prescribed in § 194.230, showing the total wine gallons or liters if in bottles, or proof gallons if in packages, of distilled

spirits received and disposed of during the day.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1395 (26 U.S.C. 5114, 5555).)

Paragraph 8. A new section, § 194.232, is added to read as follows:

**§ 194.232 Conversion between metric and U.S. units.**

Whenever it is necessary to convert liters to wine gallons on any required record or report, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. The resulting wine gallon figure is to be rounded to the nearest one-hundredth.

Paragraph 9. Section 194.236 is amended (a) by inserting the phrase "(37.85 liters)" at the end of the first sentence and (b) by revising the statutory citation at the end of the section. As amended, § 194.236 reads as follows:

**§ 194.236 Entry of miscellaneous items.**

Wholesale dealers in liquors may report on Form 52B as one item the total quantity of different kinds of distilled spirits made up from broken cases disposed of to the same person on the same day, provided such total quantity is not in excess of 10 gallons (37.85 liters). The entry of such items shall be stated as "Miscellaneous" or "Misc." and shall show the date, the name and address of the person to whom sold, and the quantity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342 (26 U.S.C. 5114).)

Paragraph 10. Section 194.239 is amended (a) by inserting in paragraph (b) the phrase "(75.7 liters)" immediately after the phrase "20 wine gallons" wherever the latter term appears and (b) by revising the statutory citation at the end of the section. As amended, § 194.239 reads as follows:

**§ 194.239 Requirements for retail dealers.**

* * * * *

(b) *Records of sales of 20 wine gallons (75.7 liters) or more.* Every retail dealer who makes sales of distilled spirits, of wines, or of beer in quantities of 20 wine gallons (75.7 liters) or more to the same person at the same time shall prepare and keep a record of each such sale, which shall show (1) the date of sale, (2) the name and address of the purchaser, (3) the kind and quantity of each kind of liquors sold, and (4) the serial numbers of all full cases of distilled spirits included in the sale. Each entry on such record shall be supported by a corresponding delivery receipt (which may be executed on a copy of the sales slip) signed by the purchaser or his agent.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1345, 1348, 1395, 1413 (26 U.S.C. 5124, 5146, 5555, 5691).)

Paragraph 11. Section 194.251 is amended (a) by inserting the phrase "(3.785 liters)" between the words "gallon" and "or" and (b) by revising the statutory citation at the end of the section. As amended, § 194.251 reads as follows:

**§ 194.251 Strip stamps required on all bottles.**

Except as provided in §§ 194.264, 194.271, and 194.272, all distilled spirits in the possession of wholesale or retail dealers in liquors shall be in bottles or similar containers of a capacity of 1 gallon (3.785 liters) or less which shall bear the prescribed strip stamps evidencing bottling in compliance with internal revenue law. The strip stamps shall be affixed in such manner as to be broken when the containers are opened.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205).)

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## PART 201—DISTILLED SPIRITS PLANTS

Paragraph 12. Section 201.11 is amended by adding, in alphabetical order, a definition of "liter" to read as follows:

**§ 201.11 Meaning of terms.**

* * * * *

*Liter.* A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter of milliliters may be abbrevated as "ml".

* * * * *

Paragraph 13. Section 201.246 is amended (a) by revising the last sentence and (b) by revising the statutory citation at the end of the section. As amended, § 201.246 reads as follows:

**§ 201.246 Measuring devices and proofing instruments.**

* * * The proprietor shall provide, for his own use, accurate hydrometers, thermometers, and other necessary equipment for determining proof or volume in either the U.S. or metric units of measure as may be required.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5204).)

Paragraph 14. Sections 201.331 and 201.467 are amended (a) by revising the third sentence in the final paragraph of both sections and (b) by revising the statutory citations at the end of those sections. As amended, §§ 201.331 and 201.467 read as follows:

**§ 201.331 Labeling of spirits bottled for export.**

* * * * *

(e) The plant number where bottled, unless the markings on the bottle indicate such number.

The bottler may place on the label any additional information, including his name or trade name, that he may desire if it is not inconsistent with the required information. The label information may be stated in the language of the country to which the spirits are to be exported provided the assigned officer is furnished an English translation of the information. The net contents and proof may be stated in the units of measurement of the foreign country provided the assigned officer is furnished a statement of the equivalent units as they would be required to be expressed if bottled for domestic consumption. The Director may waive the requirement of showing any of the information required by this section, other than the kind of spirits, upon a showing that the country to which the spirits are to be exported prohibits the showing of such information.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, 1366, 1374 (26 U.S.C. 5206, 5233, 5301).)

**§ 201.467 Labels for export spirits.**

* * * * *

(d) The name (or, if desired, the trade name) of the bottler.

The bottler may place on the label any additional information that he may desire if it is not inconsistent with the required information. The label information may be stated in the language of the country to which the spirits are to be exported provided the assigned officer is furnished an English translation of the information. The net contents and proof may be stated in the units of measurement of the foreign country provided the assigned officer is furnished a statement of the equivalent units as they would be required to be expressed if bottled for domestic consumption. The Director may waive the requirement of showing any of the information required by this section, other than the kind of spirits, upon a showing that the country to which the spirits are to be exported prohibits the showing of such information.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, 1374 (26 U.S.C. 5201, 5301).)

Paragraph 15. Sections 201.502 and 201.503 are amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" wherever the latter term appears in both sections and (b) by revising the statutory citations at the end of those sections. As amended, §§ 201.502 and 201.503 read as follows:

**§ 201.502 Containers of 1 gallon (3.785 liters) or less.**

The provisions of Subpart K of this part govern the containers to be used in bottling spirits in bond before determination of tax for export under section 5233, I.R.C., and bottling alcohol on bonded premises under section 5235, I.R.C. The provisions of Subpart Na of this part govern the containers to be used in bottling spirits in bond for export in accordance with the conditions and requirements of section 5233, I.R.C., but after determination of tax. The provisions of Subpart Pa of this part govern the containers to be used in bottling spirits in bond for domestic use under, or in accordance with, section 5233, I.R.C. The provisions of Subpart N of this part govern the bottling of spirits, other than spirits bottled in bond, and wines on bottling premises. Denatured spirits may be filled on bonded premises into metal or glass containers of a capacity of 1 gallon (3.785 liters) or less. Liquor bottles shall not be used for bottling denatured spirits. Spirits in bottles of a capacity of 1 gallon (3.785 liters) or less, except anhy-

drous spirits and spirits to be withdrawn from bond free of tax, are deemed to be for nonindustrial use.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1315, 1360, 1374 (26 U.S.C. 5002, 5206, 5301).)

**§ 201.503 Cases.**

Spirits, denatured spirits, or wines which have been filled in containers of 1 gallon (3.785 liters) or less, in accordance with the provisions of § 201.502, shall be placed in cases so constructed as to afford reasonable protection against breakage or theft.* * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360 (26 U.S.C. 5206).)

Paragraph 16. Section 201.526 is amended (a) by revising paragraph (b) of that section and (b) by revising the statutory citation at the end of the section. As amended, § 201.526 reads as follows:

**§ 201.526 Packages filled at bottling premises.**

* * * * *

(b) *Wine.* Packages of wine filled at bottling premises shall be marked with the following information:

(1) Tare, percent alcohol by volume, and wine gallons or, for containers filled according to metric measure, liters. In the case of rectified wine, proof gallons will be shown;

(2) Serial number;

(3) Kind of wine;

(4) Date of filling;

(5) If a rectified product, number of the approved formula under which rectified and the plant number of the rectifier, if other than the packaging proprietor;

(6) Name (or trade name) of proprietor; and

(7) Plant number.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, 1381 (26 U.S.C. 5206, 5368).)

Paragraph 17. Sections 201.527 and 201.528 are revised to read as follows:

**§ 201.527 Marks on cases of bottled-in-bond spirits.**

(a) * * *

(4) Liters (if bottled according to the standards of fill prescribed by § 5.47a of this chapter);

(5) Proof gallons (if bottled according to the standards of fill prescribed by § 5.47 of this chapter);

(6) Plant number of bottler;

(7) Proof (if bottled in bond for export);

(8) Date filled.

Cases withdrawn for export, transfer to customs bonded warehouses or customs manufacturing bonded warehouses, transfer to foreign-trade zones, or for use as supplies on certain vessels and aircraft, shall bear the additional marks required by Part 252 of this chapter. Cases withdrawn tax-free shall be marked to show the number of the permit of the tax-free user and the purpose of the withdrawal as provided in § 201.524(c).

(b) *Other marks.* In addition to the required marks, the proprietor may include on the Government side of bottled-in-bond cases other marks as follows:

(1) The real name and/or trade name of the producer of the spirits;

(2) For cases containing bottles filled according to metric measure, the term "Replaces" followed by an appropriate designation of the bottle size replaced (i.e. "Replaces Fifth", "Replaces Quart", etc.);

(3) Other material required by Federal, State, or local law and regulations.

The marks authorized by this paragraph shall not interfere with or detract from the mandatory marks prescribed in paragraph (a) of this section. No other marks may be placed on the Government side except as authorized by the Director as provided in § 201.530.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, 1366 (26 U.S.C. 5206, 5233); Sec. 3(a), Pub. L. 91-659, 84 Stat. 1965 (26 U.S.C. 5066).)

**§ 201.528 Marks on cases filled on bottling premises.**

(a) *Mandatory marks.* The following information shall be plainly marked on the Government side of each case of wine or spirits filled on bottling premises, except cases of spirits bottled in bond under the provisions of Subpart Na of this part:

(1) Serial number;

(2) Kind of wine, or kind of spirits;

(3) Plant number where bottled;

(4) Date filled;

(5) Proof (for spirits);

(6) Percent of alcohol by volume (for wines);

(7) Proof gallons for:

(i) Spirits bottled according to the standards of fill prescribed by § 5.47 of this chapter or exempt from such standards under the provisions of § 5.48(b) of this chapter; and

(ii) Rectified wines bottled according to the standards of fill prescribed by § 4.72 of this chapter;

(8) Wine gallons (for unrectified wine bottled according to the standards of fill prescribed by § 4.72 of this chapter;

(9) Liters for:

(i) Rectified or unrectified wines bottled according to the metric standards of fill prescribed by § 4.73 of this chapter; and

(ii) Spirits bottled according to the metric standards of fill prescribed by § 5.47a of this chapter.

Cases removed for export, transfer to customs bonded warehouses or cuscustoms manufacturing bonded warehouses, transfer to foreign trade zones, or for use as supplies on certain vessels and aircraft, shall bear the additional marks required by Part 252 of this chapter.

(b) * * *

(5) For cases containing bottles filled according to metric measure, the term "Replaces" followed by an appropriate designation of the bottle size replaced (i.e., "Replaces Fifth", "Replaces Quart", etc.);

(6) Other material required by Federal or State law and regulations.

The marks authorized by this paragraph shall not interfere with or detract from the mandatory marks prescribed in paragraph (a) of this section. No other marks may be placed on the Government side except as authorized by the Director as provided in § 201.530.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, 1381 (26 U.S.C. 5206, 5363); Sec. 3(a), Pub. L. 91-659, 84 Stat. 1965 (26 U.S.C. 5066).)

**§ 201.540a [Amended]**

Paragraph 18. Section 201.540a is amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears.

Paragraph 19. Section 201.540b is amended (a) by substituting the phrase "200 ml" for the phrase "½-pint" in the first sentence and (b) by inserting the phrase "through December 31, 1979," between the words "used" and "for" in the second sentence. As amended, § 201.540b reads as follows:

**§ 201.540b Bottles authorized.**

Liquor bottles shall conform to the applicable standards of fill provided in Subpart E of 27 CFR Part 5, including those for liquor bottles of less than 200 ml capacity. The use of any bottle size other than as authorized in Subpart E of 27 CFR Part 5 is prohibited for the packaging of distilled spirits for domestic purposes, except that 4-ounce liquor bottles may be used through December 31, 1979, for packaging any distilled spirits, other than spirits bottled in bond after determination of tax, on bottling premises for sale in intrastate commerce only. Bottles bearing the indicia required under Part 173 of this chapter may be used, but need not be used, in bottling spirits for export.

**§§ 201.540f and 201.540i [Amended]**

Paragraph 20. Sections 201.540f and 201.540i are amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears in those sections.

Paragraph 21. Section 201.542 is amended (a) by substituting the phrase "200 ml" for the phrase "one-half pint" wherever the latter term appears and (b) by revising the statutory citation at the end of the section. As amended, § 201.542 reads as follows:

**§ 201.542 Strip stamp format.**

All prescribed strip stamps, with the exception of the white alcohol stamp, shall be issued in (a) a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in (b) a small size for bottles or containers of less than 200 ml capacity. The white alcohol stamp shall be issued in a standard size only, serially numbered.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205).)

Paragraph 22. A new section, § 201.611a, is added to read as follows:

**§ 201.611a Conversion between metric and U.S. units.**

Whenever it is necessary to convert liters to wine gallons on any required record or report, the quantity in liters shall be multiplied by 0.264172 to determine

the equivalent quantity in wine gallons. The resulting wine gallon figure is to be rounded to the nearest one-hundredth.

Paragraph 23. Section 201.618 is amended (a) by revising paragraphs (a) and (d) and (b) by revising the statutory citation at the end of the section. As amended, § 201.618 reads as follows:

**§ 201.618 Details of daily records.**

The daily records required by this part shall conform to the following requirements:

(a) Spirits shall be recorded by kind and by quantity in proof gallons, or tax gallons if required by instructions on transaction forms, except that removals of bottled products from bottling premises shall be either in wine gallons or liters.

* * * * *

(d) Wines shall be recorded by kind, by percent of alcohol by volume, and by quantity in wine gallons. For wines bottled or packaged according to metric measure, the quantity may be recorded either in liters or in wine gallons. Wines received for and used in rectification shall be recorded by quantity in proof gallons.

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1361 (26 U.S.C. 5207).)

Paragraph 24. Section 201.624 is amended (a) by revising the last sentence; (b) by adding a new sentence at the end of the section; and (c) by revising the statutory citation at the end of the section. As amended, § 201.624 reads as follows:

**§ 201.624 Daily strip stamp record.**

* * * The record shall also show, by size of bottle, the number of bottles to which each kind of strip stamps (green, blue, red, and white) were affixed. The record shall be in sufficient detail to enable proprietors to prepare the required quarterly strip stamp report.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, 1361 (26 U.S.C. 5205, 5207).)

Paragraph 25. Section 201.625 is amended (a) by revising paragraph (a) (3) and (b) by revising the statutory citation at the end of the section. As amended, § 201.625 reads as follows:

**§ 201.625 Daily record of wholesale liquor dealer and taxpaid storeroom operations.**

* * * * *

(a) * * *

(3) The actual quantity of distilled spirits involved (proof gallons if in packages, wine gallons or liters if in bottles).

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1343, 1361 (26 U.S.C. 5114, 5207).)

Paragraph 26. Section 201.626 is amended (a) by inserting the phrase "or liters" immediately after the phrase "wine gallons" and (b) by revising the statutory citation at the end of the section. As amended, § 201.626 reads as follows:

**§ 201.626 Sample record for bonded premises.**

Proprietors shall maintain daily records of samples taken by them from bonded premises to show (a) the date taken, (b) the kind of spirits (formula number in the case of denatured spirits), (c) the quantity in wine gallons or liters, (d) the container from which taken, (e) the place from which taken, (f) the purpose for which taken, (g) the name and address of the consignee when samples are sent out, and (h) whether such samples are tax-free or tax-determined and if tax-determined, the proof and tax gallons.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1361 (26 U.S.C. 5207))

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## PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Paragraph 27. Section 250.38 is amended (a) by inserting the phrase "(3.785 liters)" between the words "gallon" and "shall" and (b) by revising the statutory citation at the end of the section. As amended, § 250.38 reads as follows:

**§ 250.38 Containers of distilled spirits.**

Containers of distilled spirits brought into the United States from Puerto Rico, having a capacity of not more than 1 gallon (3.785 liters), shall conform to the requirements of Subpart P of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374 (26 U.S.C. 5301))

Paragraph 28. Section 250.40 is amended by adding a sentence at the end of the section to read as follows:

**§ 250.40 Marking containers of distilled spirits.**

* * * Cases containing bottles filled according to the standards of fill prescribed by § 5.47a of this chapter shall, in lieu of the wine gallon and proof gallon contents, be marked with the liter contents of the case and the proof of the spirits therein.

**§ 250.99 [Amended]**

Paragraph 29. Paragraph (c) of § 250.99 is amended by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" in the last sentence of that paragraph.

Paragraph 30. Section 250.135 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" whever the latter term appears and; (b) by revising the second sentence and (c) by revising the statutory citation at the end of the section. As amended, § 250.135 reads as follows:

**§ 250.135 Containers of distilled spirits to bear red strip stamps.**

Immediate containers of 1 gallon (3.785 liters) or less of distilled spirits, upon which all Federal internal revenue taxes have been paid or deferred in Puerto Rico under the provisions of this part, shall have red strip stamps affixed thereto in accordance with the provisions of this subpart, prior to shipment to the United States. Except as provided in § 250.185, containers having a capacity of 1 gallon (3.785 liters) or less, containing distilled spirits which have not been taxpaid in Puerto Rico, may not have a red strip stamp affixed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 31. Section 250.137 is amended (a) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 250.137 reads as follows:

**§ 250.137 Size of red strip stamps.**

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in a small size for bottles or containers of less than 200 ml capacity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 32. Section 250.143 is amended (a) by deleting the phrase "(less than one-half pint)" from the second sentence of paragraph (b) and (b) by revising the statutory citation at the end of the section. As amended, § 250.143 reads as follows:

**§ 250.143 Procurement and custody of red strip stamps.**

* * * * *

(b) *Alternative method.* When the Chief, Puerto Rican Operations, determines that the interest of the government will be best served thereby, the stamps may be shipped directly to the insular revenue agent at the plant from the Bureau of Engraving and Printing. In such case, orders for standard size red strip stamps shall be in multiples of 100,000 stamps, and orders for small size shall be in multiples of 50 stamps (one sheet). * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 33. Section 250.146 is amended (a) by revising the second and third sentences and (b) by revising the statutory citation at the end of the section. As amended, § 250.146 reads as follows:

**§ 250.146 Record and report of red strip stamps.**

Revenue agents having custody of red strip stamps shall maintain for each day a transaction in red strip stamps occurs a daily record of such stamps by size (small or standard), showing the number received, used, lost, mutilated, destroyed or otherwise disposed of, and on hand at the beginning and at the end of the day. The record shall also show the number and size of bottles to which the stamps were affixed. No form is prescribed for the daily records but such records shall be in sufficient detail and retained to support the quarterly report. * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 34. Section 250.185 is amended (a) by inserting the phrase

"(3.785 liters)" immediately after the phrase "1 gallon" in the last sentence of the section and (b) by revising the statutory citation. As amended, § 250.185 reads as follows:

**§ 250.185 Stamps.**

* * * Where taxpaid distilled spirits intended for shipment to the United States are in containers of more than 1 gallon (3.785 liters), distilled spirits stamps shall be procured and affixed, and the containers released, as provided in §§ 250.88 through 250.91.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 35. Section 250.203 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 250.203 reads as follows:

**§ 250.203 Containers of 1 gallon (3.785 liters) or less.**

Containers of distilled spirits brought into the United States from the Virgin Islands, having a capacity of not more than 1 gallon (3.785 liters), shall conform to the requirements of Subpart P of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374 (26 U.S.C. 5301))

**§ 250.203a [Amended]**

Paragraph 36. Section 250.203a is amended by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" wherever the latter term appears in § 250.203a.

Paragraph 37. Section 250.205 is amended by revising paragraph (c)(1) to read as follows:

**§ 250.205 Certificate.**

* * * * *

(c) The quantity thereof as follows:

(1) If distilled spirits—

(i) The wine and proof gallons, or

(ii) The liters and degree of proof for cases containing bottles filled according to the standards of fill prescribed by § 5.47a of this chapter.

* * * * *

Paragraph 38. Section 250.206 is amended by adding a sentence at the end of the section to read as follows:

**§ 250.206 Marking packages and cases.**

* * * Cases containing bottles filled according to the standards of fill prescribed by § 5.47a of this chapter shall, in lieu of the wine and proof gallon contents, be marked with the liter contents of the cases and the proof of the spirits therein.

Paragraph 39. Section 250.232 is amendde (a) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 250.232 reads as follows:

**§ 250.232 Size of red strip stamps.**

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in a small size for bottles or containers of less than 200 ml capacity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

Paragraph 40. Section 250.270 is amended (a) by revising the fourth sentence and (b) by revising the statutory citation at the end of the section. As amended, § 250.270 reads as follows:

**§ 250.270 Daily record of strip stamps.**

For each day during which a transaction in red strip stamps occurs, the importer shall maintain a daily record accounting for all strip stamps procured by him and by his agents. The record shall show by size (small or standard) the number received, used, lost, mutilated, destroyed or otherwise disposed of, and outstanding at the beginning and end of the day. Stamps shown in the record as received shall be supported by the related Form 428, which shall be identified by date and serial number. The record shall also show the number and size of bottles to which the stamps were affixed and shall be in sufficient detail to enable the importer to prepare the required quarterly strip stamp report. * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205))

**§ 250.311 [Amended]**

Paragraph 41. Section 250.311 is amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears.

Paragraph 42. Section 250.312 is revised (a) by inserting the phrase "(3.785 liters)" between the words "gallon" and "or" in the first sentence; (b) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears; and (c) by revising the references to Part 5. As amended, § 250.312 reads as follows:

**§ 250.312 Standards of fill.**

Distilled spirits brought into the United States from Puerto Rico or the Virgin Islands in containers of 1 gallon (3.785 liters) or less for sale shall be in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in §§ 5.47 or 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of Subpart Ξ of Part 5 or § 201.540b of this chapter, may be brought into the United States for packaging distilled spirits as provided in Part 201 of this chapter.

Paragraph 43. The first sentence of § 250.316 is amended (a) by substituting the term "Bureau of Alcohol, Tobacco and Firearms" for the obsolete term "Alcohol, Tobacco and Firearms Division" and (b) by substituting the phrase "200 ml" for the phrase "½-pint". As amended, § 250.316 reads as follows:

**§ 250.316 Bottles not constituting approved containers.**

The Director, Bureau of Alcohol, Tobacco and Firearms, is authorized to disapprove any bottle, including a bottle of less than 200 ml capacity, for use as a liquor bottle which he determines to be deceptive. * * *

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## PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES AND BEER

**§ 251.58 [Amended]**

Paragraph 44. Section 251.58 is amended by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon" in the heading of the section.

Paragraph 45. Section 251.63 is amended (a) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears and (b) by revising the statutory citation. As amended, § 251.63 reads as follows:

**§ 251.63 Size of red strip stamps.**

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 200 ml capacity or more, and in a small size for bottles or containers of less than 200 ml capacity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205).)

**§ 251.75 [Amended]**

Paragraph 46. Section 251.75 is amended by substituting the phrase "1.75 liters" for the phrase "40 ounces" in the first sentence.

Paragraph 47. Section 251.120 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon"; (b) by substituting the word "through" for the word "to" in the last sentence and (c) by revising the statutory citation at the end of the section. As amended, § 251.120 reads as follows:

**§ 251.120 Persons authorized to receive distilled spirits imported in bulk.**

Distilled spirits imported in bulk (i.e., in containers having a capacity in excess of 1 gallon (3.785 liters)) may be entered into a class 8 customs bonded warehouse for bottling, or may be withdrawn from customs custody only if entered for exportation or if withdrawn by a person to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk pursuant to the Federal Alcohol Administration Act (49 Stat. 985, as amended; 27 U.S.C. 206) and Regulation 3 (27 CFR Part 3). The importation and disposition of distilled spirits imported in bulk shall be reported as prescribed by §§ 251.133 through 251.134.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1361, 1374, 1395 (26 U.S.C. 5114, 5207, 5301, 5555).)

Paragraph 48. Section 251.130 is amended (a) by revising the fourth sentence and (b) by revising the statutory citation at the end of the section. As amended, § 251.130 reads as follows:

**§ 251.130 Daily record of strip stamps.**

For each day during which a transaction in red strip stamps occurs, the importer shall maintain a daily record accounting for all strip stamps procured by him and by his agents. The record shall show by size (small or standard) the number received, used, lost, mutilated, destroyed or otherwise disposed

of, and outstanding at the beginning and end of the day. Stamps shown in the record as received shall be supported by the related Form 428, which shall be identified by date and serial number. The record shall also show the number and size of bottles to which the stamps were affixed and shall be in sufficient detail to enable the importer to prepare the required quarterly strip stamp report. * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205).)

**§ 251.201 [Amended]**

Paragraph 49. Section 251.201 is amended by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears.

Paragraph 50. Section 251.202 is amended (a) by inserting the phrase "(3.785 liters)" immediately after the phrase "1 gallon"; (b) by substituting the phrase "200 ml" for the phrase "½-pint" wherever the latter term appears; and (c) by revising the references to Part 5. As amended, § 251.202 reads as follows:

**§ 251.202 Standards of fill.**

Distilled spirits imported into the United States in containers of 1 gallon (3.785 liters) or less for sale shall be imported only in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in §§ 5.47 or 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of Subpart E of Part 5 or § 201.540b of this chapter, may be imported for packaging distilled spirits in the United States as provided in Part 201 of this chapter.

Paragraph 51. Section 251.206 is amended (a) by substituting the term "Bureau of Alcohol, Tobacco and Firearms" for the obsolete term "Alcohol, Tobacco and Firearms Division" and (b) by substituting the phrase "200 ml" for the phrase "½-pint". As amended, § 251.206 reads as follows:

**§ 251.206 Bottles not constituting approved containers.**

The Director, Bureau of Alcohol, Tobacco and Firearms, is authorized to disapprove any bottle, including a bottle of less than 200 ml capacity, for use as a liquor bottle which he determines to be deceptive. * * *

## PART 252—EXPORTATION OF LIQUORS

Paragraph 52. Section 252.11 is amended (a) by revising the definitions of "Assistant regional commissioner" and "Director, Alcohol, Tobacco and Firearms Division"; and (b) by adding, in alphabetical order, definitions of "Director", "Liter", and "Regional director". As amended, § 252.11 reads as follows:

**§ 252.11 Meaning of terms.**

* * * * *

*Assistant regional commissioner.* A regional director as defined in this section.

* * * * *

*Director.* The Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C.

*Director, Alcohol, Tobacco and Firearms Division.* The Director as defined in this section.

* * * * *

*Liter.* A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

* * * * *

*Regional director.* A regional director who is responsible to, and functions under the direction and supervision of, the Director.

* * * * *

Paragraph 53. Section 252.201 is amended (a) by inserting the phrase "(75.7 liters)" immediately after the phrase "20 wine gallons" and (b) by revising the statutory citation. As amended, § 252.201 reads as follows:

**§ 252.201 General.**

On the exportation, or deposit in a foreign-trade zone for exportation or for storage pending exportation, of distilled spirits in casks or packages filled in internal revenue bond and containing not less than 20 wine gallons (75.7 liters) each, on which all taxes have been paid or determined, drawback of the internal revenue tax paid or determined may be allowed, subject to compliance with the provisions of this subpart.

(Sec. 3, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1327 (26 U.S.C. 5009).)

Paragraph 54. Section 252.250 is amended (a) by substituting the term "regional director" for the obsolete term "assistant regional commissioner" in the first sentence of the section; (b) by inserting, in paragraph (a)(5), the phrase "or liters" immediately after the word "gallons"; and (c) by revising the statutory citation at the end of the section. As amended, § 252.250 reads as follows:

**§ 252.250 Bills of lading required.**

A copy of the export bill of lading covering transportation from the port of export to the foreign destination, or a copy of the through bill of lading to the foreign destination, if so shipped, covering the acceptance of the shipment by a carrier for such transportation, shall be obtained and filed by the claimant or exporter with the regional director.* * *

(a) * * *

(5) The total quantity in wine gallons or liters.

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1334, 1335, 1336, as amended, 1362, 1380, (26 U.S.C. 5053, 5055, 5062, 5214, 5362); Sec. 3(a), Pub. L. 91-659, 84 Stat. 1965 (26 U.S.C. 5066).)

[FR Doc.76-31401 Filed 10-22-76;8:45 am]

## Title 5—Administrative Personnel

## CHAPTER I—CIVIL SERVICE COMMISSION

## PART 316—TEMPORARY AND INDEFINITE EMPLOYMENT

### Clarifying and Updating Regulations

The Civil Service Commission is amending Part 316 of 5 CFR as follows:

(1) To delete obsolete references to indefinite employment, the titles of Part 316, Subpart H, and § 316.801 are amended and Subpart E is revoked in its entirety.

(2) Section 316.302(c)(3) is added to permit term appointments to be made noncompetitively to persons eligible for noncompetitive career and career-conditional appointments under certain authorities.

(3) Section 316.402(b) is amended in its entirety as set out below.

**§ 316.302 Selection of term employees.**

* * * * *

(c) * * *

* * * * *

(3) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, or 315.606 of this chapter.

* * * * *

**§ 316.402 Authorities for temporary appointments.**

* * * * *

(b) *Noncompetitive temporary limited appointments.* An agency may give a temporary limited appointment, without regard to the existence of an appropriate register, to:

(1) A person with eligibility for reinstatement;

(2) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, or 316.606 of this chapter;

(3) A former temporary employee of the agency who was originally appointed from a register, subject to the conditions published in the Federal Personnel Manual; or

(4) A veteran or disabled veteran as defined in section 2108 (1) and (2) of title 5, United States Code, who:

(i) Served on active duty in the armed forces of the United States during the Vietnam era;

(ii) Completed not more than 14 years of education;

(iii) Is appointed within the period ending 1 year after either the veteran's separation from the armed forces or release from hospitalization or treatment immediately following separation from the armed forces, except that in the case of appointments made prior to June 31, 1978, the 1-year period of eligibility is extended by the length of time a veteran is continuously enrolled in a program of education (as defined in 38 U.S.C. 1652)

on more than half of the full-time basis (defined in 38 U.S.C. 1788), including customary periods of vacation and permissible absences, plus a minimum of 6 additional months after the veteran ceases to be so enrolled; and

(iv) is qualified to perform the duties of the position. An appointment under this subparagraph may be made only to a position at GS–5 or below, or the equivalent in another pay system. A veteran or disabled veteran who is an applicant for a position at GS–3 and below under this subparagraph is considered to be qualified to perform the duties of the position on the basis of his or her total military experience.

(76A Stat. 18; C.Z.C. 149(c)(2); E.O. 9830; 3 CFR 1043–1948 Comp., p. 606; E.O. 11103; 3 CFR, 1959–1963 Comp., p. 762) (33 FR 12423, Sept. 4, 1968, as amended at 36 FR 3882, Mar. 2, 1971; 37 FR 4256, Mar. 2, 1971; 37 FR 4256, Mar. 1, 1972; Pub. L. 93–508).

**Subpart E—(Revoked)**

**Subpart H—Separation of Temporary and Term Employees**

**§ 316.801 Displacement of temporary and term employees.**

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR, 1954–1958 Comp., p. 218, unless otherwise noted.)

Effective date: October 26, 1976.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.76-31367 Filed 10-22-76;8:45 am]

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## PART 771—AGENCY GRIEVANCE SYSTEM

**Grievance Coverage; Correction**

EDITORIAL NOTE: The heading of this Part 771 was changed at 41 FR 22550, June 4, 1976.

In the FEDERAL REGISTER of September 9, 1974, F.R. 74–20808, beginning on page 32537 the Revision of the Appeals System was published. In this revision a portion of § 771.108(a) was inadvertently omitted, it should read as follows:

**§ 771.108 Grievance coverage.**

(a) Except as provided in paragraphs (b) and (c) of this section, this subpart applies to any matter of concern or dissatisfaction to an employee which is subject to the control of agency management or any matter in which an employee alleges that coercion, reprisal, or retaliation has been practiced against him or her.

* * * * *

(5 U.S.C. 3301, 3302.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.76-31193 Filed 10-22-76;8:45 am]

# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### [ 32 CFR Part 251 ]

### DOD AMMUNITION AND EXPLOSIVES SAFETY STANDARDS

### Proposed Quantity-Distance Standards for Underground Storage

The proposed standards are authorized by Department of Defense Directive 5154.4, "The Department of Defense Explosives Safety Board," dated October 23, 1971 (36 FR 22777, November 30, 1971). Pursuant to the authority vested in the Secretary of Defense in accordance with Title 10, United States Code, section 172, this Directive established the Department of Defense Explosives Safety Board (DDESB), subject to the direction, authority and control of the Secretary of Defense.

Notice is hereby given that the Chairman, Department of Defense Explosives Safety Board proposes to establish Quantity-Distance Standards for Underground Storage as an addition to DoD 5154.4S, "DoD Ammunition and Explosives Safety Standards," dated March 1976. (DoD 5154.4S is available from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402).

Inquiries may be addressed to, and data, views, and arguments concerning the proposed standards may be submitted to, the Chairman, Department of Defense Explosives Safety Board, Department of Defense, Washington, D.C. 20314. All material received on or before 30 November 1976, will be considered. All comments in response to these standards will be available for public inspection during normal business hours at the foregoing address.

The basic Part 251 and an amendment were published in the FEDERAL REGISTER at 41 FR 10686, May 20, 1976 (FR Doc. 76-14845), and 41 FR 36506, August 30, 1976 (FR Doc.76-25292).

The proposed standards will be contained in new §§ 251.9 251.10, 251.11, and 251.12 to this part, and should be added to the section outline as follows:

Sec.
251.9 Scope.
251.10 Storage limitations.
251.11 Protection provided.
251.12 Quantity-distance determinations.

AUTHORITY: Title 10, United States Code, section 172.

**§ 251.9 Scope.**

(a) This section details quantity-distance standards for the storage of all types of ammunition and explosives in natural caverns or in excavated chambers below the natural ground surface.

(b) The provisions of this section do not apply to storage in earth-covered magazines built above grade; standards for which apepar in "DoD Ammunition & Explosives Safety Standards" DoD 5154.4S.

**§ 251.10 Storage limitations.**

Ammunition and explosives of different kinds may be mixed in underground storage only to the extent permitted by the compatibility rules stated in DoD 5154.4S. In addition, ammunition containing incendiary or smoke-producing fillers, flammable liquids or gels, or toxic agents, when stored underground, must be in single-chamber sites.

**§ 251.11 Protection provided.**

(a) *Chamber spacing.* (1) Minimum separation distances between chambers will provide a high degree of protection against propagation of explosions by the mechanism of spalling of rock and subsequent impact on the contents of the chamber adjacent to one in which the initial explosion occurs. This ensures that the effects on structures and persons exposed at large distances will be limited to those from the contents of one chamber. If such minimum separation is not provided, the explosive quantities involved must be added together for purposes of determining effects at distant exposures.

(2) If it is desired to limit the damage to stocks of ammunition in adjacent chambers by rock spall, separations larger than required to prevent explosion communication should be used. The recommended distances for this purpose depend upon rock type as well as explosive quantity.

(b) *Exterior distances.* Separation distances from stored ammunition and explosives to inhabited buildings and public traffic routes are intended to limit property damage and injury to persons caused by ground shock, air blast, or debris. The distances depend upon depth of overburden, type of soil or rock, and stored explosive quantity per unit chamber volume (loading density). The required inhabited building distance for a given quantity and storage condition is that corresponding to the dominant (farthest-reaching) effect. It is therefore the largest of the distances determined to be necessary for protection against the individual effects considered in turn. The required public traffic route distance will generally be sixty percent of the inhabited building distance so obtained.

**§ 251.12 Quantity-distance determinations.**

(a) *Explosive quantity*—(1) *Determination of distance.* Distances will be determined on the basis of the total quantity of explosives, propellants, pyrotechnics, and incendiary materials in the individual chambers, unless the total quantity is subdivided so as to prevent immediate communication of an incident from one subdivision to another.

(2) *Types of storage sites*—(i) *Cavern storage site.* A natural cavern or former mining excavation adapted for the storage of ammunition and explosives.

(ii) *Chamber storage site.* An excavated chamber or a series of excavated chambers especially suited to the storage of ammunition and explosives. A cavern may be subdivided or otherwise structurally modified for use as a chamber storage site.

(iii) *Connected-chamber storage site.* A chamber storage site consisting of two or more chambers connected by ducts or passageways. Such chambers may be at the ends of branch tunnels off a main passageway.

(iv) *Single-chamber storage site.* An excavated chamber with its own access to the natural ground surface, not connected to any other storage chamber.

(3) *Evaluation of explosive yield.* All of the propellants and explosive materials in ammunition of Hazard Divisions 1.1 or 1.3 (see Chapter 5, DoD 5154.4S) subject to involvement in a single incident will be assumed to contribute to the explosion yield as would an equal weight of TNT. Any significant differences in energy release per unit mass of the compositions involved from that of TNT must be taken into account. A connected chamber storage site or cavern storage site containing Hazard Division 1.1 or 1.3 (see Chapter 5, DoD 5154.4S), or both, will be treated as a single-chamber site, unless explosion communication is prevented by adequate subdivision or chamber separation.

(b) *Distance measurement.* (1) The chamber interval is the shortest distance between the natural walls of two adjacent chambers. The interval between chambers formed by subdivision of a cavern is the thickness of competent barrier constructed between them.

(2) The thickness of overburden or earth cover over a chamber is the shortest distance from the natural chamber ceiling to the natural ground surface.

(3) Distances to inhabited buildings and public traffic routes will be measured as follows:

(i) A distance determined by blast or debris issuing from a tunnel entrance at the ground surface will be measured from the tunnel entrance to the nearest wall or point of the location to be protected, using the exended centerline of the main passageway as a reference line for directional effects.

(ii) A distance determined by ground shock will be measured as the length of the straight line joining the nearest natural wall of a chamber containing ammunition to the nearest wall or point of the location to be protected.

(iii) A distance determined by blast from an uncontained explosion, or by surface ejecta, will be measured from the point on the natural ground surface nearest the natural chamber ceiling to the nearest wall or point of the location to be protected.

(c) *Chamber interval.* (1) The separation distance $D_{cp}$ between chambers required to ensure prevention of explosion communication by impact of spalled rock will be calculated from $D_{cp}=1.5W^{1/3}$ where $D_{cp}$ is in feet and $W$ is the net weight in pounds of all the propellants and explosives in ammunition of Hazard Divisions 1.1 or 1.3 in one chamber, adjusted for any significant differences in energy release from that of TNT as required by § 251.12(a) above. The chamber separation distance will not, however, be less than 15 feet. Chamber entrances at the ground surface, or entrances to branch tunnels off the same side of a main passageway, must be separated by a distance not less than the chamber interval as determined above. Entrances to branch tunnels off opposite sides of a main passageway must be separated by at least twice the width of the main passageway.

(2) The chamber separation $D_{cp}$ required to prevent damage to stored ammunition will be calculated from the following formulas:

a. $D_{cd}=3.5W^{1/3}$ (sandstone),
b. $D_{cd}=4.3W^{1/3}$ (limestone),
c. $D_{cd}=5.0W^{1/3}$ (granite),

where $D_{cd}$ is in feet and $W$ is in pounds of propellants and explosives in ammunition of Hazard Divisions 1.1 and 1.3 (see Chapter 5, DoD 5154.4S).

(3) The separation distances $D_{cp}$ to ensure prevention of explosion communication and $D_{cd}$ to prevent damage to stored ammunition have been computed and are listed in Table B–1.

(4) Chambers separated by at least the distances required in § 251.12(c)(1) above may be used to the limit of their physical capacity to store ammunition of Hazard Divisions 1.2 and 1.4 (see Chapter 5, DoD 5154.4S) except for specific Hazard Division 1.2 items having special stacking and new restrictions (see paragraph 5–4B of DoD 5154.4S). If stored in the same chamber with ammunition of Hazard Divisions 1.1 or 1.3 (see Chapter 5, DoD 5154.4S), however, the propellant and explosive content of ammunition of Hazard Divisions 1.2 and 1.4 (see Chapter 5, DoD 5154.4S), must be added to that of the other divisions to obtain the net explosive quantity for distance determinations.

(d) *Inhabited building distance.* The inhabited building distance will be taken as the largest of the distances required for protection against ground shock, air blast, or debris, determined by computations carried out as described in the following paragraphs. For the convenience of the user, each of the functions to be evaluated is tabulated; straight-line interpolation is permitted in all tables.

(1) For protection of residential buildings against significant structural damage by ground shock, the maximum particle velocity induced in the ground at the building site must not exceed the following values:

2.4 inches per second in sand, gravel, or moist clay (sound speed 3000 to 5000 feet per second),
4.5 inches per second in soft rock (sound speed 6000 to 10,000 feet per second), and
9.0 inches per second in hard rock (sound speed 15,000 to 20,000 feet per second).

Unless data specific to the site being evaluated are available regarding ground shock attenuation in the earth materials between the potential explosion source and the exposed site, the required inhabited building distance $D_{ig}$ will be calculated from the appropriate one of the following expressions:

a. $D_{ig}=2.1f_gW^{1/3}$ (sand, gravel),
b. $D_{ig}=11.1f_gW^{1/3}$ (soft rock), or
c. $D_{ig}=12.5f_gW^{1/3}$ (hard rock),

where $D_{ig}$ is in feet and $W$ is the explosive quantity in pounds determined in accordance with § 251.12(a). The dimensionless multiplier $f_g$ is a decoupling factor, given as a function of loading density by the formula $f_g=(4/15)w^{0.3}$ where $w$ is the explosive quantity $W$ in pounds divided by the chamber volume in cubic feet.

Values of $D_{ig}/f_g$ are listed in Table B–2. To obtain an inhabited building distance $D_{ig}$, a numerical value read from the appropriate column of Table B–2 must be multiplied by the value of $f_g$ read from Table B–7, Column 2.

(2) Distances required for protection of inhabited areas against the effects of air blast and surface debris depend on the depth of overburden, or earth cover, over the storage chamber. The minimum depth $C_c$ required to ensure containment of an explosion (except for venting of gases through tunnels), and to ensure that no significant disruption of surface material occurs, will be calculated from $C_c=3.5W^{1/3}$ where $W$ is the explosive quantity in pounds. For depths of overburden less than this, the effects of both air blast and the projection of debris must be considered. In particular, if the actual cover depth $C$ is less than $C_v$, given by $C_v=0.5W^{1/3}$ blast at large distances may not be suppressed appreciably below that from an explosion on the surface. In that case, inhabited building and public traffic route distances for aboveground storage, specified elsewhere in this publication, must be utilized, including any applicable minimum distances required for protection against fragments from ammunition of Hazard Divisions 1.1, 1.2, or 1.3 (see Chapter 5, DoD 5154.4S). Values of $C_v$ and $C_c$ are listed in Table B–3.

(3) If the depth of overburden $C$ equals or exceeds $C_v$ calculated from the formula above, the effects of blast issuing from entrances at the ground surface must be considered. In general, these effects will be functions of direction relative to the axis of the passageway where it emerges at the ground surface. In the absence of data and analysis on far-field blast propagation specific to the site being evaluated, five sectors will be defined as shown in Figure B–1. In each sector the distance required for protection of inhabited areas against blast will be taken as proportional to the cube root of a reduced net explosive quantity $W_r$, defined by $W_r=W/nk$ where $n=1$ or 2, and $k=1$ or 3, as follows:

$n=1$, if the storage site has not more than one entrance at the ground surface;
$n=2$, if the site has two or more entrances, and if the blast waves issuing from those entrances are not expected to mutually reinforce owing to their proximity;
$k=3$, if the ammunition is stored in a chamber on a branch passageway of cross-sectional area not more than half that of the main passageway to which it is connected, and of length not less than one-third the chamber interval $D_{cp}$ calculated in § 251.12(c)(1) above; $k=1$, otherwise.

(4) Whether mutual reinforcement of blast issuing from two or more entrances occurs will be determined by carrying out the subsequent analysis on the tentative assumption that $n=1$. If none of the sectors from one entrance overlaps any of those from another, the interaction may be ignored and the distances determined by repeating the analysis with $n=2$.

(5) With the foregoing definitions, the distances $D_{i1}$, $D_{i2}$, * * * $D_{i5}$ required for protection of inhabited areas against blast in the sectors defined in Figure B–1 will be calculated as follows:

$D_{i1}=19W_r^{1/3}$, in the sector between 180 and 120 degrees
$D_{i2}=33W_r^{1/3}$, in the sector between 120 and 90 degrees
$D_{i3}=50W_r^{1/3}$, in the sector between 90 and 60 degrees
$D_{i4}=68W_r^{1/3}$, in the sector between 60 and 30 degrees
$D_{i5}=76W_r^{1/3}$, in the sector between 30 and 0 degrees

where 0 is the horizontal angle measured from the centerline of the main passageway extended outward from the entrance, and where $W_r$ is the net explosive weight in pounds reduced by the factors $m$ and $k$ which depend upon the geometry of the storage site as specified above. Values of $D_{i0}$, which stands for the distances $D_{i1}$, $D_{i2}$, * * * $D_{i5}$ computed from the formulas above, are listed in Table B–4.

(6) If the depth of overburden $C$ is less than $C_c$ calculated from the first of the formulas given in § 251.12(d)(2), the effects of debris projected from the ground surface above the explosion site must be evaluated. The distance $D_{id}$ required for the protection of inhabited areas against such debris will be calculated from $D_{id}=f_df_cW^{0.41}$ where $W$ is the explosive quantity in pounds, $f_c$ is a function of the scaled depth of overburden $C/W^{1/3}$, and $f_d$ is a function of the chamber loading density $w$. The function of earth cover, $f_c$, depends on the type of rock in the vicinity of the storage chamber. It is given graphically in Figure B–2 for hard rock (e.g., granite, limestone) and for soft rock (e.g., sandstone). The factor $f_d$ is given by the formula $f_d=(3/5)w^{0.18}$ where the loading

density $w$ is expressed in pounds of explosive per cubic foot of chamber volume.

(7) Values of $D_{is}/f_s$ are listed in Table B–5 for hard rock and in Table B–6 for soft rock, for values of scaled overburden thickness $C/W^{1/3}$ given at the heads of the columns. These values of scaled cover correspond to the circled points on the curves in Figure B–2, and are such that straight-line interpolation between columns of the tables is a satisfactory procedure for intermediate values of scaled cover.

(8) To obtain a distance $D_{is}$, the scaled depth of overburden $C/W^{1/3}$ must be calculated, where $C$ is the depth of overburden in feet measured as the shortest distance from the natural chamber ceiling to the natural ground surface above, and $W$ is the explosive quantity in pounds. The appropriate column in either Table B–5 or B–6 can be entered based upon the numerical value determined for the scaled depth of overburden ($C/W^{1/3}$) or by using interpolation between columns. The value obtained from Table B–5 or B–6 must be multiplied by the value of $f_s$ read from Table B–7, column 3 in order to obtain the distance $D_{is}$ required for protection of inhabited areas against debris damage.

(9) The distance $D_{is}$ determined by the foregoing procedure will be applied in all directions from the point on the natural ground surface nearest to the chamber, except that in the sector 15 degrees to either side of the centerline of the main passageway, the distance will not be less than 2,000 feet measured from the entrance.

(10) The distance to any public right-of-way will be taken as sixty per cent of the inhabited building distance determined above.

MAURICE W. ROCHE,
*Director, Correspondence and Directives OASD (Comptroller).*

OCTOBER 18, 1976.

TABLE B–1.—*Chamber separation*

| Weight, pounds | | $D_{ep}$, feet | | $D_{ed}$, feet | |
|---|---|---|---|---|---|
| Over | Not over | $1.5W^{1/3}$ | $3.5W^{1/3}$ | $4.3W^{1/3}$ | $5.0W^{1/3}$ |
| 0 | 1,000 | 15.0 | 35 | 43 | 50 |
| 1,000 | 1,200 | 16.0 | 37 | 46 | 54 |
| 1,200 | 1,400 | 17.0 | 39 | 48 | 56 |
| 1,400 | 1,600 | 17.5 | 41 | 50 | 58 |
| 1,600 | 1,800 | 18.0 | 43 | 52 | 60 |
| 1,800 | 2,000 | 19.0 | 44 | 54 | 62 |
| 2,000 | 2,500 | 20.5 | 48 | 58 | 68 |
| 2,500 | 3,000 | 21.5 | 50 | 62 | 72 |
| 3,000 | 3,500 | 23.0 | 54 | 66 | 76 |
| 3,500 | 4,000 | 24.0 | 56 | 68 | 80 |
| 4,000 | 4,500 | 25.0 | 58 | 70 | 82 |
| 4,500 | 5,000 | 26.0 | 60 | 74 | 86 |
| 5,000 | 6,000 | 27.0 | 64 | 78 | 90 |
| 6,000 | 7,000 | 29.0 | 66 | 82 | 96 |
| 7,000 | 8,000 | 30.0 | 70 | 86 | 100 |
| 8,000 | 9,000 | 31.0 | 72 | 90 | 105 |
| 9,000 | 10,000 | 32.0 | 76 | 92 | 110 |
| 10,000 | 12,000 | 34.0 | 80 | 98 | 115 |
| 12,000 | 14,000 | 36.0 | 84 | 105 | 120 |
| 14,000 | 16,000 | 38.0 | 88 | 110 | 125 |
| 16,000 | 18,000 | 39.0 | 92 | 115 | 130 |
| 18,000 | 20,000 | 41.0 | 96 | 115 | 135 |
| 20,000 | 25,000 | 44.0 | 100 | 125 | 145 |
| 25,000 | 30,000 | 47.0 | 110 | 135 | 155 |
| 30,000 | 35,000 | 49.0 | 115 | 140 | 165 |
| 35,000 | 40,000 | 52.0 | 120 | 145 | 170 |
| 40,000 | 45,000 | 54.0 | 125 | 155 | 180 |
| 45,000 | 50,000 | 56.0 | 130 | 160 | 185 |
| 50,000 | 60,000 | 58.0 | 135 | 170 | 195 |
| 60,000 | 70,000 | 62.0 | 145 | 175 | 205 |
| 70,000 | 80,000 | 64.0 | 150 | 185 | 215 |
| 80,000 | 90,000 | 68.0 | 155 | 195 | 225 |
| 90,000 | 100,000 | 70.0 | 160 | 200 | 230 |
| 100,000 | 120,000 | 74.0 | 175 | 210 | 245 |
| 120,000 | 140,000 | 78.0 | 180 | 225 | 260 |
| 140,000 | 160,000 | 82.0 | 190 | 235 | 270 |
| 160,000 | 180,000 | 84.0 | 200 | 245 | 280 |
| 180,000 | 200,000 | 88.0 | 205 | 250 | 290 |
| 200,000 | 250,000 | 94.0 | 220 | 270 | 310 |
| 250,000 | 300,000 | 100.0 | 235 | 290 | 330 |
| 300,000 | 350,000 | 105.0 | 245 | 300 | 350 |
| 350,000 | 400,000 | 110.0 | 260 | 320 | 370 |
| 400,000 | 450,000 | 115.0 | 270 | 330 | 380 |
| 450,000 | 500,000 | 120.0 | 280 | 340 | 400 |
| 500,000 | 600,000 | 125.0 | 300 | 360 | 420 |
| 600,000 | 700,000 | 135.0 | 310 | 380 | 440 |
| 700,000 | 800,000 | 140.0 | 320 | 400 | 460 |
| 800,000 | 900,000 | 145.0 | 340 | 420 | 480 |

TABLE B–2.—*Distances to protect against ground shock*

| Weight, pounds | | $D_{is}/f_s$ | | |
|---|---|---|---|---|
| Over | Not over | $2.1W^{4/9}$ | $11.1W^{4/9}$ | $12.5W^{4/9}$ |
| 0 | 1,000 | 45 | 240 | 270 |
| 1,000 | 1,200 | 49 | 260 | 290 |
| 1,200 | 1,400 | 52 | 280 | 310 |
| 1,400 | 1,600 | 56 | 290 | 330 |
| 1,600 | 1,800 | 58 | 310 | 350 |
| 1,800 | 2,000 | 62 | 330 | 370 |
| 2,000 | 2,500 | 68 | 360 | 400 |
| 2,500 | 3,000 | 74 | 390 | 440 |
| 3,000 | 3,500 | 78 | 420 | 470 |
| 3,500 | 4,000 | 84 | 440 | 500 |
| 4,000 | 4,500 | 88 | 470 | 520 |
| 4,500 | 5,000 | 92 | 490 | 560 |
| 5,000 | 6,000 | 100 | 540 | 600 |
| 6,000 | 7,000 | 105 | 560 | 640 |
| 7,000 | 8,000 | 115 | 600 | 680 |
| 8,000 | 9,000 | 120 | 640 | 720 |
| 9,000 | 10,000 | 125 | 660 | 740 |
| 10,000 | 12,000 | 135 | 720 | 820 |
| 12,000 | 14,000 | 145 | 780 | 880 |
| 14,000 | 16,000 | 155 | 820 | 920 |
| 16,000 | 18,000 | 165 | 860 | 980 |
| 18,000 | 20,000 | 170 | 900 | 1,000 |
| 20,000 | 25,000 | 190 | 1,000 | 1,150 |
| 25,000 | 30,000 | 205 | 1,100 | 1,200 |
| 30,000 | 35,000 | 220 | 1,150 | 1,300 |
| 35,000 | 40,000 | 235 | 1,250 | 1,400 |
| 40,000 | 45,000 | 245 | 1,300 | 1,450 |
| 45,000 | 50,000 | 260 | 1,350 | 1,550 |
| 50,000 | 60,000 | 280 | 1,500 | 1,650 |

TABLE B–2.—*Distances to protect against ground shock*

| Weight, pounds | | $D_{is}/f_s$ | | |
|---|---|---|---|---|
| Over | Not over | $2.1W^{4/9}$ | $11.1W^{4/9}$ | $12.5W^{4/9}$ |
| 60,000 | 70,000 | 300 | 1,600 | 1,800 |
| 70,000 | 80,000 | 320 | 1,700 | 1,900 |
| 80,000 | 90,000 | 330 | 1,750 | 2,000 |
| 90,000 | 100,000 | 350 | 1,850 | 2,100 |
| 100,000 | 120,000 | 380 | 2,000 | 2,250 |
| 120,000 | 140,000 | 410 | 2,150 | 2,400 |
| 140,000 | 160,000 | 430 | 2,300 | 2,600 |
| 160,000 | 180,000 | 450 | 2,400 | 2,700 |
| 180,000 | 200,000 | 480 | 2,500 | 2,800 |
| 200,000 | 250,000 | 520 | 2,800 | 3,100 |
| 250,000 | 300,000 | 580 | 3,000 | 3,400 |
| 300,000 | 350,000 | 620 | 3,200 | 3,600 |
| 350,000 | 400,000 | 640 | 3,400 | 3,900 |
| 400,000 | 450,000 | 680 | 3,600 | 4,100 |
| 450,000 | 500,000 | 720 | 3,800 | 4,300 |
| 500,000 | 600,000 | 780 | 4,100 | 4,600 |
| 600,000 | 700,000 | 840 | 4,400 | 5,000 |
| 700,000 | 800,000 | 880 | 4,700 | 5,200 |
| 800,000 | 900,000 | 940 | 4,900 | 5,600 |

TABLE B–3—*Depth of overburden*

| Weight, pounds | | $C_v$, feet | $C_e$, feet |
|---|---|---|---|
| Over | Not over | $0.5W^{1/3}$ | $3.5W^{1/3}$ |
| 0 | 1,000 | 5.0 | 35 |
| 1,000 | 1,200 | 5.4 | 37 |
| 1,200 | 1,400 | 5.6 | 39 |
| 1,400 | 1,600 | 5.8 | 41 |
| 1,600 | 1,800 | 6.0 | 43 |
| 1,800 | 2,000 | 6.2 | 44 |
| 2,000 | 2,500 | 6.8 | 48 |
| 2,500 | 3,000 | 7.2 | 50 |
| 3,000 | 3,500 | 7.6 | 54 |
| 3,500 | 4,000 | 8.0 | 56 |
| 4,000 | 4,500 | 8.2 | 58 |
| 4,500 | 5,000 | 8.6 | 60 |
| 5,000 | 6,000 | 9.0 | 64 |
| 6,000 | 7,000 | 9.6 | 66 |
| 7,000 | 8,000 | 10.0 | 70 |
| 8,000 | 9,000 | 10.5 | 72 |
| 9,000 | 10,000 | 11.0 | 76 |
| 10,000 | 12,000 | 11.5 | 80 |
| 12,000 | 14,000 | 12.0 | 84 |
| 14,000 | 16,000 | 12.5 | 88 |
| 16,000 | 18,000 | 13.0 | 92 |
| 18,000 | 20,000 | 13.5 | 96 |
| 20,000 | 25,000 | 14.5 | 100 |
| 25,000 | 30,000 | 15.5 | 110 |
| 30,000 | 35,000 | 16.5 | 115 |
| 35,000 | 40,000 | 17.0 | 120 |
| 40,000 | 45,000 | 18.0 | 125 |
| 45,000 | 50,000 | 18.5 | 130 |
| 50,000 | 60,000 | 19.5 | 135 |
| 60,000 | 70,000 | 20.5 | 145 |
| 70,000 | 80,000 | 21.5 | 150 |
| 80,000 | 90,000 | 22.5 | 155 |
| 90,000 | 100,000 | 23.0 | 160 |
| 100,000 | 120,000 | 24.5 | 175 |
| 120,000 | 140,000 | 26.0 | 180 |
| 140,000 | 160,000 | 27.0 | 190 |
| 160,000 | 180,000 | 28.0 | 200 |
| 180,000 | 200,000 | 29.0 | 205 |
| 200,000 | 250,000 | 31.0 | 220 |
| 250,000 | 300,000 | 33.0 | 235 |
| 300,000 | 350,000 | 35.0 | 245 |
| 350,000 | 400,000 | 37.0 | 260 |
| 400,000 | 450,000 | 38.0 | 270 |
| 450,000 | 500,000 | 40.0 | 280 |
| 500,000 | 600,000 | 42.0 | 300 |
| 600,000 | 700,000 | 44.0 | 310 |
| 700,000 | 800,000 | 46.0 | 320 |
| 800,000 | 900,000 | 48.0 | 340 |

TABLE B–4.—*Distances to protect against air blast*

| $W_r$=W/nk, pounds | | $D_{tb}$, feet | | | | |
|---|---|---|---|---|---|---|
| Over | Not over | 120–180 $19W_r^{1/3}$ | 90–120 $33W_r^{1/3}$ | 60–90 $50W_r^{1/3}$ | 30–60 $68W_r^{1/3}$ | 0–30 deg $76W_r^{1/3}$ |
| 0 | 1,000 | 190 | 330 | 500 | 680 | 760 |
| 1,000 | 1,200 | 200 | 350 | 540 | 720 | 800 |
| 1,200 | 1,400 | 215 | 370 | 560 | 760 | 860 |
| 1,400 | 1,600 | 220 | 390 | 580 | 800 | 880 |
| 1,600 | 1,800 | 230 | 400 | 600 | 820 | 920 |
| 1,800 | 2,000 | 240 | 420 | 620 | 860 | 960 |
| 2,000 | 2,500 | 260 | 450 | 680 | 920 | 1,050 |
| 2,500 | 3,000 | 270 | 480 | 720 | 980 | 1,100 |
| 3,000 | 3,500 | 290 | 500 | 760 | 1,050 | 1,150 |
| 3,500 | 4,000 | 300 | 520 | 800 | 1,100 | 1,200 |
| 4,000 | 4,500 | 310 | 540 | 820 | 1,100 | 1,250 |
| 4,500 | 5,000 | 320 | 560 | 860 | 1,150 | 1,300 |
| 5,000 | 6,000 | 350 | 600 | 900 | 1,250 | 1,400 |
| 6,000 | 7,000 | 360 | 640 | 960 | 1,300 | 1,450 |
| 7,000 | 8,000 | 380 | 660 | 1,000 | 1,350 | 1,500 |
| 8,000 | 9,000 | 400 | 680 | 1,050 | 1,400 | 1,600 |
| 9,000 | 10,000 | 410 | 720 | 1,100 | 1,450 | 1,650 |
| 10,000 | 12,000 | 430 | 760 | 1,150 | 1,550 | 1,750 |
| 12,000 | 14,000 | 466 | 800 | 1,200 | 1,650 | 1,850 |
| 14,000 | 16,000 | 480 | 840 | 1,250 | 1,700 | 1,900 |
| 16,000 | 18,000 | 500 | 860 | 1,300 | 1,800 | 2,000 |
| 18,000 | 20,000 | 520 | 900 | 1,350 | 1,850 | 2,050 |
| 20,000 | 25,000 | 560 | 960 | 1,450 | 2,000 | 2,200 |
| 25,000 | 30,000 | 600 | 1,050 | 1,550 | 2,100 | 2,350 |
| 30,000 | 35,000 | 620 | 1,100 | 1,650 | 2,200 | 2,500 |
| 35,000 | 40,000 | 640 | 1,150 | 1,700 | 2,350 | 2,600 |
| 40,000 | 45,000 | 680 | 1,150 | 1,800 | 2,400 | 2,700 |
| 45,000 | 50,000 | 700 | 1,200 | 1,850 | 2,500 | 2,800 |
| 50,000 | 60,000 | 740 | 1,300 | 1,950 | 2,700 | 3,000 |
| 60,000 | 70,000 | 780 | 1,350 | 2,050 | 3,800 | 3,100 |
| 70,000 | 80,000 | 820 | 1,400 | 2,150 | 2,900 | 3,300 |
| 80,000 | 90,000 | 860 | 1,500 | 2,250 | 3,000 | 3,400 |
| 90,000 | 100,000 | 880 | 1,550 | 2,300 | 3,200 | 3,500 |
| 100,000 | 120,000 | 940 | 1,650 | 2,450 | 3,400 | 3,700 |
| 120,000 | 140,000 | 980 | 1,700 | 2,600 | 3,500 | 3,900 |
| 140,000 | 160,000 | 1,050 | 1,800 | 2,700 | 3,700 | 4,100 |
| 160,000 | 180,000 | 1,050 | 1,850 | 2,800 | 3,800 | 4,300 |
| 180,000 | 200,000 | 1,100 | 1,950 | 2,900 | 4,000 | 4,400 |
| 200,000 | 250,000 | 1,200 | 2,100 | 3,100 | 4,300 | 4,800 |
| 250,000 | 300,000 | 1,250 | 2,200 | 3,300 | 4,600 | 5,000 |
| 300,000 | 350,000 | 1,350 | 2,350 | 3,500 | 4,800 | 5,400 |
| 350,000 | 400,000 | 1,400 | 2,450 | 3,700 | 5,000 | 5,600 |
| 400,000 | 450,000 | 1,450 | 2,500 | 3,800 | 5,200 | 5,800 |
| 450,000 | 500,000 | 1,500 | 2,600 | 4,000 | 5,400 | 6,000 |
| 500,000 | 600,000 | 1,600 | 2,800 | 4,200 | 5,800 | 6,400 |
| 600,000 | 700,000 | 1,700 | 2,900 | 4,400 | 6,000 | 6,800 |
| 700,000 | 800,000 | 1,750 | 3,100 | 4,600 | 6,400 | 7,000 |
| 800,000 | 900,000 | 1,850 | 3,200 | 4,800 | 6,600 | 7,400 |

TABLE B–5.—*Distances to protect Against hard rock debris*

| Weight, pounds | | $D_{td}/f_d$, feet (hard rock), for $C/W^{1/2}$= | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Over | Not over | 0.30 | 0.50 | 0.70 | 0.90 | .110 | 1.60 | 2.60 | 2.60 $ft/lb^{1/3}$ |
| 0 | 1,000 | 160 | 180 | 200 | 205 | 195 | 145 | 92 | 54 |
| 1,000 | 1,200 | 170 | 195 | 215 | 220 | 210 | 155 | 98 | 58 |
| 1,200 | 1,400 | 185 | 210 | 230 | 235 | 225 | 165 | 105 | 62 |
| 1,400 | 1,600 | 195 | 220 | 240 | 250 | 240 | 175 | 110 | 66 |
| 1,600 | 1,800 | 205 | 230 | 250 | 260 | 250 | 180 | 115 | 70 |
| 1,800 | 2,000 | 210 | 240 | 260 | 270 | 260 | 190 | 120 | 72 |
| 2,000 | 2,500 | 230 | 260 | 290 | 300 | 290 | 210 | 135 | 80 |
| 2,500 | 3,000 | 250 | 290 | 310 | 320 | 310 | 225 | 145 | 86 |
| 3,000 | 3,500 | 270 | 300 | 330 | 340 | 330 | 240 | 155 | 90 |
| 3,500 | 4,000 | 280 | 320 | 350 | 360 | 350 | 250 | 160 | 96 |
| 4,000 | 4,500 | 300 | 340 | 370 | 380 | 360 | 260 | 170 | 100 |
| 4,500 | 5,000 | 310 | 350 | 380 | 400 | 380 | 280 | 175 | 105 |
| 5,000 | 6,000 | 330 | 380 | 410 | 430 | 410 | 300 | 190 | 115 |
| 6,000 | 7,000 | 350 | 400 | 440 | 460 | 440 | 320 | 205 | 120 |
| 7,000 | 8,000 | 370 | 430 | 470 | 480 | 460 | 330 | 215 | 125 |
| 8,000 | 9,000 | 390 | 450 | 490 | 500 | 480 | 350 | 225 | 135 |
| 9,000 | 10,000 | 410 | 470 | 520 | 520 | 500 | 370 | 235 | 140 |
| 10,000 | 12,000 | 440 | 500 | 560 | 560 | 540 | 400 | 250 | 150 |
| 12,000 | 14,000 | 470 | 450 | 580 | 600 | 580 | 420 | 270 | 160 |
| 14,000 | 16,000 | 500 | 560 | 620 | 640 | 620 | 440 | 290 | 170 |
| 16,000 | 18,000 | 520 | 600 | 640 | 680 | 640 | 470 | 300 | 180 |
| 18,000 | 20,000 | 540 | 620 | 680 | 700 | 680 | 490 | 310 | 185 |
| 20,000 | 25,000 | 600 | 680 | 740 | 760 | 740 | 540 | 340 | 205 |
| 25,000 | 30,000 | 640 | 740 | 800 | 820 | 800 | 580 | 370 | 220 |
| 30,000 | 35,000 | 680 | 780 | 860 | 880 | 840 | 620 | 390 | 235 |
| 35,000 | 40,000 | 720 | 820 | 900 | 940 | 900 | 640 | 420 | 245 |
| 40,000 | 45,000 | 760 | 860 | 940 | 980 | 940 | 680 | 440 | 260 |
| 45,000 | 50,000 | 800 | 900 | 980 | 1,000 | 980 | 700 | 460 | 270 |
| 50,000 | 60,000 | 860 | 980 | 1,050 | 1,100 | 1,050 | 760 | 490 | 290 |
| 60,000 | 70,000 | 920 | 1,050 | 1,150 | 1,150 | 1,100 | 820 | 520 | 310 |
| 70,000 | 80,000 | 960 | 1,100 | 1,200 | 1,250 | 1,200 | 860 | 560 | 330 |
| 80,000 | 90,000 | 1,000 | 1,150 | 1,250 | 1,300 | 1,250 | 900 | 580 | 340 |
| 90,000 | 100,000 | 1,050 | 1,200 | 1,300 | 1,350 | 1,300 | 940 | 600 | 360 |
| 100,000 | 120,000 | 1,150 | 1,300 | 1,400 | 1,450 | 1,400 | 1,000 | 660 | 390 |
| 120,000 | 140,000 | 1,200 | 1,400 | 1,500 | 1,550 | 1,500 | 1,100 | 700 | 410 |
| 140,000 | 160,000 | 1,300 | 1,450 | 1,600 | 1,650 | 1,600 | 1,150 | 740 | 440 |
| 160,000 | 180,000 | 1,350 | 1,550 | 1,650 | 1,750 | 1,650 | 1,200 | 780 | 460 |
| 180,000 | 200,000 | 1,400 | 1,600 | 1,750 | 1,800 | 1,750 | 1,250 | 800 | 480 |
| 200,000 | 250,000 | 1,550 | 1,750 | 1,900 | 2,000 | 1,900 | 1,350 | 880 | 520 |
| 250,000 | 300,000 | 1,650 | 1,900 | 2,050 | 2,150 | 2,050 | 1,500 | 960 | 560 |
| 300,000 | 350,000 | 1,750 | 2,000 | 2,200 | 2,250 | 2,200 | 1,600 | 1,000 | 600 |
| 350,000 | 400,000 | 1,850 | 2,100 | 2,300 | 2,400 | 2,300 | 1,650 | 1,050 | 640 |
| 400,000 | 450,000 | 1,950 | 2,200 | 2,450 | 2,500 | 2,400 | 1,750 | 1,100 | 660 |
| 450,000 | 500,000 | 2,050 | 2,300 | 2,500 | 2,600 | 2,500 | 1,800 | 1,150 | 700 |
| 500,000 | 600,000 | 2,200 | 2,500 | 2,700 | 2,800 | 2,700 | 1,950 | 1,250 | 740 |
| 600,000 | 700,000 | 2,350 | 2,700 | 2,900 | 3,000 | 2,900 | 2,100 | 1,350 | 800 |
| 700,000 | 800,000 | 2,450 | 2,800 | 3,100 | 3,200 | 3,100 | 2,200 | 1,400 | 840 |
| 800,000 | 900,000 | 2,600 | 3,000 | 3,200 | 3,300 | 3,200 | 2,300 | 1,500 | 880 |

TABLE B–6.—*Distances to protect against soft rock debris*

| Weight, pounds | | $D_{ia}/f_d$, foot (soft rock), for $C/W^{1/3}$= | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Over | Not over | 0.20 | 0.60 | 0.75 | 0.90 | 1.00 | 1.50 | 1.75 | 2.00 ft/lb$^{1/3}$ |
| 0 | 1,000 | 155 | 200 | 205 | 200 | 185 | 92 | 64 | 48 |
| 1,000 | 1,200 | 165 | 215 | 220 | 215 | 200 | 98 | 70 | 52 |
| 1,200 | 1,400 | 175 | 230 | 235 | 230 | 215 | 105 | 74 | 54 |
| 1,400 | 1,600 | 185 | 245 | 250 | 245 | 225 | 110 | 78 | 58 |
| 1,600 | 1,800 | 195 | 260 | 260 | 260 | 240 | 115 | 82 | 60 |
| 1,800 | 2,000 | 205 | 270 | 270 | 270 | 250 | 120 | 86 | 64 |
| 2,000 | 2,500 | 225 | 290 | 300 | 290 | 270 | 135 | 94 | 70 |
| 2,500 | 3,000 | 240 | 310 | 320 | 310 | 290 | 145 | 100 | 74 |
| 3,000 | 3,500 | 260 | 330 | 340 | 330 | 310 | 155 | 110 | 80 |
| 3,500 | 4,000 | 270 | 350 | 360 | 350 | 330 | 160 | 115 | 84 |
| 4,000 | 4,500 | 290 | 370 | 380 | 370 | 350 | 170 | 120 | 88 |
| 4,500 | 5,000 | 300 | 390 | 400 | 390 | 360 | 175 | 125 | 92 |
| 5,000 | 6,000 | 320 | 420 | 430 | 420 | 390 | 190 | 135 | 100 |
| 6,000 | 7,000 | 340 | 450 | 460 | 450 | 410 | 205 | 145 | 105 |
| 7,000 | 8,000 | 360 | 470 | 480 | 470 | 440 | 215 | 150 | 110 |
| 8,000 | 9,000 | 380 | 490 | 500 | 490 | 460 | 225 | 160 | 115 |
| 9,000 | 10,000 | 400 | 520 | 520 | 520 | 480 | 235 | 165 | 120 |
| 10,000 | 12,000 | 430 | 560 | 560 | 560 | 520 | 250 | 180 | 130 |
| 12,000 | 14,000 | 460 | 600 | 600 | 600 | 560 | 270 | 190 | 140 |
| 14,000 | 16,000 | 480 | 620 | 640 | 620 | 580 | 290 | 200 | 150 |
| 16,000 | 18,000 | 500 | 660 | 680 | 660 | 620 | 300 | 210 | 155 |
| 18,000 | 20,000 | 520 | 680 | 700 | 680 | 640 | 310 | 220 | 160 |
| 20,000 | 25,000 | 580 | 740 | 760 | 740 | 700 | 340 | 240 | 180 |
| 25,000 | 30,000 | 620 | 800 | 820 | 800 | 760 | 370 | 260 | 190 |
| 30,000 | 35,000 | 660 | 860 | 880 | 860 | 800 | 390 | 280 | 205 |
| 35,000 | 40,000 | 700 | 900 | 940 | 900 | 840 | 420 | 290 | 215 |
| 40,000 | 45,000 | 740 | 960 | 980 | 960 | 880 | 440 | 310 | 225 |
| 45,000 | 50,000 | 760 | 1,000 | 1,000 | 1,000 | 920 | 460 | 320 | 235 |
| 50,000 | 60,000 | 820 | 1,050 | 1,100 | 1,050 | 1,000 | 490 | 350 | 250 |
| 60,000 | 70,000 | 880 | 1,150 | 1,150 | 1,150 | 1,050 | 520 | 370 | 270 |
| 70,000 | 80,000 | 940 | 1,200 | 1,250 | 1,200 | 1,150 | 560 | 390 | 290 |
| 80,000 | 90,000 | 980 | 1,250 | 1,300 | 1,250 | 1,200 | 580 | 410 | 300 |
| 90,000 | 100,000 | 1,000 | 1,300 | 1,350 | 1,300 | 1,250 | 600 | 430 | 310 |
| 100,000 | 120,000 | 1,100 | 1,450 | 1,450 | 1,450 | 1,350 | 660 | 460 | 340 |
| 120,000 | 140,000 | 1,150 | 1,500 | 1,550 | 1,500 | 1,400 | 700 | 490 | 360 |
| 140,000 | 160,000 | 1,250 | 1,600 | 1,650 | 1,600 | 1,500 | 740 | 520 | 380 |
| 160,000 | 180,000 | 1,300 | 1,700 | 1,750 | 1,700 | 1,550 | 780 | 540 | 400 |
| 180,000 | 200,000 | 1,350 | 1,750 | 1,800 | 1,750 | 1,650 | 800 | 560 | 420 |
| 200,000 | 250,000 | 1,500 | 1,950 | 2,000 | 1,950 | 1,800 | 880 | 620 | 460 |
| 250,000 | 300,000 | 1,600 | 2,100 | 2,150 | 2,100 | 1,950 | 960 | 660 | 490 |
| 300,000 | 350,000 | 1,700 | 2,200 | 2,250 | 2,200 | 2,050 | 1,000 | 720 | 520 |
| 350,000 | 400,000 | 1,800 | 2,350 | 2,400 | 2,350 | 2,200 | 1,050 | 760 | 560 |
| 400,000 | 450,000 | 1,900 | 2,450 | 2,500 | 2,450 | 2,300 | 1,100 | 780 | 580 |
| 450,000 | 500,000 | 2,000 | 2,600 | 2,600 | 2,600 | 2,400 | 1,150 | 820 | 600 |
| 500,000 | 600,000 | 2,150 | 2,800 | 2,800 | 2,800 | 2,600 | 1,250 | 880 | 660 |
| 600,000 | 700,000 | 2,250 | 2,900 | 3,000 | 2,900 | 2,700 | 1,350 | 940 | 700 |
| 700,000 | 800,000 | 2,400 | 3,100 | 3,200 | 3,100 | 2,900 | 1,400 | 1,000 | 740 |
| 800,000 | 900,000 | 2,500 | 3,300 | 3,300 | 3,300 | 3,000 | 1,500 | 1,050 | 780 |

TABLE B–7.—*Functions of loading density*

| w, pcf | $f_s$ | $f_d$ |
|---|---|---|
| | $0.267w^{-.30}$ | $0.600w^{-.15}$ |
| 1.0 | 0.27 | 0.60 |
| 1.2 | .28 | .62 |
| 1.4 | .29 | .64 |
| 1.6 | .31 | .65 |
| 1.8 | .32 | .67 |
| 2.0 | .33 | .68 |
| 2.5 | .35 | .71 |
| 3.0 | .37 | .73 |
| 3.5 | .39 | .75 |
| 4.0 | .40 | .77 |
| 4.5 | .42 | .79 |
| 5.0 | .43 | .80 |
| 6.0 | .46 | .83 |
| 7.0 | .48 | .85 |
| 8.0 | .50 | .87 |
| 9.0 | .52 | .89 |
| 10.0 | .53 | .91 |
| 12.0 | .56 | .94 |
| 14.0 | .59 | .96 |
| 16.0 | .61 | .99 |
| 18.0 | .63 | 1.01 |
| 20.0 | .66 | 1.03 |
| 25.0 | .70 | 1.07 |
| 30.0 | .74 | 1.11 |
| 35.0 | .77 | 1.14 |
| 40.0 | .81 | 1.17 |
| 45.0 | .84 | 1.19 |
| 50.0 | .86 | 1.21 |
| 60.0 | .91 | 1.25 |
| 70.0 | .95 | 1.29 |
| 80.0 | .99 | 1.32 |
| 90.0 | 1.03 | 1.35 |
| 100.0 | 1.06 | 1.37 |

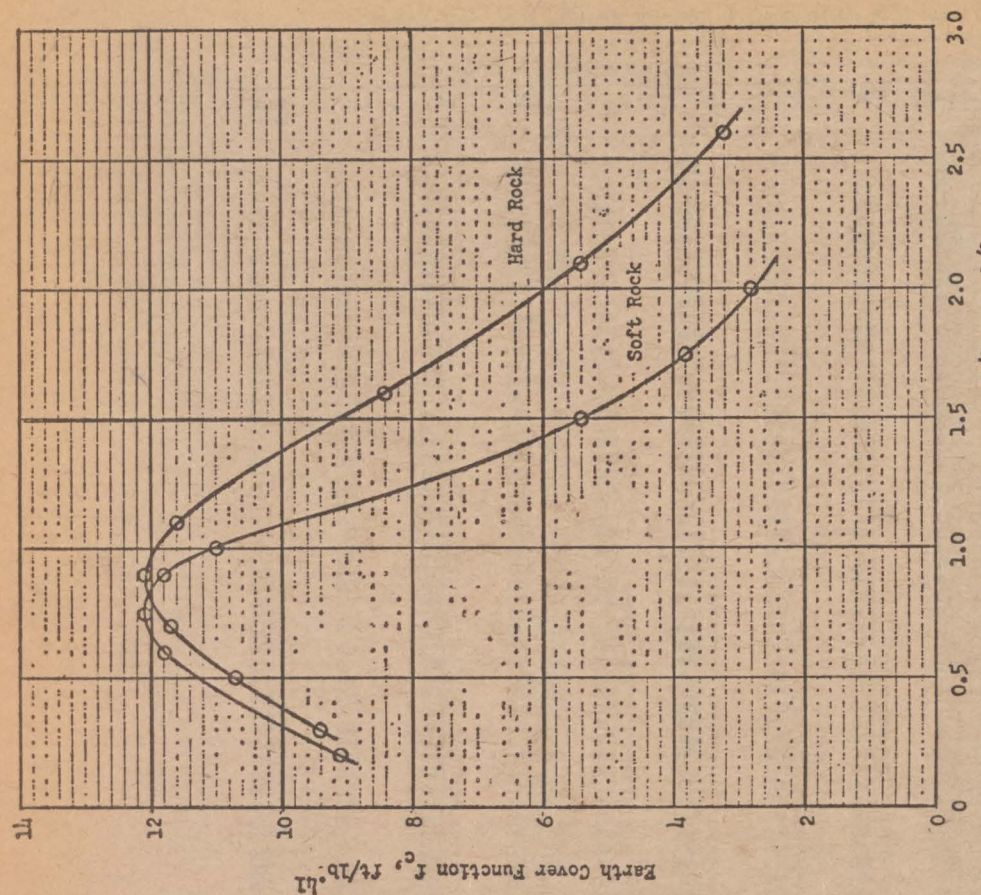



Figure B-2--Debris Dispersal Functions

[FR Doc.76-31138 Filed 10-22-76;8:45 am]

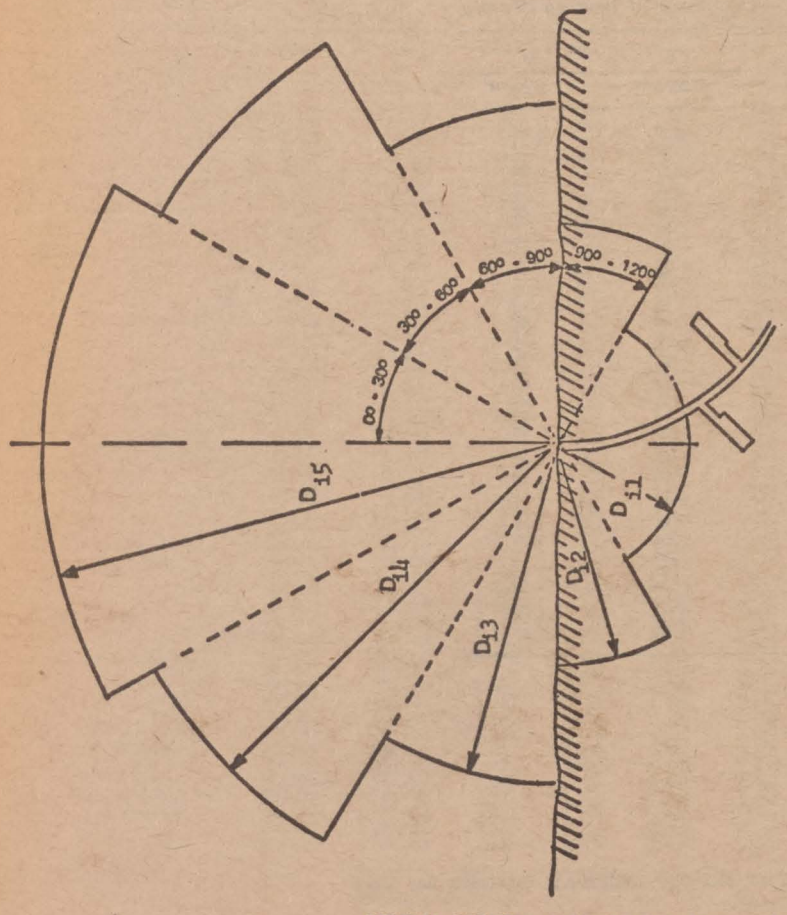



Figure B-1--Blast Protection Sectors For Inhabited Areas

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### [ 50 CFR Part 21 ]

### INTERIM FALCONRY RULES

### Proposed Extension

On January 15, 1976, the U.S. Fish and Wildlife Service published a notice of final rulemaking with respect to Part 21 of Chapter I, Title 50, Code of Federal Regulations (41 FR 2237). The rulemaking established Federal standards for State laws and regulations relating to falconry and gave individual States until December 31, 1976, to obtain Service approval of their laws and regulations. The notice stated that interim Federal rules would remain in effect until that date.

State wildlife agencies have requested an extension of the interim rules. The period between publication of the Federal standards and the effective date of those standards does not provide a sufficient opportunity for the majority of States to enact laws and regulations to comply with the standards. The Service has concluded that these requests are reasonable and deems it to be in the public interest to allow those States until December 31, 1977, to meet Federal rules.

Accordingly, it is hereby proposed to postpone implementation of the new regulations for 12 months, to December 31, 1977, and to allow the interim rules to remain in effect until that time. States are encouraged to comply with the Federal standards before December 31, 1977. Those States which are in compliance before the effective date of these proposed regulations will be listed in § 21.29 (k) of this subchapter.

* * * * *

Therefore it is proposed to revise § 21.28(b) as follows:

**§ 21.28 Falconry permits.**

(b) *Interim rules.* The rules contained in this paragraph shall apply to all States not listed in § 21.29(k), until December 31, 1977. The practice of falconry in States which are listed in § 21.29(k) shall be governed by §§ 21.28, as amended and 21.29.

Interested persons are invited to participate in this rulemaking by submitting written comments to the Director, U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. The Service will attempt to acknowledge receipt of all comments, and all written communications received on or before November 26, 1976, will be considered by the Service before final rulemaking activity is initiated. Comments received will be available for public inspection between 7:45 a.m. and 4:15 p.m., Monday through Friday, in Suite 600 of the Service office at 1612 K Street, NW, Washington, D.C.

Date: October 14, 1976.

LYNN A. GREENWALT,
*Director,*
*U.S. Fish and Wildlife Service.*

[FR Doc.76-31219 Filed 10-22-76;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### [ 7 CFR Part 250 ]

### COMMODITIES FOR DISASTER FEEDING

### Withdrawal of Notice of Proposed Rulemaking

The purpose of this proposal is to withdraw notice of proposed rulemaking (41 FR 23719) in which the USDA solicited comments on the proposed changes in the regulations for the operation of the food donation program (31 FR 14297), as amended, which would remove responsibility for disaster feeding from the USDA except in situations where USDA was so directed by the Federal Disaster Assistance Administration.

A number of comments were received in response to the proposed revisions, all but two of which were either opposed to the issuance of the proposed regulations or to significant portions thereof.

Of special concern were objections received from disaster relief agencies which indicated that continued access to USDA-donated foods was important to the fulfillment of their responsibility to provide assistance through mass feeding to disaster victims. The agencies stressed the importance of USDA-donated foods being freely available without regard to a Presidential declaration of a major disaster or emergency.

In view of the foregoing, the USDA has determined that these objections have merit: accordingly, the proposal published in the FEDERAL REGISTER (41 FR 23719) on June 11, 1976, and circulated as "Commodities for Disaster Feeding," is hereby withdrawn.

(Catalog of Federal Domestic Assistance Program No. 10,550, National Archives Reference Section.)

Dated: October 19, 1976.

JOHN DAMGARD,
*Assistant Secretary.*

[FR Doc.76-31212 Filed 10-22-76;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### [ 21 CFR Part 18 ]

[Docket No. 76N-0176]

### MILK

### Standards of Identity for Lowfat and Skim Milk; Use of Stabilizers and Emulsifiers

The Food and Drug Administration is proposing to amend the standards of identity for lowfat milk and skim milk to provide for the optional use of safe and suitable stabilizers to increase the viscosity of the food, with or without added emulsifiers, and to provide for definitions for the terms "nonfat milk solids" and "nonfat milk-derived solids"; comments by December 27, 1976.

The proposed amendments to §§ 18.1, 18.10, and 18.20 (21 CFR 18.1, 18.10, and 18.20) would (1) allow the use of safe and suitable stabilizers to increase the viscosity of the food, with or without emulsifiers to retard foam formation when the stabilizer is added, in a maximum amount of 0.25 percent of the weight of the finished food; (2) provide for use of the phrase "with added thickeners" in the name of food ingredients when these are used to increase viscosity; and (3) discontinue use of the term "protein fortified" when the food contains not less than 10 percent nonfat milk solids or other nonfat milk-derived solids.

The Commissioner of Food and Drugs issued, in the FEDERAL REGISTER of October 10, 1973 (38 FR 27924), a regulation that, among other things, limited the use of stabilizers and emulsifiers to those instances where milk-derived ingredients are added to increase the nonfat milk solids content above the minimum 8.25 percent.

Eight objections were filed regarding the limited use of stabilizers and emulsifiers. The objections stated that stabilizers and emulsifiers are more economical than nonfat milk-derived solids and that they produce a product of comparable nutrition and palatability. They further stated that proper labeling would preclude any deception and suggested that the phrase "with added stabilizers and/or emulsifiers" accompany the name of the food.

The Commissioner recognized that substantial issues of fact had been raised by the objections. In a document published in the FEDERAL REGISTER of December 5, 1974 (39 FR 42351), the Commissioner discussed the issues and stayed the portions of §§ 18.10(c)(3) and 18.20(c)(3) which limit use of stabilizers and emulsifiers, pending a public hearing.

After further consideration of the facts presented in the objections, the Commissioner is proposing to amend the standards of identity for lowfat milk and skim milk to permit the use of stabilizers to increase viscosity with or without emulsifiers in a maximum amount of 0.25 percent of the weight of the finished food. The Commissioner believes that consumer deception can be avoided with suitable informative labeling. The labeling would have to enable the consumer to distinguish between lowfat and skim milk to which stabilizers have been added in order to increase viscosity and those fabricated in the traditional manner. Since lowfat milk and skim milk bear nutrition labeling, consumers would be able to evaluate and compare the nutritional value of lowfat or skim milk with and without added stabilizers. Thus, the presence of nutritional labeling together with the distinctive and informative name of the food should prevent consumer deception about the quality of lowfat and skim milk to which stabilizers have been added.

The objections to the stayed regulations suggested inclusion of the phrase "with added stabilizers and/or emulsifiers" in the name of the food to indicate the nature of food to which viscosity-increasing ingredients have been added. The Commissioner proposes instead to use the terminology "with added thickeners" in the name because it would provide a better and more accurate indica-

tion of the function the added ingredient performs.

The Commissioner requests comments from consumers, manufacturers, producers, and other interested persons on the following specific points: (1) Whether the use of stabilizers with or without emulsifiers in a specified amount, without added nonfat milk solids or other nonfat milk-derived solids, should be allowed; and (2) whether the proposed labeling will adequately inform the consumer about ingredient differences in products with similar physical characteristics.

The proposed regulations would, if adopted, replace the stayed portions of §§ 18.10(c)(3) and 18.20(c)(3), thereby eliminating the necessity for holding a public hearing on the issues raised by the objections.

The Commissioner is further proposing to amend §§ 18.10(e)(1) and 18.20 (e)(1) by deleting the phrases "protein fortified" or "fortified with protein." This will eliminate the inconsistency between the use of the term "fortified" in the milk standards and the proposed definition of "fortified" in § 100.1 (21 CFR 100.1), published in the FEDERAL REGISTER of June 14, 1974 (39 FR 20900). Historically, the dairy industry has used the term "fortified" when nonfat milk solids or other nonfat milk-derived solids were added to lowfat milk and skim milk. The current standard allows use of this term when such solids equivalent to 1.75 percent or more of the final food are added. This is not consistent with proposed § 100.1, which permits use of "fortified" in connection with added vitamins, minerals or proteins that are not naturally present in the food.

The Commissioner is also proposing definitions for the terms "nonfat milk solids" and "nonfat milk-derived solids" to clarify their meaning as used in the standards of identity for foods under 21 CFR Part 18.

If the proposal is adopted, the Commissioner intends that all products initially introduced into interstate commerce on or after January 1, 1978 shall comply with the regulation, except as to any provisions that may be stayed by the filing of proper objections.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 6.1(d)(4) (21 CFR 6.1(d)(4)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this amendment. The Commissioner has also considered the inflation impact of this proposed regulation and has found that the proposal, if adopted, would not cause a major inflation impact as defined in Executive Order 11821, OMB Circular A-107, and Guidelines issued by the Department of Health, Education, and Welfare. Copies of the FDA inflation impact assessment are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), it is proposed that Part 18 be amended as follows:

1. In § 18.1 by adding new paragraphs (d) and (e) to read as follows:

**§ 18.1 Definitions.**

* * * * *

(d) "Nonfat milk solids" means those solids obtained from skim milk, concentrated skim milk, reconstituted skim milk or nonfat dry milk.

(e) "Nonfat milk-derived solids" means, in addition to those nonfat milk solids described in paragraph (d) of this section, all safe and suitable nonfat milk solids derived from milk; these sources include, but are not limited to, buttermilk, whey, casein, salts of casein, lactose, milk proteins (coprecipitates of casein, lactalbumins, and lactoglobulins), and whey modified by partial or complete removal of lactose or minerals or both.

2. In § 18.10 by revising paragraphs (c) (3) and (e)(1)(iv) and adding new paragraph (e)(1)(v) and (vi) to read as follows:

**§ 18.10 Lowfat milk; identity.**

* * * * *

(c) * * *

(3) Stabilizers with or without emulsifiers may be used as follows:

(i) In a maximum amount of 0.25 percent of the weight of the finished food when none of the optional ingredients specified in paragraph (c)(2) of this section are added, and when the stabilizers are used as thickening agents and the emulsifiers are used to enhance the function of the stabilizers.

(ii) In a maximum amount of 2 percent of the weight of any added nonfat milk solids or nonfat milk-derived solids as provided for in paragraph (c)(2) of this section.

* * * * *

(e) * * *

(1) * * *

(iv) The phrase "with added _____", the blank being filled in with the term "nonfat milk solids" when concentrated skim milk or nonfat dry milk is used singly or in combination, or with the specific name(s) of the ingredient(s) used.

(v) The phrase "with added _____", the blank being filled in with either of the following: The term "nonfat milk-derived solids" when concentrated skim milk or nonfat dry milk is used in combination with nonfat solids from other milk-derived ingredients, e.g., lactose, casein, caseinates, whey, etc., or when only nonfat solids from milk-derived ingredients other than concentrated skim milk or nonfat dry milk are used; or alternatively by the common or usual name of the ingredient(s) used.

(vi) The phrase "with added thickeners" when stabilizers are added to increase the viscosity of the food with or without the aid of emulsifiers.

* * * * *

3. In § 18.20 by revising paragraphs (c)(3) and (e)(1)(iii) and by adding new paragraph (e)(1)(iv) and (v) to read as follows:

**§ 18.20 Skim milk; identity.**

* * * * *

(c) * *

(3) Stabilizers with or without emulsifiers may be used as follows:

(i) In a maximum amount of 0.25 percent of the weight of the finished food when none of the optional ingredients specified in paragraph (c)(2) of this section are added, and when the stabilizers are used as thickening agents and the emulsifiers are used to enhance the function of the stabilizers.

(ii) In a maximum amount of 2 percent of the total weight of any added nonfat milk solids or nonfat milk-derived solids as provided for in paragraph (c)(2) of this section.

* * * * *

(e) * * *

(1) * * *

(iii) The phrase "with added _____", the blank being filled in with the term "nonfat milk solids" when concentrated skim milk or nonfat dry milk is used singly or in combination, or with the specific name(s) of the ingredient(s) used.

(iv) The phrase "with added _____", the blank being filled in with either of the following: The term "nonfat milk-derived solids" when concentrated skim milk or nonfat dry milk is used in combination with nonfat solids from other milk-derived ingredients, e.g., lactose, casein, caseinates, whey, etc., or when only nonfat solids from milk-derived ingredients other than concentrated skim milk or nonfat dry milk are used; or alternatively by the common or usual name of the ingredient(s) used.

(v) The phrase "with added thickeners" are added to increase the viscosity of the food with or without the aid of emulsifiers.

* * * * *

Interested persons may, on or before December 27, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 8, 1976.

HOWARD R. ROBERTS,
*Acting Rirector,*
*Bureau of Foods.*

[FR Doc.76-31203 Filed 10-22-76;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Part 71 ]

[Airspace Docket 76-RM-25]

### ALTERATION OF CONTROLLED AIRSPACE

### Glasgow, Montana [1]

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would delete the Glasgow Montana (Glasgow AFB), control zone and alter the Glasgow, Montana, transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received on or before November 22, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

The Glasgow Air Force Base, Glasgow, Montana, has been closed and the associated Cherry Creek TACAN has been decommissioned. This action has voided the requirement for controlled airspace surrounding what formerly was the Air Force Base. The decommissioning of the TACAN also makes it necessary to redescribe controlled airspace associated with instrument approach procedures and holding patterns for Glasgow International Airport with reference to the Glasgow VOR in lieu of the Cherry Creek TACAN.

In consideration of the foregoing, the FAA proposes the following airspace action:

§ 71.171 [Amended]

In § 71.171 (41 FR 355) delete the control zone description for Glasgow, Montana (Glasgow AFB).

§ 71.181 [Amended]

In § 71.181 (41 FR 440) amend the description of the Glasgow, Montana, transition area to read as follows:

That airspace extending upward from 700 feet above the surface within a 9 mile radius of Glasgow International Airport (latitude 48°12'50" N., longitude 106°37'10" W.), and that airspace extending upward from 1,200 feet above the surface within 11 miles southwest and 12 miles northeast of the Glasgow VOR 126° radial, extending from the VOR to 22½ miles southeast of the VOR; within 11 miles southwest and 12 miles northeast of the Glasgow VOR 306° radial, extending from the VOR to 11 miles northwest of the VOR; within 12 miles southwest and 7½ miles northeast of the Glasgow VOR 326° radial extending from the VOR to 22½ miles northwest of the VOR.

Issued in Aurora, Colorado, on October 15, 1976.

M. M. MARTIN,
*Director, Rocky Mountain Region.*

[FR Doc.76-30988 Filed 10-22-76;8:45 am]

[1] Map filed as part of original.

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### [ 14 CFR Parts 71, 91 ]

[Docket No. 16220; Notice No. 76-20]

### OPERATIONS REVIEW PROGRAM

### Proposed Airspace, Air Traffic and General Operating Rules

The Federal Aviation Administration is considering amending Parts 71 and 91 of the Federal Aviation Regulations by removing all provisions for designating Group III TCAs, by removing the 200 knot restriction from terminal control areas, and by making other editorial and clarifying changes.

Interested persons are invited to participate in this proposed rule making by submitting such written data, views, or arguments as they may desire. Comments relating to any significant environmental, energy or economic impact that might result because of the adoption of the proposals contained herein may also be submitted. Comments should identify the Regulatory Docket or Notice Number and be submitted in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communication received on or before January 24, 1977, will be considered by the Administrator before taking action on the proposed rules. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons.

Any person may obtain a copy of this notice of proposed rule making (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 procedure.

On February 28, 1975, the Federal Aviation Administration, by Notice 75-9 (40 FR 8685), invited all interested persons to submit proposals for consideration during the 1975-76 Operations Review. In that Notice, the FAA announced that it would make available for comment a compilation of the proposals which were to be given further consideration as possible agenda items for the Operations Review Conference (December 1-5, 1975). Various Parts of the Federal Aviation Regulations (FARs) were included within the scope of the First Biennial Operations Review. Part 71—Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points—is also included in this notice since it is directly related to a proposed change in one of the FAR Parts listed in Notice 75-9.

On June 4, 1975, the FAA, by Notice 75-9A (40 FR 24041), published a compilation of the proposals that would be considered as possible agenda items for the Operations Review Conference. Included in the compilation were proposals to add the number of persons on board domestic as well as international flights to required flight plan information, runway selection by pilot in the interest of safety, and removal of Group III and 200 knot restriction from terminal control areas (TCAs).

After an evaluation of the comments submitted in response to Notice 75-9A as well as the comments of the participants at the Operations Review Conference, the FAA determined that a number of the proposals were adequately justified to serve as the basis for this notice of proposed rule making.

For convenience, each proposal in this notice is numbered separately. The FAA requests that interested persons, when submitting comments, refer to proposals by these numbers, or by the sections to which they relate. Each proposal also contains a reference to the Operations Review Program proposal number and section, if any, to which that proposal relates. Comments on this notice should not refer to the Operations Review Program proposal numbers or section numbers without also referring to the corresponding proposal numbers as set forth in this notice. Each proposal in this notice is followed by an explanation.

The rules proposed herein have been reviewed in accordance with Executive Order 11821, titled "Inflationary Impact Statements," (39 FR 41501, November 29, 1974), and it has been determined that the preparation of an inflationary impact statement is not necessary.

These amendments are proposed under the authority of sections 307, 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), and 1421) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Parts 71 and 91 of the Federal Aviation Regulations, as follows:

§ 71.12 [Amended]

1. By amending § 71.12 by deleting the words "group II, or group III" and inserting the words "or group II" in place thereof.

EXPLANATION

The elimination of the Group III TCA "designator" and deletion of § 91.90(c) as proposed in this notice requires a concomitant change in § 71.12.

REF.

Proposal No. 253; § 91.90; Committee 5; Agenda Item E.

2. By amending paragraph (b)(1) of § 91.1 to read as follows:

**§ 91.1 Applicability.**

(b) * * *

(1) When over the high seas, comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation and § 91.90 of Subpart B;

* * * * *

EXPLANATION

The elimination of § 91.70(c) as proposed in this notice requires that a concomitant change be made in § 91.1.

REF.

Proposal No. 253; § 91.90; Committee 5; Agenda Item E.

3. By revising § 91.24 (a) and (b) to read as follows:

**§ 91.24 ATC transponder and automatic pressure altitude reporting equipment.**

(a) *All airspace: U.S. registered civil aircraft.* For operations not conducted under Parts 121, 123, 127, and 135 of this chapter, ATC transponder equipment used in U.S. registered civil aircraft must meet the performance and environmental requirements of any class of TSO–C74b or any class of TSO–C74c as appropriate, except that the Administrator may approve the use of TSO–C74 or TSO–C74a equipment if the applicant submits data showing that such equipment meets the minimum performance standards of the appropriate class of TSO–C74c and environmental conditions of the TSO under which it was manufactured.

(b) *Controlled airspace: All aircraft.* Except for persons operating helicopters in terminal control areas at or below 1,000 feet AGL under the terms of a letter of agreement, and except for persons operating gliders above 12,500 feet MSL but below the floor of the positive control area, no person may operate an aircraft in controlled airspace unless that aircraft is equipped with an operable coded radar beacon transponder having a Mode 3/A 4096 code capability, replying to Mode 3/A interrogation with the code specified by ATC, and is equipped with automatic pressure altitude reporting equipment having a Mode C capability that automatically replies to Mode C interrogations by transmitting pressure altitude information in 100-foot increments. This requirement applies to—

(1) Group I and Group II Terminal Control Areas covered by § 91.90, except as provided therein; and

(2) All controlled airspace, of the 48 contiguous states and the District of Columbia, above 12,500 feet MSL, excluding the airspace at and below 2,500 feet AGL.

* * * * *

EXPLANATION

The proposed revision of § 91.24 (a) and (b) was promulgated in Notice No. 75–39 on December 8, 1975 (40 FR 57342). That revision was proposed in order to remove obsolete compliance dates. The revison to § 91.24, as stated in Notice No. 75–39, is withdrawn and replaced by this proposal. Persons wishing to comment on § 91.24 should now address their comments to this proposal.

Additionally, it is proposed that reference to "Group III" TCAs be deleted in order that § 91.24 be consistent with the proposed changes to § 91.90 contained in this notice.

REF.

Proposed No. 253; 91.90; Committee 5; Agenda Item E.

**§ 91.70 [Amended]**

4. By amending § 91.70 by revoking paragraph (c) immediately preceding the flush paragraph.

EXPLANATION

Paragraph 91.70(c) currently contains the requirement that an indicated airspeed of 200 knots (230 m.p.h.) is required in airspace underlying a terminal control area, or in a VFR corridor through a terminal control area. User groups attending the conference felt that the 250 knot requirement in § 91.70(a) would improve the see-and-avoid environment beneath the lateral limits of the TCA. Comments indicated that reduction to 200 knots in many cases creates additional cockpit workload, increases deck angle, thereby derogating the ability of the flight crew to observe other traffic. The FAA believes that any problems created by the increased speed (of 50 knots) would be more than compensated for by the increased ability of pilots to observe other traffic.

REF.

Proposal Nos. 254 and 255; § 91.90; Committee 5; Agenda Item E.

5. By revising § 91.83(a)(10) to read as follows:

**§ 91.83 Flight plan; information required.**

(a) * * *

(10) Except when a passenger manifest is readily available, the number of persons in the aircraft.

* * * * *

EXPLANATION

Subparagraph 91.83(a)(10) would be amended to apply the requirement that the number of persons in an aircraft be included on flight plans to all flights, and not just to international flights as currently provided. This change would make important information available on all flight plans for search and rescue operations. Furthermore, this change would except flights that utilize center stored flight plans as long as passenger manifests are readily available to interested parties.

REF

Proposal No. 248; § 91.83; Committee 5; Agenda Item D.

6. By revising the second sentence of § 91.87(g) to read as follows:

**§ 91.87 Operation at airports with operating control towers.**

* * * * *

(g) * * * However, each pilot has final authority and responsibility for the safe operation of his airplane and, if he determines that it is required in the interest of safety, another runway may be used upon approval by ATC.

* * * * *

EXPLANATION

The purpose of this proposal is to remove the parenthetical phrase "(air traffic and other conditions permitting)" and revise the second sentence of § 91.87(g) to provide that a pilot may request another runway as long as he feels it is required in the interest of safety.

Since § 91.87(g) deals primarily with the noise abatement runway system, the FAA believes it is necessary to permit a pilot to request another runway when a legitimate reason exists.

REF

Proposal No. 250; § 91.87; Committee 5; Agenda Item F.

**§ 91.90 [Amended]**

7. By amending § 91.90 by revoking paragraph (c).

EXPLANATION

The proposed change in conjunction with the proposed change to § 71.12 would eliminate the present Group III TCAs and regroup II and III into Group II.

Originally proposed as "terminal areas" in Notice 72–12 of April 11, 1972, and designated as "Group III Terminal Control Areas" (TCAs) in Amendment 91–116 of May 25, 1973, none of the 42 locations selected have been implemented as active Group III TCAs. All of these locations are currently designated as Terminal Radar Service Areas (TRSAs).

Accordingly, the FAA proposes to eliminate the "Group III" designator from TCAs and will, as necessity dictates, upgrade these areas as either a Group I or II TCA.

REF.

Proposal No. 253; § 91.90; Committee 5; Agenda Item E.

APPENDIX I COMMITTEE 5 (AIR TRAFFIC RULES)

PROPOSALS DEFERRED

Based upon the discussions at the Operations Review Conference, the FAA has determined that the proposals listed below appear to have sufficient merit to warrant further consideration, but for various reasons they have been deferred for further study or for consideration at a future regulatory review. Included in the reasons for deferral are the following:

1. Based upon careful evaluation, it was determined that the proposal required further study.

2. The proposal is more appropriately considered in conjunction with one or more

of the proposals considered at the Operations Review Conference which will be dealt with in a later notice.

| 14 CFR | Proposal No. | Agenda item | Proponent |
|---|---|---|---|
| 91.75 | 237 | F | Aircraft Owners & Pilots Association. |
| 91.77 | 238 | F | John D. Lyon. |
| 91.83 | 242 | D | Richard L. Taylor and Richard L. Newman. |
| 91.83 | 243 | D | Do. |
| 91.87 | 249 | B-1 | Richard L. Newman. |
| 91.90 | 251 | E | Air Transport Association. |
| 91.90 | 252 | D | Do. |
| 91.107 | 260 | C-3 | Aircraft Owners & Pilots Association. |
| 91.116 | 265 | B-2 | Air Line Pilots Association. |
| 91.117 | 266 | B-2 | Richard H. Shea. |

APPENDIX II COMMITTEE 5 (AIR TRAFFIC RULES)

PROPOSALS WITHDRAWN BY PROPONENT

The proposals listed below were withdrawn by the proponents after the publication of the committee workbooks. The proponent or other interested persons may submit similar proposals in the future.

| 14 CFR | Proposal No. | Agenda item | Proponent |
|---|---|---|---|
| 91.82 | 241 | F | FAA. |
| 91.107 | 261 | C-3 | Air Line Pilots Association. |
| 91.116 | 262 | B-2 | FAA. |
| 91.116 | 263 | B-2 | Do. |
| 91.119 | 267 | B-3 | Do. |
| 91.125 | 271 | B-1 | Do. |

APPENDIX III COMMITTEE 5 (AIR TRAFFIC RULES)

PROPOSALS REMOVED FROM CONSIDERATION

Based on the FAA's review of the discussions at the Operations Review Conference and information submitted by interested persons, the following proposals considered by Committee 5 at the Operations Review Conference are removed from consideration during the First Biennial Operations Review for the reasons listed below:

| 14 CFR | Proposal No. | Agenda item | Proponent |
|---|---|---|---|
| 91.xx | 149 | A | Richard L. Newman. |
| 91.xx | 150 | B-1 | Do. |
| 91.xx | 151 | C-1 | Do. |
| 91.xx | 152 | F | Air Line Pilots Association. |
| 91.70 | 234 | F | Air Traffic Control Association of America. |
| 91.70 | 235 | F | Air Transport Association. |
| 91.79 | 239 | C-2 | Lee Hollaar and Thomas Cabel. |
| 91.79 | 240 | C-2 | National Business Aircraft Association. |
| 91.79 | 240A | C-2 | Pacific Gas & Electric Co. |
| 91.105 | 256 | C-3 | Richard L. Newman. |
| 91.105 | 257 | C-3 | Air Line Pilots Association. |
| 91.107 | 259 | C-3 | National Business Aircraft Association. |
| 91.116 | 264 | B-2 | General Aviation Manufacturers Association. |
| 91.119 | 268 | B-3 | Air Transport Association. |
| 91.119 | 269 | B-3 | Air Taxi & Commercial Pilots Association. |
| 91.125 | 270 | B-1 | Richard L. Newman. |

*Proposal No. 149.* The proposal would have added a new regulation to Part 91 to determine which area an aircraft is operating in when the aircraft is at the boundary plane. The FAA has determined that the proposal would be more restrictive than the provisions of §§ 91.105 and 91.109 that it proposed to replace.

*Proposal No. 150.* The proposal would have added a new regulation to Part 91 by consolidating various Air Traffic Control compliance clearances. The present regulations provide specific information for pilots to comply with Air Traffic Control clearances and the proposed language would clearly create redundant regulatory material. Portions of the proposed language would also create ambiguities not existent in present regulations.

*Proposal No. 151.* The proposal would have added a new regulation to Part 91 to indicate proper position when navigating by ground features. The FAA believes that the proposal is not appropriate as a regulation and if considered at all, should be included in the Airman's Information Manual.

*Proposal No. 152.* The proposal would have added a new regulation to Part 91 pertaining to impoundment of ATC Recordings. The FAA believes that the proposal is not appropriate for regulatory action under Part 91 and that the current directives spell out satisfactory distribution and retention procedures.

*Proposals No. 234 and 235.* These proposals would have excluded flight within a TCA from the 250 knot rule (§ 91.70(a)). The FAA does not believe that the resultant increased speeds would enhance air traffic control procedures in high density terminals.

*Proposal No. 239.* The proponent suggested amending § 91.79(d) to add "lighter-than-air" as an additional category for minimum safe altitudes. The FAA believes that a pilot does not have sufficient control over a lighter-than-air aircraft to safely permit unrestricted operations at altitudes lower than specified in current regulations.

*Proposal No. 240.* The proposal would have added a new paragraph to § 91.79 to include "aerial surveillance" operations. Although these are legitimate operations, the FAA is currently reviewing the entire waiver policy effecting these operations and believes that waivers will permit more flexibility than regulatory action.

*Proposal No. 240A.* The proponent suggested amending § 91.79(c) to increase the minimums when operating near power lines. The FAA concedes that a problem exists and believes that a project in progress pertaining to obstructions, lighting, etc., will have a considerable bearing on alleviating this issue.

*Proposal No. 256.* The proposal would have amended § 91.105(a) by lowering the altitude condition, where noted, from "* * * less than 10,000 feet MSL" to "* * * less than 5,000 feet MSL." The FAA has determined that the existing rule has not shown any derogation of safety and that the proposal could unduly restrict and provide an economic burden on a large segment of the aviation public without providing any appreciable increase in safety.

*Proposal No. 257.* The proposal would amend § 91.105 (c) and (d) by increasing the ceiling to 1,500 feet in lieu of 1,000 feet and also increase visibility from three statute miles to five statute miles. The FAA believes that the existing rule has not derogated safety and is satisfactory in its present form.

*Proposal No. 259.* The proponent suggested that § 91.107(e) be amended to eliminate the phrase "between sunset and sunrise (or in Alaska, when the sun is more than six degrees below the horizon) * * *" and add after the phrase "* * * under Part 61 of this chapter" the words "except where special agreements are in effect." A majority of the commentators did not concur. The FAA believes, in light of the comments, that the proposal could unduly restrict a large segment of the aviation public.

*Proposal No. 264.* The proposal would have added to the end of the first sentence of § 91.116(b) the phrase "* * * Except as provided in § 91.117(b)." The FAA removed the proposal from consideration in light of an outstanding Notice of Proposed Rule Making (Notice No. 72-16) and Proposal No. 266 which has been deferred for additional review.

*Proposal No. 268.* The proposal would have changed the phrase "* * * of five statute miles from the course to be flow * * *" in § 91.119(a)(2)(i) and (ii) to "* * * of five miles from the center of the intended course." The FAA believes that current § 91.119(a)(2)(i) and (ii) are satisfactory and that the proposal would impose air carrier requirements of § 121.657 on non-air carrier operations.

*Proposal No. 269.* The proponent suggested raising the minimum altitude for IFR operations from 1,000 feet to 1,200 feet. Considering the number of nonconcurrences, the FAA believes that consistency is necessary and that no substantial benefit will be derived from the proposal.

*Proposal No. 270.* This proposal would amend § 91.125 by expanding on the position reports and other reports required under IFR. The proposal was basically opposed by the commentators and the FAA has determined that there is insufficient justification for the proposed change.

Issued in Washington, D.C., on October 15, 1976.

GLEN D. TIGNER,
*Acting Director,*
*Air Traffic Service.*

[FR Doc.76-31194 Filed 10-25-76;8:45 am]

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## Federal Highway Administration

## [ 23 CFR Parts 665, 750, 752, and 753 ]

[FHWA Docket No. 76-12]

## DIRECTIONAL SIGN STANDARDS

### Advance Notice of Proposed Rulemaking

The Federal Highway Administration will study the National Standards and regulations governing directional signs and other information systems to determine their effectiveness in making directional information available to the traveling public.

This advance notice of proposed rulemaking is being issued pursuant to the requirements of § 122(b) of the Federal-Aid Highway Act of 1976, Pub. L. 94-280, May 5, 1976, 23 U.S.C. 131(q)(1). This amendment to 23 U.S.C. 131 requires the Secretary of Transportation to restudy the existing National Standards for signs authorized under 23 U.S.C. 131(c)(1) and 131(f). The Secretary is to study these National Standards to assure that the traveling public will continue to receive necessary information about goods and services. The Secretary is also to insure that directional information is carried on signs which are functionally and esthetically compatible with their surroundings. The Secretary is directed to employ the resources of other Federal agencies and departments, including the National Endowment for the Arts, and to consult with private industry and the public in the restudy. This advance notice of proposed rulemaking is being issued to solicit comments from interested individuals, groups, private industry, and public agencies, as an initial step towards complying with 23 U.S.C. 131(q)(1).

Outdoor advertising control legislation has recognized the importance of providing directional information to the traveling public since the outset of the

Federal highway beautification program. Thus, 23 U.S.C. 131 permits the erection of certain types of off right-of-way directional signs and provides for on right-of-way information signs and services. The Federal law specifically allows the States to permit the following types of devices and services along Interstate and Federal-aid primary highways:

1. Off-premise commercial advertising signs located within commercial and industrial areas adjacent to the highway. These signs are governed as to their size, lighting and spacing by a State-Federal agreement, as provided for in 23 U.S.C. 131(d). All States have such an agreement and have laws or regulations designed to carry out this agreement.

2. Directional and official signs adjacent to the highway. These signs are controlled by National Standards setting forth the requirements for the number, type, location and message of signs permitted. The National Standards are found at Subpart B, Part 750, Title 23, Code of Federal Regulations. Official signs are those which are erected by a public agency within its territorial or zoning jurisdiction, for the purpose of carrying out an official duty or responsibility. Directional signs are signs limited to a maximum size of 150 sq. ft. giving directional information about natural phenomena, historic, cultural, scientific, educational and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation. Qualifying activities must be of outstanding interest to the traveling public, nationally or regionally known and meet State selection criteria.

3. On property signs. These signs advertise an activity conducted on the property on which they are located. General controls regarding these signs are set forth at 23 CFR 750.709.

4. On right-of-way information signs (logos). These signs are controlled as to size, spacing, location, message content, and general physical characteristics by Subpart C, Part 655, Title 23, Code of Federal Regulations. Logos are official signs erected on the right-of-way, whose message content is limited to information pertaining to gas, food, lodging and camping. Brand identification in connection with these services is permitted.

5. Information centers and systems. Information centers and systems are permitted under 23 U.S.C. 131(i) and under 23 CFR, Parts 752 and 753. These are on right-of-way facilities, generally located in safety rest areas, which provide information about goods and services in the area in which the information center is located. They may be publicly or privately operated. Many types of systems are permitted by Federal law.

In considering the adequacy of these information signs and systems, the FHWA will specifically consider these questions:

1. What types of information should be considered "necessary to the traveling public?" The FHWA will review the type of information presently made available through the various information devices and systems to determine if the motorist is being provided with the type of information which he requires.

2. Do the States have sufficient flexibility under present National Standards, laws and regulations to provide the traveling public with needed directional information? The FHWA will review the types of information systems and devices which presently are available for the dissemination of directional information to determine if they effectively provide the public with a sufficient range of directional information.

3. Which type of directional information, if any, is best provided for:

(a) By on right-of-way signs (logos), as permitted under 23 U.S.C. 131(f)?

(b) By off right-of-way signs (directional and official signs), as permitted under 23 U.S.C. 131(c)(1)?

(c) By commercial or on property advertising signs?

(d) By information centers and other information systems, as provided in 23 U.S.C. 131(i)?

The FHWA will consider the types of information presently being provided on these various types of signs and systems. These will then be considered in light of their esthetic compatibility with their surroundings, as well as their effectiveness in providing directional information.

4. (a) Should additional types of information be allowed to qualify as directional information under the National Standards, Federal regulations, and Federal law?

(b) Should additional types of sign structures and other outdoor advertising devices and information systems be permitted along the Interstate and primary systems?

In considering these two questions, the FHWA will review the conclusions reached under questions 1, 2, and 3 in light of present standards.

5. Should directional information, both on and off the right-of-way, be provided only on standardized and uniform signs? Over the years, the FHWA has received a number of proposals to adopt national and state-wide standards for directional signs. These proposals have envisioned that individual sign owners wishing to establish directional signs would be required to construct them in conformance with rather specific guidelines as to maximum size, appearance, and location of signs.

6. Should the FHWA permit the transmission of directional information by means other than those presently permitted under 23 U.S.C. 131? The FHWA will look at other types of directional information systems providing a more esthetic view from the highway, while still giving the motorist necessary directional information.

Public comment on this advance notice of proposed rulemaking is invited in all areas related to directional information which would aid the traveling public, in the furtherance of the study mandated by Congress. Specific comments on the foregoing questions would be particularly welcome.

Those wishing to comment on the matters raised in this advance notice of proposed rulemaking are asked to submit their views in writing. Comments should identify the FHWA docket number (FHWA Docket No. 76–12) and be submitted in triplicate to Room 4230, Federal Highway Administration, U.S. Department of Transportation, 400 7th St. S.W., Washington, D.C. 20590. All comments received on or before January 24, 1977 will be considered. Comments received will be available for public inspection both before and after the closing date at the above address.

This advance notice of proposed rulemaking is issued under the authority of 23 U.S.C. 131 and 315, and 49 CFR 1.48.

Issued on: October 18, 1976.

NORBERT T. TIEMANN,
*Federal Highway Administrator.*

[FR Doc.76–31236 Filed 10–22–76;8:45 am]

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## National Highway Traffic Safety Administration

## [ 49 CFR Part 527 ]

[Docket No. FE76–2; Notice 1]

## PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

### Petitions for Reduction

*General description of proposed rule.* This notice proposes a new regulation setting forth the requirements applicable to the submission of petitions by passenger automobile manufacturers to reduce the average fuel economy standards for passenger automobiles produced in model years 1978, 1979, and 1980. The reductions would be available only to offset partially any loss of fuel economy achievable by the manufacturers due to the application to passenger automobiles in those years of Federal emissions, safety, noise, or damageability standards (hereinafter referred to as "nonfuel economy standards") more stringent than those applicable to passenger automobiles in model year 1975. It also describes the procedures that the National Highway Traffic Safety Administration (NHTSA) would follow in acting upon the petitions.

The proposed rule lists the types of information which a manufacturer must submit in its application in order to obtain a reduction and sets forth procedures by which the reduction is calculated and approved or denied. Generally, the manufacturer must submit information on the numbers of each different type of passenger automobile it plans to produce (the "production mix"), the technology it plans to incorporate in the passenger automobiles, and their fuel economy. The applicant for a reduction is required to calculate the average fuel economy of its planned production passenger automobiles and the average fuel economy it would have achieved had the nonfuel economy standards remained at their 1975 level of stringency. The difference between these two calculated fuel economies is the fuel economy penalty associated with the more stringent non-

fuel economy standards and is the major ingredient in the final calculation of a reduction.

These calculations are based, as required by the Act, on a production mix which would have resulted in a manufacturer's average fuel economy being equal to or greater than the fuel economy standard had the nonfuel economy standards remained at their 1975 levels. If the manufacturer's planned production mix could not meet this criterion, an alternative, hypothetical production mix, which is specified in the proposed regulation, must be used in the calculation.

The manufacturer must also demonstrate that it has employed a "reasonably selected technology" in order to qualify for a reduction. This regulation does not, however, list specific types of technology which either are or are not deemed "reasonably selected." In fact, such a determination may vary from manufacturer to manufacturer, due to their different economic and technical capabilities.

*Statutory background.* Part A of title III of the Energy Policy and Conservation Act (Pub. L. 94-163) amended the Motor Vehicle Information and Cost Savings Act (referred to hereafter as "the Act") by adding a new title V. That title (15 U.S.C. 2001 et seq.) requires the Secretary of Transportation to implement a program for improving the fuel economy of automobiles. Authority to administer the program was delegated by the Secretary to the Administrator of the NHTSA (41 FR 25015; June 22, 1976). Section 502(a)(1) of the Act establishes passenger automobile average fuel economy standards of 18 mpg, 19 mpg, and 20 mpg, for model years 1978, 1979, and 1980, respectively. (The vehicles which are classified as "passenger automobiles," and which are therefore subject to these standards, will be identified in a proposal to be issued within the next month. Generally, that proposal will classify all vehicles typically known as passenger cars as "passenger automobiles," including those whose gross vehicle weight rating is in excess of 6000 pounds. Passenger vans, other light duty trucks, multipurpose passenger vehicles, and passenger car derivatives such as the Chevrolet El Camino and the Ford Ranchero would be categorized as "nonpassenger automobiles.") The levels of average fuel economy required by the standards were set by the Congress partially in consideration of the nonfuel economy standards applicable to passenger automobiles in model year 1975. Section 502(d) of the Act provides a mechanism for adjusting the passenger automobile average fuel economy standards for any of model years 1978, 1979, and 1980 to offset partially any adverse affects that nonfuel economy standards, which are applicable to passenger automobiles in any of those model years and which are more stringent than those applicable to passenger automobiles in model year 1975, may have on the average fuel economy achievable by the passenger automobile manufacturers.

Any passenger automobile manufacturer may petition the Administrator for a reduction under section 502(d). Eligibility to submit a petition is not restricted to manufacturers whose achievable average fuel economy is caused by more stringent nonfuel economy standards for any of model years 1978, 1979, and 1980 either to fall below the passenger automobile average fuel economy standard for that year or, in the case of a manufacturer which would have failed to comply regardless of the impact of those nonfuel economy standards, to fall further below the fuel economy standard. A manufacturer which is able to comply with that average fuel economy standard, notwithstanding the more stringent nonfuel economy standards for that model year, may also submit a petition.

*Benefits of a reduction.* The benefits to a manufacturer of seeking a reduction for model year 1978, 1979, or 1980 will depend upon the relationship between its average fuel economy and the average fuel economy standard for that model year specified in section 502(a) for passenger automobiles. By obtaining a reduction, a manufacturer which failed to meet the unadjusted standard might be able either to reduce or eliminate its civil penalty liability, as specified in section 508(b) of the Act, for violating the standard. A manufacturer which met the standard might be able to minimize its loss of marketing flexibility, e.g., flexibility to change production mix without violating the average fuel economy standards, and to minimize its loss of flexibility to make running changes in its vehicles and to introduce new model types during the model year.

*Effect of reduction on civil penalty credits.* The reduction of a passenger automobile average fuel economy standard pursuant to section 502(d) does not increase the civil penalty credit that a manufacturer can earn under section 508(a) of the Act. Section 508(a) provides that if a manufacturer exceeds an applicable average fuel economy standard in a given model year, a negative civil penalty or civil penalty credit is calculated and applied first against any civil penalty liability that the manufacturer incurred under the standard for the same type of automobiles in the preceding model year. Then the balance, if any, of the credit is applied toward any such liability that the manufacturer incurs under the standard for those automobiles in the model year following the one in which the credit was earned. Section 508(a)(3)(A)(i) also provides, however, that the credit shall be determined without regard to adjustments made under section 502(d) in the passenger automobile average fuel economy standards.

*Petitions relating to imported and domestic passenger automobiles.* If a manufacturer whose production includes both imported and domestic passenger automobiles wishes to obtain relief under section 502(d) for its entire passenger automobile production in any of model years 1978, 1979, and 1980, it will have to submit two separate petitions for model years 1978 and 1979, one for its imported and one for its domestic vehicles. Under section 503(b) of the Act, only a portion of a manufacturer's annual production of imported passenger automobiles may be averaged together with its domestic passenger automobiles in determining its average fuel economy in either model year 1978 or 1979. The balance of its imported passenger automobiles are required to be treated as though manufactured by a different manufacturer and would have to be the subject of a separate petition under section 502(d). Section 503(b) provides that after model year 1979, none of the manufacturer's nondomestically-manufactured passenger automobiles may be averaged with its domestically-manufactured passenger automobiles. Thus, in model year 1980, if such a manufacturer desired to obtain relief under section 502(d) for its entire production, it would also have to submit two petitions. Regulations to implement section 503(b) have been established (41 FR 38674; September 10, 1976) by the Environmental Protection Agency (EPA) in Subpart F of 40 CFR Part 600.

*Showings required to obtain a reduction.* Before a reduction can be granted under section 502(d), a manufacturer must demonstrate and the Administrator must find two facts.

The first fact is that

> a Federal standards fuel economy reduction is likely to exist for such manufacturer for the model year to which the application relates. (section 502(d)(2)(A)(i))

The term "Federal standards fuel economy reduction" is defined as the "sum of the applicable fuel economy reductions." (section 502(d)(3)(B)) The latter type of reduction is in turn defined in section 502(d)(3)(C) as

> a number of miles per gallon equal to—
> (i) the reduction in a manufacturer's average fuel economy in a model year which results from the application of a category of Federal standards applicable to such model year, and which would not have occurred had Federal standards of such category applicable to model year 1975 remained the only standards of such category in effect, minus
> (ii) 0.5 mile per gallon.

Section 502(d) identifies 4 categories of Federal standards: emissions, safety, noise, and damageability.

The second fact is that the "manufacturer applied a reasonably selected technology" with respect to its passenger automobiles for the model year to which its petition applies (hereafter referred to as "the affected model year"). The term "reasonably selected technology" is defined as

> a technology which the Secretary determines was reasonable for a manufacturer to select, considering (i) the Nation's need to improve the fuel economy of its automobiles, and (ii) the energy savings, economic costs, and lead-time requirements associated with alternative technologies practically available to such manufacturer. (section 502(d)(3)(A))

The conference report on the Energy Policy and Conservation Act further re-

fines the definition of this term. (S. Rep. No. 94–516, 94th Cong., 1st Sess. 156 (1975) The report states that such a technology is one which, consistent with the considerations set forth in the statutory definition of the term, "minimizes a Federal standards fuel economy reduction." The report also provides guidance in interpreting the term, "technology." According to the report, the term

> is to be construed broadly when used in the definition of reasonably selected technology, and may include such items as vehicle weight, engine displacement, transmissions, streamlining, radial tires, as well as technology specifically related to meeting Federal automobile standards.

If the Administrator finds that a petitioner has demonstrated both the likelihood of a Federal standards fuel economy reduction and the application of a reasonably selected technology, he is required to reduce the passenger automobile average fuel economy standard for the affected model vear by the amount of the petitioner's Federal standards fuel economy reduction. If the Administrator finds that the petitioner has demonstrated the likelihood of such a reduction, but not the application of a reasonably selected technology, he must posit such a technology and reduce the standard bv an amount equal to the Federal standards fuel economy reduction that he finds would have resulted from the application of such a technology. If the Administrator does not find that a reduction is likely, he is required to deny the petition.

*Proposed regulation.* The proposed regulation specifies the minimum requirements for petitions for Federal standards fuel economy reductions. The proposal generally does not require the submission of particular items of data and information. Instead, it identifies the elements of the showings that a petitioner must make under section 502(d)(2)(A) and leaves to the manufacturer the selection of the data and information that would best enable him to make those showings. The Administrator could, however, direct a petitioner to provide supplementary data and information when the Administrator considered it appropriate.

The petitioner would be required to include in its petition all of its data, views, and arguments supporting the requested Federal standards fuel economy reduction. The regulation would set forth minimum requirements regarding such material.

A petitioner would not be permitted to incorporate by reference documents unless they were submitted with the petition. This policy will facilitate public examination of the petitions. It will also facilitate this agency's analysis of petitions and consideration of requests for confidential treatment of data and information.

A petitioner could base his petition on one or more of the categories that he believed to have caused an applicable fuel economy reduction.

*Two sets of passenger automobiles.* For each category of nonfuel economy automobile standards for which an applicable fuel economy reduction is claimed, the petitioner would have to submit certain data and information, including the average fuel economy, comparing two different sets of passenger automobiles. One set (referred to hereafter as "set 1") would be the passenger automobiles that the petitioner plans to produce in the affected model year subject to the average fuel economy standards and to the standards in all 4 categories of nonfuel economy automobile standards applicable to passenger automobiles in that year. The other set (referred to hereafter as "set 2") would be the hypothetical versions of the petitioner's planned passenger automobiles that it would have produced in the affected model year had the model year 1975 standards in the category for which the reduction is claimed remained the only standards of that category in effect. See Table 1 for an example of the proposed approach where a manufacturer applied for a reduction due to more stringent emission standards.

TABLE 1

| | Emissions standards | Safety standards | Noise standards | Damageability standards |
|---|---|---|---|---|
| Set 1 | AMY[1] | AMY | AMY | AMY |
| Set 2[2] | 75 MY | AMY | AMY | AMY |

[1] AMY=affected model year.
[2] When reduction is claimed for emissions standards.

Consideration was given to an alternative pair of sets that could be used to determine the amount of a manufacturer's applicable fuel economy reduction. Under the alternative approach, such reduction would be determined by comparing the average fuel economy of two sets of hypothetical passenger automobiles. One set would consist of the versions of the petitioner's passenger automobiles that it would have produced in the affected model year in accordance with the model year 1975 standards in all 4 categories of nonfuel economy automobile standards and with the applicable average fuel economy standard for the affected model year. The other set would be the versions of the first set of hypothetical automobiles that he would have produced in accordance with the same standards assumed to apply to the first set, except that the affected model year standards in the category of nonfuel economy automobile standards claimed by the petitioner would be assumed to be applicable instead of the model year 1975 standards in such category. See Table 2 for an example of the alternative approach.

TABLE 2

| | Emissions standards | Safety standards | Noise standards | Damageability standards |
|---|---|---|---|---|
| Set 1 | 75 MY | 75 MY | 75 MY | 75 MY |
| Set 1[1] | AMY | 75 MY | 75 MY | 75 MY |

[1] When reduction is claimed for emissions standards.

The alternative approach is not proposed for two reasons. First, it would require postulating two sets of hypothetical passenger automobiles and therefore would be more burdensome to administer than the proposed approach which would require the postulating of only one such set. Second, the alternative approach would be inconsistent with section 502(d) and its legislative history which require that final determinations granting Federal standards fuel economy reductions be deferred until fuel economy values under section 503(d) are available from the EPA for most of the petitioner's model types of set 1 passenger automobiles. Use of the alternative approach's two sets of hypothetical passenger automobiles would make the requirement regarding the obtaining of EPA fuel economy values largely meaningless. More important, use of the two such sets would mean that there would probably not be any of those values for either set.

*Comparison of the proposed two sets of passenger automobiles.* The regulation would require the petitioner to provide, as a minimum, information regarding the technology, fuel economy and average fuel economy of each base level, and of those vehicle configurations within such base levels which are specific in the EPA regulations, of its two sets of passenger automobiles. The terms "base level" and "vehicle configuration" are used in the proposed regulation with the meaning given them by the EPA in 40 CFR Part 600. The first term is defined as a "unique combination of basic engine, inertia weight class, and transmission class." The second term is defined as a "unique combination of basic engine, engine code, inertia weight class, transmission configuration, and axle ratio within a base level."

*Technology of set 1.* The petitioner would be required to describe the technology to be incorporated in its passenger automobiles for the affected model year and to demonstrate that the technology was a reasonably selected technology. These requirements would apply to all technology that is related to the petitioner's efforts to comply with any standard in any of the 4 categories of nonfuel economy automobile standards or that affects the fuel economy of the pas-

senger automobile in which it is incorporated. Technology affecting fuel economy would include, among others, items such as automobile weight, engine displacement, transmissions, streamlining, engine calibration, and radial tires. To demonstrate the reasonableness of its selected technology, the petitioner would have to describe any alternative technologies that were practicably available to it and that would have enabled its passenger automobiles to achieve higher fuel economy than the technology used. Next, it would have to explain its reasons for not incorporating those alternative technologies. That explanation would be required to include a comparison of the energy savings, economic costs, and leadtime requirements associated with each item of alternative technology and the item of technology to be incorporated in its passenger automobiles.

In evaluating the petitioner's claim to have used a reasonably selected technology, the Administrator would consider the incorporation of a particular technology in some of the petitioner's passenger automobiles but not others in judging the reasonableness of the technology of the latter passenger automobiles; the application by the petitioner or other manufacturers of a particular technology in model years preceding the affected model year but not the affected model year; the plans of the petitioner for application of a particular technology in a model year following the affected model year, but not in the affected model year; the use in the affected model year by other passenger automobile manufacturers of technology not used by the petitioner in that year; technology demonstrated and evaluated by any developer; and technology evaluated by any of the Federal or State agencies responsible for administering any category of the nonfuel economy automobile standards. The evaluation would include consideration of the effect of the technology on fuel economy, the economic costs and leadtime requirements associated with the technology, and the practicable availability of the technology. With respect to questions regarding leadtime and practicable availability, the Administrator would also look to presentations by the petitioner regarding its research, development, design, engineering, maintenance, warranty, quality control, and testing programs for minimizing any adverse impact on fuel economy of the affected model year standards that were in the category of nonfuel economy automobile standards claimed by the petitioner and were more stringent than the standards in that category in model year 1975.

A reasonably selected technology for one manufacturer might be different from that for another manufacturer. There are several sources of the possible difference. One is the difference between manufacturers in the capital they have available for financing changes in their passenger automobiles. Another is the difference between manufacturers in the number of passenger automobiles of a particular class that they produce annually. A manufacturer whose production in a particular class is relatively low might not be able to exploit a technology that can be economically used by a manufacturer whose production in that class is relatively high. Yet another is a combination of the difference in the passenger automobile classes offered by manufacturers and the technological or economic suitability of some technology for certain-sized or priced passenger automobiles but not for others. Technology that a manufacturer of larger or more expensive passenger automobiles might reasonably be expected to use on his vehicles might not be reasonably expected to be used by a manufacturer of smaller or lower-priced passenger automobiles.

Comment is solicited on these and other possible criteria for determining whether technology is reasonably selected. These comments will assist the agency in providing general guidance to petitioners on how technology will be evaluated.

*Technology of set 2 passenger automobiles.* For each category of nonfuel economy automobile standards for which the petitioner claims an applicable fuel economy reduction, the petitioner would have to describe how it would have modified the technology of the set 1 passenger automobiles to comply with the model year 1975 standards in that category instead of the affected model year standards in that category. To ensure the reasonableness of the modifications, the regulation would require that they be consistent with the national need to improve automobile fuel economy, and with the energy savings, economic costs, and leadtime requirements associated with the technologies that would have been practicably available to the petitioner had the model year 1975 standards in that category been the only standards in that category for the affected model year. Thus, the regulation would preclude increasing the fuel economy of the set 2 passenger automobiles (thereby increasing the applicable fuel economy reduction) through the assumption for them of technologies that are excessively expensive or practically unavailable and that the petitioner would therefore have been unlikely to use in real practice. Where a reduction for more stringent emission standards is sought and where a set 1 vehicle is a "California model", i.e. one designed to meet the more stringent California emission standards, the corresponding set 2 vehicle would be one designed to comply with 1975 California emission standards.

*Interaction between efforts to comply with two or more categories of nonfuel economy automobile standards.* The proposed rule is based on the assumption that efforts to achieve compliance with more than one type of nonfuel economy standards are independent in effect, i.e., that efforts to achieve compliance with one type of standard will have no effect on the level of technology necessary to comply with another. In some cases, this assumption may be invalid. Compliance efforts for different types of nonfuel economy standards may interact synergistically or otherwise, so that the calculation of a Federal standards fuel economy reduction under the procedure specified in § 531.10 and § 531.11 will either overstate or understate the true total reduction. Where this is the case, the manufacturer must adjust the calculations to compensate for this effect. Comment is solicited on particular methods for making this compensation.

*Fuel economy of set 1 passenger automobiles.* The petitioner would be required to establish the fuel economy of each model type of his passenger automobiles to be produced in the affected model year. The fuel economy figures would be calculated in accordance with the EPA's fuel economy regulations and test procedures in 40 CFR Part 600 with certain exceptions. The most notable exception would be that, in certain circumstances, petitioners could use fuel economy figures that have not been approved by the EPA.

The petitioner would be required to submit the results of all fuel economy tests and analyses, if any, conducted by the petitioner in accordance with 40 CFR Part 600 and approved by the EPA. These data must be submitted for each vehicle configuration for which fuel economy test results would be required by the EPA to be approved by it for calculating average fuel economy under 40 CFR 600.506–78 were the petitioner's passenger automobiles to be produced in the affected model year produced in the production mix required under the proposed regulation. For the vehicle configurations for which approved fuel economy figures were not available, the petitioner would have to submit unapproved results of tests and analyses.

Not all vehicle configurations are represented in the EPA calculation procedure and therefore in the requirements of this part. Rather, in accordance with EPA procedures, fuel economy data and other information must be submitted for three groups of configurations. First, data must be submitted for each certification or running change vehicle tested pursuant to EPA emission regulations. Second, data must be submitted for certain vehicle configurations within each base level with projected sales of at least one percent of the projected production total. Configurations included in this group are those with the largest projected sales and which comprise at least ninety percent of projected sales for the base level. Third, for those base levels comprising less than one percent of projected sales, the largest configuration is selected. Additional data may be submitted if the petitioner so desires.

When, as discussed below, a petitioner would be required to use a production mix, other than its projected one, for determining applicable fuel economy reductions, he might have to establish the fuel economy of different vehicle configurations and base level than the one for which he would be required to establish fuel economy values if the projected mix were used. The reason for the difference is that production mix is one of the most

important determinants of the particular vehicle configurations and base levels required to be tested under the EPA regulations. While some vehicle configurations may not be sufficiently numerous under the projected mix to necessitate testing for developing fuel economy labels or determining average fuel economy for standards compliance purposes, they may become sufficiently numerous to necessitate testing when the mix is changed to the one required to be used for determining applicable fuel economy reductions.

The proposed regulation would not require a petitioner to conduct any additional fuel economy testing for the purpose of obtaining a Federal standards fuel economy reduction. The fuel economy test results that would be provided under the regulation would be those conducted by the petitioner under 40 CFR Part 600 for fuel economy labeling or standards compliance purposes. The proposal would simply require that the results of those tests be included in a petition if they have been approved by the EPA before the petition is submitted.

*Fuel economy of set 2 passenger automobiles.* For each category of nonfuel economy automobile standards for which the petitioner claimed an applicable fuel economy reduction, it would have to establish the fuel economy of each model type of its set 2 passenger automobiles that it would have produced in the affected model year if the model year 1975 standards in that category were the only standards in that category in effect during the affected model year. The fuel economy values for the set 2 passenger automobiles would be determined in the same manner in which the values for the set 1 passenger automobiles would be determined.

*Average fuel economy of set 1 passenger automobiles.* The proposed regulation would require the petitioner to establish the average fuel economy of his set 1 passenger automobiles. The figure would be calculated in accordance with Subpart F of 40 CFR Part 600 and based upon the fuel economy values submitted by the petitioner for each model type of those passenger automobiles and upon the production mix required under the proposed regulation to be used in determining applicable fuel economy reductions.

*Average fuel economy of set 2 passenger automobiles.* For each category of nonfuel economy automobile standards for which the petitioner claims an applicable fuel economy reduction, the petitioner would be required to establish the average fuel economy of its set 2 passenger automobiles that it would have produced in the affected model year if the model year 1975 standards in that category were the only standards in the category in effect during the affected model year. The figure would be determined in the same manner in which the set 1 figure would be determined.

*Applicable fuel economy reduction.* To determine the applicable fuel economy reduction for each category of nonfuel economy automobile standards claimed by the petitioner, it would first subtract the average fuel economy figure that the petitioner provided for its set 1 passenger automobiles from the one it provided for its set 2 passenger automobiles. The second step would be to subtract 0.5 miles per gallon from the difference between the average fuel economies of the two sets of passenger automobiles. The subtraction of 0.5 miles per gallon is required by the definition of "applicable fuel economy reduction" in section 502(d)(3)(C). Thus, if the difference between the average fuel economies were 0.6 miles per gallon, the applicable fuel economy reduction would be 0.1 miles per gallon. If the difference were 0.5 miles per gallon or less, the reduction would be considered to be 0.0 miles per gallon.

The applicable fuel economy reductions of petitioners for a particular category of nonfuel economy automobile standards might not be the same. One reason for the difference could be differences in the technology assumed for the set 2 passenger automobiles of the various petitioners. The difference in that technology might result in differences between the average fuel economies of the set 1 and set 2 passenger automobiles of some petitioners being larger than the differences for other petitioners.

*Federal standards fuel economy reduction.* To determine the overall reduction, i.e., the "Federal standards fuel economy reduction," to which a petitioner is entitled, the petitioner would be required to add the applicable fuel economy reductions that it is seeking. The effect of subtracting 0.5 miles per gallon from the difference in the average fuel economies calculated for each category of nonfuel economy automobile standards claimed by the petitioner may be seen from the following example appearing in the conference report on the Energy Policy and Conservation Act. (S. Rep. No. 94-516, supra, 156) The example involves a manufacturer that submits a petition claiming that the difference between the average fuel economies are 0.7 mpg for noise standards, 0.6 mpg for emissions standards, and 0.8 mpg for property loss reduction standards. If the claimed differences were found valid by the Administrator, he would be required to reduce the average fuel economy standard applicable to the petitioner's passenger automobiles by ((0.7 mpg—0.5 mpg)+(0.6 mpg—0.5 mpg)+(0.8 mpg—0.5 mpg)), a total of 0.6 mpg.

*Production mix.* With respect to the production mix to be used by a manufacturer in calculating average fuel economy to determine the amount of applicable fuel economy reductions, section 502(d)(3)(E) provides that

> the Secretary (in accordance with such methods as he shall prescribe by rule) shall assume a production mix for such manufacturer which would have achieved the average fuel economy standard for such model year had standards described in subparagraph (D) applicable to model year 1975 remained the only standards in effect. (Emphasis added.)

This paragraph is interpreted, particularly in light of the word "a" before "production mix," to require the use of the same production mix for the set 1 and set 2 passenger automobiles. It is proposed that the manufacturer's projected mix for the affected model year be used as that single, common mix to the maximum extent possible consistent with section 502(d)(3)(E). The projected mix was selected for several reasons. First, the mix would be similar to the projected sales mix used by the Environmental Protection Agency under Subpart F of 40 CFR Part 600 to aid in selecting vehicles to be tested to make preliminary calculations of average fuel economy for standards compliance purposes. (The production and sales mixes projected at the same time for a manufacturer in a particular model year would be identical.) It is likely also to approximate the final production mix at the end of a model year that will be used by that agency in making its final calculations of average fuel economy. Second, use of the petitioner's mix from the model year immediately preceding the affected model year would not be appropriate. Although almost complete data might be available regarding that earlier model year, the mix for that year might not contain all of the base levels or vehicle configurations that the petitioner plans to produce in the affected model year. Therefore, the mix would be less representative of the final mix for the affected model year than the projected mix for the affected model year. Third, the content of the projected mix for the affected model year would be marked by substantially fewer uncertainties than a mix postulated by the petitioner as the one it would have produced had the standards in all 4 categories of nonfuel economy automobile standards remained the same as they were in model year 1975. Claims by a manufacturer that had the 1975 standards been extended, it would have made different decisions regarding the continuation or termination of the production of some base levels and regarding the introduction of other base levels, would be extremely difficult to validate.

*Projected production mix.* The proposal would require the petitioner to set forth its projections of its total production of set 1 passenger automobiles, and of its production mix of base levels and vehicle configurations, for the affected model year. It would have to submit information to demonstrate the reasonableness of the projections, including information showing that the projections are consistent with the annual total production and production mix of the petitioner's passenger automobiles for model year 1975 through the model year immediately preceding the affected model year, its passenger automobile production capacity for the affected model year, its efforts to comply with the applicable average fuel economy standard for the affected model year, and anticipated consumer demand for passenger automobiles during the affected model year. If the Administrator considered the manufacturer's projections to be inconsistent with those factors and therefore unreasonable, and able believed that the projections would cause the petitioner's

Federal standards fuel economy reduction, if any, to be overstated, the Administrator could adjust the production total or mix or both to the extent necessary to make them consistent with the enumerated factors.

*Production mix used in calculations.* The first step in the method for selecting a production mix pursuant to section 502(d)(3)(E) to be used for calculating a Federal standards fuel economy reduction would be to determine whether the average fuel economy of the projected production mix of set 1 passenger automobiles equaled or exceeded the applicable average fuel economy standard for the affected model year. If the standard were equaled or exceeded, the petitioner would use its projected production mix in calculating its Federal standards fuel economy reduction. If the standard were not equaled or exceeded, the petitioner would proceed to the next step.

In the second step, the petitioner would determine whether, based upon the projected production mix, the average fuel economy of its passenger automobiles, modified to comply with model year 1975 standards in one or more of the 4 categories of nonfuel economy automobile standards, equaled or exceeded the applicable average fuel economy standard for the affected model year. If so, the projected mix would still be used, since the requirements of section 502(b)(3)(E) would be met. The proposed procedures for this second step have been devised to limit the amount of work involved in establishing the appropriate mix. It is assumed that, if the projected mix of set 1 passenger automobiles which are subject to all 4 categories of nonfuel economy standards for the affected model year, would meet the applicable average fuel economy standard for that year, the same mix of passenger automobiles subject to all 4 categories of those standards for model year 1975 would also meet the average fuel economy standard. It is similarly assumed that if the projected mix of passenger automobiles subject to 1, 2, or 3 categories of nonfuel economy automobile standards for model year 1975 would meet the average fuel economy standard, the same mix of passenger automobiles subject to all 4 categories of those standards for model year 1975 would also meet the average fuel economy standard. The premise underlying both assumptions is that of section 502(d), i.e., that the more categories of model year 1975, and therefore less stringent, standards that passenger automobiles are subject to, the higher the average fuel economy that those passenger automobiles could be designed to achieve.

These assumptions could enable the petitioner to avoid having to determine how it would have modified its set 1 passenger automobiles to comply with all 4 categories of nonfuel economy automible standards for model year 1975. The proposed regulation would permit a petitioner to proceed incrementally to postulate the modified passenger automobiles that it would have produced in accordance with first one category of nonfuel economy automobile standards for model year 1975, then two if necessary, and so on in an attempt to establish that the projected production mix satisfied section 502(d)(3)(E). If a petitioner had to postulate modified passenger automobiles based upon one or more categories of nonfuel economy automobile standards for model year 1975, it would presumably begin with the categories for which it was claiming an applicable fuel economy reduction since it would already have postulated the technology that would be incorporated in the modified planned passenger automobiles for those categories separately, although not jointly. Alternatively, a petitioner could proceed directly to postulating passenger automobiles that it would have produced in accordance with all 4 categories of those standards.

In the third step, if the projected mix of passenger automobilets did not meet the applicable average fuel economy standard for the affected model year, even when based upon all 4 categories of the nonfuel economy automobile standards for model year 1975, the petitioner would then have to determine if any production mix of the passenger automobiles meeting all 4 categories of those model year 1975 standards could comply with the average fuel economy standard for the affected model year. This determination would be easy for a petitioner if the fuel economy of each base level of those automobiles were below the standard. In such a case, the average fuel economy of any mix would also be below the standard. Thus, a production mix could not be assumed for such a petitioner that would meet the criterion in section 502(d)(3)(E). This agency is thus confronted with the task of fashioning a reasonable solution without any express guidance from the Act. For these petitioners, this agency proposes that the petitioner's projected mix of set 1 passenger automobiles be used for essentially the same reasons that that mix is proposed to be used to meet the section 502(d)(3)(E) criterion.

If the fuel economy of at least one base level is above the average fuel economy standard, the determination regarding the existence of a mix that would meet the standard would be made in accordance with the following procedure. First, the projected total production of set 1 passenger automobiles would be assumed for the modified passenger automobiles and kept constant. Second, the number of passenger automobiles in all base levels and vehicle configurations contained therein would be simultaneously adjusted. In the case of each base level whose fuel economy were less than the standard, the number of passenger automobiles in that base level and in each configuration therein would be decreased by 0.1 percent. The total number of passenger automobiles thereby subtracted from all of those base levels would then be allotted among the base levels whose fuel economy level were equal to or greater than the standard. The numbers of passenger automobiles in each of those latter base levels and in vehicle configurations therein would be increased by the percentage which, in conjunction with the change to the base levels below the satndard, will keep the total number of passenger automobiles equal to the projected total. The relative magnitude of the percentage change in the above-standard base levels and the below-standard base levels would be a function of the relative number of passenger automobiles in the two groups of base levels. Next the average fuel economy of the adjusted production mix would be calculated. If this revised average equaled or exceeded the standard, that adjusted mix would be used to calculate the Federal standards fuel economy reduction. If the revised average did not meet the fuel economy standard, the production mix would be further adjusted by repeating the above procedure on the previously adjusted mix. This process of adjusting the projected production mix would continue until the first mix was reached whose average fuel economy equaled or just exceeded the applicable average fuel economy standard for the affected model year.

This agency considers several other methods of adjusting the projected mix to minimize the difference between that mix and the assumed mix. One method involved minimizing the sum of the squared differences between the number of passenger automobiles in each base level under the projected mix and the number in the same base level under an assumed mix that meets the average fuel economy standard. The deficiency of the method was that its effect was to eliminate the base levels with the lowest fuel economy and increase the base levels with the highest fuel economy. The result was considered to be too unrealistic and, hence, undesirable since manufacturers would be unlikely to simply abandon the markets represented by the base levels with the lowest fuel economy, especially since those base levels would consist primarily of large luxury passenger automobiles. The other alternatives considered shared the same deficiency in varying degrees.

*Supplementary information requirements.* The proposed regulation requires that petitioners update their petitions as new information becomes available. If the petitioner revises its projected production mix or if additional fuel economy data are approved by EPA after the submission of the petition but prior to the start of the affected model year, the petitioner must report these changes and show the effect of the changes on the petition. Corresponding revisions must also be made to the petitioner's set 2 vehicles.

*Processing of Petitions.* The procedure to be followed in processing petitions for a reduction is specified in section 502(g) of the Act. That section provides that the procedures to be followed are the usual informal rulemaking procedures of 5 U.S.C. 553, "except that interested persons shall be entitled to make oral as well as written presentations." The proposed procedure is designed to elicit maximum effective comment on both the petition and the agency's analysis thereof.

When the Administrator of this agency receives a petition under this proposed regulation, he would evaluate the petition for completeness and place in a public docket the portions of the petition for which confidential treatment was not granted. If the petition did not contain the information required by the proposed regulation, the petitioner would be advised of the deficiencies in his petition and informed that his petition would not be processed further until the deficiencies were eliminated. At any stage during the processing of a petition, the Administrator might use his authority under Title V to obtain additional information from the petitioner.

Next, the agency would seek comment on the petition from the Federal agency responsible for administering the category of Federal standards specified in the petition and would publish a notice in the FEDERAL REGISTER setting forth its proposed decision on the application and the analysis and proposed findings upon which the decision was based. The notice would invite written comment and announce a public hearing for the presentation of oral comments by interested persons. The public hearing, which is required by section 502(g) of the Act, would be a legislative type hearing intended to provide interested persons with additional opportunity to state their views or arguments or to provide information concerning the proposed reduction. Thus, the hearing would not be subject to 5 U.S.C. 556–557. The Administrator would be under no obligation to base his decision solely on the record of the hearing. In determining whether to grant a petition, the Administrator could consider any other information available to him.

The Administrator would designate a panel of agency employees to preside at the hearing. The panel could limit the length of oral presentations, exclude irrelevant or redundant material, and direct that corroborative material be submitted in writing rather than presented orally.

Any person attending the hearing could submit to the panel written questions to be propounded to representatives of the petitioners, persons who make oral presentations at the hearing or persons who submitted written comments regarding the proposed reduction prior to the hearing. However, questions for a witness other than the representatives of petitioner at the hearing could not be submitted to the panel after the completion of testimony by that witness. Further, the panel could exclude irrelevant or redundant questions. The panel could also develop and propound questions on its own initiative. The agency's subpena authority in section 505(b) of the Act would be used in a number of instances. Any person to whom a question was propounded by the panel would be required to respond. Representatives of the petitioner able to address all matters raised in the petition would be required to attend the hearing so that questions regarding any aspect of the petitioner's petition could be answered. In addition, any person who submitted written comments regarding the proposed reduction prior to the hearing could be required on 24 hours notice to attend the hearing to respond to questions. It is anticipated that the authority to require the attendance of those commenters would be used sparingly.

Before denying or finally granting a reduction under section 502(d), the Administrator is required to obtain fuel economy test results from the Environmental Protection Agency for most of the petitioner's model types of its set 1 passenger automobiles. Section 502(d)(2)(A) requires that, before the Administrator makes findings both that a Federal standards fuel economy reduction is likely to exist and that a reasonably selected technology has been applied, the Administrator must, "to the maximum extent practicable, "request, and the Environmental Protection Agency shall supply, fuel economy test results for the petitioner's passenger automobiles." The conference report on the Energy Policy and Conservation Act (S. Rep. No. 94–516, supra, 156–7) defines "to the maximum extent practicable" to require the obtaining of test results for most model types before taking final action and extends the requirement to final denials of petitions. Thus, the Administrator is not required to wait until test results are available for all of the petitioner's model types.

However, the slight limitation on the requirement for obtaining test results is not expected to have a substantial effect on the timing of final decisions on petitions. Fuel economy tests results from the emissions certification testing and the fuel economy labeling programs are generally not available for all of a manufacturer's model types until the beginning of the model year in which the tested vehicles will be produced. Results for a sufficient number of model types to permit a final decision on petitions, i.e., for most model types, would probably not be available more than 1 or 2 months before that time.

After opportunity for written and oral comment the Administrator would publish a final decision in the FEDERAL REGISTER. This notice would set forth the grant or denial of the reduction and the reasons for the decision.

If test results were not available from the Environmental Protection Agency for most model types, the Administrator could either delay his action until the requisite test results became available or issue an interim decision reducing the applicable standard. Notice of the interim decision, including the reduction granted and the findings and analysis upon which the decision was based, would be published in the FEDERAL REGISTER. The notice would provide that the interim decision would become final unless the Administrator determined that fuel economy levels indicated by the subsequent test results differ sufficiently from those assumed in the notice to warrant adjustment of the reduction. If the Administrator so determined, he would follow the same notice and hearing procedure described above in making that adjustment.

The petitions, except those portions of the petitions granted confidential treatment and not later released by the Administrator, would be available for inspection in the Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

Section 502(d)(4) provides that the "Secretary may, for the purposes of conducting a proceeding" under section 502(d), "consolidate one or more applications" for a Federal standards fuel economy reduction. This agency intends to use this authority to the extent practicable. Comments are invited on the aspects of the petitions that most readily lend themselves to this treatment.

*Confidential information.* The proposed regulation would make special provision for the treatment of trade secrets and other confidential information submitted in support of a petition. The requirement in section 502(g) of the Act for the agency to hold a public hearing on each reduction under section 502(d) in addition to providing the normal opportunity for written comment evinces a strong Congressional policy in favor of a high level of public participation in section 502(d) proceedings. That policy and the provisions of section 505(d)(1) of the Act regarding confidential information indicate that requests for confidential treatment of information should be very carefully scrutinized and public disclosure be made whenever possible. Section 505(d)(1) provides that:

> The Secretary and the EPA Administrator shall each disclose any information obtained under this part (other than section 503(d)) to the public in accordance with section 552 of title 5, United States Code, except that information may be withheld from disclosure under subsection (b)(4) of such section only if the Secretary or EPA Administrator, as the case may be, determines that such information, if disclosed, would result in significant competitive damage, Any matter described in section 552(b)(4) relevant to any administrative or judicial proceeding under this part may be disclosed in such proceeding.

The regulation would require the petitioner to segregate and identify any information that he requested to be withheld from public disclosure. The segregation of the material would facilitate placing the balance of the petition in the public docket and evaluating the confidentiality request. With respect to information and data claimed by the petitioner to fall within 5 U.S.C. 552(b)(4), it would be required to show that the information and data fell within section 552(b)(4) and that its disclosure would result in significant competitive damage; indicate the period during which that damage would be incurred if the information and data were released; and show that an earlier release would result in that damage. If the Administrator denied a petitioner's request for confidential treatment, he would give the petitioner written notice of his denial before releasing the information and data to the public. If the Administrator granted confiden-

tial treatment of certain information and data, he would not later invoke his authority under section 505(d)(1) to release the information and data during an administrative or judicial proceeding under title V without first giving written notice to the petitioner. In either case, the manufacturer would be given a reasonable time to respond to the Administrator's notice.

In consideration of the foregoing, it is proposed that a new Part 527, Reduction of Passenger Automobile Average Fuel Economy Standards for Model Years 1978–1980, be added to Title 49 of the Code of Federal Regulations, to read as set forth below.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after that date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The agency will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

*Comment closing date:* December 27, 1976.

*Proposed effective date:* Publication date of the final rule in the FEDERAL REGISTER.

(Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); sec. 502, Pub. L. 94–163, 89 Stat. 871 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.)

Issued on October 19, 1976.

JOHN W. SNOW,
*Administrator.*

## PART 527—REDUCTION OF PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS FOR MODEL YEARS 1978–1980

Sec.


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### § 527.1 Scope.

This part establishes procedures under section 502(d) of the Motor Vehicle Information and Cost Savings Act, as amended, (15 U.S.C. 2002) for the submission and disposition of petitions filed by manufacturers of passenger automobiles to obtain reduction of the applicable average fuel economy standard for model year 1978, 1979, or 1980 to offset any loss of fuel economy due to the application in that year to passenger automobiles of standards in one or more categories of Federal standards more stringent than the standards in the category or categories in model year 1975. This part also establishes procedures for holding public hearings on those petitions.

### § 527.2 Purpose.

The purpose of this part is to provide guidelines for manufacturers of passenger automobiles which desire to petition the NHTSA Administrator for reduction of the average fuel economy standard applicable to passenger automobiles produced in model year 1978, 1979, or 1980 and to give interested persons an opportunity for presentation of views, arguments and information concerning those petitions.

### § 527.3 Applicability.

This part applies to manufacturers of passenger automobiles.

### § 527.4 Definitions.

(a) *Statutory terms.* (1) The terms "applicable fuel economy reduction," "Federal standards fuel economy reduction," "fuel," "manufacturer," "model year," and "reasonably selected technology" are used as defined in section 501 or 502 of the Act.

(2) The terms "average fuel economy," "fuel economy," and "model type" are used as defined in 40 CFR 600.002–77.

(3) The terms "automobile" and "passenger automobile" are used as defined in section 501 of the Act and in accordance with the determinations in 49 CFR Part 523.

(b) *Other terms.* (1) The terms "base level" and "vehicle configuration" are used as defined in 40 CFR 600.002–77.

(2) As used in this part, unless otherwise required by the context—

"Act" means the Motor Vehicle Information and Cost Savings Act (Pub. L. 92–513), as amended by the Energy Policy and Conservation Act (Pub. L. 94–163);

"Administration" means the National Highway Traffic Safety Administration;

"Affected model year" means the model year for which a reduction of an average fuel economy standard is requested under this part;

"Category of Federal standards" means any of the following categories of motor vehicle standards—

(i) Emissions standards issued under section 202 of the Clean Air Act (42 U.S.C. 1857f–1), and emissions standards applicable by reasons of section 209(b) of that Act (42 U.S.C. 1857f–6a(b));

(ii) Safety standards issued under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.);

(iii) Noise emission standards issued under section 6 of the Noise Control Act of 1972 (42 U.S.C. 4905); or

(iv) Property loss reduction standards issued under title I of the Act (15 U.S.C. 1911 et seq.).

"EPA Administrator" means the Administrator of the Environmental Protection Agency; and

"Modifications" means changes by a petitioner in the technology of a passenger automobile consistent with the need of the Nation to improve automobile fuel economy and with the energy savings, economic costs, and leadtime requirements associated with the technologies that would have been practicably available to the petitioner given the category or categories of Federal standards for model year 1975 specified as applicable to that passenger automobile.

"NHTSA Administrator" means the Administrator of the National Highway Safety Administration.

"Production mix" means the number of passenger automobiles, and the percentage of the petitioner's annual total production of passenger automobiles, in each vehicle configuration which a petitioner plans to produce in a specified model year.

### § 527.5 Eligibility.

Any manufacturer of passenger automobiles may petition the NHTSA Administrator under this part for a reduction of the average fuel economy standard applicable to passenger automobiles for model year 1978, 1979, or 1980.

### § 527.6 Requirements for petition.

Each petition filed under this part must—

(a) Request the reduction of an average fuel economy standard for not more than one model year;

(b) Identify the affected model year;

(c) Be submitted within the 24-month period immediately preceding the beginning of the affected model year;

(d) Be submitted in ten copies to: Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590;

(e) Be written in the English language;

(f) State the full name, address, and title of the official responsible for the preparation of the petition;

(g) Set forth in full the data, views, and arguments of the petitioner supporting the Federal standards fuel economy reduction requested in its petition, including the information and data specified in §§ 527.7 through 527.14 and the calculations and analyses used to develop

the information and data. No documents may be incorporated by reference in a petition unless the documents are submitted with the petition; and

(h) (1) Specify and segregate any part of the information and data submitted under this part that the petitioner wishes to have withheld from public disclosure.

(2) With respect to information and data requested to be withheld under 5 U.S.C. 552(b)(4), show that the information and data are within the scope of section 552(b)(4), show that disclosure of the information and data would result in significant competitive damage, specify the period during which the information and data must be withheld to avoid that damage, and show that earlier disclosure would result in that damage.

### § 527.7 Technology.

The petitioner shall submit the following information as part of its petition:

(a) For each vehicle configuration specified in § 527.14(c) of the petitioner's passenger automobiles to be produced in the affected model year,

(1) A description of the technology that is incorporated in the vehicle configuration and that either relates to the petitioner's efforts to comply with any category of Federal standards or affects the fuel economy of the vehicle configuration;

(2) A description of any alternative or additional technology that was practicably available to the petitioner for incorporation in the vehicle configuration and that would have enabled that vehicle configuration to achieve higher fuel economy than the technology described under paragraph (a)(1) of this section; and

(3) For each item of alternative technology described under paragraph (a)(2) of this section, a statement of the reasons for not incorporating the item, including a comparison of the energy savings, economic costs and leadtime requirements of that item and of the technology that was incorporated in the vehicle configuration.

(b) For each category of Federal standards for which the petitioner claims an applicable fuel economy reduction, a description of the modifications that the petitioner would have made to each vehicle configuration specified in paragraph (a) of this section had the standards in that category for model year 1975 been the only standards in that category for the affected model year.

(c) For the category or combination of categories of Federal standards for model year 1975 that the petitioner uses under § 527.13(b)(2), if applicable, in determining the appropriate production mix, a description of the modifications that the petitioner postulates for the purpose of that determination he would have made to each vehicle configuration specified in paragraph (a) of this section to comply with that category or combination of categories.

### § 527.8 Fuel economy of vehicle configurations and model types.

The petitioner shall submit the following information:

(a) A fuel economy value determined in accordance with § 527.14 for—

(1) Each vehicle configuration specified in § 527.14(c) of the petitioner's passenger automobiles to be produced in the affected model year; and

(2) Each base level and model type of those passenger automobiles.

(b) For each category of Federal standards for which the petitioner claims an applicable fuel economy reduction, a fuel economy value determined in accordance with § 527.14 for—

(1) Each vehicle configuration specified in § 527.14(c) of the petitioner's passenger automobiles to be produced in the affected model year as modified under § 527.7(b) to comply with the model year 1975 standards in that category; and

(2) Each base level and model type of those passenger automobiles.

(c) For the category or combination of categories of Federal standards for model year 1975 for which modifications are described under § 527.7(c), if applicable, a fuel economy value determined in accordance with § 527.14 for—

(1) Each vehicle configuration specified in § 527.14(c) of the petitioner's passenger automobiles to be produced in the affected model year as modified under § 527.7(c); and

(2) Each base level and model type of those vehicles.

### § 527.9 Average fuel economy.

The petitioner shall submit the following information:

(a) The average fuel economy determined in accordance with § 527.14(c) of the petitioner's passenger automobiles for the affected model year.

(b) For each category of Federal standards for which the petitioner claims an applicable fuel economy reduction, the average fuel economy determined in accordance with § 527.14(c) of the petitioner's passenger automobiles to be produced in the affected model year as modified under § 527.7(b) to comply with the model year 1975 standards in that category.

(c) For each category or combination of categories of Federal standards for model year 1975 for which modifications are described under § 527.7(c), the average fuel economy determined in accordance with § 527.14(c) of the petitioner's passenger automobiles to be produced in the affected model year as modified under § 527.7(c).

### § 527.10 Applicable fuel economy reduction.

For each category of Federal standards for which the petitioner claims an applicable fuel economy reduction, applicable fuel economy reductions shall be calculated as follows:

(a) Subtract—

(1) The average fuel economy determined under § 527.9(a) for the petitioner's passenger automobiles to be produced in the affected model year, from

(2) The average fuel economy determined under § 527.9(b) for the petitioner's passenger automobiles to be produced in the affected model year as modified under § 527.7(b) to comply with the standards in such category for model year 1975; and

(b) Subtract 0.5 miles per gallon from the result obtained under paragraph (a) of this section.

### § 527.11 Federal standards fuel economy reduction.

The petitioner shall calculate the Federal standards fuel economy reduction by adding all of its applicable fuel economy reductions determined under § 527.10, and shall submit the result.

### § 527.12 Projected production total and mix.

The petitioner shall submit its projections, based on the average fuel economy standard for passenger automobiles as specified in the Act for the affected model year, of its total production and production mix of all base levels of its passenger automobiles for the affected model year, and all vehicle configurations within each of those base levels, and information demonstrating that those projections are reasonable. The information shall include information showing that those projections are consistent with the petitioner's mixes of passenger automobiles produced or expected to be produced in each model year from model year 1975 through the model year immediately preceding the affected model year, its passenger automobile production capacity for the affected model year, its efforts to comply with that average fuel economy standard, and the anticipated consumer demand for passenger automobiles during that model year.

### § 527.13 Production mix for determining applicable fuel economy reductions.

(a) The production mix to be used for calculating applicable fuel economy reductions shall be that mix specified in paragraph (b) or (c) of this section, as appropriate.

(b) The production mix to be used shall be that mix projected under § 527.12 if any of the following criteria are met:

(1) The average fuel economy determined in accordance with § 527.14(c) of the petitioner's passenger automobiles for the effected model years, based upon the production mix projected under § 527.12, equals or exceeds the applicable average fuel economy standard; or

(2) The average fuel economy determined in accordance with §527.14(c) and based on the mix projected under § 527.12 of the petitioner's passenger automobiles to be produced in the affected model year with the modifications that the petitioner would have made to them had the standards in one or more categories of Federal standards for model year 1975 been the only standards in that category or categories in effect during the affected model year equals or exceeds the applicable average fuel economy standard; or

(3) The average fuel economy determined in accordance with § 527.14(c) of no mix of passenger automobiles for the affected model year with the modifications that the petitioner would have made to them had the standards in all cate-

gories of Federal standards for model year 1975 been the only standards in those categories in effect during the affected model year equals or exceeds the applicable average fuel economy standard.

(c) The production mix to be used shall be that mix calculated under paragraph (d) of this section if none of the criteria in paragraph (b) are met.

(d) For the purposes of adjusting the production mix pursuant to paragraph (c) of this section, the following procedures shall be followed:

(1) Assume initially that the modified passenger automobiles specified in paragraph (b)(3) of this section are to be produced in the production total and mix projected under § 527.12.

(2) Keeping that total production constant, adjust that production mix as provided in paragraph (d)(3) of this section.

(3)(i) For each base level of those modified passenger automobiles whose fuel economy is less than the average fuel economy standard for passenger automobiles for the affected model year, decrease the numbers of those modified passenger automobiles in that base level and in each vehicle configuration within that base level by 0.1 percent.

(ii) For each base level of those modified passenger automobiles whose fuel economy is greater than that standard, increase the numbers of those modified passenger automobiles in that base level and in each vehicle configuration within that base level by that percentage which, in conjunction with the decrease specified in paragraph (d)(3)(i) of this section, will keep the total production constant.

(4) Calculate the average fuel economy of the production mix as adjusted under paragraph (d)(3) of this section.

(5)(i) If the average fuel economy calculated under paragraph (d)(4) of this section equals or exceeds the applicable fuel economy standard, the mix as adjusted under paragraph (d)(3) of this section shall be used for calculating Federal standards fuel economy reductions.

(ii) If the average fuel economy calculated under paragraph (d)(4) of this section is less than the standard, adjust the projected production mix further by repeating the procedure in paragraphs (d)(3) and (4) of this section until the first production mix is reached whose average fuel economy equals or exceeds that standard.

### § 527.14 Calculation of fuel economy values and average fuel economy.

(a) Determination of vehicle configuration fuel economy values. For each vehicle configuration for which a fuel economy value is required under paragraph (c) of this section and for which a fuel economy value has been determined and approved under 40 CFR Part 600, the petitioner shall submit that fuel economy value. For each of those vehicle configurations for which such a value does not exist, the petitioner shall submit a fuel economy value based on tests or analyses comparable to those prescribed or permitted under 40 CFR Part 600 and a description of the test procedures or analytical methods.

(b) Calculation of base level and model type fuel economy values. For each base level and model type, the petitioner shall submit a fuel economy value based on the values determined in accordance with paragraph (a) of this section and calculated in the same manner as base level and model type fuel economy values are calculated for use under Subpart F of 40 CFR Part 600.

(c) *Calculation of average fuel economy.* Average fuel economy shall be based upon fuel economy values calculated under paragraph (b) of this section for each model type and shall be calculated in accordance with 40 CFR 600.506, using the configurations specified in 40 CFR 600.506(a)(2), except that—

(1) The production mix projected under § 527.12 or the production mix projected under § 527.12 as adjusted under § 527.13(d), as appropriate, shall be used in place of projected sales; and

(2) Fuel economy values for running changes implemented and for base levels added are required only for those changes or additions made before the submission of the petitioner's petition.

### § 527.15 Supplementary information requirements.

(a) The petitioner shall provide the NHTSA Administrator with any revisions that it makes, after submitting its petition and before the beginning of the affected model year, to the production mix and total provided under § 527.12, and with data approved by EPA subsequent to submission of the original petition. The petitioner shall submit information demonstrating that the revisions are reasonable, including the information described in § 527.12 and shall show the effect of these additions, and changes on the petition.

(b) For each vehicle configuration of the petitioner's passenger automobiles to be produced in the affected model year for which a fuel economy value is approved by the EPA Administrator under 40 CFR 600.506–78 after the submission of the petitioner's petition and before the beginning of the affected model year, the petitioner shall provide the NHTSA Administrator with a fuel economy value determined in accordance with § 527.14(a) of that vehicle configuration as modified under § 527.7(b). The petitioner shall also show the effect of these new values on its petition.

### § 527.16 Processing of petitions.

(a) Notice of receipt of each petition containing the information required by this part is published in the FEDERAL REGISTER. If a petition is found not to contain the information required by this part, the petitioner is informed about the areas of insufficiency and advised that the petition will not receive further consideration until the necessary information is submitted.

(b) The NHTSA Administrator may request the petitioner to provide information in addition to that required by this part.

(c) The NHTSA Administrator requests the EPA Administrator to provide him with fuel economy values as they are approved by the EPA for the petitioner's passenger automobiles to be produced in the affected model year. These values replace the corresponding unapproved values in all calculations of average fuel economies.

(d) The NHTSA Administrator publishes a proposed decision in the FEDERAL REGISTER. The proposed decision indicates the proposed grant or denial of the petition in accordance with section 502(d)(2) of the Act, specifies the reasons for the proposed decision, solicits written comment on the proposal, and establishes a date and place for a public hearing.

(e) After the conclusion of the public comment period and hearing specified in paragraph (d) of this section, the NHTSA Administrator publishes a final decision in the FEDERAL REGISTER. The final decision is based upon the petition, written and oral comments, and other available information. The final decision sets forth the grant or denial of the petition in accordance with section 502(d)(2) of the Act and the reasons for the decision.

(f) If fuel economy values approved by the EPA Administrator cannot be obtained by the NHTSA Administrator for most model types of the petitioner's passenger automobiles to be produced in the affected model year, the NHTSA Administrator may rely on fuel economy and issue the notice described in paragraph (e) of this section as an interim values submitted pursuant to § 527.14(a) determination. The notice, which is published in the FEDERAL REGISTER, contains the interim determination and the findings and analysis upon which such determination is based. The interim determination becomes final unless the NHTSA Admiinstrator determines, after notice and opportunity for written and oral comment in accordance with this section, that disparities between the fuel economy values upon which the interim determination was based and fuel economy values approved by the EPA Administrator subsequent to that determination but before the beginning of the affected model year warrant an adjustment of the petitioner's Federal standards fuel economy reduction. Notice of the final determination with the adjusted reduction and of the reasons therefor is published in the FEDERAL REGISTER.

### § 527.17 Public hearing.

(a) Each hearing under § 527.16(d) is a legislative type hearing intended to provide interested persons with an opportunity to state their views or arguments, or to provide pertinent information concerning the proposed reduction.

(b)(1) The NHTSA Administrator appoints one or more employees of the Administration to conduct the hearing and designates one of those employees to be the presiding official.

(2) The presiding official may:

(i) Limit the length of oral presentations;

(ii) Exclude irrelevant or redundant material; and

(iii) Direct that corroborative material be submitted in writing rather than presented orally.

(c) Any person desiring to make an oral statement at the hearing should file a notice of such intention and, if practicable, five copies of his proposed statement with the NHTSA Administrator at least ten days prior to the hearing.

(d)(1) The NHTSA Administrator requires representatives of the petitioner able to address all matters raised in the petition to attend the hearing.

(2) The NHTSA Administrator may require any person, who submits written comments to the NHTSA Administrator on the proposed reduction before the hearing, to attend the hearing at any time before its conclusion.

(3) The Administrator requires any person who, under paragraph d(1) or (2) of this section attends the hearing, to respond the questions posed to him under paragraph (e) of this section.

(e) Any employee appointed under paragraph (b) of this section may, on his own initiative or at the request of any interested person attending the hearing, propound questions to—

(1) Any person subject to paragraph (d) of this section.

(2) Any person who makes an oral presentation at the hearing.

(f) Interested persons attending the hearing may submit to the panel written questions to be propounded to persons identified in paragraph (e) of this section. Questions for a witness other than those identified in paragraph (d)(1) of this section may not be submitted to the panel after the completion of testimony by that witness.

(g) A verbatim transcript of the proceeding is made and copies are available from the reporter at the expense of any person requesting them.

**§ 527.18 Public inspection of information.**

Except as provided in § 527.19, any person may inspect available information relevant to a petition under this part, including the petition and any supporting data, memoranda of informal meetings with the petitioner or any other interested persons, the transcript of the public hearing, and the notices regarding the petition, in the Docket Section of the Administration. Except as provided in § 527.17(g) regarding transcripts of the public hearings, any person may obtain copies of the information available for inspection under this paragraph in accordance with the regulationsofthe cordance with the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

**§ 527.19 Confidential information.**

(a) Information made available under section 527.18 for public inspection does not include information for which confidentiality is requested under section 527.6(h) and is granted in accordance with sections 502 and 505 of the Act and section 552(b) of Title 5 of the United States Code.

(b) *Denial of confidential treatment.* When the NHTSA Administrator denies a petitioner's request under § 527.6(h) for confidential treatment of information, the NHTSA Administrator gives him written notice of the denial at least ten days before making the information available for public inspection.

(c) *Release of confidential information.* After giving written notice to the petitioner and allowing a reasonable time for the petitioner to respond, the NHTSA Administrator may make available for public inspection any information that is relevant to a proceeding under this part or the Act and that was granted confidential treatment by the NHTSA Administrator pursuant to a request by the petitioner under § 527.6 (h).

[FR Doc.76-31147 Filed 10-19-76;3:42 pm]

## FEDERAL COMMUNICATIONS COMMISSION

**[47 CFR Part 83]**

[Docket No. 20936]

### SSB EQUIPPED VESSELS OPERATING SOLELY IN ALASKA WATERS

**Proposed Exemption From Mandatory VHF Capabilities; Extension of Time for Filing Comments**

Adopted: October 18, 1976.
Released: October 18, 1976.

In the matter of amendment to Part 83 to exempt SSB equipped vessels operating solely in Alaska waters from mandatory VHF capabilities.

1. We have received a number of phone calls from concerned organizations and individuals over the short comment period provided in this docket. Most have indicated agreement with a two-week extension period for comments.

2. For good cause shown, we find that the public interest will be served by an extension of the comment and reply comment filing periods.

3. Accordingly, pursuant to the authority contained in §§ 0.331 and 1.46 of the Commission's rules, the dates for filing comments and reply comments in this proceeding are extended to October 29, 1976, and November 15, 1976, respectively.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] ARLAN K. VAN DOORN,
*Acting Chief, Safety and Special Radio Services Bureau.*

[FR Doc.76-31223 Filed 10-22-76;8:45 am]

## FEDERAL MARITIME COMMISSION

[General Order 16; Docket No. 76-49]

**[46 CFR Part 502]**

### MISCELLANEOUS AMENDMENTS TO RULES OF PRACTICE AND PROCEDURE

**Proposed Rulemaking; Correction**

In the notice of proposed rulemaking in this proceeding published September 20, 1976 (41 FR 40504), proposed amendment number (1.) on page 40505 should be corrected to amend "§ 502.41 Parties; how designated" instead of "§ 502.21 Appearance."

The words "Section 502.21" appearing in the amendatory language in paragraph 1 should be changed to read "Section 502.41".

FRANCIS C. HURNEY,
*Secretary.*

[FR DOC.76-31240 Filed 10-22-76;8:45 am]

# notices

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

## DEPARTMENT OF STATE

[Public Notice CM-6/119]

### NORTHWEST ATLANTIC FISHERIES ADVISORY COMMITTEE

#### Open and Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act, notice is given that the Northwest Atlantic Fisheries Advisory Committee to the U.S. Commissioners to the International Commission for the Northwest Atlantic Fisheries (ICNAF), will hold a meeting on Tuesday, November 16, 1976 at 10 a.m. at the Office of the Commander, 1st Coast Guard District, Fourth Floor, Analex Building, 150 Causeway Street, Boston, Massachusetts.

The meeting will be devoted to discussions on and development of the U.S. negotiating position for the Special Meeting of ICNAF, to be held November 30 to December 9, 1976. Pursuant to Section 4 of the Northwest Atlantic Fisheries Act of 1950, which provides that "the Advisory Committee * * * shall be given full opportunity to examine and to be heard on all proposed programs of investigation, reports, and recommendations of the United States Commissioners * * *" the members of the Advisory Committee will examine the possible positions to be taken by the U.S. Commissioners. Portions of this discussion will necessarily involve discussion of classified national security information related to the Law of the Sea, the premature disclosure of which could reasonably be expected to cause damage to the national security (pursuant to Executive Order 11652) and would adversely affect the ability of the U.S. negotiators at the Special Meeting to achieve U.S. fisheries and foreign policy objectives. As it has been determined that portions of the meeting will involve discussion of matters exempt from public disclosure under 5 U.S.C. 552(b)(1) and that the public interest requires that such discussions be withheld from disclosure, the afternoon session of the meeting will not be open to the public.

The morning session, beginning at 10:00 a.m. will be open to the public. Seating is available for aproximately 20 members of the public and a limited amount of additional space is available for standees. The public may participate orally in the discussions or may, if desired, submit written statements for the Committee's attention. For further information on public participation contact the Office of Fisheries Affairs of the Department of State at (202) 632-2047.

Dated: October 20, 1976.

LEO N. SCHOWENGERDT, Jr.
*Office of Oceans and Fisheries Affairs.*

[FR Doc.76-31297 Filed 10-22-76;8:45 am]

### Agency for International Development

### HOUSING GUARANTY PROGRAM FOR REPUBLIC OF PERU

#### Information for Investors

The Agency for International Development (A.I.D.) has advised the Housing Bank of Peru (the Borrower) that upon execution by an eligible U.S. investor acceptable to A.I.D. of an agreement to loan the Borrower an amount not to exceed $15,000,000 and subject to the satisfaction of certain further terms and conditions by the Borrower, A.I.D. will guaranty repayment to the investor of the principal and interest on such loan. The guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority, contained in Section 222 of the Foreign Assistance Act of 1961, as amended (the Act). Proceeds of the loan will be used to finance housing for lower income families.

Eligible investors interested in extending a guarantied loan to the Borrower should communicate promptly with:

Victor Castro Munoz, General Manager, Banco de la Vivienda del Peru, Camana 488, Lima Peru; Cable Address BANVIPE; Telex No. 20077.

Investors eligible to receive a guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic corporations, partnerships or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95% owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for a guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate to be established by A.I.D.

The Borrower projects a schedule of approximately equal annual disbursements covering a maximum of a four year period from the date of the loan agreement and prospective Investors should consider this in proposing a guaranteed loan to the Borrower. In addition, the Investor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the Borrower.

Information as to eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 300 E, SA-2, Washington, D.C. 20523.

This notice is not an offer by A.I.D. or by the Borrower. The Borrower and not A.I.D. will select a lender and negotiate the terms of the proposed loan.

Dated: October 15, 1976.

PETER M. KIMM,
*Director of Housing, Agency for International Development.*

[FR Doc.76-31235 Filed 10-22-76;8:45 am]

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### SMALL BUSINESS ADVISORY COMMITTEE

#### Open Meeting

Notice is hereby given that pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, a meeting of the Internal Revenue Service Small Business Advisory Committee will be held on November 15 and 16, 1976, beginning at 9:30 a.m. in Room 3315, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224. The agenda will include various topics concerning the tax problems of small businesses. During the afternoon of November 16, the agenda will consist of meetings of several informal subcommittees.

The entire meeting will be open to the public. It is to be held in a room accommodating approximately 50 people. At the end of the discussion of agenda topics by Committee members, there may be time for germane statements by nonmembers. Persons wishing to make oral statements should so advise the Executive Secretary in writing prior to the meeting, to aid in scheduling any available time, and should submit a written text or an outline of comments they propose to make orally. Such comments should be restricted to ten minutes in length. Interested persons may also file a written statement for consideration by the Committee by sending it to the Executive Secretary, Room 3011, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

DONALD C. ALEXANDER,
*Commissioner.*

[FR Doc.76-31265 Filed 10-22-76;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[A 9140]

### ARIZONA

#### Right-of-Way Application

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the

El Paso Natural Gas Company, a corporation, of El Paso, Texas, has applied for a 50-foot wide pipeline right-of-way, including related facilities necessary for the operation and maintenance of the pipeline, for the transportation of crude oil across the following described public lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 1 N., R. 8 W.,
Sec. 33, S½NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 34, S½SW¼ and SW¼SE¼.
T. 2 N., R. 10 W.,
Sec. 31, NE¼NE¼;
Sec. 32, S½NE¼, N½NW¼, SE¼NW¼, and NE¼SE¼.
T. 2 N., R. 11 W.,
Sec. 7, lots 1 and 2, S½NE¼, E½NW¼, and N½SE¼;
Sec. 8, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 15, SW¼SW¼;
Sec. 16, NW¼NW¼, S½NW¼, NE¼SW¼, and SE¼;
Sec. 17, N½NE¼, SE¼NE¼, and NE¼NW¼;
Sec. 22, NW¼NE¼, S½NE¼, N½NW¼, and NE¼SE¼;
Sec. 23, SW¼NW¼, N½SW¼, SE¼SW¼, and S½SE¼;
Sec. 25, S½NE¼, N½NW¼, SE¼NW¼, and NE¼SE¼;
Sec. 26, NE¼NE¼.
T. 2 N., R. 12 W.,
Sec. 1, S½S½;
Sec. 2, SE¼SW¼ and S½SE¼;
Sec. 3, S½S½;
Sec. 4, S½S½;
Sec. 5, SE¼SW¼ and S½SE¼;
Sec. 7, N½N½;
Sec. 8, N½N½;
Sec. 9, NW¼NW¼;
Sec. 12, N½NE¼.
T. 2 N., R. 13 W.,
Sec. 7, SW¼ and N½SE¼;
Sec. 8, N½S½;
Sec. 9, S½NE¼, SE¼NW¼, N½SW¼, and NW¼SE¼;
Sec. 10, S½N½;
Sec. 11, N½NE¼, SW¼NE¼, NE¼NW¼, and S½NW¼;
Sec. 12, N½N½.
T. 2 N., R. 14 W.,
Sec. 11, S½S½;
Sec. 12, S½S½;
Sec. 14, N½NW¼;
Sec. 15, N½N½;
Sec. 16, N½NE¼ and NW¼;
Sec. 17, S½N½;
Sec. 18, lots 2 and 3, S½NE¼, SE¼NW¼, and NE¼SW¼.
T. 2 N., R. 19 W.,
Sec. 3, SW¼NW¼, N½SW¼, and SE¼;
Sec. 4, lots 3 and 4, S½NE¼, and SE¼NW¼;
Sec. 5, lots 1, 2, and 3;
Sec. 11, N½NE¼ and NE¼NW¼;
Sec. 12, N½NW¼ and S½N½.
T. 3 N., R. 19 W.,
Sec. 31, lots 3 and 4, E½SW¼, and S½SE¼;
Sec. 32, S½SW¼.
T. 3 N., R. 20 W.,
Sec. 18, lot 4;
Sec. 19, W½NE¼, SE¼NE¼, N½NW¼, and NE¼SE¼;
Sec. 20, N½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 27, SW¼SW¼;
Sec. 28, S½NW¼, N½SW¼, W½SE¼, and SE¼SE¼;
Sec. 29, N½NE¼ and SE¼NE¼;
Sec. 34, N½N½ and SE¼NE¼;
Sec. 35, S½N½;
Sec. 36, S½NW¼ and N½S½.

T. 3 N., R. 21 W.,
Sec. 7, S½S½;
Sec. 8, SE¼NE¼, SW¼, and N½SE¼;
Sec. 9, S½N½;
Sec. 10, S½NE¼, NW¼, and NE¼SE¼;
Sec. 11, lots 3 to 8, inclusive, S½SW¼ and NE¼SE¼;
Sec. 12, lot 1;
Sec. 13, lots 1 to 5, inclusive;
Sec. 14, lot 1;
Sec. 18, lot 1 and NE¼NW¼.
T. 3 N., R. 22 W.,
Sec. 13, N½NE¼, SW¼NE¼, NE¼NW¼, and S½NW¼;
Sec. 14, S½NE¼ and N½S½;
Sec. 15, S½SW¼ and SE¼.
T. 3 S., R. 1 W.,
Sec. 18, lot 4;
Sec. 19, lot 1, W½NE¼, SE¼NE¼, and E½NW¼;
Sec. 20, W½SW¼ and SE¼SW¼;
Sec. 28, W½SW¼;
Sec. 29, W½NE¼, SE¼NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 33, NE¼NW¼;
Sec. 34, N½SW¼ and SE¼SW¼.
T. 4 S., R. 1 W.,
Sec. 2, SW¼NW¼, N½SW¼, SE¼SW¼, and S½SE¼;
Sec. 3, lots 1 and 2, and SE¼NE¼;
Sec. 11, N½NE¼;
Sec. 12, W½NW¼, SE¼NW¼, and NE¼SW¼;
Sec. 13, NE¼NE¼.
T. 2 S., R. 2 W.,
Sec. 31, lots 3 and 4, SE¼SW¼ and S½SE¼.
T. 3 S., R. 2 W.,
Sec. 5, lot 4, SW¼NE¼, S½NW¼, and N½SE¼;
Sec. 6, lots 1 and 2;
Sec. 9, N½NE¼;
Sec. 10, SW¼NE¼, W½NW¼, SE¼NW¼, and N½SE¼;
Sec. 11, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 13, SW¼NE¼, W½NW¼, SE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 14, N½NE¼.
T. 2 S., R. 3 W.,
Sec. 27, S½SW¼ and SW¼SE¼;
Sec. 28, N½SW¼ and SE¼;
Sec. 29, S½N½ and NE¼SE¼;
Sec. 30, lot 2, S½NE¼, and SE¼NW¼;
Sec. 34, N½NE¼;
Sec. 35, NE¼ and N½NW¼;
Sec. 36, S½N½ and N½SE¼.
T. 2 S., R. 4 W.,
Sec. 25, S½N½;
Sec. 27, S½N½;
Sec. 28, S½N½,
Sec. 29, S½N½;
Sec. 30, lot 2 and SE¼NE¼.
T. 2 S., R. 5 W.,
Sec. 19, lot 1, SW¼NE¼, E½NW¼, N½SE¼, and SE¼SE¼;
Sec. 20, SW¼SW¼;
Sec. 25, S½N½;
Sec. 26, S½NE¼ and SE¼NW¼;
Sec. 27, SW¼NW¼;
Sec. 29, N½NE¼, SE¼NE¼, and N½NW¼.
T. 2 S., R. 6 W.,
Sec. 3, SW¼SW¼;
Sec. 4, W½NW¼, SE¼NW¼, NE¼SW¼, and SE¼;
Sec. 5, N½NE¼;
Sec. 10, S½NE¼, N½NW¼, SE¼NW¼, and N½SE¼;
Sec. 11, SW¼ and SW¼SE¼;
Sec. 13, W½NW¼, SE¼NW¼, N½SW¼, W½SE¼, and SE¼SE¼;
Sec. 14, NE¼NW¼, N½NE¼, and SE¼NE¼.
T. 1 S., R. 7 W.,
Sec. 7, lot 1, W½NE¼, SE¼NE¼, and E½NW¼;
Sec. 8, SW¼NW¼, N½SW¼, W½SE¼, and SE¼SE¼;
Sec. 9, SW¼SW¼;
Sec. 16, S½NE¼, N½NW¼, SE¼NW¼, and NE¼SE¼.
T. 1 S., R. 8 W.,
Sec. 1, W½SW¼, SE¼SW¼, and S½SE¼;
Sec. 3, lots 1 to 3, inclusive;
Sec. 12, N½NE¼.
T. 4 S., R. 1 E.,
Sec. 34, W½NE¼, SE¼NE¼, and NE¼SE¼;
Sec. 35, W½SW¼ and SE¼SW¼.
T. 5 S., R. 1 E.,
Sec. 2, lots 2 and 3, S½NE¼, and NE¼SE¼.
T. 5 S., R. 2 E.,
Sec. 7, lots 2 and 3, E½SW¼, and S½SE¼.
T. 6 S., R. 5 E.,
Sec. 1, N½S½.
T. 7 S., R. 12 E.,
Sec. 33, SW¼NE¼, W½NW¼, SE¼NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 34, S½SW¼.
T. 12 S., R. 19 E.,
Sec. 21, SE¼NE¼;
Sec. 25, S½N½.
T. 13 S., R. 22 E.,
Sec. 12, S½S½.
T. 13 S., R. 23 E.,
Sec. 18, NE¼NW¼ and NE¼SE¼.
T. 13 S., R. 26 E.,
Sec. 8, N½S½;
Sec. 11, N½SW¼.
T. 13 S., R. 27 E.,
Sec. 13, lot 4 and SW¼SE¼.
T. 13 S., R. 28 E.,
Sec. 17, S½SW¼;
Sec. 18, S½SE¼;
Sec. 21, NE¼NE¼.
T. 13 S., R. 29 E.,
Sec. 17, S½SW¼;
Sec. 18, lot 4, SE¼SW¼, and S½SE¼.
T. 13 S., R. 30 E.,
Sec. 13, N½SE¼;
Sec. 14, N½SW¼.
T. 13 S., R. 31 E.,
Sec. 13, N½S½;
Sec. 14, N½S½;
Sec. 15, N½S½;
Sec. 17, N½S½;
Sec. 18, lot 3, NE¼SW¼, NW¼SE¼.
T. 13 S., R. 32 E.,
Sec. 14, lot 2 and SW¼NW¼;
Sec. 15, N½SW¼ and NW¼SE¼;
Sec. 18, lot 3, NE¼SW¼, W½SE¼, and SE¼SE¼.

The proposed pipeline right-of-way is part of an overall system to convey crude oil from San Pedro Harbor, California, to Midland, Texas, and affects public lands in Arizona from a point on the Colorado River near Ehrenberg, Arizona, to the New Mexico State line east of San Simon, Arizona.

The length of the proposed right-of-way on public lands in Arizona is 107.29 miles, which includes 86.25 miles of the Company's existing 30'' O.D. pipeline for which right-of-way permits have previously been granted by the Bureau of Land Management to the Company for transportation of natural gas. It is proposed that use of the existing pipeline be converted to the transportation of crude oil under a new right-of-way permit, A 9140, and that permits for the rights-of-way no longer used for transportation of natural gas be relinquished.

New pipeline construction would consist of 5.26 miles of 42'' O.D. pipeline and 16.94 miles of 30'' O.D. pipeline on the following described lands:

T. 2 N., R. 12 W., (30'' O.D.)
Sec. 1, W½SW¼SW¼;
Sec. 2, SE¼SW¼ and S½SE¼;
Sec. 3, S½S½;
Sec. 4, S½S½;
Sec. 5, SE¼SW¼ and S½SE¼;
Sec. 7, N½N½;
Sec. 8, N½N½;
Sec. 9, NW¼NW¼.
T. 2 N., R. 13 W., (30'' O.D.)
Sec. 7, SW¼ and N½SE¼;
Sec. 8, N½S½;
Sec. 9, S½NE¼, SE¼NW¼, N½SW¼, and NW¼SE¼;
Sec. 10, S½N½;
Sec. 11, N½NE¼, SW¼NE¼, NE¼NW¼, and S½NW¼;
Sec. 12, N½N½.
T. 2 N., R. 14 W., (30'' O.D.)
Sec. 11, S½S½;
Sec. 12, S½S½;
Sec. 14, N½NW¼;
Sec. 15, N½N½;
Sec. 16, N½NE¼ and NW¼;
Sec. 17, S½N½;
Sec. 18, lots 2 and 3, S½NE¼, SE¼NW¼, and NE¼SW¼.
T. 3 N., R. 21 W., (42'' O.D.)
Sec. 7, S½S½;
Sec. 8, SE¼NE¼, SW¼, and N½SE¼;
Sec. 18, lot 1 and NE¼NW¼.
T. 3 N., R. 22 W., (42'' O.D.)
Sec. 13, N½NE¼, SW¼NE¼, NE¼NW¼, and S½NW¼;
Sec. 14, S½NE¼ and N½S½;
Sec. 15, S½SW¼ and SE¼.

The purpose of this notice is to inform the public that the right-of-way application for the pipeline has been filed. The Bureau of Land Management is proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: October 15, 1976.

ROBERT O. BUFFINGTON,
*State Director.*

[FR Doc.76-31196 Filed 10-12-76;8:45 am]

## QUALIFIED JOINT BIDDERS

### Notice of Filing Production Statement

As a convenience to the public, and pursuant to his authority under 43 CFR Part 3300, the Director of the Bureau of Land Management hereby publishes a list of all persons who have timely filed a Statement of Production in accordance with 43 CFR 3302.3–2(a) which has qualified them to bid jointly during the Bidding Period November 1, 1976, through April 30, 1977. This publication is not required by law or regulations and may in some respects be incomplete.

The following companies have filed sworn Statements of Production as required by 43 CFR 3302.3–2(a) attesting to average daily production not in excess of 1.6 million barrels of crude oil, natural gas and liquified petroleum products during the production period of January 1, 1976, through June 30, 1976:

Abaco Exploration, Inc.
Al-Aquitaine Exploration, Ltd.
Alaskco U.S.A., Ltd.
Allied Chemical Corporation
Alminex U.S.A., Inc.
AMAX Petroleum Corporation
Amerada Hess Corporation
American Natural Gas Production Company
American Petrofina Company of Texas
American Petrofina Exploration Company
Aminoil Development, Inc.
Aminoil Resources, Inc.
Aminoil USA, Inc.
Anadarko Production Company
Aquitaine Oil Corporation
Ashland Oil, Inc.
Atlantic Richfield Company
Belco Petroleum Corporation
Beren Corporation
Bethlehem Steel Corporation
Brooklyn Union Gas Company
Cabot Corporation
Canadian Occidental of California, Inc.
Canadian Superior Oil (U.S.) Ltd.
CanDel Oil (U.S.) Inc.
Canso Oil & Gas, Inc.
Caroline Hunt Trust Estate.
Case-Pomeroy Oil Corporation
Central Hudson Gas & Electric Corporation
Champlin Petroleum Company
Chanslor-Western Oil and Development Company
CIGOL Petroleum Inc.
Cities Service Company
C & K Marine Production Company
C & K Offshore Company
C & K Petroleum, Inc.
CNG Producing Company
Colorado Oil Company, Inc.
Columbia Gas Development Corporation
Columbia Gas of New York, Inc.
Consolidated Edison Company of New York, Inc.
Continental Oil Company
Corning Natural Gas Corporation
Cotton Petroleum Corporation
CRA Oil Exploration Company
Crown Central Petroleum Corporation
Dalco Oil Company
Decalta International Corporation
DEPCO, Inc.
Diamond Shamrock Corporation
Dow Chemical Company (The)
Drillamex, Inc.
Eason Oil Company
Ecee, Inc.
El Paso Natural Gas Company
Energy Capital, Inc.
Energy Development Corporation
Energy Reserves Group, Inc.
Equity Oil Company
Era North America, Inc.
Exchange Oil & Gas Corporation
Farmers Union Central Exchange, Incorporated
Farmland Industries, Inc.
Farmland International Energy Company
Felmont Oil Corporation
Florida Gas Exploration Company
Fluor Oil and Gas Corporation
Forest Oil Corporation
Freeport Minerals Company
Freeport Oil Company
Furth Oil Co.
Gas Producing Enterprises, Inc.
General American Oil Company of Texas
General Crude Oil Company
Getty Oil Company
Golden Eagle Refining Company, Inc.
Greenbrier Operating Co.
H. C. Price Co.
H. W. Bass & Sons, Inc.
Halbouty Alaska Oil Company
Hamilton Brothers Exploration Company
Hamilton Brothers Oil and Gas Corporation
Hamilton Brothers Oil Company
Hassie Hunt, Incorporated
Hematite Petroleum (U.S.A.), Inc.
Highland Resources, Inc.
High Seas Exploration, Inc.
Home Petroleum Corporation
Houston Oil & Minerals Corporation
Hudbay Exploration, Inc.
Hunt Energy Corporation
Hunt Industries
Hunt Investment Corporation
Hunt Oil Company
Hunt Petroleum Corporation
Husky Oil Company of Delaware
ICI Delaware Inc.
Intercontinental Energy Corporation
Jenney Oil Company
Kerr-McGee Corporation
Kirby Exploration Company
Knob Hill Oil & Gas Company, Inc.
Koch Industries, Inc.
Ladd Petroleum Corporation
Lamar Hunt Trust Estate
Long Island Lighting Company
Louisiana Land and Exploration Company (The)
Louisana Land Offshore Exploration Company, Inc.
Marathon Oil Company
Margaret Hunt Trust Estate
McMoRan Exploration Co.
Mesa Petroleum Co.
Mitchell Energy Offshore Corporation
Mono Power Company
Monsanto Company
Murphy Oil Corporation
National Cooperative Refinery Association
Natomas Exploration, Inc.
NATRESCO INCORPORATED
Natural Gas Corporation of California
Nelson Bunker Hunt Trust Estate
Nepco Exploration Corporation
New England Energy Incorporated
Newmont Oil Company
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
Norse Petroleum (U.S.) Incorporated
North Oil Inc.
Northern Michigan Exploration Company
Northern Natural Gas Company
Northwestern Mutual Life Insurance Company (The)
Ocean Oil & Gas Company
Ocean Production Company
ODECO Drilling Inc.
OFFSHORE COMPANY, (THE)
Ogle Development Corporation
Ogle Petroleum Inc.
Oil Development Company of Texas
OKC Corp.
Orange & Rockland Utilities, Inc.
Oxy Petroleum, Inc.
Paisano Resources, Inc.
PanCanadian Petroleum Company
Pan Eastern Exploration Company
Pavilion Natural Gas Company (The)
Pelto Oil Company
Pennzoil Company
Pennzoil Louisiana and Texas Offshore, Inc.
Pennzoil Offshore Gas Operators, Inc.
Pennzoil Producing Company
Phillips Petroleum Company
Pinto, Inc.
Placid Oil Company
Quintana Oceanic, Inc.
Quintana Offshore, Inc.
Reading & Bates Oil and Gas Co.
Reserve Oil and Gas Company
Reserve Oil, Inc.
Rowan Petroleum, Inc.
Samedan Offshore Corporation
Samedan Oil Corporation
Santa Fe Minerals Co.-U.S.
Siboney Corporation
Siebens Oil & Minerals, Inc.
Skelly Oil Company
Sohio Petroleum Company
SONAT Exploration Company
South Coast Corporation (The)
Southern Natural Gas Company
Southland Royalty Company

St. Joe Petroleum (U.S.) Corporation
St. Lawrence Gas Company, Inc.
Sun Oil Company (Delaware)
Superior Oil Company (The)
Syracuse Suburban Gas Company, Inc.
Tenneco Exploration, Ltd
Tenneco Exploration II, Ltd
Tenneco OCS Company, Inc.
Tenneco OCS Limited Partnership
Tenneco Offshore Company, Inc.
Tenneco Oil Company
Terra Resources, Inc.
Tesoro Petroleum Corporation
Texas Eastern Exploration Co.
Texas Eastern Transmission Corporation
Texas Gas Exploration Corporation
Texasgulf Inc.
Texas International Petroleum Corporation
Texas Pacific Oil Company, Inc.
Texas Production Company
Thermal Power Company
Tipperary Corporation
Transco Exploration Company
TransOcean Oil, Inc.
True Oil Company
Union Oil Company of California
United Energy Resources, Inc.
United Gas Pipe Line Company
United States Steel Corporation
Valhi, Inc.
Vsea, Inc.
W. R. Grace & Co.
Weeks Natural Resources, Inc.
Wewoka Exploration Company
William Herbert Hunt Trust Estate
Williams Exploration Company

In addition, Statements of Production have been received from nine companies who produced a daily average of 1.6 million or more barrels of crude oil, natural gas and liquified petroleum products during the previously mentioned production period, and are therefore restricted from bidding jointly with each other during the bidding period of November 1, 1976, through April 30, 1977. This list appeared in the FEDERAL REGISTER Vol. 41, No. 193, page 43747, on Monday, October 4, 1976.

CURT BERKLUND,
*Director,*
*Bureau of Land Management.*

OCTOBER 15, 1976.

[FR Doc.76-31233 Filed 10-22-76;8:45 am]

## Fish and Wildlife Service

## ENDANGERED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

*Applicant:* Wildlife Ecology Laboratory, University of Florida, Gainesville, Florida 32611, Dr. Wayne Marion.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Mark only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
a. To capture, handle, mark, radio track and study nesting activities of the American alligator in North-Central Florida (primarily Alachua & Marion counties).
b. To collect and hold at the University of Florida stomachs and other samples from approximately 60 American alligators taken in an experimental harvest by the Florida Game and Fresh Water Fish Commission.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Wildlife Ecology Laboratory
University of Florida
Gainesville, Florida 32611
(904) 392-1855

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
A university involved in research on various wildlife species.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Dr. Wayne Marion, Project Leader & Asst. Professor, (904) 392-1855
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
North-Central Florida (primarily Alachua and Marion counties)

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number(s))

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
The Fla. Game & Fresh Water Fish Comm. has approved of the attached project proposal & we have applied for the appropriate permits.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE
1 August 1976

11. DURATION NEEDED

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
See Attached Project Proposal

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Wayne R. Marion
DATE 12 July 1976

3-200
(6/74)
GPO 895-042

*Objectives.*—A. To evaluate light counts at night as censusing methods used in estimating the size and composition of American alligator (*Alligator mississippiensis*) populations in Florida.

B. To determine food preferences as related to food availability for American alligators in freshwater habitats of the state.

C. To determine the seasonal movements and habitat preferences of adult American alligators in this region.

D. To develop management recommendations which will help to maintain the American alligator as a renewable natural resource in Florida.

*Importance:* The American alligator is native to the southeastern United States where it has always been an important natural part of Florida's fauna. Alligators have not, however, always been as abundant as they apparently are today. Concern over the rapidly diminishing populations (Chabreck 1967, Craighead 1968, Hines et al. 1968) developed in the 1960's following many years of wetlands habitat alteration and uncontrolled harvesting of alligators. As a result, the American alligator was one of the first species placed on the U.S. Endangered Species List under the authority of the Endangered

Species Conservation Act of 1969 and further protection was provided by the Endangered Species Act of 1973. Under this rather strict legal protection, alligator populations apparently increased substantially in Florida (King 1972, Schemnitz 1974, Hines 1976 pers. comm. Fla Game and Fresh Water Fish Comm., Gainesville) as in other southeastern states like Louisiana (Palmisano et al. 1973).

With recent alligator population increases in Florida, there has also been an annual increase in alligator-human confrontations resulting in extensive time and effort by the Florida Game and Fresh Water Fish Commission to handle "nuisance" alligator complaints (Goodson 1976 pers. comm. Fla. Game and Fresh Water Fish Comm., Tallahassee). Oftentimes, however, just moving a large alligator to another more remote area may just be transferring and not solving the problem. Controlled harvests and carefully regulated management of alligators have been tried with success in Louisiana (Palmisano et al. 1973) and alligators are now being managed on a sustained yield basis in parts of Louisiana's coastal marshes. An obvious need exists for controlled harvest and management of Florida alligators. Legislation is pending which will loosen restrictions on these animals and allow experimentation with controlled harvests and management techniques. Important first steps toward establishing management guidelines and recommendations for Florida alligators include research into the objectives of this study.

*Previous Work and Outlook:* Several research studies in Louisiana (Chabreck 1966) and the Everglades of southern Florida (Hines et al. 1969, Hines 1975) have involved one or more censusing methods, including light counts at night, call counts, nest counts, mark and recapture tallies, and daytime basking counts (as described by Thompson and Gidden 1972). Generally, information obtained from a combination of these censusing methods has been used in inventorying alligators, but the validity of these techniques has been poorly evaluated. Also, habitat differences undoubtedly influence the effectiveness of various censusing methods; those methods best suited for coastal marshes of Louisiana or the Everglades of Southern Florida are not necessarily adequate for freshwater lakes and marshes in interior Florida.

Only a few investigators have studied food habits of alligators and none of these studies has been conducted in typical inland habitats of Florida. Studies in Louisiana (Kellogg 1929, McIlhenny 1935, Giles and Childs 1949, Valentine et al. 1972, Chabreck 1971) have indicated that alligators eat a wide variety of food items and that there is a definite correlation between the length of the alligator and types of food taken. Smaller alligators (less than three feet) tend to feed consistently on invertebrates, while diets of larger alligators include a wider variety with a predominance of larger vertebrates.

Published literature on feeding habits of alligators in Florida is limited to one study of immature alligators (less than six feet) in the Everglades (Fogarty and Albury 1967). A major criticism of alligator food studies to date is that availability of food items is frequently not measured and therefore, food preferences cannot be adequately determined. Also, some of the previous studies have not specifically determined food habit differences between the various size classes. Furthermore, nothing is known of food availability and preferences of various alligator size classes in freshwater habitats in Florida.

Movements of both nesting female alligators and adult males were studied (Chabreck 1965, Joanen and McNease 1970, 1972) on coastal marshes in Louisiana using radio telemetry to monitor these movements. In Florida, Hines et al. (1968) used mark and recapture techniques to determine movements of alligators in the Everglades. However, there have been no additional studies of movements and habitat preferences of alligators in freshwater habitats in central Florida and this information is essential to establishment of management guidelines on a statewide basis.

*Methods of Procedure:* Objective A.—1. Night light counts will be conducted and evaluated on designated transects adjacent to the shoreline of a freshwater lake. These counts will be conducted by outboard motorboat at weekly intervals and by airboat at biweekly intervals. Counts taken from both types of survey craft will be compared to determine which method samples a higher proportion of the wild alligator population.

2. Two colors of light (white and red) will be used and the effectiveness of each as an aid to alligator censusing will be evaluated.

3. The night light counts will be conducted under a variety of environmental conditions (e.g. water temperature, cloud cover, etc.), moon phases, and all seasons of the year. An attempt will then be made to correlate these environmental variables with changes in census results.

Objective B.—1. An upcoming experimental harvest by the Florida Game and Freshwater Fish Commission will enable us to obtain preserved alligator stomachs from several size classes. Stomach contents will be analyzed and summarized.

2. At approximately the time of the experimental harvest, study areas will be sampled to determine the availability of various food items. Determination of food preferences is possible by comparing the actual diet with food availability.

Objective C.—1. Several adult alligators (both sexes) will be captured, marked, and outfitted with radio transmitters. Movements of these study animals will be monitored and recorded at intervals throughout the year.

2. Seasonal movements, home ranges, and habitat preferences will be determined using data from the monitored test animals.

Objective D.—1. All of the above data will be used in developing management recommendations for alligators in freshwater habitats in Florida.

This research will be accomplished in cooperation with the Florida Game and Fresh Water Fish Commission and T. C. Hines, Wildlife Biologist. The Game and Fish Commission has agreed to allow us to use some of their equipment in accomplishing these research objectives.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE) U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-295-07; please refer to this number when submitting comments. All relevant comments received on or before November 26, 1976 will be considered.

Dated: October 19, 1976.

C. R. BAVIN,
*Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.*

[FR Doc.76-31268 Filed 10-22-76;8:45 am]

## National Park Service

## NATIONAL REGISTER OF HISTORIC PLACES

### Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 18, 1976. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by November 5, 1976.

JERRY L. ROGERS,
*Acting Chief, Office of Archeology and Historic Preservation.*

### ALABAMA

*Montgomery County*

Montgomery, *Cottage Hill Historic District*, roughly bounded by Goldthwaite, Bell, Holt, and Clayton.

### ALASKA

*Barrow-North Slope Division*

Sagwon vicinity, *Gallagher Flint Station Archeological Site*, S of Sagwon.

### MARYLAND

*Kent County*

Chestertown vicinity, *Rose Hill*, N of Chestertown on MD 213.

### MISSISSIPPI

*Alcorn County*

Corinth, *Battery Williams*, Fulton Dr. at Southern Railroad.

### NEVADA

*White Plains County*

Ely vicinity, *Fort Schellbourne*, 43 mi. N of Ely off U.S. 93 (proposed boundary change for property entered on 2-23-72).

### NEW MEXICO

*Bernalillo County*

Albuquerque, *Rancho de Carnue Site*, off U.S. 66.

### RHODE ISLAND

*Washington County*

Davisville vicinity, *Camp Endicott*, E of Davisville at 7th, 10th, and B Sts.

### SOUTH DAKOTA

*Hughes County*

Blunt, *Graham, Mentor, House*, U.S. 14.

*Minnehaha County*

Sioux Falls, *Augustana College Historic Buildings*, 29th and S. Summit Sts.

### TENNESSEE

*Davidson County*

Nashville, *Edgefield Historic District*, roughly bounded by Woodland, S. 10th S. 5th Sts., and Shelby Ave.

*Hamilton County*

Chattanooga, *Read House*, Broad and 9th Sts.

*Marion County*

Victoria vicinity, *Ketner's Mill*, E of Victoria on Ketner Mill Rd. at Sequatchie River.

*Montgomery County*

Clarksville, *Rexinger, Samuel, House*, 703 E. College St.

*Wilson County*

Lebanon, *Pickett Chapel Methodist Church*, E. Market St.

**TEXAS**

*Wheeler County*

Mobeetie and vicinity, *Fort Elliot-Mobeetie District*, TX 152.

**VIRGINIA**

*Caroline County*

Fredericksburg vicinity, *Prospect Hill*, SE of Fredericksburg off U.S. 17.
Oak Corner vicinity, *Spring Grove*, S of Oak Corner.

*Charles City County*

Charles City vicinity, *Weyanoke Plantation*, S of Charles City.

*Fairfax County*

Great Falls vicinity, *Colvin Run Mill*, S. of Great Falls at 10017 Colvin Run Rd.
Great Falls vicinity, *Cornwell Farm*, SE of Great Falls at 9414 Georgetown Pike.

*Frederick County*

Gore vicinity, *Cather, Willa, Birthplace*, NW of Gore on U.S. 50.

*Halifax County*

South Boston, *Fourqurean House*, 2.4 mi. SW of South Boston off VA 706.

*Loudoun County*

Leesburg vicinity, *Woodburn*, SW of Leesburg off VA 704.

*Lynchburg (independent city)*

*Spencer, Anne, House*, 1313 Pierce St.

*Richmond County*

Farnham vicinity, *Linden Farm*, N of Farnham on VA 3.

*Sussex County*

Littleton vicinity, *Little Town*, W of Littleton on VA 622.

[FR Doc.76-31134 Filed 10-22-76;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### NUTRITIONAL TRAINING, EDUCATION, STUDIES AND SURVEYS

### Plans for Use of Funds

Notice is hereby given that the Food and Nutrition Service (FNS), U.S. Department of Agriculture, plans to provide funds through grants to States for projects in nutritional training or education, or both, for workers, cooperators and participants in child nutrition programs; and through contractual agreements with States, nonprofit institutions, universities, or private industry for nutritional training, education and studies and surveys of requirements for school food service programs. The projects, studies and surveys are funded under section 6(a)(3) of the National School Lunch Act (NSLA) (42 U.S.C. 1755 (1)), which makes available to the Secretary of Agriculture up to one percent of the funds provided for programs under the NSLA and the Child Nutrition Act of 1966 (other than the Special Milk Program), to supplement the nutritional benefits of these programs.

A total of $700,000 is included in the Department's appropriation for nutritional training, education and studies and surveys for the Fiscal Year 1977 beginning October 1, 1976. Of this amount, $250,000 has been set aside for grants to States only. Priority will be given to projects which are anticipated to have findings with national or regional implications. The remainder of the funds ($450,000) will be used by FNS for cooperative agreements or other contractual arrangements in the areas of nutritional training, education and studies and surveys as set out in the final section of this notice.

#### I. $250,000 FOR GRANTS TO STATES

Up to $250,000 will be made available for grants to State agencies, who are responsible for administering the child nutrition programs.

##### REQUIREMENTS

1. An application, signed by the appropriate State official, must be submitted by a State agency that administers an FNS child nutrition program.

2. Project plans submitted shall pertain to the training of local school level food service personnel (workers and managers). At least three-quarters (75%) of all full time workers in every school participating in the project must receive training. Goals of the training shall include increasing food acceptability in the school lunch and breakfast programs through more effective meal planning, preparation and service, thus increasing participation. For all participating employees at every school these topics will be covered as a minimum:

(a) increasing participation in the school's lunch program through more effective meal preparation and service (purchasing, preparation, merchandising, nutrition education activities);

(b) providing menu flexibility and choice options within the Type A meal pattern;

(c) determining factors affecting food acceptability (degree of plate waste) in the school cafeteria; and

(d) utilizing to full advantage the FNS basic program aids to improve food service management and operation techniques.

Continuity of the present FNS effort in training will be achieved by utilization of curriculum materials being developed in several FNS projects which are focusing on development of curriculum materials for use in in-service training of school food service personnel. A variety of materials is available, which will provide several alternate types of approaches to in-service instruction and thus meet varying needs as well as provide several implementation systems which could be applicable or adapted to local needs.

FNS will provide successful grant awardees with samples of audiovisual and print materials which may be used for the training instruction. Reproduction will be the responsibility of the grantee. This cost should be included in the project budget.

3. The application shall be submitted on a form entitled "Application for Federal Assistance (Non-Construction Programs)," AD-623, as revised May 1976. Request for this form should be addressed or telephone request made to:

Contracting Officer, Management Services Division, Food and Nutrition Service, Room 790, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: (202) 447-8739 or 8740.

4. The application must be received at the address shown above not later than Monday, March 7, 1977.

5. All parts of the application must be completed in accordance with the instructions contained in Form No. AD-623. Part IV—Program Narrative shall include all requirements under paragraphs 1 thru 4 and under paragraphs 5a and 5b. The applicant will be required to certify compliance with applicable provisions of law and administrative regulations described in Part V of AD-623.

6. The term of the project shall not exceed eighteen months.

State Clearing House approval is not required. However, a copy of the applition should be forwarded for review to the State Clearing House in accordance with Part I of OMB Circular A-95, (41 FR 2052) Attachment A, Part I, Paragraph 9, entitled "Exceptions."

Grants will be administered under the provisions of Federal Management Circular 74-7 (34 CFR Part 256).

Attention should be given to the following areas in the circular:

1. Attachment "A"—Cash Depositories.
2. Attachment "G"—Standards for Grantee Financial Management Systems.
3. Attachment "O"—Procurement Standards.

Applications received will be reviewed on a competitive basis and announcement of grant awards will be made on or about June 1, 1977.

#### II. $450,000 FOR CONTRACTUAL AGREEMENTS

This part is a statement of intent only. Funds will not be awarded under this notice. Up to $450,000 will be used by FNS for cooperative agreements or other contractual arrangements with States or nonprofit institutions, universities, or private industry to do nutritional training, education, and studies and surveys.

The general areas of emphasis which may be pursued in projects under contractual arrangements follow:

##### STUDIES AND SURVEYS

1. To evaluate breakfast programs to determine the dietary benefits being provided the students served by these programs.

2. To determine the profile of organized family day care centers and residential institutions for children.

3. To determine the costs of producing a school lunch and breakfast in Fiscal Year 1977.

Bids and technical proposals to perform the nutritional training, education and studies and surveys in accord with specifications established by FNS are solicited through Requests for Proposals (RFP). Announcement of these contractual actions will be published in the Commerce Business Daily from time to time. Prospective bidders wishing to submit proposals may request to be put on the bidders list by contracting the Contracting Officer, above.

The subject grant program is not listed in the Appendix I of the Catalog of Federal Domestic Assistance.

Effective Date: October 26, 1976.

Dated: October 20, 1976.

JOHN DAMGARD,
*Acting Assistant Secretary.*

[FR Doc.76-31259 Filed 10-22-76;8:45 am]

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### Office of the Secretary

## MEAT IMPORT LIMITATIONS

### Country Allocations

By Proclamation 4469 of October 9, 1976 (41 F.R. 44995), the President, pursuant to section 2 of Pub. L. 88-482, approved August 22, 1964 (19 U.S.C. 1202 note), limited the total quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States during calendar year 1976 to 1,233 million pounds.

As required by Section 2(c)(3) of the Act, I have allocated the quantity proclaimed among supplying countries on the basis of the shares of such meat the countries supplied to the United States market during a representative period (1973-74), giving due account to special factors which have affected or may be affecting the trade in such articles and have certified the allocations, as set forth below, to the Secretary of the Treasury.

COUNTRY ALLOCATIONS MEAT IMPORT LAW (1976)

| *Country* | *Quantity (million pounds)* |
|---|---|
| Australia | 632.2 |
| New Zealand | 259.8 |
| Mexico | 52.0 |
| Costa Rica | 53.7 |
| Nicaragua | 48.9 |
| Honduras | 35.8 |
| Guatemala | 34.3 |
| Dominican Republic | 14.4 |
| El Salvador | 11.4 |
| Panama | 2.6 |
| Haiti | 1.9 |
| Other | 86.0 |
| Total | 1,233.0 |

Signed at Washington, D.C. on October 20, 1976.

JOHN A. KNEBEL,
*Acting Secretary of Agriculture.*

[FR Doc.76-31237 Filed 10-22-76;8:45 am]

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## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

[Order No. 42-1, Amdt. 3]

### DIRECTORATE OF ADMINISTRATIVE MANAGEMENT

### Organization and Function

This order effective September 13, 1976 amends the material appearing at 40 FR 12694 of March 20, 1975, and 40 FR 44345 of September 26, 1975.

DIBA Organization and Function Order 42-1, dated February 28, 1975, as amended, is hereby further amended to abolish the Information Systems Division, Office of Management and Systems, and to transfer responsibility for maintenance of DIBA's Program Management Information System to the Funds Management and Reports Division, Office of Budget. The revised organization structure shall be as depicted in the attached organization chart. A copy of the chart is on file with the original of this document in the Office of the Federal Register.

1. Section 5., Office of Management and Systems is amended to read, as follows:

SECTION 5. Office of Management and Systems. .01 The Office of Management and Systems shall be headed by a "Director" who shall plan, coordinate and direct all management and systems programs for the Domestic and International Business Administration and act as liaison with the Department's Office of Organization and Management Systems. The Office of the Director will administer the following programs: (1) Liaison for GAO and Departmental audit reports, surveys, and inquiries; (2) planning and coordination for DIBA's emergency readiness functions; (3) the DIBA records management program; and (4) the reports management program including coordination of selected periodic reports.

.02 The "Systems Management Division" coordinates and directs planning, analysis, development, design and evaluation of Domestic and International Business Administration systems; conducts or coordinates feasibility studies of proposed ADP systems and microform applications and equipment needs and usage; provides management coordination and control, technical guidance, assistance and support to all DIBA elements with regard to systems, data communications, data processing and data retrieval; designs, evaluates, develops, and installs the application of all systems to DIBA operations; and develops an integrated DIBA data base. The Division is responsible for establishment of production schedules for and maintenance of operational automated systems, and for the maintenance of systems documentation and support for all new and existing automated systems. The Division reviews, evaluates, approves and coordinates the acquisition and use of all DIBA ADP word processing and microform equipment and support services; is responsible for the preparation and submission of ADP planning, budgeting and evaluation information as required by DIBA, the Department and by other Federal agencies; and is the point-of-contact within DIBA for all ADP and systems questions and consultations.

.03 The "Management Analysis Division" shall conduct studies and surveys to effect improved management practices, manpower distribution, organization alignments, procedures and work methods; review and coordinate all proposed organizational changes; administer the DIBA forms management program; perform the committee management function; and maintain a system for the issuance of all DIBA Announcements, Administrative Instructions, Organization and Function Orders, Delegations of Authority and other issuances prepared for the administration of DIBA. The Division will also coordinate the administration of the Freedom of Information Act and the Privacy Act within DIBA.

2. Section 7.04, Office of Budget is amended to read, as follows:

.04 The "Funds Management and Reports Division" which shall: develop and maintain instructions governing the operation of DIBA's budgetary processes; prepare technical and other supporting schedules and review such schedules, as well as budget justifications for conformance with Departmental and OMB instructions governing submission of budget estimates; assure administrative control over the obligation and expenditure of DIBA appropriations and other funds; assure validity of planned and actual data included in financial reports; prepare special reports or briefings for the Office of the Secretary, the Assistant Secretary for Domestic and International Business, and DIBA program managers regarding significant fiscal, budget and program execution related problems, incorporating materials provided by other Divisions of the Office of Budget; prepare overseas direct project budget authorizations and advices of fund availability, and collect and deposit contributions and receipts; negotiate and prepare reimbursable agreements and billings related thereto; maintain liaison with the Central Accounting Division of the Department of Commerce's Office of Financial Management Services; maintain a Program Management Information System to provide manpower, cost, obligation and workload/accomplishment data for all DIBA programs and organizational components; receive and evaluate requests for modification of the system from PMIS users and prepare modification proposals for submission to the Systems Management Division, OMS; and maintain DIBA's budget history."

Effective date: September 13, 1976.

L. S. MATTHEWS,
*Assistant Secretary for Domestic and International Business.*

[FR Doc.76-31228 Filed 10-22-76;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 75N-0265, DESI 7358]

### FURAZOLIDONE FOR ORAL USE

### Drug Efficacy Study Implementation; Followup Notice and Recission of Portion of Previous Notice for Hearing

*Correction*

In FR Doc. 76-23786 appearing in the FEDERAL REGISTER of Monday, August 16, 1976 on page 34662, the 3rd column on page 34663 should be corrected as follows:

1. The reference in the last line in paragraph 3 should read "* * * FD-356H (21 CFR 314.1(c))."

2. The first line in paragraph 3b should be corrected to read "b. Approval of * * *" instead of "b. Approval if * * *".

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### PUBLIC ADVISORY COMMITTEES

#### Request for Nomination of Members

The Commissioner of Food and Drugs requests nominations for voting members to serve on public advisory committees for the Bureau of Drugs on which vacancies will occur during the next 12 months. The names, functions, types of expertise reqiured, and dates on which vacancies occur each year for those committees soliciting nominations at this time are as follows:

1. Anesthesiology Advisory Committee: Vacancy, June 30.

2. Anti-Infective Agents Advisory Committee: Vacancy, June 30.

3. Arthritis Advisory Committee: Vacancy, September 30.

4. Cardiovascular and Renal Advisory Committee: Vacancy, June 30.

5. Dental Drug Products Advisory Committee: Vacancy, June 30.

6. Dermatology Advisory Committee: Vacancy, December 31.

7. Endocrinology and Metabolism Advisory Committee: Vacancy, June 30.

8. Gastrointestinal Drugs Advisory Committee: Vacancy, January 31.

9. Neurologic Drugs Advisory Committee: Vacancy, January 31.

10. Obstetrics and Gynecology Advisory Committee: Vacancy, June 30.

11. Oncologic Drugs Advisory Committee: Vacancy, June 30.

12. Ophthalmic Drugs Advisory Committee: Vacancy, December 31.

13. Psychopharmacological Agents Advisory Committee: Vacancy, June 30.

14. Pulmonary-Allergy and Clinical Immunology Advisory Committee: Vacancy, June 30.

15. Radiopharmaceutical Advisory Committee: Vacancy, June 30.

16. Surgical Drugs Advisory Committee: Vacancy, June 30.

The function of the committees listed above is to review and evaluate available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in the area of medical specialty indicated by the title of the committee, and to make appropriate recommendations to the Commissioner.

17. Biometric and Epidemiological Methodology Advisory Committee: Vacancy, June 30. The function of this committee is to advise the Commissioner concerning the extramural and intramural research in the area of epidemiological and biometric methodology.

18. Controlled Substances Advisory Committee: Vacancy, January 31. The function of this committee is to advise the Commissioner regarding scientific and medical evaluation of information gathered by the Department of Health, Education, and Welfare and the Department of Justice with regard to safety, efficacy, and abuse potential of drugs or other substances classified as stimulants, sedatives, hypnotics, or analgesics, and to recommend action to be taken by the Department of Health, Education, and Welfare with regard to control of such drugs.

19. FDA/NIDA Drug Abuse Research Advisory Committee: Vacancy, June 30. The function of this committee is to advise the Food and Drug Administration on action to be taken on notices of claimed investigational new drugs (IND's) for substances with abuse potential, and to advise the National Institute on Drug Abuse on supplies of substances for clinical studies.

Persons selected by the committee as members shall have adequately diversified experience appropriate to the work of the committee in such fields as infectious disease, internal medicine, microbiology, pediatrics, rheumatology, statistics, epidemiology, pharmacology, psychiatry, dentistry, neurology, obstetrics and gynecology, surgery, ophthalmology, anesthesiology, nuclear medicine, or other appropriate areas of expertise. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee.

Terms of office are 4 years. Since scheduled vacancies occur at various dates throughout the year as given in the list above, no cutoff date is established for receipt of nominations. Nominations should be submitted at least 90 days before the scheduled vacancies noted.

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall specify the committee for which the nominee is recommended. A complete curriculum vitae of the nominee shall be included. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by the Food and Drug Administration to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts, in order to permit evaluation of possible sources of conflict of interest.

Nominations should be submitted to the Committee Management Branch (HFD-22), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Dated: October 19, 1976.

JOSEPH P. HILE,
*Acting Associate Commissioner for Compliance.*

[FR Doc.76-31204 Filed 10-22-76;8:45 am]

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### Health Resources Administration

### NURSING RESEARCH AND EDUCATION ADVISORY COMMITTEE

#### Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to assemble during the month of November 1976:

Name: Nursing Research and Education Advisory Committee.

Date and Time: November 4-5, 1976, 9:00 a.m.

Place: Conference Room 6C-09, Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland 20014.

Open November 4, 9:00-10:45 a.m.

Closed for remainder of meeting.

Purpose: The committee is charged with the initial review of research grant applications in all areas of nursing education and practice, including studies of extended professional roles, model curricula, clinical investigations, historical research, and institutional research development and with surveying the status of research in nursing education and practice.

Agenda: Agenda items for the open portion of the meeting will cover opening remarks, and the discussion of administrative and staff reports. The remainder of the meeting will be closed to the public for the review of grant applications which relate to nursing research and education, in accordance with the provisions set forth in section 552(b) (5) and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Doris Bloch, Room 6A-10, Federal Building, 9000 Rockville Pike, Bethesda, Maryland 20014, Telephone (301) 496-6955.

Agenda items are subject to change as priorities dictate.

The notice of this meeting was delayed for publication due to renewal and filing of the committee charter, as required by the Federal Advisory Committee Act.

Dated October 21, 1976.

JAMES A. WALSH,
*Associate Administrator for Operations and Management.*

[FR Doc.31355 Filed 10-22-76;8:45 am]

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### Public Health Service

### INDUSTRIAL SOUND LEVEL METER SETS

#### Applications for Certification

In the October 8, 1976, FEDERAL REGISTER (41 FR 44396), the Department adopted regulations which set forth the requirements and procedures for the

evaluation and certification of industrial sound level meter sets (42 CFR Part 82). Notice is hereby given that, effective immediately, the National Institute for Occupational Safety and Health will accept applications for certification of industrial sound level meter sets. All completed applications received by December 31, 1976, will be acted on by the Institute and resulting certifications will be published as a group as soon as all evaluations and tests are completed. Applications received after December 31, 1976, will be processed chronologically in order of their receipt and resulting certifications will be published on a continuous basis.

All applications and any questions concerning the certification program should be submitted to the Institute's Testing and Certification Branch, Appalachian Laboratory for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, W.Va. 26505.

Dated: October 19, 1976.

EDWARD J. BAIER,
*Acting Director, National Institute for Occupational Safety and Health.*

[FR Doc.76-31200 Filed 10-22-76;8:45 am]

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### Office of the Secretary

## STUDENT FINANCIAL ASSISTANCE STUDY GROUP

### Hearing and Meeting

The Student Financial Assistance Study Group was established by the Secretary of Health, Education, and Welfare by public notice on August 27, 1976, for the purpose of advising the Secertary on ways to implement more effectively and efficiently the Student Financial Assistance Programs administered by the Department. These programs include the Basic Educational Opportunity Grants Program (BEOG), the Guaranteed Student Loan Program (GSL), the Supplemental Educational Opportunity Grants Program (SEOG), the National Direct Student Loan Program (NDSL), the College Work-Study program, and the State Student Incentive Grant program.

Notice is hereby given pursuant to Pub. L. 92-463 that the Student Financial Assistance Study Group will hold a hearing on the "Identification and Definition of Management Issues Related to the Federal Student Financial Assistance Programs" on Thursday, November 11, 1976, in the first floor auditorium of the Department of Health, Education, and Welfare's South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201 from 1:00 to 4:00 p.m. The hearing is being held to receive recommendations and suggestions on which management and administrative issues related to the student assistance programs should receive the attention of the Study Group, and to assist the Study Group in prioritizing the issues it should address.

Listed here are some of the broad questions on which the Student Financial Assistance Study Group is seeking public comment. Recommendations and suggestions on other issues related to the management and administration of the Student Assistance Programs will be gratefully accepted.

1. What are the major management and administrative concerns and problems as viewed by institutions, parents, students, agencies, and individuals responsible for the delivery of assistance? Are there substantial concerns about the application process, the reporting system, the payment system, or other operating procedures?

2. What should be the relative roles of the Federal government, state governments, and the private sector in the administration of these programs?

3. What should be the appropriate roles of the accrediting agencies and government bodies in determining eligibility of institutions to participate in these programs, and in the process of determining termination of eligibility when public funds are mismanaged?

4. What areas of program operation should be strengthened to reduce, eliminate and prevent fraud and abuse in these programs?

5. Do the Federal student assistance programs fulfill the purposes for which they are intended? Are there administrative mechanisms that could be employed or strengthened to insure the integrity of these programs?

6. For which aspects of the management and administration of these programs is there the greatest need for increased quality control? Given limited resources at all levels of the operation of these programs, what relative emphasis should be given to quality control?

Dr. John A. Perkins, Chairman of the Student Financial Assistance Study Group, will preside at the hearing. Persons wishing to testify should submit their requests in writing to: Mrs. Mary Jane Calais, Staff Director SFASG, Room 325H, South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201, telephone (202) 245-9855. Requests to testify should reach Mrs. Calais not later than November 4, 1976. Persons wishing to present written statements for the record are encouraged to do so. Such written statements should be received by the Student Assistance Group not later than November 4, 1976.

The hearing will be open for public observation.

Pursuant to Public Law 92-463, notice is also hereby given of a meeting of the Student Financial Assistance Study Group to be held on Friday and Saturday November 12 and 13, 1976, from 9:00 a.m. until 4:00 p.m. each day, in Room 405A of the HEW South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The meeting will be used to identify, define and finally approve the management and administrative issues which the Study Group will address. Members of the Public are invited to attend the meeting. Because of limited meeting accommodations, reservations are recommended. Persons wishing to attend should notify the Study Group Staff Director by mail at Room 325H, Independence Avenue, SW., Washington, D.C. 20201, or by telephone at (202) 245-9855.

MARY JANE CALAIS,
*Staff Director, Student Financial Assistance Study Group.*

OCTOBER 14, 1976.

[FR Doc.76-31207 Filed 10-22-76;8:45 am]

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# DEPARTMENT OF TRANSPORTATION

### Materials Transportation Bureau

[Docket No. OPSO-35]

## TRANSPORTATION OF LIQUIDS BY PIPELINE

### Operating Pressure for Platform Piping; Interpretation

By letter dated September 14, 1976, the American Petroleum Institute (API) petitioned for reconsideration of the amendment to 49 CFR 195.106 published on August 12, 1976, in Docket No. OPSO-35 (41 FR 34035).

The amendment to § 195.106 provides that a design factor of 0.60 (rather than 0.72 as now required) must be used in the design formula for steel pipelines, including risers, on offshore platforms and on platforms in inland navigable waters. The amendment becomes effective August 1, 1977 and in accordance with § 195.100, applies to pipelines constructed, replaced, relocated, or otherwise changed on that date and thereafter.

As a basis for the petition, API refers to § 195.406(a)(1) which requires that the operating pressure of a pipeline may not exceed the internal design pressure of pipe determined in accordance with § 195.106. API points out that § 195.406 applies retroactively to all existing pipelines, including those installed using the existing design factor of 0.72. As a result, API states that § 195.406(a)(1) could be interpreted to require a reduction in operating pressure for pipelines not designed using the new factor of 0.60. Since the rulemaking in Docket OPSO-35 with respect to § 195.106 was not intended to require a reduction in operating pressures for existing pipelines, API suggests that the matter be clarified.

The Materials Transportation Bureau has reviewed the problem raised by API and interprets § 195.406(a)(1) as prohibiting a carrier from operating a pipeline at a pressure higher than the "internal design pressure" which § 195.106 requires to be determined during the pipeline's design phase. Thus, § 195.406(a)(1) only applies to pipelines to which § 195.106 applies (i.e., pipelines which are constructed, replaced, relocated, or otherwise changed on and after April 1, 1970, the effective date of § 195.106). Likewise, the limit on operating pressure under § 195.406(a)(1) as a result of the new design factor of 0.60 in § 195.106 only applies to pipelines which are constructed, replaced, relocated, or otherwise changed on and after August 1, 1977. Where § 195.406(a)(1) is inapplicable, one of the other standards in

§ 195.406(a) would govern the maximum allowable operating pressure.

Therefore, the petition for reconsideration is hereby granted to the extent that the above interpretation clarifies the reference to § 195.106 in §195.406(a)(1).

(Sec. 6, Pub. L. 89-670, 80 Stat. 937, (49 U.S.C. 1655; 18 U.S.C. 831-835); 40 FR 43901, 49 CFR 1.53)

Issued in Washington, D.C. on October 15, 1976.

JAMES T. CURTIS, Jr.,
*Director,*
*Materials Transportation Bureau.*

[FR Doc.76-31199 Filed 10-22-76;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket Nos. 24582 and 29132]

### ALLEGHENY AIRLINES, INC. AND PIEDMONT AVIATION, INC.

**Postponement of Hearing Regarding Subpart M Proceeding (Cincinnati-Washington, D.C.)**

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on November 10, 1976 (41 FR 44881, October 13, 1976), is postponed to December 1, 1976, at 9:30 a.m. (local time), and will be held in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., October 19, 1976.

KATHERINE A. KENT,
*Administrative Law Judge.*

[FR Doc.76-31264 Filed 10-22-76;8:45 am]

## DELAWARE RIVER BASIN COMMISSION

### COMPREHENSIVE PLAN

**Public Hearing**

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, November 10, 1976, commencing at 2 p.m. The hearing will be held in the Pennsylvania Room West of the Sheraton Hotel, 17th and Kennedy Blvd., Philadelphia. The subjects of the hearing are as follows:

I. CURRENT EXPENSE BUDGET

A proposed current expense budget for the fiscal year beginning July 1, 1977, in the aggregate amount of $1,558,800, and a capital budget for the same period in the amount of $27,000. The following amounts would be apportioned among the signatory parties, along with additional appropriations by the Commission, to balance the current expense budget: Delaware $114,400; New Jersey $319,900; New York $250,000; Pennsylvania $352,800, and Federal Government $398,700. The capital budget is apportioned $2,000 to New Jersey and $25,000 to Pennsylvania. Copies of summaries of the 1978 current expense and capital budgets are available from the Commission upon request.

II. RULES OF PRACTICE AND PROCEDURE

Proposed amendments to the Commission's Administrative Manual—Part II, rules of practice and procedure, to effectuate revised project review procedures under section 3.8 of the Delaware River Basin Compact. The amendments, as set forth in the following draft text, would (1) allow for greater flexibility in determining whether a proposed project would have a substantial effect on basin water resources, (2) provide for greater reliance by the Commission upon technical review work by state agencies, and (3) add two new categories of projects subject to Commission determination pursuant to section 3.8 of the Compact. Section references in the following text of the proposed amendment refer to the rules of practice and procedure, revised April 1, 1974.

A. Amend section 2-3.5 by adding two new paragraphs (d) and (e) to read as follows:

(d) Except as otherwise provided by section 2-3.8 the sponsor shall submit an application for review and approval of a project included under paragraph (b) above through the appropriate agency of a signatory party. Such agency will transmit the application or a summary thereof to the Executive Director, pursuant to Administrative Agreement, together with available supporting materials filed in accordance with the practice of the agency of the signatory party. The Executive Director will thereupon determine for the Commission whether or not the proposed project could have a substantial effect upon the water resources of the basin within the meaning of the Compact and the rules of practice and procedure. In making such determination the Executive Director shall be guided by his findings as to the following factors:

(1) The impact of the project on environmentally-sensitive land areas or species of plant or animal life.

(2) The potential of the project and its distribution or collection systems to induce significant changes in numbers, distribution or character of population or economic activity.

(3) The magnitude of proposed water withdrawal or waste discharge in relation to minimum streamflow, aquifer yield or water quality.

(4) The size of the project and distribution or collection system and areal extent and duration of its environmental impact.

(5) The effect of the project on public health, safety or general welfare, and historic and cultural properties.

(6) The effect of the project on surface or groundwaters in another state.

(7) The effect of the project on transfers of water into or out of the basin or from one sub-basin to another.

(8) The cost of the project and nature and magnitude of resources required for its implementation.

(9) The effect of the project on flood flows and stormwater runoff.

(10) Any other facts which in a particular case may be relevant to the protection of the integrity of the Comprehensive Plan.

(e) Projects determined by the Executive Director to have a substantial effect will be subject to approval by the Commission pursuant to section 3.8 and Article 11 of the Compact (to the extent applicable). Projects determined by the Executive Director not to have a substantial effect on the water resources of the basin will not be subject to further review or action by the Commission. The Executive Director shall notify the sponsor of the project, and agency of the signatory party reviewing the project, and the governing body of the municipality, and the planning board of the county in which the project is located of his initial determination on the question of substantial effect. Notice to such interested parties shall be given by certified mail, return receipt requested. He shall also cause to be published in a newspaper of general circulation in that municipality, at least once, a notice of such determination. If no objection is made to the Executive Director's initial determination, it shall become final ten days after publication as above. Any interested party objecting to the determination may, within ten days of the newspaper publication, object to such determination and appeal to the Executive Director by letter for reconsideration. Following such reconsideration, if requested, the Executive Director shall serve notice upon the agency of the signatory party, the applicant and each such objector of his final determination. Any such party may appeal such final determination to the Commission by notice in writing served upon the Executive Director within 14 days after the service of the Executive Director's decision upon reconsideration. The Commission will determine such appeal at a regular meeting thereafter.

B. Amend section 2-3.9 by deleting all of paragraph (b) and inserting in lieu thereof the following:

(b) The appropriate agency of a signatory party shall perform a technical review for the Commission, in accordance with Administrative Agreement, of each project finally determined to have a substantial effect on the water resources of the basin; except that the Commission staff will perform the technical review: (1) Whenever the agency of the signatory party is itself the sponsor, or (2) does not have the necessary regulatory jurisdiction, or (3) upon request of the agency of the signatory party; and (4) as to those projects which are subject to an environmental assessment or environmental impact statement under these rules of practice and procedure and the National Environmental Policy Act.

(c) Upon completion of its technical review, the agency of the signatory party shall, in accordance with Administrative Agreement, prepare and file with the Executive Director an action report with respect to the project. The Executive Director shall prepare a memorandum of comment stating his concurrence or non-concurrence with the findings and recommendations of the action report. The report, memorandum, and a proposed docket decision with reference thereto shall be placed before the Commission by the Executive Director at its next regular meeting. Whenever times permit, a copy of the proposed docket decision shall be furnished to the applicant, and the applicant shall be given an opportunity to comment thereon and to consent to the conditions stated therein, before action by the Commission. The Commission will act upon the project in accordance with section 3.8 and Article 11 of the Compact (to the extent applicable).

C. Amend paragraph (c) of section 2-3.9 by changing the designation to paragraph (d).

D. Amend section 2-3.5 (b) by the addition thereto of two new categories of reviewable projects as follows:

(14) Regional wastewater treatment plans developed pursuant to the Federal Water Pollution Control Act.

(15) State and local standards of flood plain regulation.

E. Amend Article 3 by the deletion of section 2-3.14 thereof in its entirety.

III. APPLICATION FOR APPROVAL OF THE FOLLOWING PROJECTS AS AMENDMENTS TO THE COMPREHENSIVE PLAN PURSUANT TO ARTICLE 11 OF THE COMPACT AND/OR AS PROJECT APPROVALS PURSUANT TO SECTION 3.8 OF THE COMPACT:

A. *Mount Holly Sewerage Authority (D–70–133 CP-rev.)*. Expansion of the Authority's sewage treatment plant serving Mount Holly and portions of adjacent townships in Burlington County, N.J. The expansion is designed to provide removal of 95 percent of $BOD_5$ from a sewage flow of 5 million gallons per day. Treated effluent will discharge to the North Branch Rancocas Creek.

B. *New Castle County Dept. of Public Works (D–74–34 CP-amended)*. Rerating of the Department's sewage treatment plant serving a portion of the flow in the South Christiana interceptor, New Castle County, Del. The treatment plant provides removal of 90 percent of $BOD_5$ from a sewage flow of 2.5 million gallons per day. Treated effluent discharges to None Such Creek, a tributary of South Christiana.

C. *Township of Hamilton (D–74–44 CP)*. Expansion of the sewage treatment plant serving Hamilton Township and portions of West Windsor and Washington Townships, Mercer County, N.J. The plant will provide removal of 90 percent of $BOD_5$ and suspended solids from a sewage flow of 17.5 million gallons per day. Treated effluent will discharge to Crosswicks Creek.

D. *City of Camden (D–76–30 CP)*. A well water supply project to augment public water supplies in the City of Camden, Camden County, N.J. Designated as Well No. 18, the new facility is expected to yield 1.8 million gallons per day.

E. *City of Bridgeton (D–76–39 CP)*. A well water supply project to augment public water supplies in the City of Bridgeton and adjacent areas in Hopewell and Upper Deerfield Townships, Cumberland County, N.J. Designated as Well Nos. 13, 14 and 15, the new facilities are expected to produce a combined yield of 66.9 million gallons per month.

F. *Borough of Doylestown (D–76–71 CP)*. A well water supply project to augment public water supplies in the Borough of Doylestown, Bucks County, Pa. Designated as Well No. 12, the new facility is expected to yield 360,000 gallons per day.

G. *McGraw-Edison Co. (D–76–100)*. An industrial waste treatement project at the company's plant in East Stroudsburg, Monore County, Pa. Wastewaters from the foundry and galvanizing operation will be neutralized and metals precipitated to meet effluent standards. Treated effluent flow of 158,000 gallons per day will discharge to an unnamed tributary of Brodhead Creek.

H. *Container Corp. of America (D–76–22)*. A cooling water discharge at the company's plant in the City of Philadelphia, Pa. About 6.5 million gallons per day of cooling water discharges to the Schuylkill River.

I. *Allentown Portland Cement Co. (D–76–45)*. An industrial waste treatment project at the company's plant in Maidencreek Township, Berks County, Pa. Cooling water and quarry dewatering flows of approximately 860,000 gallons per day will discharge untreated to Maiden Creek.

J. *Metropolitan-Edison Co. (D–76–73)*. Cooling water discharge at the company's Portland generating station in Upper Mt. Bethel Township, Northampton County, Pa. A maximum of 313 million gallons per day of heated discharge will be dissipated in a designated mixing zone in the Delaware River.

K. *Swift Dairy & Poultry Co. (D–76–90)*. Modifications to an industrial waste treatment project at the company's plant in Georgetown, Sussex County, Del. The facility will provide removal of 92 percent of BOD, from wastewater flow of 1 million gallons per day. Treated effluent will discharge to Savannah Ditch, a tributary of Broadkill River.

L. *Hoffmann-LaRoche, Inc. (D–75–149)*. A surface water supply project at the company's existing plant in White Township, Warren County, N.J. An average of 5 million gallons per day will ultimately be withdrawn from the Delaware River for use in the company's manufacturing facilities.

Documents relating to the items on this hearing notice may be examined at the Commission's offices. Persons wishing to testify are requested to notify the Secretary prior to the hearing.

W. BRINTON WHITALL,
*Secretary.*

OCTOBER 18, 1976.

[FR Doc.76–31230 Filed 10–22–76;8:45 am]

## ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

### ADVISORY PANEL FOR THE REVIEW OF THE LASER ISOTOPE SEPARATION PROGRAM

#### Notice of Meeting

OCTOBER 20, 1976.

The Advisory Panel for the Review of the Laser Isotope Program will hold a meeting on November 10 and 11, 1976, in Room 5124C, ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C. The subject scheduled for discussion involves the program for the development of isotope separation using lasers and concerns Restricted Data and other National Security Information; and data proprietary to Jersey Nuclear Avco Isotopes, Inc.

The meeting will be closed to the public under the authority of subsection 10 (d) of Pub. L. 92–463 (the Federal Advisory Committee Act).

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that the discussions will concern Restricted Data which is exempt from disclosure under 5 U.S.C. 552(b) (1) and (3); other National Security Information which is exempt from disclosure under 5 U.S.C. 552(b) (1); and proprietary information which is exempt from disclosure under 5 U.S.C. 552(b) (4). It is essential to close the meeting to protect such classified and proprietary information.

HARRY L. PEEBLES,
*Deputy Advisory Committee Management Officer.*

[FR Doc.76–31291 Filed 10–22–76;8:45 am]

### HISTORICAL ADVISORY COMMITTEE

#### Notice of Meeting

OCTOBER 20, 1976.

The Energy Research and Development Administration's Historical Advisory Committee will hold a meeting on November 16, 1976, at the Eleutherian Mills Historical Library in Greenville, Delaware. The morning session from 9:00 a.m. until noon will be open to the public.

The following agenda items will be discussed:

1. The scope and objectives of the ERDA History Program.
2. Collection of materials on ERDA History.
3. Progress on Volume III of the AEC History.
4. Other activities of the Historian's Office.

The committee will hold a closed session not open to the public from 1:30 p.m. until 4:30 p.m. on November 16 under authority of Section 10(d) of Pub. L. 92–463 (Federal Advisory Committee Act) to discuss a number of historical questions related to AEC programs for the production of fissionable materials and nuclear weapons in the 1950s. I have determined that it is necessary to close the afternoon session on November 16 so that the committee may examine and discuss historical documents which contain data and information classified as Restricted Data as defined in the Atomic Energy Act of 1954, as amended, and fall within exemptions (1) and (3) of 5 U.S.C. 552(b) and other National Security Information which is exempt from disclosure under exemption (1) of 5 U.S.C. 552(b). Any nonexempt material that may be discussed at this session will be inextricably intertwined with the discussion of exempt material and no further separation is practical. It is essential to close such portions of the meeting to protect such privileged information and to protect the free interchange of internal views and avoid undue interference with Administration and Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing ten copies thereof, postmarked no later than November 9, 1976, to Dr. Richard G. Hewlett, ERDA Representative, Historical Advisory Committee, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Comments shall be based on the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with (a), above, may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the advisory committee.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Committee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been rescheduled or relocated and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call to Dr. Richard G. Hewlett on (301) 353–5431 between the hours of 8:30 a.m. and 5:00 p.m., Eastern Time, on November 15, 1976.

(e) Questions may be propounded only by members of the advisory committee.

(f) Seating for the public will be made available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Copies of minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
*Deputy Advisory Committee Management Officer.*

[FR Doc.76-31292 Filed 10-22-76;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

### CANADIAN BROADCAST STATIONS

### Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

*Canadian List No. 359, Oct. 4, 1976*

| Call letters | Location | Power (in kilowatts) | Antenna | Schedule | Class | Antenna height (feet) | Ground system | | Proposed date of commencement of operation |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Number of radials | Length (feet) | |
| | | *560 kHz* | | | | | | | |
| CHCM | Marystown, Newfoundland, N. 47°09'26" W. 55°14'37" (correction to coordinates). | 10 | DA-N ND-D-180.5 | U | III | | | | EIO Feb. 25, 1977. |
| | | *570 kHz* | | | | | | | |
| CKCQ | Quesnel, British Columbia, N. 52°56'40" W. 122°30'00" (delete immediately—vide 920 kHz). | 1 | DA-2 | U | III | | | | |
| | | *570 kHz* | | | | | | | |
| CKWL | Williams Lake, British Columbia, N. 52°05'29" W. 122°10'27" (now in operation). | 1 | DA-2 | U | III | | | | |
| | | *750 kHz* | | | | | | | |
| *CBGY* | Bonavista Bay, Newfoundland, N. 48°40'27" W. 53°46'23" (assignment of call letters). | 10 | DA-2 | U | II | | | | EIO May 12, 1977. |
| | | *790 kHz* | | | | | | | |
| (New) | Bedford, Nova Scotia, N. 44°47'15" W. 63°44'40". | 10 | DA-2 | U | III | | | | EIO Oct. 4, 1977. |
| | | *900 kHz* | | | | | | | |
| CKBI | Prince Albert, Saskatchewan, N. 53°06'13" W. 105°45'30" (now in operation). | 10 | DA-N ND-D-193 | U | II | | | | |
| | | *920 kHz* | | | | | | | |
| CKCQ | Quesnel, British Columbia, N. 52°56'40" W. 122°30'00" (now in operation). | 10D/1N | DA-N ND-D-182 | U | III | | | | |
| | | *920 kHz* | | | | | | | |
| CKWL | Williams Lake, British Columbia, N. 52°05'29" W. 122°10'27" (delete immediately—vide 570 kHz). | 1 | DA-N ND-D-182 | U | III | | | | |
| | | *960 kHz* | | | | | | | |
| (New) | Mont-Joli, Quebec, N. 48°35'15" W. 68°08'01". | 1 | DA-N ND-D-185 | U | III | | | | Do. |
| | | *1150 kHz* | | | | | | | |
| (New) | Gaspe, Quebec, N. 48°49'00" W. 64°24'12". | 5 | DA-1 | U | III | | | | Do. |
| | | *1230 kHz* | | | | | | | |
| CHFC | Churchill, Manitoba, N. 58°45'17" W. 94°05'39" (now in operation). | 0.25 | ND-180 | U | IV | 134 | 120 | 320 | |
| | | *1280 kHz* | | | | | | | |
| *CJJD* | Hamilton, Ontario, N. 43°10'59" W. 79°51'19" (change in call letters from CHAM). | 10 | DA-2 | U | III | | | | |
| | | *1310 kHz* | | | | | | | |
| CHGB | La Pocatiere, Quebec, N. 47°20'45" W. 70°05'04" (now in operation). | 10 | DA-N ND-192 | U | III | | | | |
| | | *1360 kHz* | | | | | | | |
| (New) | Walkerton-Hanover, Ontario, N. 44°03'50" W. 81°06'54". | 10 | DA-2 | U | III | | | | Do. |
| | | *1570 kHz* | | | | | | | |
| *CKLQ* | Brandon, Manitoba, N. 49°45'29" W. 99°57'55" (assignment of call letters). | 10 | DA-N ND-D-188 | U | II | | | | EIO May 12, 1977. |

WALLACE E. JOHNSON,
*Chief, Broadcast Bureau, Federal Communications Commission.*

[FR Doc.76-31226 Filed 10-22-76;8:45 am]

## FEDERAL ENERGY ADMINISTRATION

### CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

**Week of September 24 through October 1, 1976**

Notice is hereby given that during the week of September 24 through October 1 1976 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA 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.

MICHAEL F. BUTLER,
*General Counsel.*

OCTOBER 19, 1976.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, Sept. 24 through Oct. 1, 1976*

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Sept. 24, 1976 | Exxon Co., USA, Washington, D.C. (If granted: Exxon's entitlement purchase obligation for June 1976 would be adjusted to correct for FEA's alleged error in computing old oil receipts.) | FEA-0963 | Appeal of FEA's entitlement notice for June 1976 issued Aug. 25, 1976. |
| Do | Ford Oil Co. (Leroy Ford), Santa Rosa, Tex. (If granted: FEA's Sept. 7, 1976, remedial order concerning the alleged overcharges relating to propane sales by the Ford Oil Co. would be rescinded.) | FEA-0965<br>FES-0965 | Appeal of FEA's Sept. 7, 1976, remedial order. |
| Do | G. N. Stills, Arlington, Tex. (If granted: Mr. Stills would be supplied motor gasoline by Sun Oil Co., Inc., rather than his base period supplier, Amtel, Inc.) | FEE-3155 | Exception to change suppliers. |
| Do | General Distributors, Inc., Salisbury, Md. (If granted: FEA's July 16, 1976, decision and order would be rescinded and General Distributors would be permitted to, retroactively, increase its prices for propane it sells to its "rate scale" class of purchaser.) | FEA-0962 | Appeal of FEA's exception decision and order in General Distributors, Inc., 4 FEA par. 83,007 (July 16, 1976). |
| Sept. 27, 1976 | Basic Earth Science Systems, Inc., Denver, Colo. (If granted: Basic Earth Science Systems, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced by the Haynesville Samckover Lime "B" Sand Unit.) | FEE-3159 | Price exception (sec. 212.165). |
| Do | C. H. Sprague & Son Co., Boston, Mass. (If granted: FEA's Aug. 18, 1976, information request denial would be rescinded and C. H. Sprague & Son Co., would receive access to agency documents dealing with the reseller banking rule, 10 CFR 212.93(e).) | FEA-0966 | Appeal of FEA's Aug. 18, 1976, information request denial. |
| Do | Eddy Refining Co., Houston, Tex. (If granted: FEA's July 16, 1976, decision and order would be rescinded and Eddy Refining Co. would receive an exception from 10 CFR 212.82 and 212.83 for the period August 1973 through June 1975.) | FEA-0964 | Appeal of FEA's exception decision and order in Eddy Refining Co., 4 FEA par. 83,005 (July 16, 1976). |
| Do | Glacier Park Co., Osage, Wyo. (If granted: Glacier Park Co. would receive a stay of its purchase obligations under the old oil entitlements program pending a decision on its exception request.) | FES-3156 | Stay of the requirements of 10 CFR 211.67. |
| Do | Harold G. Hilderbrand, Schenectady, N.Y. (If granted: FEA's Aug. 17, 1976, information request denial would be rescinded and Mr. Hilderbrand would receive access to certain compliance case file material.) | FEX-0088 | Supplemental order. |
| Do | Hennessey-Freda, Inc., Larchmont, N.Y. (If granted: Hennessey-Freda, Inc., would be assigned a new lower priced supplier of motor gasoline to replace its base period supplier, Rex Oil Co.) | FEE-3163 | Exception to change suppliers. |
| Do | Husky Oil Co. of Delaware, Washington, D.C. (If granted: Husky Oil Co. of Delaware would receive an exception from the "notice of proposed adjustments to 1975 exception relief under domestic crude oil allocation program" as it pertains to Husky's entitlement purchase obligations.) | FEE-3158 | Exception from the old oil entitlements program. |
| Do | Mid-Michigan Truck Service, Inc., Grand Rapids, Mich. (If granted: Mid-Michigan Truck Service, Inc., would receive an extension of the exception relief granted in FEA's July 1, 1976, decision and order.) | FEX-0087 | Extension of FEA's exception relief in Mid-Michigan Truck Service, Inc., 3 FEA par. ..... (July 1, 1976). |
| Do | Petrochemical Energy Group, Washington, D.C. (If granted: FEA's Aug. 20, 1976, order assigning Northern Illinois Gas Co. an increase in its base period use of propane for use as British thermal unit enrichment of the SNG output of NI-Gas' Aux Sable SNG facility would be rescinded.) | FEA-0967 | Appeal of FEA's Aug. 20, 1975, assignment order. |
| Do | Superior Oil Co. (South Fullerton), Houston, Tex. (If granted: Superior Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its south Fullerton plant.) | FEE-3160 | Price exception (sec. 212.165). |
| Do | Union Oil Co. of California, Los Angeles, Calif. (If granted: Union Oil Co. of California would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Mermentau and Santa Clara Valley gas plants.) | FEE-3161<br>FEE-3162 | Do. |
| Sept. 28, 1976 | Atlantic Richfield Co., Los Angeles, Calif. (If granted: FEA region IX's Sept. 2, 1976, remedial order would be rescinded.) | FEA-0971<br>FES-0971 | Appeal of FEA region IX's remedial order. Stay requested. |

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Do | B. F. Goodrich Chemical Co., Washington, D.C. (If granted: B. F. Goodrich Chemical Company would receive an increase in its base period use of propane.) | FEE-3197 | Allocation exception. |
| Do | Connecticut Refining Co., West Haven, Conn. (If granted: FEA region I's remedial order would be rescinded.) | FEA-0970 | Appeal of FEA's remedial order. |
| Do | Dasher-Harris Gas Co., Jesup, Ga. (If granted: Dasher-Harris Gas Co. would reveive an extension of the relief assigning a new, lower priced supplier of propane granted in FEA's June 29, 1976, decision and order.) | FEE-3198 | Extension of FEA's exception relief in Dasher-Harris Gas Co., 3 FEA Par. 83,253 (June 29, 1976). |
| Do | Edgington Oil Co., Los Angeles, Calif. (If granted: Edgington Oil Co. would receive an exception from the "notice of proposed adjustments to 1975 exception relief under domestic crude oil allocation program" as it pertains to Edgington's entitlement purchase obligations.) | FEE-3195 | Exception to the old oil entitlements program. |
| Do | Gulf Oil Corp., Tulsa, Okla. (If granted: Gulf Oil Corp. would receive an extension of the relief granted in FEA's Sept. 17, 1976, decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural plants: Adena, Camrick, Delhi, Enville, Kalkaska, Pledger, and South Fullerton.) | FEE-3179—FEE-3185 | Extension of exception relief in Gulf Oil Corp., 4 FEA par. ____ (Sept. 17, 1976). |
| Do | Gulf Oil Corp., Tulsa, Okla. (If granted: Gulf Oil Corp. would receive an extension of the relief granted in FEA's Sept. 14, 1976, decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas plants: Azalea, Bluebell, Knox, Milfay, Sand Hills, Saunders, Vada, and Waddell.) | FEE-3186—FEE-3193 | Extension of exception relief in Gulf Oil Corp., 4 FEA par. ____ (Sept. 14, 1976). |
| Do | Sanford P. Fagadau, Dallas, Tex. (If granted: Mr. Sanford P. Fagadau would be permitted to increase his prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Bluegrove and Maryetta gasoline plants.) | FEE-3164 FEE-3165 | Price exception (sec. 212.165). |
| Do | Skelly Oil Co., Tulsa, Okla. (If granted: Skelly Oil Co. would receive a stay of the requirements of FEA's Sept. 2, 1976, remedial order dealing with the allocation of increased product costs to volumes of catalyst coke.) | FES-0953 | Request for stay of FEA's remedial order. |
| Do | Standard Oil Co. (Indiana), Chicago, Ill. (If granted: Standard Oil Co. (Indiana) would be permitted to increase prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas plants: Beaver Creek, Burnell-North Pettus, Edgewood, Halley, Indian Basin, Midland Farms, Peoria, Prentice, South Fullerton, South Jennings, South Manchester, Thibodaux, and West Bastian Bay.) | FEE-3166—FEE-3178 | Price exception (sec. 212.165). |
| Do | Gibbs, Roper, Loots & Williams, Milwaukee, Wis. (If granted: FEA's Sept. 17, 1976, information request denial would be rescinded.) | FEA-0969 | Appeal of FEA's information request denial. |
| Sept. 29, 1976 | Calhoun Engineering, Inc., Dallas, Tex. (If granted: Calhoun Engineering, Inc., would be permitted to increase its prices for natural gas liquid products produced at the Jay Simmons plant to reflect nonproduct cost increases in excess of $0.005 per gallon.) | FEE-3199 | Price exception (sec. 212.165). |
| Do | Exxon Co., USA, Houston, Tex. (If granted: The entitlement notices for the months of June 1975 through April 1976 would be set aside based on FEA's alleged error in the computation of old oil receipts.) | FEA-0972 | Appeal of entitlement notices for the months of June 1975 through April 1976. |
| Do | Midland Cooperatives, Inc., Minneapolis, Minn. (If granted: Midland Cooperatives, Inc., would receive an exception from the "Notice of Proposed Adjustments to 1975 Exception Relief Under Domestic Crude Oil Allocation Program" as it pertains to Midland's entitlement purchase obligations.) | FEE-3194 | Exception from the old oil entitlements programs |
| Do | Standard Oil Co. (SOHIO), Cleveland, Ohio. (If granted: Standard Oil Co. (SOHIO) would receive an exception from 10 CFR 212.131 as it pertains to requirement that domestic crude oil BPCL, or ABCL, and stripper well production be certified to purchasers on or before Oct. 1, 1976.) | FEE-3196 FES-3196 | Price exception (sec. 212.131). Stay requested. |
| Sept. 30, 1976 | Farmers Petroleum Cooperative, Inc., Lansing, Mich. (If granted: The headquarters Richfield unit waterflood wells would be classified as stripper wells.) | FEE-3200 | Price exception (sec. 212.74). |
| Do | Oklahoma Natural Gas Co., Tulsa, Okla. (If granted: Oklahoma Natural Gas Co. would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005 per gallon.) | FEE-3201 | Price exception (sec. 212.165). |

[FR Doc.76-31197 Filed 10-20-76;10:09 am]

## ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

### Week of September 6 through September 10, 1976

Notice is hereby given that during the week of September 6 through September 10, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

*Harold G. Hilderbrand; Schenectady, N.Y.; FEA-0944; Freedom of Information*

Harold G. Hilderbrand appealed from a partial denial of a Request for Information which he had submitted to the FEA under the Freedom of Information Act. In responding to that request, the FEA had refused to disclose to Hilderbrand certain information on the grounds that the information consisted of commercial or financial information which was exempt from disclosure under the provisions of 5 U.S.C. 552(b)(4). In the Decision which it issued in this matter, the FEA held that in order to satisfy applicable requirements, an Appeal must identify with particularity the alleged errors of fact or law that occurred in the determination being appealed, and that arguments must be offered in support of the contention that the prior determination was improper. The FEA found that the Hilderbrand Appeal failed to satisfy these fundamental requirements. The Appeal was therefore dismissed and Hilderbrand was given leave to file an amended appeal within 15 days.

*Kern County Refinery, Inc.; Bakersfield, Calif.; FEA-0872; Crude Oil*

Kern County Refinery, Inc. filed an Appeal from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve it of the obligation to purchase additional entitlements in June to account for certain retroactive adjustments to the firm's crude oil receipts and runs to stills during the months of February and March 1976. On the basis of an amended entitlements report which Kern filed for the month of February and March, the Office of Regulatory Programs determined that Kern had incurred an obligation to purchase additional entitlements in June. In considering Kern's Appeal, the FEA found that Kern should not be required to purchase entitlements to account for crude oil receipts in February and March because the small refiner exemption contained in Section 403(a) of the Energy Policy and Conservation Act and Special Rule No. 6 to Section 211.67 applied to the firm's crude oil receipts during that period. The FEA stated that although refiners are required to file reports of actual crude oil receipts and to correct those reports if more accurate data is obtained, these reports may not be used in circumstances such as the Kern case to require a small refiner to purchase entitlements with respect to crude oil which it received during the months when the statutory exemption was in effect. The firm's Appeal was therefore granted.

*Placid Oil Co.; Dallas, Tex.; FEA-0825; Crude Oil*

Placid Oil Company appealed from a Decision and Order which the FEA issued to it on April 9, 1976. Placid Oil Company, 3 FEA Par. 83,158 (April 9, 1976). In that Decision, the FEA denied Placid's request for an exception which would permit the firm to retain and utilize in its refinery the crude oil which it is presently required to sell to other refiners under Section 211.63(a) of the FEA Regulations. The FEA also denied Placid's request that it be exempt from paying a handling charge for crude oil which it purchases pursuant to the provisions of Section 211.65 (the Crude Oil Buy/Sell Program). In considering Placid's Appeal, the FEA determined that contrary to the firm's assertions, it was not erroneous for the income which Placid received from its crude oil production operations to be taken into account in analyzing the impact of the overall FEA Regulatory Program on the firm. In addition, the financial data which Placid submitted in its Appeal shows that the firm's consolidated operations are currently in excellent financial condition, and that therefore there is no basis for Placid's claims that it is experiencing a serious financial hardship as a result of the FEA Regulations. Contrary to contentions which Placid made in both its exception application and its Appeal, the

FEA also found that the factual material which Placid submitted does not satisfy any of the criteria upon which exception relief from the provisions of Section 211.63(a) was granted in prior cases. See, e.g., Louisiana Land and Exploration Co., 2 FEA Par. 83,339 (October 22, 1975). The FEA concluded that with respect to Placid's request for an exception from the pricing requirements of the Crude Oil Buy/Sell Program, the firm made no additional substantive arguments on Appeal which were not already fully considered and rejected in the April 9 Decision. The firm's Appeal was therefore denied.

REQUEST FOR EXCEPTION

*Charter Oil Co.; Jacksonville, Fla.; FEE–2775; Crude Oil*

Charter Oil Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements in any month beginning with July 1976. In support of its exception request, Charter submitted projected financial statements and projections of its monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal period April 1 through December 31, 1976, the end of its current fiscal year. In considering Charter's Application, the FEA determined that as a result of the rescission of Special Rule No. 6 and Charter's projected crude oil runs to stills and receipts of old oil, Charter would be required to purchase entitlements at a substantial cost and would thereby be prevented from achieving either its historical profit margin or historical return on invested capital. Pursuant to the criteria set forth in Delta Ref. Co., 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Co., 3 FEA Par. 83,209 (June 8, 1976), exception relief to Charter was therefore approved. Accordingly, the FEA approved exception relief which reduced by $225,620 per month the value of entitlements which Charter would otherwise be required to purchase during the period September 1976 through February 1977.

*Dunham Air Service; Franklin, Pa.; FEE–2638; Kerosene Jet Fuel*

Dunham Air Service filed an Application for Exception from the provisions of 10 CFR 211.12 which, if granted, would result in the issuance of Orders by the FEA increasing Dunham's base period use of jet A fuel and directing Dunham's base period supplier to furnish the increased volumes of jet fuel to the firm. The firm claimed that exception relief was necessary in order to supply two of its principal customers which had recently purchased new jet aircraft. In considering the exception request, the FEA determined that Dunham's existing base period use was insufficient to supply the additional fuel which the two firms needed and that Dunham was unable to obtain surplus product. In addition, the FEA found that in the absence of exception relief, these new customers will have to fly to distant airports to obtain quantities of aviation fuel. The FEA concluded that the waste of scarce fuel which results from such flights was contrary to the goals specified in Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended. The FEA therefore granted exception relief which increases these customers' base period use of jet A fuel. The FEA also authorized Dunham to take the necessary action under Section 211.13(c) of the FEA Regulations so that it would be able to increase its base period use of jet A fuel by a corresponding amount.

*Eason Oil Co.; Oklahoma City, Okla.; FEE–2683; Crude Oil*

The Eason Oil Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D, which, if granted, would permit Eason to sell crude oil produced from the Weiner Property at upper tier ceiling prices. In considering Eason's exception request, the FEA determined that the amount of crude oil produced from the Weiner Property has not declined appreciably since the base period. In addition, Eason had earned a profit of $.555 per barrel for the most recently completed fiscal quarter. As a result, the FEA concluded that the firm had failed to make a convincing showing that the approval of exception relief was necessary to provide an economic incentive for the firm to continue crude oil production from the property. The exception application was therefore denied.

*Fortune Drilling Corp.; San Angelo, Tex.; FEE–2554; Crude Oil*

Fortune Drilling Corporation (Fortune) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D of the Mandatory Petroleum Price Regulations. Fortune's exception request, if granted, would permit the firm to retain $66,250 in revenues which it apparently realized as a result of charging unlawful prices for crude oil which it produced from two wells on the Ruth Gordon Lease (the Lease). In considering Fortune's request, the FEA determined that Fortune misconstrued the definition of the term "property" as set forth in Section 212.73 because the firm incorrectly assumed that separate reservoirs constituted separate properties under FEA Regulations. The FEA further determined that although Fortune based its assumption on information it obtained from the Texas Railroad Commission and the Permian Corporation, neither of these organizations has any statutory authority to interpret the FEA Regulations. The FEA also found that although Fortune claimed that it had been uncertain as to the correct interpretation of the term property under FEA Regulations, it made no attempt to obtain guidance from FEA with respect to this issue during that entire 21 month period. Finally, with respect to Fortune's contention that retroactive exception relief is warranted in view of a recent FEA rulemaking the FEA noted that the rulemaking which modified the definition of property in a manner which conformed at least in part with Fortune's previous interpretation of that term was specifically stated to be prospective only. Since the record in this proceeding failed to substantiate Fortune's contention that the generally applicable determinations of the FEA should not be applied in the present proceeding, Fortune's exception request was denied.

*Good Hope Industries, Inc.; Washington, D.C.; FPI–0101; Naphtha*

Good Hope Industries, Inc. (GHI) filed an Application for Exception from the provisions of 10 CFR 213.35(c) which, if granted, would permit it to import, on a license fee-exempt basis, 5,475,000 barrels of naphtha into PAD Districts I–IV during the current allocation period. Based on GHI's purchase records in recent months, the firm was importing substantial quantities of naphtha in order to supply its motor gasoline customers. The FEA determined that the data submitted by GHI supported its contention that the additional expense which it would incur from the payment of license fees on the naphtha which it imports could not be reflected in its prices and would therefore exacerbate the firm's existing financial difficulties. In this regard, the FEA observed that GHI is currently in bankruptcy proceedings and its net income and profit margin have declined from historical levels in recent fiscal quarters. The FEA therefore concluded that GHI was experiencing an exceptional hardship and granted the firm's request with respect to 9,967 b/d of naphtha which will be necessary to supply its motor gasoline customers. It was also determined that since GHI had made a compelling showing of financial hardship and had pursued its administrative remedies in a timely manner, retroactive exception relief should be granted to permit GHI to obtain a refund of license fees already paid in the current allocation year.

*Halliburton Co.; Vessels Gas Processing Co.; Denver, Colo.; FEE–2774; Natural Gas Liquid Products*

Halliburton Company and Vessels Gas Processing Company filed an Application for Exception from the provisions of Section 212.165 of the FEA Mandatory Petroleum Price Regulations. The exception request, if granted, would permit Halliburton and Vessels to increase their selling prices for the natural gas liquids which they produce at their Irondale natural gas processing plant in Adams County, Colorado, to levels which are in excess of those permitted by Section 212.165. In a number of previous Decision, the FEA determined that, as a general rule, exception relief would be granted to any natural gas processor which could demonstrate that the non-product cost which it has incurred at its gas plant since May 1973 have increased substantially in excess of the pass-through already permitted under the provisions of Section 212.165. Based on an analysis of the data presented by Halliburton and Vessels, the FEA determined that the firms' Irondale gas plant qualified for exception relief under this standard and appropriate relief for that plant was therefore approved for the period September 10, 1976, through December 3, 1976.

*Little America Refining Co.; Evansville, Wyo.; FEE–2838; Crude Oil*

On August 2, 1976, Little America Refining Company (LARCO) filed an Application for Exception from 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements during the months of September 1976 through February 1977 to account for its crude oil runs to stills and receipts of old crude oil for the months of July through December 1976. In support of its exception request, LARCO submitted projected financial data and projections of its monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal period July 1 through December 31, 1976. In considering the LARCO Application, the FEA determined that in view of LARCO's recent acquisition of the entire operations of Pasco, Inc., a small refiner, it was necessary to first compute an appropriate historical profit margin and historical return on invested capital (ROIC) for the combined LARCO and Pasco operations in order to apply the standard under which exception relief could be provided as set forth in Delta Ref. Co., 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Co., 3 FEA Par. 83,209 (June 8, 1976). The FEA determined that it would be proper for this purpose to use a weighted average profit margin and ROIC for LARCO's six fiscal years of operation prior to the inception of the Entitlements program and Paso's two fiscal years of operations prior to the inception of the Entitlements Program. The FEA then found on the basis of projections which the firm submitted that LARCO would be re-

quired to purchase entitlements at substantial cost during the period July 1 through December 31, 1976, and as a result, would be prevented from achieving a level of profitability comparable to either its hisorical profit margin or its historical ROIC during that period. The FEA therefore determined that exception relief was warranted under the criteria applied in precedent cases and accordingly, it reduced by $3,716,003 per month the value of entitlements which LARCO would otherwise be required to purchase during the period September 1976 through February 1977.

*McAlester Fuel Co.; Magnolia, Ark.; FEE–2368; Crude Oil*

McAlester Fuel Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell crude oil produced from the McAlester Fuel Co. State Lease 508 Well No. 1 at a price which exceeds the lower tier ceiling price. In considering the exception application, the FEA observed that on August 20, 1976 the price rules applicable to producers of domestic crude oil were amended and effective September 1, 1976 the definition of property was revised. *See* 41 Fed. Reg. 36172, 36184 (August 26, 1976). Under the revised regulations, firms will generally be permitted to calculate current production of old crude oil and new crude oil from a particular reservoir on the basis of the formation's base production control level provided that the reservoir is recognized as a separate reservoir by the appropriate state regulatory body. In its submission, McAlester stated that no other well has produced or can produce crude oil from the reservoir which it intends to tap through the No. 1 well. The FEA determined that if McAlester is correct and if the appropriate state regulatory body finds that the formation constitutes a separate reservoir, the base production control level for the crude oil produced from the No. 1 well would be zero and the crude oil produced from the well would be new crude oil which could be sold at upper tier ceiling prices. Accordingly, the relief sought by McAlester might be unnecessary, and the FEA determined that its exception request should be dismissed. However, the FEA indicated that the firm could submit a new exception request if the state regulatory authority determines that the formation to be tapped by the No. 1 well is not a separate reservoir or if the firm makes a strong showing that it is highly unlikely that the state regulatory authority would consider the formation as a separate reservoir. The FEA also indicated it would consider a new exception application from McAlester if it makes a showing that (i) substantial uncertainty exists as to whether the state regulatory authority will view the particular formation as a separate reservoir, (ii) it must make a substantial capital investment in order to obtain the data upon which the ruling will be based, and (iii) it has no economic incentive to make that investment if it is not assured that it will be permitted to charge upper tier ceiling prices for the crude oil produced from the formation.

*Midway Gas, Inc.; Dadeville, Ala.; Fee—2550; Propane*

Midway Gas, Inc. filed an Application for Exception to the provisions of 10 CFR 211.9. The exception request, if granted, would result in the issuance of orders by the FEA assigning Midway a new, lower-priced supplier of propane to replace its base period supplier, Wanda Petroleum Company, and directing the new supplier to furnish Midway with its base period use of propane. In considering the Midway exception application, the FEA found that the prices which Wanda charged Midway for propane were substantially above the prices charged to Midway's Competitors by their suppliers and as a result, Midway had drastically reduced its markup in order to remain competitive in retail sales. The FEA also found that Midway had incurred substantial non-product cost increases in its business operations which it is unable to recover by increasing the prices of the propane which it sells, and that it had been unable to alleviate its uncompetitive price and cost situation by purchasing surplus propane at competitive price levels. The FEA determined that this situation was causing Midway to experience financial difficulties of such proportion that its continued existence as an independent marketer was in serious jeopardy. On the basis of these findings, the FEA concluded that the application of Section 211.9 resulted in a serious hardship to Midway and, pursuant to the formula which had been applied in prior cases, exception relief was approved which permitted Midway to receive 72.04 percent of its base period use of propane from a new, lower-priced supplier for the October through December 1976 allocation quarter.

*Pennylvania Oil and Gas Association; Ohio Oil and Gas Association; Independent Oil and Gas Association of W. Va.; Bradford, Pa.; Wooster, Ohio; FEE–2255; FEE–2257; Crude Oil*

The Pennsylvania Oil and Gas Association, the Ohio Oil and Gas Association and the Independent Oil and Gas Association of West Virginia (the Associations) filed Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D, of the FEA Price Regulations on behalf of all producers of Penn Grade crude oil in the states of New York, Pennsylvania, Ohio and West Virginia. The exception requests, if granted, would permit Penn Grade producers which operate stripper wells to sell the oil produced from those wells at price levels in excess of the applicable upper tier ceiling price computed pursuant to the provisions of 10 CFR 212.74. In considering this request the FEA noted that on August 14, 1976 the President signed into law the Energy Conservation and Production Act (the ECPA) (Pub. Law 94–385). Section 121 of that Act provides that beginning September 1, 1976 the first sale price of stripper well crude oil shall be exempt from the FEA Price Regulations. As a result, the Penn Grade crude oil which is produced from stripper well properties and which is the subject of the Associations' Applications for Exception may be sold at market price levels. The FEA therefore determined that the Associations' requests were moot and the applications were dismissed.

*Rock Island Refining Corp.; Indianapolis, Ind.; FEE–2721; Crude Oil*

On June 17, 1976, the FEA granted Rock Island Refining Corporation (Rock Island) an exception from the provisions of 10 CFR 211.67 (the old Oil Entitlements Program) which partially relieved the firm of its projected entitlement purchase obligation during the period June 1 through November 30, 1976. Rock Island Refining Corporation, 3 FEA Par. 83,233 (June 17, 1976). The exception relief granted to Rock Island in that Decision was based on an analysis of projected financial data which the firm provided for its entire 1976 fiscal year. Since that data included the benefits which Rock Island received when it was exempt from any entitlement purchase obligation during the period October 1975 through March 1976, the FEA stated in the June 17 Order that it would reevaluate its initial determination if the firm filed a new exception application in which it set forth its projected financial data for the period from April 1, 1976 through the end of its current fiscal year. On July 9, 1976, Rock Island filed a new Application for Exception in accordance with the terms of the June 17 Order and requested approval of additional exception relief from the Entitlements Program. In considering Rock Island's new application the FEA determined that on the basis of projections which it provided, Rock Island's entitlement purchase obligation would prevent it from operating during the remainder of its fiscal year at a level comparable to its historical operating performance. See, Delta Ref. Co., 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Co., 3 FEA Par. 83,209 (June 8, 1976). The June 17 Order was therefore rescinded effective August 31, 1976, and Rock Island was granted exception relief during the period September 1 through November 30, 1976, on the basis of the new financial data which it submitted. In addition, Rock Island was granted additional exception relief in September 1976 to account for the difference between the exception relief actually granted in the months of June through August 1976 and the amount of exception relief which the FEA determined on the basis of the new data was appropriate for that time period.

*Southland Oil Co.; Jackson, Miss.; FEE–2727; Crude Oil*

On June 18, 1976, the FEA granted Southland Oil Company (Southland) an exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which partially relieved the firm of its projected entitlement purchase obligation during the period June 1 through November 30, 1976. The exception relief approved in that Decision was based upon an analysis of projected financial data which Southland provided for its entire 1976 fiscal year. Since that data included the benefits which Southland received when it was exempt from any entitlement purchase obligation during the period October 1975 through March 1976, the FEA stated in the June 18 Order that it would reevaluate its initial determination if the firm filed a new exception application in which it set forth its projected financial data for the period from April 1, 1976 through the end of its current fiscal year. On July 13, 1976, Southland filed a new Application for Exception in accordance with the terms of the June 18 Order and requested the approval of additional exception relief from the Entitlements Program. In considering Southland's new application, the FEA determined that on the basis of projections which the firm provided, Southland's entitlement purchase obligation would prevent it from operating during the remainder of its fiscal year at a level comparable to its historical operating performance. See, Delta Ref. Co., 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Co., FEA Par. 83,209 (June 8, 1976). The June 18 Order was therefore rescinded effective August 31, 1976, and Southland was granted exception relief during the period September 1 through November 30, 1976, on the basis of the new financial data which it submitted. In addition, Southland was granted additional exception relief in September 1976 to account for the difference between the exception relief actually granted in the months of June through August 1976 and the amount of exception relief which the FEA determined on the basis of the new data was appropriate for the time period.

*Texas Eastman Co.; Longview, Tex.; FPI–0098; Crude Oil*

Texas Eastman Company (TEC) filed an Application for Exception from the provisions of 10 CFR 213.30 which, if granted, would extend the period of time within which the firm is permitted to utilize two import licenses. The licenses which TEC received en-

abled it to import crude oil on a fee-exempt basis during the allocation year ending on April 30, 1976. However, although the firm originally filed its application for fee-exempt licenses pursuant to Section 213.30 on a timely basis, the licenses which the FEA issued were not issued until January 28, 1976, and TEC was unable to utilize the licenses during the three months remaining in the allocation year. The FEA determined that TEC received no benefits from the issuance of those licenses and the intent of Section 213.30 and Proclamation No. 3279, as amended, was being frustrated. Accordingly, the FEA found that in view of the undue administrative delay which has occurred in the processing of TEC's application, exception relief was appropriate and the firm was granted a 120-day extension of time in which to utilize the two licenses.

REQUESTS FOR MODIFICATION OR RESCISSION

*Crystal Skyways, Inc.; Minneapolis, Minn.; FMR–0055; Aviation Fuel*

Crystal Skyways, Inc. filed an Application for Modification or Rescission of a Decision and Order issued to it on March 8, 1976. Crystal Skyways, Inc., 3 FEA Par. 83,123 (March 8, 1976). In its present Application, Crystal requests that the FEA reverse the March 8 determination and increase its base period use of aviation gasoline from 70,008 gallons per year to 90,000 gallons per year. In its Application, Crystal submitted revised financial data projecting that it would earn less profit in its current fiscal year than it had previously projected in the exception proceeding. Crystal claimed that this change in the anticipated financial position of the firm constituted significantly changed circumstances. Nevertheless, in considering the new data, the FEA observed that the profits now projected by the firm would still be 153 percent greater than the profits which Crystal realized in any of its prior fiscal years for which data was available. On this basis, the FEA concluded that Crystal had failed to demonstrate that the circumstances encountered by the firm had changed in a manner which materially altered the basis of the March 8 exception Decision. Crystal's Request for Modification or Rescission was therefore denied.

*Western Jobbers Alliance; San Francisco, Calif.; FMR–0053; Motor Gasoline*

The Western Jobbers Alliance (Western Jobbers), a group of 92 former Phillips Petroleum Company (Phillips) branded jobbers, filed an Application for Modification or Rescission of two Decisions and Orders which the Federal Energy Administration previously issued to The Oil Shale Corporation (TOSCO). The Oil Shale Corp., 2 FEA Par. 80,673 (August 29, 1975) and The Oil Shale Corp., 2 FEA Par. 83,169 (June 10, 1975). Those determinations related to TOSCO's proposed acquisition of certain West Coast petroleum refining, distribution and marketing assets which were owned by Phillips. In the June 10 and August 29 Decisions, the FEA granted TOSCO exception relief which permitted it to compute its maximum allowable prices in a manner which is different from that prescribed in the FEA Price Regulations. With respect to TOSCO's sales of motor gasoline to customers who are currently included in three of the classes of purchaser that Phillips maintained on May 15, 1973, TOSCO was permitted to use its own May 15, 1973 prices rather than the applicable May 15, 1973 prices of Phillips. The Western Jobbers' request, if granted, would have required TOSCO to compute the prices which it may charge the former Phillips branded jobbers by placing them in TOSCO's branded class of purchaser. In the alternative, Western Jobbers requested that these purchasers be placed in TOSCO's unbranded jobber class of purchaser.

In its Application for Modification or Rescission, Western Jobbers contended that the June 10 and August 29 Orders not only permitted TOSCO to apply its May 15, 1973 selling prices in sales to certain classes of purchaser but also permitted TOSCO to place former Phillips branded jobbers in the "wholesale rack (unbranded class 1)" class of purchaser which TOSCO maintains. Western Jobbers contended that the transfer of its members to that class of purchaser was improper and resulted in a serious financial hardship to the firms concerned, and that on this basis the Orders issued to TOSCO should be modified or rescinded.

In considering the Western Jobbers' submission, the FEA noted that the prior Decision did not permit TOSCO to place the former Phillips jobbers in the wholesale rack unbranded class of purchaser or to alter the class of purchaser structure which it would otherwise be required to maintain by generally applicable FEA Regulations. The August 29 Decision also did not specifically consider the issue as to which class of purchaser of the numerous ones which TOSCO and Phillips maintained on May 15, 1973 would be the most appropriate class in which to place these purchasers. Moreover, the record in the present case did not contain sufficient information to permit a conclusive determination as to the specific class of purchaser to which the former Phillips branded jobbers should have been assigned. Nevertheless, the material submitted did suggest that Western Jobbers' allegation that these purchasers should have been placed in TOSCO's Lion branded class of purchaser was incorrect, inasmuch as Lion does not sell branded gasoline or maintain any branded class of purchaser in the area served by the Avon refinery. In addition, the FEA found that Western Jobbers' assertion that its members should be placed in TOSCO's unbranded jobber class of purchaser had no merit, since neither TOSCO or Phillips had an unbranded jobber class of purchaser on May 15, 1973. Although Western Jobbers had not made a convincing showing that its members had been improperly placed in the wholesale rack unbranded class of purchaser, the FEA pointed out that Western Jobbers could still file a Complaint with the FEA if it continued to believe that TOSCO had violated the FEA Regulations.

The FEA also found that Western Jobbers failed to substantiate its claim that its members are experiencing a serious financial hardship as a result of the exception relief granted to TOSCO. Nevertheless, the FEA noted that any individual member of the Western Jobbers group could file request for an exception to be assigned a new supplier or a request for modification to reduce the exception relief granted to TOSCO. The FEA also noted that the denial of the present Application for Modification or Rescission in no way precluded the Western Jobbers from filing an Application for Exception requesting that TOSCO be required to establish a new class of purchaser which consisted only of unbranded jobbers.

SUPPLEMENTAL ORDER

*Whitco, Inc., Dallas, Tex., FEX–0085; Motor Gasoline*

Whitco, Inc. filed an application for an extension of the exception relief previously granted the firm from the provisions of 10 CFR 211.25 (the supplier substitution rule). Whitco, Inc., 3 FEA Par. 87,005 (June 25, 1976) (Supplemental Order). Under the terms of the June 25 Order, the Regional Administrator of FEA Region VI was directed to make a determination as to whether Whitco would continue to experience a gross inequity unless it received additional exception relief and to then make a recommendation to the FEA Office of Exceptions and Appeals as to whether exception relief should be extended. Based on the data submitted by the firm and the recommendation of the Regional Administrator, the FEA determined that unless Whitco received additional relief it would continue to experience a serious hardship and gross inequity. The exception relief previously granted was therefore extended through December 31, 1976.

REQUESTS FOR SPECIAL REDRESS

*Energy Corporation of Louisiana Ltd., Garyville, La.; FEE–2767; Residual Fuel Oil*

The Energy Corporation of Louisiana Ltd. (ECOL) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). The exception request, if granted, would permit ECOL to calculate the entitlements which it is authorized to sell pursuant to Section 211.67 by including in its crude oil runs to stills the entire volume of crude oil which is attributable to the residual fuel oil which it produces and sells in the East Coast market. ECOL also requested (i) additional entitlements in compensation for the revenues it allegedly lost as a result of the impact of section 211.67(a)(3) on prevailing market prices for residual fuel oil on the Gulf Coast and the East Coast, and (ii) relief from any provision of Section 211.67(d)(2) which prevents the firm from including in its crude oil runs to stills the crude oil which it produces and sells to foreign flag vessels as marine bunker fuel. In its submission, ECOL asserted that its costs had been increased substantially by the reduction in entitlement benefits prescribed in Section 211.67(d)(4) and that its revenues would be sharply diminished since Section 211.67(a)(3) depressed residual fuel oil prices in the Gulf Coast and East Coast markets.

In considering the exception application, the FEA indicated that ECOL is a net beneficiary of the Entitlements Program and the benefits which it receives under the Program enhance the firm's financial and competitive posture compared with the position it would occupy if the program no longer existed. Therefore the financial and operating difficulties which ECOL may be experiencing were not produced by the overall FEA regulatory program, and the FEA concluded that the firm's exception application should not be approved as submitted. Cf. Texas Asphalt & Ref. Co., 3 FEA Par. 80,529 (December 8, 1975), *aff'd.*, 3 FEA Par. 80,570 (February 2, 1976); Wallace & Wallace Chemical & Oil Co., 2 FEA Par. 83,207 (July 3, 1975).

Although ECOL failed to make a persuasive showing that exception relief should be granted, the FEA found that the firm might nevertheless be entitled to some form of relief under the independent authority specified in Section 21(b) of the Federal Energy Administration Act of 1974, as amended (FEAA), provided it could make a showing that (i) a particular regulatory provision which the FEA has adopted has adversely affected a firm to a very substantial extent, and (ii) special or unusual circumstances which exist in the case lead to the conclusion that extraordinary relief should be provided in order to achieve important policy objectives in FEA's statutes.

With respect to the first of those two factors, the FEA determined that the ECOL submission made a convincing showing that the firm has been adversely affected in a significant manner by regulatory provisions which the FEA adopted on April 1, 1976. The FEA found that ECOL will encounter severe cash flow problems during its first two years of operation as a consequence of the April 1 amendments because they will reduce the

entitlement benefits which it will receive by $1,755,000 per month. In addition, the April 1 amendments resulted in a marked deterioration of the previous advantageous competitive position which ECOL would otherwise have maintained in its marketing areas. The FEA also determined that the other factors which existed in this case are so unusual and extraordinary that special redress relief should be approved in order to effectuate energy policy objectives specified in the statutes enacted by the Congress. In particular, the FEA noted that ECOL's construction of a major new refinery is in furtherance of the objectives of developing additional domestice refining capacity and fostering competition in the petroleum industry. See, e.g., Louisiana Land & Exploration Co., 3 FEA Par. 80,586 (February 26, 1976); Placid Ref. Co., 3 FEA Par. 80,526 (December 10, 1975). In view of the fact that the ECOL refinery would make a significant and immediate contribution to the effectuation of these important policy goals, the FEA concluded that special redress relief should be granted to the extent necessary to ensure that the April 1 amendments will not imminently jeopardize the economic viability of ECOL's operations.

The FEA also determined that the following principles should be applied in determining the nature and extent of relief to be approved: (i) the relief should be related to the FEA regulatory program which contributed to the financial and operating problems which the firm is experiencing; (ii) the relief should in no event exceed the benefits which the firm would have enjoyed prior to the adoption of the specific regulatory provision which led to the approval of special redress relief; and (iii) where special redress relief is being approved because a regulatory provision endangers a firm's economic viability, the relief granted should be the minimum amount necessary to eliminate the threat posed. After applying these principles to the specific factual situation presented, the FEA determined that ECOL should be permitted to sell additional entitlements which are equal in value to $1,755,000 per month during the period December 1976 through February 1978 and that during the period March 1978 through May 1979 ECOL should be required to purchase entitlements on a monthly basis which are equal in value to $1,755,000. The relief approved mitigates the short term cash flow problems experienced by ECOL, while at the same time requiring the firm to repay the unusual benefits conferred on it at a time when its operations should generate sufficient revenues to permit it to do so.

Finally, the FEA emphasized that ECOL should be permitted to obtain benefits by selling the additional entitlements only if there is an assurance that those benefits will be repaid. Consequently, the FEA determined that the relief granted to ECOL should be stayed until the firm provides such assurances to the Office of Private Grievances and Redress.

DISMISSALS

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

*Phillips Petroleum Co., Bartlesville, Okla., FEE-2848*

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

*Wesley Martin Oil Co., El Paso, Tex., FEE-2463, FEE-2464*

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

*A. Hargis & Sons, Somerset, Ky., FEE-2703*

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MICHAEL F. BUTLER,
*General Counsel.*

OCTOBER 19, 1976.

[FR Doc.76-31213 Filed 10-20-76;12:10 pm]

## ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

### Week of September 13 through September 17, 1976

Notice is hereby given that during the week of September 13 through September 17, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEAL

*Stone, Pigman, Walther, Wittman & Hutchinson, New Orleans, La., FEA-0929, Freedom of Information*

The law firm of Stone, Pigman, Walther, Wittman & Hutchinson (Stone, Pigman) appealed from an Order issued to it by the FEA Information Access Officer denying in part a Request for Information which the firm had filed under the Freedom of Information Act, 5 U.S.C. 552. On Appeal, Stone, Pigman contended that it was erroneous for the Information Access Officer to have refused to release certain documents which the FEA had compiled during its consideration of a complaint filed by Good Hope Refineries, Inc. In considering the Appeal, the FEA determined that: (i) a memorandum written by a Good Hope employee to the firm's files contained no confidential financial or commercial information and is therefore not exempt from disclosure under 5 U.S.C. 552 (b)(4); (ii) although other documents entitled FEA Compliance Case Resolution Sheets are substantially exempt from disclosure under the provisions of 5 U.S.C. 552 (b)(5), a portion of the documents containing a summary of the facts which Good Hope had presented in support of its complaint may not be withheld from public disclosure since it is purely factual in nature; and (iii) the portion of a document entitled Compliance Case Checklist which indicates the final agency action taken on Good Hope's complaint is also not exempt from public disclosure under 5 U.S.C. 552(b)(5). The FEA therefore directed that this material be released to Stone, Pigman. The FEA further determined that the other documents which the Information Access Officer had refused to disclose pursuant to the exemption in Section 552(b)(5) were part of the FEA's internal decision making process and were properly withheld. The Appeal was therefore denied with respect to those documents. Cf. Varibus Corp., 3 FEA Par. 80,629 (May 4, 1976).

REQUESTS FOR EXCEPTION

*Aminoil USA, Inc., Houston, Tex., FEE-2941 (Aline No. 5), FEE-2942 (Fox No. 13), FEE-2943 (Huntington Beach No. 11) FEE-2944 (Inglewood No. 20) FEE-2945 (Taloga No. 7), FEE-2946 (Tioga No. 12), natural gas liquid products*

Aminoil USA Inc. filed six Aplications for Exception in which it requested that the exception relief granted to the firm on July 30, 1976 be extended for an additional period of time. Aminoil USA, Inc., 4 FEA Par. 83,020 (July 30, 1976). In the July 30 Decision, the FEA determined that Aminoil would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212 Subpart K and that exception relief should therefore be granted to the firm which permits it to increase its non-product costs which it calculates pursuant to Section 212.165 for natural gas liquid products produced at six of its gas plants during the period July 30, 1976 through September 30, 1976. In considering Aminoil's requests for an extension of exception relief the FEA determined that the firm continued to incur non-product cost increases in the second quarter of its 1976 fiscal year which substantially exceed the $.005 per gallon passthrough permitted under the provisions of Section 212.165 and that based upon the criteria set forth in Sun Oil Co., 3 FEA Par. 83,102 (February 13, 1976); Shell Oil Co., 3 FEA Par. 83,049 (December 15, 1975); and Superior Oil Co., 2 FEA Par. 83,271 (August 29, 1975) continued exception relief is warranted. The FEA therefore approved an extension of exception relief which will permit Aminoil to increase the non-product costs which it calculates pursuant to Section 212.165 for the period October 1, 1976 through March 31, 1977.

*Gulf Oil Corp., Houston, Tex., FEE-2615 (Azalea), FEE-2646 (Bluebell), FEE-2659 (Knox), FEE-2665 (Milfay), FEE-2671 (Paloma), FEE-2672 (Sand Hills), FEE-2673 (Saunders), FEE-2679 (Vada), FEE-2681 (Waddell), FEE-2682 (Yates), natural gas liquids*

Gulf Oil Corporation filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase the prices it charges to reflect non-product cost increases which the firm has incurred at ten of its natural gas processing plants. In considering the applications, the FEA noted that, as a general rule, exception relief will be granted to any gas processing plant which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough permitted under Section 212.165. See Superior Oil Co., 2 FEA Par. 80,271 (August 29, 1975). The FEA found that Gulf had made such a showing with respect to eight of the ten plants and granted Gulf appropriate exception relief with respect to those plnats for the period September 13, 1976 through October 15, 1976. However, the FEA denied exception relief for the remaining two plants on the grounds that Gulf had not sufficiently substantiated its assertion that it had experienced non-product cost increases at its Yates Plant which were substantially in excess of $.005 per gallon. The further determination was made that Gulf had not presented any reasons why it should be granted the retroactive relief which it sought for its Paloma Plant.

*Gulf Oil Corp.; Houston, Tex.; FEE–2824 (Adena), FEE–2825 (Camerick), FEE–2826 (Delhi), FEE–2827 (Enville), FEE–2828 (Headlee), FEE–2829 (Houma), FEE–2830 (Johnson Bayou), FEE–2831 (Kalkaska), FEE–2832 (North Port Neches), FEE–2833 (Pledger), FEE–2834 (South Fullerton); natural gas liquids*

Gulf Oil Corporation filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase the prices it charges to reflect non-product cost increases which the firm has incurred at 11 of its natural gas processing plants. In considering the applications, the FEA noted that, as a general rule, exception relief will be granted to any gas processing plant which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough permitted under Section 212.165. See Superior Oil Co., 2 FEA Par. 80,271 (August 29, 1975). The FEA found that Gulf had made such a showing with respect to eight of the 11 plants and granted Gulf appropriate exception relief with respect to those plants for the period September 17, 1976 through October 17, 1976. However, the FEA denied exception relief for the remaining three plants on the grounds that the non-product cost increases experienced at those plants were not substantially in excess of $.005 per gallon.

*Hewit & Dougherty; Austin, Tex.; FEE–2792; natural gas liquids*

Hewit & Dougherty filed an Application for Exception from the provisions of 10 CFR 212.165 which if granted, would permit the firm to increase the prices it charges to reflect non-product cost increases which the firm has incurred at its Roche natural gas processing plant. The firm also requested that relief be granted retroactive to October 1, 1975. In considering the application, the FEA noted that, as a general rule, exception relief will be granted to any gas processing plant which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough permitted under Section 212.165. See Superior Oil Co., 2 FEA Par. 80,271 (August 29, 1975). The FEA found that Hewit & Dougherty had made such a showing with respect to its Roche plant and granted the firm appropriate exception relief for the period September 17, 1976 through December 31, 1976. With respect to Hewit & Dougherty's request for retroactive relief, the FEA determined that the material which the firm submitted did not make a compelling showing that the relief requested should be granted or convincingly demonstrate that Hewit & Dougherty would experience a service irreparable injury in the absence of retroactive exception relief. Accordingly, the request for retroactive relief was denied.

*L.C. Kung, Charles F. Chien, W.P. Wang & A.B. Rothwell, Houston, Tex., FEE–2698, natural gas liquid products*

L.C. Kung, Charles F. Chien, T.P. Wang and A.B. Rothwell (KCWR) filed an Application for Exception from the provisions of 10 CFR 212.165 which if granted, would permit KCWR to increase the prices it charges to reflect non-product cost increases which it incurred at its R.M. Stephens natural gas processing plant. KCWR also requested that the relief be granted retroactive to January 1, 1976. In considering the application, the FEA noted that, as a general rule, exception relief will be granted to any gas processing plant which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough permitted under Section 212.165. See *Superior Oil Co.*, 2 FEA Par. 80,271 (August 29, 1975). The FEA found that KCWR had made such a showing. The FEA also determined that the relief requested would result in price increases of less than $400 per quarter and it is likely that the non-product cost increases will continue at current levels. The FEA therefore granted appropriate relief for the entire period September 17, 1976 through December 31, 1977. With respect to KCWR's request for retroactive relief, the FEA determined that KCWR had failed to demonstrate that it would experience severe irreparable injury in the absence of retroactive relief. Accordingly, KCWR's request for retroactive relief was denied.

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

*Cross Oil Refining Co., of Ark., Washington, D.C., FEA–0919*

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

*Elmer L. Moody, Macomb, Miss., FEE–2879*

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information.

*Powerine Oil Co., Washington, D.C., FEE–2724*

The following submission was dismissed on the grounds that the request is now moot:

*Kaibab Industries, Phoenix, Ariz., FEE–2768*

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

*Pecos Valley Gas Co., Washington, D.C., FEE–2552*

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, 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.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MICHAEL F. BUTLER,
*General Counsel.*

OCTOBER 19, 1976.

[FR Doc.76-31214 Filed 10-20-76;12:11 pm]

## FEDERAL MARITIME COMMISSION

### CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

### Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

| *Certificate No.* | *Owner/operator and vessels* |
|---|---|
| 01087 | Dampskibsselskabet Torm A/S: *Torm Rask, Torm Rotna.* |
| 01123 | Hemisphere Transportation Corp.: *Alabama Getty.* |
| 01150 | Chevron Transport Corp.: *Chevron North America.* |
| 01466 | Common Bros. (Management) Ltd.: *Hindustan, Kurdistan.* |
| 01504 | Yngvar Hvistendahl: *Milross.* |
| 01910 | Deutsche Dampfschifffahrts Gesellschaft Hansa: *Barenfels.* |
| 02021 | Atlantska Plovidba: *Jadran.* |
| 02038 | Polskie Linie Oceaniczne: *Jozef Wybicki.* |
| 02040 | Odra-Swinoujscie: *Otol.* |
| 02156 | Lorentzens Skibs A/S: *Jane Stove.* |
| 02194 | Compagnie General Transatlantique: *Corimare.* |
| 02363 | Rederiet Otto Danielsen: *Pia Danielsen.* |
| 02603 | Empresa Hondurena De Vapores, S.A.: Condata, Olancho. |
| 02836 | The Scindia Steam Navigation Co. Ltd.: *Jalabala.* |
| 02854 | North Pacific Steamship Co.: *Galaxy, Korean Fir.* |
| 02858 | Intermarine Inc.: *Cynthia.* |
| 02956 | Ashland Oil, Inc.: *BC 110, BC 227, J.A.R.–9.* |
| 03077 | Bulk Food Carriers, Inc.: *Burke F, Michelle F.* |
| 03094 | Malaysia Marine Corp.: *Eidanger.* |
| 03447 | K. K. Kyokuyo: *Cherry Island.* |
| 03480 | Osaka Senpaku K.K.: *Oceania Maru.* |
| 03484 | Sanko Kisen K.K.: *Yoko Maru.* |
| 03502 | Shinyei Senpaku K.K.: *Dover Maru.* |
| 03513 | Tanda Sangyo Kisen Kabushiki Kaisha: *Shuwa Maru.* |
| 03923 | Shinwa Kaiun Kaisha, Ltd.: *Shinsho Maru.* |
| 03968 | Zim-Israel Navigation Co. Ltd.: *Oval.* |
| 04210 | Anderson Petroleum Transportation Co., Inc.: *Apt 220.* |
| 04228 | Compagnie Maritime Belge (Lloyd Royal) S.A.: *Montfort.* |
| 04263 | Wavwiser Navigation Corp. Ltd.: *Christina.* |
| 04565 | Consolidated Navigation Corp.: *New Indevendence.* |
| 04901 | American Tunaboat Association: *Mary Jo.* |
| 04803 | Brent Towing Co. Inc.: *Ann Brent, B–920.* |
| 05437 | The Dow Chemical Co.: *AC–4.* |
| 05579 | Black Sea Shipping Co.: *Kazakhstan.* |
| 05581 | Latvian Shipping Co.: *Dzintari, Victorio Codovilla.* |
| 05704 | Murmansk Shipping Co.: *Kapitan Reutov.* |
| 05736 | Flota Cubana De Pesca: *Rio Canonao, Rio Sagua.* |
| 05792 | Korea Wonyang Fisheries Co., Ltd., *Sogrisan.* |
| 06359 | Malaysian International Shipping Corp., Berhad: *Rimba Keruing, Rimba Ramin.* |
| 06423 | Horn Construction Co., Inc.: *Horn 21, Horn 30.* |
| 06510 | Compagnie Nationale Algerienne De Navigation: *In Nahala.* |
| 06534 | Union Steam Ship Co. (U.K.) Ltd.: *Rangatira.* |
| 07574 | Georgian Shipping Co. *Khudozhnik Toidze.* |
| 07788 | Rome Transfer Corp.: *Utica Sears.* |
| 08370 | Indiana & Michigan Electric Co.: *A. N. Prentice, F. M. Baker, G. L. Furr, Robert M. Kopper.* |
| 08617 | Fairmont Enterprises Ltd.: *Tradewind West.* |

| Certificate No. | Owner/operator and vessels |
|---|---|
| 09115 | Hoyo Suisan K.K.: *Hoyo Maru No. 63.* |
| 09178 | Tradax Export S.A.: *Alpine Star, Alpine Sun, Amsterdam, Carbay, Carcape, Carlantic, Carisle, Captain W. D. Cargill, Ghent, Geneve, Hamburg, Saint Nazaire, Tarragona.* |
| 09792 | United Fair Agencies Ltd.: *Grand Wisdom, Sun Regulus.* |
| 09821 | Kohoku Gyogyo K.K.: *Kohoku Maru No. 7.* |
| 10136 | Oriental Armonia Vapor S.A.: *Bela Kosmo, Bela Rozo.* |
| 10270 | State Economic Enterprise Okeanski Ribolov: *Fizalia, Rotalia.* |
| 10315 | North Dene Shipping Co. S.A.: *Kalliarchos.* |
| 10409 | Oy Gustav Paulig AB: *Pamela.* |
| 10659 | Sam Ick Lines Co. Ltd.: *Koh Eun.* |
| 10772 | Flota Global S.A.: *Duke Albatross.* |
| 10931 | Hansung Shipping Co. Ltd.: *Blue Pluto.* |
| 10939 | Marine Transport Corp.: *Nimbus.* |
| 11254 | Sissy Shipping Co. Ltd.: *Franky.* |
| 11260 | Intercontinental Transportation Services, Ltd.: *Corinto, Limon.* |
| 11283 | Odeco (U.K.) Inc.: *Ocean Victory.* |
| 11286 | Binion Marine Service, Inc.: *Star JD II.* |
| 11370 | Taihei Kaiun K.K.: *Azuma Maru No. 18.* |
| 11478 | Croton Shipping Inc.: *Canadian Owl.* |
| 11503 | Sea Horse Marine, Inc.: *Lindsey Frank.* |
| 11521 | Borg-Warner Corp.: *BWC-102.* |
| 11540 | Galatia Compania Naviera S.A.: *Maria L.* |
| 11547 | East Arrow Compania Naviera S.A.: *Golden Arrow.* |
| 11561 | Goodwill Navigation Inc.: *Kohekohe.* |
| 11590 | Leo Shipping Co. Ltd.: *Seven Seas.* |
| 11608 | Agile Shipping Co. S.A.: *Afstralos.* |
| 11635 | L & L Oil Co., Inc.: *Bill Lueck.* |
| 11639 | Passaat Curacao Shipping Co. N.V.: *Passaat Curacao.* |
| 11654 | Orco Shipping Corp.: *Orco Miner; Orco Trader.* |
| 11656 | Dominance Shipping Inc.: *Sanko Progress.* |
| 11668 | Astro Pacifico Armadora S.A.: *Zeus.* |
| 11669 | Dillingham Corp. of Guam: *DG-5.* |
| 11671 | Turfan Shipping Co. Ltd.: *Eurofina.* |
| 11687 | Scorpio Enterprises Corp.: *Alexandra.* |
| 11688 | Ocean Lines Ltd.: *Eskimo.* |
| 11690 | Zenovia Maritime Corp.: *Zenovia D.* |
| 11696 | Ilmari Tuuli: *Nan Fung.* |
| 11708 | Sealane Shipping Inc.: *Sealane Trader.* |
| 11713 | Yukiteru Kaiun Kabushiki Kaisha: *Seishu Maru.* |
| 11714 | Global Transport Organisation: *Federal 400-6.* |
| 11735 | Dinamica Transmar Navegacion S.A.: *Anel D'Azur.* |
| 11742 | Capstan Transport Corp.: *Spray Can.* |
| 11743 | Stanchion Transport Corp.: *Spray Stan.* |
| 11744 | Bollard Corp.: *Stream Bollard.* |
| 11750 | Tide Shipping Ltd.: *Newtide.* |
| 11756 | Clio Shipping and Trading Corp. S.A.: *Petrola 60.* |
| 11757 | Daphnis Shipping and Trading Corp. S.A.: *Petrola 70.* |
| 11758 | Spiros J. Latsis: *Ennea; Epta.* |
| 11762 | Sameiet (Partrederiet) Dea Brovig.: *Dea Brovig.* |
| 11763 | Garrick Shipping Co.: *World Agamemnon.* |
| 11764 | Canion Shipping Co.: *Ion.* |
| 11765 | Atlantic Ocean Steamship Co. Ltd.: *Atlantic Ocean.* |
| 11766 | Concord Tanker Corp.: *Concordia.* |
| 11767 | Interessentskapet Wind Enterprise: *Wind Enterprise.* |
| 11770 | Partenreederei MS Atlantic Earl: *Atlantic Earl.* |
| 11773 | Golden Poppy Shipping and Navigation Corp.: *Giannini.* |
| 11775 | Suntide Shipping S.A.: *Yue Flower.* |
| 11777 | Sequoia Tankers Inc.: *Coastal California.* |
| 11778 | Alpine Steamship Co., Inc.: *Penn.* |
| 11779 | Asbury Steamship Co., Inc.: *Port.* |
| 11780 | Tres Naviera S.A.: *Tres Orion.* |
| 11782 | Bergen Shipping Corp.: *Troll.* |
| 11784 | Castillon Maritime, Inc.: *Astor Princess.* |
| 11785 | Tatiana Shipping Co. Ltd.: *Rothens.* |
| 11786 | Haris Marine Co. S.A.: *Eastern Fuji.* |
| 11789 | Brown Marine Service Inc.: *Brown 620.* |
| 11790 | Omega Maritime Enterprises S.A.: *Flora C.* |
| 11791 | Panatlantic Inc.: *Panatlantic.* |
| 11795 | Liberian Pluto Transports, Inc.: *Golden Sabre.* |
| 11797 | Everest Shipping Co., Ltd.: *Atlantic Marquess.* |
| 11798 | Aloe Maritime S.A.: *Katerina.* |
| 11799 | Astra Maritime Enterprise S.A.: *Astra Peak.* |
| 11801 | Galapagos Tourist Corp. S.A.: *Buccaneer.* |
| 11802 | Nam Hai Hungoub Co. Ltd.: *Nam Hai No. 1.* |

By the Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.76-31244 Filed 10-22-76;8:45 am]

## COMPANHIA DE NAVEGACAO LLOYD BRASILEIRO AND COMPANHIA MARITIMA NACIONAL

### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 5, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated herinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Neal M. Mayer, Esquire, Coles & Goertner, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036.

Agreement No. 10265, between Companhia de Navegacao Lloyd Brasileiro and Companhia Maritima Nacional, is a cooperative working arrangement whereby the parties agree to share, on an equal basis, that percentage of cargo reserved to Brazilian Flag carriers in the trade between the Brazilian ports of Porto Alegre and Belem and ports on the United States Gulf Coast according to the terms, conditions and to the extent as set forth therein.

By Order of the Federal Maritime Commission.

Dated: October 20, 1976.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.76-31243 Filed 10-22-76;8:45 am]

## INTERNATIONAL HOUSEHOLD GOODS RATE AGREEMENT

### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 15, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter)

and the statement should indicate that this has been done.

Notice of Agreement Filed by:

F. L. Wyche, Executive Secretary, Household Goods Carriers' Bureau, 2425 Wilson Boulevard, Arlington, Virginia 22201.

Agreement No. 8470–7, among the members of the International Household Goods Rate Agreement, amends Paragraph (1) of the basic agreement to permit the publication of a tariff by the Household Goods Carriers' Bureau, Inc. applying on through intermodal inland to inland points traffic between ports and inland point in the United States on the one hand, and, on the other, foreign ports and inland points in the continents of Africa, Asia, Australia, Europe, North America and South America and foreign ports and inland points of the islands in the oceans and seas between and adjacent to such continents.

By order of the Federal Maritime Commission.

Dated: October 20, 1976.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.76–31241 Filed 10–22–76;8:45 am]

## UNITED STATES-HAWAII/PUERTO RICO/GUAM HOUSEHOLD GOODS RATE AGREEMENT

### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 15, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

F. L. Wyche, Executive Secretary, Household Goods Carriers' Bureau, 2425 Wilson Boulevard, Arlington, Virginia 22201.

Agreement No. 8480–4, among the members of the United States-Hawaii/Puerto Rico/Guam Household Goods Rate Agreement, amends Paragraph (1) of the basic agreement to permit the publication of a tariff by the Household Goods Carriers' Bureau, Inc. applying on through intermodal inland to inland points traffic between ports and inland points in the United States on the one hand, and, on the other, ports and inland points in Hawaii, Puerto Rico, Guam and the Virgin Islands.

By Order of the Federal Maritime Commission.

Dated: October 20, 1976.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.76–31242 Filed 10–22–76;8:45 am]

# FEDERAL POWER COMMISSION

[Docket No. CP76–85]

## ALGONQUIN GAS TRANSMISSION CO. AND TEXAS EASTERN TRANSMISSION CORP.

### Application

OCTOBER 21, 1976.

Take notice that on October 7, 1976, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135, and Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP76–85 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a continuation of the exchange, transportation, and delivery of certain quantities of gas to the Brooklyn Union Gas Company (Brooklyn Union) through December 31, 1977, all as more fully set forth in the application on file with the Commission and open to public inspection.

The applicants state that an application was filed on September 12, 1975, in Docket No. CP76–85 pursuant to Section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation and exchange of natural gas for the benefit of Brooklyn Union for the period of November 1, 1975, through April 30, 1976. It is further stated that on November 10, 1975, applicants were granted a temporary certificate of public convenience and necessity authorizing the services in the manner set forth in the application upon the condition that Algonquin Gas charge for service rendered thereunder be collected subject to refund pending further Commission action. It is indicated that on July 31, 1976, the Commission issued permanent certificates of public convenience and necessity authorizing service for the benefit of Brookyln Union though October 31, 1976.

It is stated that the requested authorization has been sought because the gas to be transported and delivered thereunder is required by Brooklyn Union to:

(1) Assure its ability to meet the requirements of existing firm customers;

(2) Assist it in achieving the fullest and best possible use of available storage capacity;

(3) Reduce, to the extent possible, its need for higher cost supplemental supplies; and

(4) Mitigate, to the extent possible, current curtailments of human need requirements.

Deliveries are anticipated not to exceed 40,000 million Btu's per day from October 31, 1976 through December 31, 1977, with total deliveries estimated at 10,700,000 million Btu's it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76–31458 Filed 10–22–76;10:31 am]

## INTERNATIONAL TRADE COMMISSION

[332-79]

### CERTAIN ARTICLES BEING CONSIDERED FOR REMOVAL FROM LIST OF ARTICLES ELIGIBLE FOR DUTY-FREE TREATMENT UNDER GENERALIZED SYSTEM OF PREFERENCES

#### Place of New York City Hearing

Notice is hereby given that the United States International Trade Commission's public hearing in connection with that part of investigation No. 332-79 devoted to obtaining data needed by the Trade Policy Staff Committee (TPSC), Office of the Special Representative for Trade Negotiations, for review of petitions for the withdrawal of leather wearing apparel classifiable in item 791.75 of the Tariff Schedules of the United States from the list of articles eligible for duty-free treatment under the Generalized System of Preferences will be held in New York City, at the Customs House, Room 770, 6 World Trade Center, Vesey and West Streets, on Friday, October 29, 1976, beginning at 10 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 the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, not later than noon, October 26, 1976.

Notice of institution of the investigation was published in the FEDERAL REGISTER on September 24, 1976 (41 FR 41973). Notice of rescheduling the public hearing was published in the FEDERAL REGISTER on October 4, 1976 (41 FR 43764).

Issued: October 20, 1976.

By order of the Commission.

KENNETH R. MASON,
*Secretary.*

[FR Doc.76-31260 Filed 10-22-76;8:45 am]

## LEGAL SERVICES CORPORATION

### COMMITTEE ON APPROPRIATIONS AND AUDIT

#### Meeting

The next meeting of the Committee on Appropriations and Audit of the Legal Services Corporation Board of Directors will be held on Friday, November 5, 1976, in Room 405 of the George Washington University Marvin Center, 21st and I Streets, NW., Washington, D.C.

The meeting will begin at 9:00 a.m. or as soon thereafter as the meeting of the Board of Directors, scheduled for November 4-5, 1976, concludes. The meeting will be for the purpose of considering and acting on matters concerning investment of Corporation funds and the Fiscal Year 1978 budget request to the Congress.

The meeting is open to the public.

THOMAS EHRLICH,
*President.*

[FR Doc.76-31398 Filed 10-22-76;8:45 am]

## NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

### ELECTRONIC FUND TRANSFER SYSTEMS

#### Role of Government, Hearings

The National Commission on Electronic Fund Transfers will hold public hearings between 9:00 a.m. and 5:30 p.m. on November 11 and 12, 1976, in Room 2128 of the Rayburn House Office Building in Washington, D.C. These hearings, authorized by Pub. L. 93-495, Title II, Section 204, will explore the role of government as an operator of electronic fund transfer systems.

These hearings are intended to aid the Commission in developing its recommendations to Congress and the President regarding appropriate administrative action and legislation necessary in connection with the possible development of public or private electronic fund transfer systems.

Prior to these hearings the Commission solicits the views of knowledgeable groups and individuals interested in these issues and able to address the areas of inquiry detailed below. Those interested in submitting statements for the record, giving testimony, presenting evidence or otherwise participating in these hearings should obtain a copy of the Commission's Hearing Rules, which were published in the FEDERAL REGISTER at 41 FR 43965, October 5, 1976, and which are also available directly from the Commission.

All persons may submit written statements and ask that they be included in the hearing record. The Commission will select from among those interested in presenting oral testimony to ensure that all points of view are represented. To this end, persons giving oral testimony may be asked to be part of a panel presentation.

Written requests to testify must be received by the Executive Director of the Commission, 1000 Connecticut Avenue, NW., Suite 900, Washington, D.C. 20036, by November 1, 1976. Such requests must be accompanied by a concise description of the material the party desires to present and the reasons why the party's oral testimony would be useful to the Commission. The hearing record will remain open for twenty-one (21) days following the hearings for written statements and comments.

All persons interested in testifying or submitting written statements are asked to address the broad policy issues and specific questions set forth below.

INTRODUCTION

The Commission has been instructed by Congress to conduct a study and make appropriate recommendations concerning EFT, considering among other things, the "need * * * to assure Government regulation and involvement or participation in a system competitive with the private sector be kept to a minimum". Accordingly, the Commission, in its examination of the operational role of government in EFT, will address a number of fundamental principles and policy considerations relating to conditions under which government operational involvement is appropriate.

In fulfilling this statutory mandate, the Commission will take into consideration certain situations which historically have sometimes resulted in government involvement as an operator or regulator. An example might be where there is public demand or need for a good or service which the private sector cannot provide. A second example is where the natural growth of the private sector leads to distortions of free market principles, resulting in unfair prices, closed entry to markets, poor quality products, discrimination against a segment of the population, and so on.

The Commission would therefore ask each witness, when addressing the specific questions which are set out below, to speak as well to the broad question of what the appropriate operational role is for the government with respect to a particular EFT system or part of a system, when the private sector is (a) able, (b) unable, or (c) unwilling to provide that system or component.

PRESENT OPERATIONAL ROLE OF GOVERNMENT IN EFT

Presently, the government is operationally involved in a number of EFT or EFT related activities. The Federal Reserve provides the data processing facilities used for clearing and settlement, and courier delivery services, for 23 of the 25 presently operating automated clearing houses, soon may be providing courier delivery services for the remaining two, and provides settlement for all of the automated clearing houses. The Federal Reserve has for many years provided an interbank telecommunications network for Federal Funds transfer, and is planning a pilot test utilizing this network for the purpose of linking automated clearing houses inter-regionally. The Federal Home Loan Bank System has provided on-line data processing services to a number of its member associations since January 1970. The questions to be addressed at the hearing with respect to such involvement include:

(1) What criteria should be used to determine whether government should be operationally involved in automated clearing houses, telecommunications, electronic data processing, or other EFT related facilities? Using these criteria, should government be operationally involved in the provision of such facilities or services?

(2) Is the private sector prepared to or capable of establishing and operating EFT related facilities and services without government operational involvement?

(3) What impact, if any, does the provision by government of EFT related facilities and services have upon (a) private sector development of similar systems, and (b) competition among the various financial industries?

(4) When government agencies provide EFT related facilities and services to private institutions, what is and what

should be the nature and degree of control exercised respectively by government and by the private institutions over such facilities and services?

(5) To the extent that government provides EFT related facilities and services, should there be a charge for the use of such facilities and services? If so, what specific elements should be included in such charges, and what pricing theories should be taken into account by the government in constructing a pricing schedule? Should such activities be unbundled, with distinct services separately priced?

(6) What policies, if any, should be mandated concerning membership in a private organization and control of that organization, as a condition of the government's providing EFT related facilities and services to that private organization? What policies, if any, should be mandated concerning direct access (including limitations, conditions, or restrictions on access) to such government provided facilities and services?

(7) Should decisions on access, pricing, and membership with respect to government provided facilities and services be deferred pending Congressional action on proposals, such as the Financial Institutions Act and the Financial Reform Act, concerning financial industry restructuring?

(8) What is or will be the impact of the linking of automated clearing houses using the Federal Reserve telecommunications system?

(9) Does government provision of EFT related facilities and services pose a substantial threat to the privacy of individuals? If so, what is the nature and significance of such a threat and how does it differ from the threat, if any, posed by purely private operation of EFT related facilities and services? What safeguards, if any, are required?

(10) To what extent, if any, does a conflict arise in the performance of both operational and regulatory functions by a single governmental unit?

FUTURE OPERATIONAL ROLE OF GOVERNMENT IN EFT

Presently, EFT is in its early stages of development. As EFT systems continue to develop and mature, the considerations relating to government operational involvement may be different than at present, with respect to both new types of systems and more mature versions of present systems. The questions to be addressed at the hearing include:

(1) What criteria should be used to determine whether government should become operationally involved in point-of-sale (POS) switches? Using these criteria, should government become operationally involved in POS switches? If so, should the nature of this role be to provide switching service only to depository institutions, to service terminals in merchant locations, or both?

(2) Is the private sector prepared to or capable of establishing and operating POS switches without government operational involvement?

(3) What impact, if any, would the provision by government of POS switching have upon (a) private sector development of similar systems, and (b) competition among the various financial industries.

(4) Would government operational involvement in POS switching pose a substantial threat to the privacy of individuals? If so, what is the nature and significance of such a threat and how does it differ from the threat, if any, posed by purely private sector operation of POS switches? What safeguards, if any, are required?

(5) Is it likely that existing automated clearing house arrangements will be adapted to provide POS services, either regionally or inter-regionally?

(6) To the extent that justification presently exists for government to provide EFT related facilities and services to private institutions, is it likely that such justification will exist in the future?

(7) To what extent is it likely, and to what extent appropriate, for public and quasi-public institutions not presently involved in EFT, such as the Postal Service, to become operationally involved in electronic funds transfer?

Dated: October 20, 1976.

WILLIAM B. WIDNALL,
*Chairman.*

[FR Doc.76-31354 Filed 10-22-76;8:45 am]

## NATIONAL SCIENCE FOUNDATION

### ADVISORY PANEL FOR ECONOMICS

#### Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Economics.
Date and Time: November 12 and 13, 1976; 9:00 a.m.-5:00 p.m. each day.
Place: Room 642, National Science Foundation, 1800 G St. NW., Washington, D.C.
Type of Meeting: Closed.
Contact Person: Dr. James H. Blackman, Program Director for Economics, Rm. 312, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5968.
Purpose of Panel: To provide advice and recommendations concerning support for research in Economics.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for Closing: The proposals and projects 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 and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the 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 determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
*Acting Committee Management Officer.*

OCTOBER 20, 1976.

[FR Doc.76-31262 Filed 10-22-76;8:45 am]

### ADVISORY PANEL FOR GENETIC BIOLOGY

#### Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Genetic Biology.
Date and Time: November 11, 12 and 13, 1976—9:00 a.m. to 6:00 p.m. each day.
Place: Room 517, National Science Foundation, 1800 G Street, NW., Washington, D.C.
Type of Meeting: Closed.
Contact Person: Dr. J. Christopher Cordaro, Program Director, Genetic Biology Program, Rm. 326, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5985.
Purpose of Panel: To provide advice and recommendations concerning support for research in Genetic Biology.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals and projects 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 and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the 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 determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
*Acting Committee Management Officer.*

[FR Doc.76-31263 Filed 10-22-76;8:45 am]

### COMMITTEE MANAGEMENT ADVISORY COMMITTEE FOR RESEARCH

#### Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, I have hereby determined that the renewal of the Advisory Committee for Research is necessary and is in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 14(a)(1) of the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

Authority for this advisory committee shall expire on August 30, 1977, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

RICHARD C. ATKINSON,
*Acting Director.*

OCTOBER 20, 1976.

[FR Doc.76-31261 Filed 10-22-76;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON GENERAL ELECTRIC WATER REACTORS

### Extension of Date of Meeting

The November 6, 1976 meeting of the ACRS Subcommittee on General Electric Water Reactors, announced in FEDERAL REGISTER Vol. 41, page 45071, October 14, 1976 has been extended to be held on November 6 and November 7, 1976.

All other matters pertaining to this meeting remain the same.

Dated: October 21, 1976.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.76-31408 Filed 10-22-76;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

### Proposed Meetings

In order to provide advance information regarding proposed meetings of ACRS Subcommittees and Working Groups and of the full Committee, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meeting published in FEDERAL REGISTER Vol. 41, September 20, 1976, page 40539. Those meetings that are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. Information as to whether a meeting has been firmly scheduled, cancencelled, or rescheduled, or whether changes have been made in the agenda for the November 11–13, 1976 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–1406, Attn: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EST.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

**Floating Nuclear Plant*, October 27–28, 1976, Los Angeles, CA to review the liquid pathway study, emergency core cooling, and probabilities of shipping accidents as part of the review for a manufacturing license. Notice of this meeting was published in FR Vol. 41, page 44758, October 12, 1976.

**Transportation of Radioactive Materials*, November 4, 1976, Chicago, IL to review public comments on NUREG–0034, "Draft Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes." Notice of this meeting was published in FR Vol. 41, page 45917, October 18, 1976.

**Transportation of Radioactive Materials*, November 5, 1976 (rescheduled from October 19, 1976), Chicago, IL to continue review of proposed qualification test criteria for shipping containers to ensure that the packages used for shipping plutonium and other comparably hazardous material will survive airplane crashes. Notice of this meeting was published in FR Vol. 41, page 43783, October 4, 1976 and page 46525, October 21, 1976.

**Environmental*, November 5, 1976, Washington, DC to review the draft regulations on the use of mixed oxide fuels published in FR Vol. 41, pages 40506 through 40510, September 20, 1976. Notice of this meeting was published in FR Vol. 41, page 45071, October 14, 1976.

**Emergency Core Cooling Systems (ECCS)*, November 6, 1976, Washington, DC to review EXXON Nuclear Company, Inc. analytical models formulated to meet current ECCS criteria for fuel fabricated by EXXON for pressurized water reactors with ice condensers and for nonjet-pump boiling water reactors, and to review the application of these models to the Donald C. Cook, Unit No. 1 and the Oyster Creek, Unit No. 1 Nuclear Power Plants, respectively. Notice of this meeting was published in FR Vol. 41, page 46524, October 21, 1976.

**General Electric Water Reactors*, November 6 and 7, 1976, Los Angeles, CA to develop information for consideration of the ACRS in its review of General Electric Standard Safety Analysis Reports, GESSAR–238 NSSS and GESSAR–251 (Docket Nos. 50–550 and 50–531), pertaining to nuclear steam supply systems. Notice of this meeting was published in FR Vol 41, page 45071, October 14, 1976. Notice of extension of date of meeting to include November 7 appears elsewhere in this issue.

**Reactor Safety Study*, November 10, 1976, Washington, DC to consider further the Reactor Safety Study performed for the NRC. Notice of this meeting appears elsewhere in this issue.

**Regulatory Guides*, November 10, 1976, Washington, DC to review working papers regarding future Regulatory Guides and proposed changes to existing Guides. Notice of this meeting appears elsewhere in this issue.

**Safeguards for Special Nuclear Material*, November 18 and 19, 1976, Washington, DC to consider potential safeguards measures that may be required if mixed oxide fuels are used in commercial nuclear power facilities.

**Waste Management*, November 19, 1976, Washington, DC to develop information for ACRS review of NUREG–0116, "Environmental Survey of the Reprocessing and Waste Management Portions of the LWR Fuel Cycle"; proposed revision to CFR 51, "Uranium Fuel Cycle Impacts from Spent Fuel Reprocessing and Radioactive Waste Management"; and NRC Office of Nuclear Reactor Regulation paper entitled, "Impacts of Later Revising a Decision to Adopt or Not to Adopt an Interim Rule Permitting Construction or Operation of Nuclear Power Plants."

**Pressurized Water Reactor Pressure Vessel Blowdown Forces*, December 1, 1976 (tentative), Los Angeles, CA to discuss with the NRC Staff and representatives of the Licensees, as appropriate, the effects of blowdown forces on pressurized water reactor pressure vessels designed by Babcock and Wilcox Company and Combustion Engineering, Inc.

**Resolution of Generic Items*, December 7, 1976, Washington, DC to consider the current status and degree of resolution of the generic items identified in the Committee's report dated April 16, 1976.

**Regulatory Guides*, December 8, 1976, Washington, DC to review working papers regarding future Regulatory Guides and proposed changes to existing Guides.

**Clinch River Breeder Reactor*, December 8, 1976, Washington, DC to develop information for consideration by the ACRS in its review of the combined application of the U.S. Energy Research and Development Administration, the Tennessee Valley Authority, and the Project Management Corporation for a permit to construct this nuclear power plant. In particular, this meeting will concern aspects of a core disruptive accident and of thermal hydraulics.

**North Anna Power Station, Units 1 and 2*, December 8, 1976, Washington, DC to develop information for consideration by the ACRS in its continuing review of the application of the Virgina Electric and Power Company for a license to operate North Anna Power Station, Units 1 and 2.

**Donald C. Cook Nuclear Plant, Unit 1*, December 22, 1976, Detroit MI to continue the review of the EXXON Nuclear Company, Inc. fuel reload, the related emergency core cooling system analysis, and other items to determine if the plant should be allowed to operate at a 100% power level following refueling.

**Seismic Activity*. A meeting will be scheduled sometime during January or February, 1977 to discuss Appendix A to 10 CFR 100 and the derivation of earthquake response spectra.

FULL COMMITTEE MEETINGS

*November 11–13, 1976*

A. *General Electric Standard Safety Analysis Report (GESSAR–238)—Preliminary Design Approval.

B. *General Electric Standard Safety Analysis Report (GESSAR–251)—Preliminary Design Approval.

C. *Floating Nuclear Plant—Manufacturing License Review.

D. *EXXON Nuclear Company, Inc.—Emergency Core Cooling Systems (ECCS) Evaluation Models Review.

E. *Diablo Canyon Nuclear Station, Units 1 and 2—Operating License (Seismic Design) Review.

*December 9–11, 1976*

Agenda to be annouced.

Dated: October 21, 1976.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.76-31409 Filed 10-22-76;8:45 am]

## NUCLEAR REGULATORY COMMISSION

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

#### Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on November 11–13, 1976, in Room 1046, 1717 H Street, NW, Washington, DC.

The agenda for the subject meeting will be as follows:

THURSDAY, NOVEMBER 11, 1976

*8:30 a.m.–9:30 a.m.: Executive Session (Closed).* The Committee will meet in closed executive session to exchange and discuss the personal opinions of individual members leading to the formulation of advice and recommendations regarding procedures for conduct of ACRS meetings and proposed procedures for ACRS discussions with representatives of foreign governments. The Committee will also discuss the individual opinions and recommendations fo ACRS members and consultants who may be present regarding the request for Preliminary Design Approval of the General Electric Standard Safety Analysis Report (GESSAR–238) and the General Electric Standard Safety Analysis Report (GESSAR–251).

*9:30 a.m.—1:00 p.m.: General Electric Safety Analysis Report (GESSAR–238) and General Electric Standard Safety Analysis Report (GESSAR–251) (Open).* The Committee will meet with representatives of the NRC Staff and the General Electric Company to hear presentations and hold discussions regarding the request for Preliminary Design Approval of these standardized plants. Portions of this session will be closed if required to discuss proprietary information related to the design, construction or operation of these standard plants. Closed portions will also be held if necessary to discuss security provisions for this type of facility and for Committee deliberative sessions.

*2:00 p.m.–2:30 p.m.: Executive Session (Closed).* The Committee will discuss the individual opinions and recommendations of ACRS members and consultants who may be present regarding the request for a Manufacturing License for the Floating Nuclear Plant.

*2:30 p.m.–5:00 p.m.: Floating Nuclear Plant (Open).* The Committee will hear presentations by and hold discussions with representatives of the Applicant and the NRC Staff relating to request for a Manufacturing License for this type of facility. Portions of this session will be closed if necessary to discuss proprietary information related to design, construction or operation of units of this type. Closed portions will also be held if required to discuss security provisions for this type of plant.

*5:30 p.m.–6:30 p.m.: Executive Session (Closed).* The Committee will meet in closed session to exchange and discuss the personal opinions of individual members leading to the formulation of advice and recommendations regarding proposed Regulatory Guides and candidates for ACRS membership.

FRIDAY, NOVEMBER 12, 1976

*8:30 a.m.–9:00 a.m.: Executive Session (Open).* The Committee will meet with the Executive Director for Operations to discuss the status of licensing activities as modified to consider environmental effects of the nuclear fuel cycle.

*9:00 a.m.–9:30 a.m.: Executive Session (Closed).* The Committee will meet in closed session to exchange and discuss the personal opinions and recommendations of individual members and consultants who may be present regarding the analytical model for evaluation of EXXON Nuclear Company, Inc., reactor fuel performance during an emergency core cooling transient and to review the application of these models to the Donald C. Cook Unit 1 and the Oyster Creek Unit 1 nuclear plants.

*9:30 a.m.–11:30 a.m.: EXXON Nuclear Company, Inc.—ECCS Evaluation Model (Open).* The Committee will hear presentations by and hold discussions with representatives of the EXXON Nuclear Company, Inc., and the NRC Staff related to the proposed models for evaluation of EXXON reactor fuel performance during an ECCS transient and the application of these models to the Donald C. Cook Unit 1 and the Oyster Creek Unit 1 nuclear plants. Portions of this session will be closed if necessary to discuss proprietary information related to the design, fabrication, or operation of this fuel.

*11:30 a.m.–12:00 Noon: Executive Session (Closed).* The Committee will meet in closed session to exchange and discuss the personal opinions of individual members and consultants who may be present regarding proposed criteria for air shipment of radioactive material.

*1:00 p.m.—3:30 p.m.: Transportation of Radioactive Material (Open).* The Committee will hear presentations by and hold discussions with representatives of the NRC Staff regarding proposed criteria for air shipment of plutonium.

*3:30 p.m.—6:30 p.m.: Executive Session (Closed).* The Committee will meet in closed session to exchange and discuss opinions and recommendations of individual members leading to the formulation of Committee advice and recommendations to the Commission with respect to the projects and proposed criteria considered at this meeting.

SATURDAY, NOVEMBER 13, 1976

*8:30 a.m.—12:00 Noon: Executive Session (Closed).* The Committee will meet in closed executive session to exchange and discuss personal opinions and recommendations leading to the formulation of advice with respect to items considered at this meeting. Proposed ACRS activities and reports on generic matters such as management of radioactive wastes and the Reactor Safety Study (WASH–1400) will also be discussed.

The Committee members will exchange and discuss the opinions and recommendations of individual members and consultants who may be present regarding the request for an Operating License for the Diablo Canyon Nuclear Plant Units 1 and 2.

*1:00 p.m.—4:00 p.m.: Diablo Canyon Nuclear Power Plant Units 1 and 2 (Open).* The Committee will hear presentations by and hold discussions with representatives of the Applicant and the NRC Staff regarding the request for an Operating License for this plant specifically related to the seismic characteristics of the site and related structural design of the facility. Portions of this session will be closed if required to discuss proprietary material related to the design, construction or operation of this plant.

I have determined in accordance with subsection 10(d) of Pub. L. 92–463 that it is necessary to close portions of the meeting as noted above to protect proprietary data (5 U.S.C. 552(b)(4)), to protect the free exchange of opinion during the Committee's deliberative process (5 U.S.C. 552(b)(5)) and to protect information which, if released, would represent an undue invasion of privacy (5 U.S.C. 552(b)(6)). These closed sessions will consist primarily of deliberative discussion among the Committee members leading to the formulation of advice and recommendations to the Nuclear Regulatory Commission. Separation of factual information and information considered exempt from disclosure under exemption (4) and exemption (6) of 5 U.S.C. 552(b) from the individual advice, opinion or recommendations of ACRS members and consultants during this discussion is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the begining of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for con-

sideration at this meeting. Comments postmarked no later than November 3, 1976, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, DC 20555 will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the following Public Document Rooms:

DIABLO CANYON NUCLEAR PLANT UNITS 1 AND 2

San Luis Obispo County Free Library, San Luis Obispo, CA 93406.

FLOATING NUCLEAR PLANT

1. Jacksonville Public Library, 122 North Ocean Street, Jacksonville, FL 32204.
2. New Orleans Public Library, 219 Loyola Avenue, New Orleans, LA 70140.
3. Stockton State College Library, Pomona, NJ 08240.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on November 10. 1976, to the Office of the Executive Director of the Committee (Telephone: 202–634–1371) between 8:15 a.m. and 5:00 p.m., Eastern Time. It should be noted that the above schedule is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on November 10, 1976.

(d) Questions may be propounded only by members of the Committee and its consultants.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the materials being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC, on or after February 11, 1977. Copies may be obtained upon payment of appropriate charges.

Dated: October 21, 1976.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.76-31345 Filed 10-22-76;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS REACTOR SAFETY STUDY WORKING GROUP

### Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Reactor Safety Study Working Group will hold a meeting on November 10, 1976 in Room 1046, 1717 H St., NW., Washington, DC 20555. The purpose of this meeting is to review WASH–1400 (NUREG–75/014), "An Assessment of Accident Risks in U.S. Commercial Nuclear Power Plants."

The agenda for the subject meeting shall be as follows:

WEDNESDAY, NOVEMBER 10, 1976, 8:30 A.M. UNTIL CONCLUSION OF BUSINESS

The Working Group will meet in open session to hear presentations and hold discussions with representatives of the NRC Staff regarding the final version of the Reactor Safety Study report and the current and future efforts of the study group.

At the conclusion of the open session, the Working Group will meet in closed session to exchange advice, opinions and recommendations regarding the study. During this session Working Group members and consultants will discuss their opinions and recommendations on these matters.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the Working Group's deliberative process (5 U.S.C. 552(b)(5)). Separation of factual material from individuals' advice, opinions and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirement shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Working Group's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than November 3, 1976 to Mr. J. C. McKinley, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman of the Working Group.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time alloted therefor can be obtained by a prepaid telephone call on November 9, 1976 to the Office of the Executive Director of the Committee (telephone 202/634–1371, Attn: Mr. J. C. McKinley) between 8:15 a.m. and 5:00 p.m., e.s.t.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) A copy of the transcript of the open portion of the meeting will be available for inspection on or after November 17, 1976 at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room 1717 H

St., N.W., Washington, DC 20555 after February 10, 1977. Copies may be obtained upon payment of appropriate charges.

Dated: October 21, 1976.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.76-31346 Filed 10-22-76;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REGULATORY GUIDES

### Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards Subcommittee on Regulatory Guides will hold a meeting on November 10, 1976 in Room 1062, 1717 H Street, N.W., Washington, DC 20555. This meeting will have both open and closed sessions.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

WEDNESDAY, NOVEMBER 10, 1976, 9:00 A.M. UNTIL THE CLOSE OF BUSINESS

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following items:

(1) Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant Conditions During and Following an Accident."

(2) Regulatory Guide 1.116, "Quality Assurance Requirements for the Installation, Inspection, and Testing of Mechanical Equipment and Systems."

In addition, the following preliminary working papers will be discussed by the Subcommittee and NRC Staff:

(1) Regulatory Guide 1.XX, "Installation Design and Installation of Large Lead Storage Batteries for Nuclear Power Plants."

(2) Regulatory Guide 1.XX, "Inspection of Water (Control Structures Associated with Nuclear Power Facilities."

In connection with the above agenda items, the Subcommittee may hold one or more Executive Sessions, not open to the public, at approximately 8:30 a.m. and at the close of business to consider matters related to the above reviews. These sessions will involve an exchange of opinions and discussions of preliminary views and recommendations of Subcommittee members and internal deliberations for the purpose of formulating recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process (5 U.S.C. 552(b)(5)). Separation of factual material from individuals' advice, opinions, and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the above agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, D.C. 20555.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than November 3, 1976 to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on November 9, 1976 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5:00 p.m., e.s.t.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) A copy of the transcript of the open portion of the meeting will be available for inspection after November 17, 1976, and a copy of the minutes of the meeting will be available for inspection after February 10, 1977 at the NRC Public Document Room, 1717 H St., NW., Washington, DC 20555. Copies may be obtained upon payment of appropriate charges.

Dated: October 21, 1976.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.76-31347 Filed 10-22-76;8:45 am]

[Docket No. 50-317]

## BALTIMORE GAS AND ELECTRIC CO.

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. DPR-53, issued to Baltimore Gas & Electric Company (the licensee), which revised the Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant Unit No. 1 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment modified the augmentation factor curve of Figure 3-6 of the Technical Specifications for the facility. This results in an effective gain of approximately 0.7 kW/ft in the operating margin to the maximum allowable peak linear heat generation rate.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 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 July 15, 1976, (2) Amendment No. 17 to License No. DPR-53, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland 20678. 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 8th day of October 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch No. 2 Division of Operating Reactors.*

[FR Doc.76-31081 Filed 10-22-76;8:45 am]

[Docket Nos. 50-317 and 50-318]

## BALTIMORE GAS AND ELECTRIC CO.

### Proposed Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering is-

suance of amendments to Facility Operating License Nos. DPR–53 and DPR–69 issued to the Baltimore Gas & Electric Company (the licensee) for operation of the Calvert Cliffs Nuclear Power Plant Unit Nos. 1 and 2 (the facilities) located in Calvert County, Maryland.

The amendments would revise the Technical Specifications for the facilities to eliminate the operability and surveillance requirements of the Turbine Runback feature in accordance with the licensee's application for amendments dated September 23, 1976. The Turbine Runback feature is used to reduce the turbine output to 70% when a control rod is dropped.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By November 26, 1976, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to James A. Biddison, Jr., General Counsel, Gas & Electric Building, Charles Center, Baltimore, Maryland 21203, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendments dated September 23, 1976 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland 20678.

Dated at Bethesda, Maryland, this 15th day of October 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.*

[FR Doc.76-31086 Filed 10-22-76;8:45 am]

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[Docket No. 50-261]

## CAROLINA POWER AND LIGHT CO.

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. DPR–23, issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility) located in Darlington County, Hartsville, South Carolina. The amendment is effective as of its date of issuance.

The amendment modifies the definition of containment integrity to permit continued plant operation during short periods of inoperability of automatic containment isolation valves required to be closed during accident conditions.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 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 July 25, 1975, (2) Amendment No. 24 to License No. DPR–23, 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 Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina.

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 14th day of October 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
*Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.*

[FR Doc.76-31088 Filed 10-22-76;8:45 am]

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[Docket No. 50-247]

## CONSOLIDATED EDISON CO. OF NEW YORK, INC.

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR–26, issued to Consolidated Edison Company of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to establish requirements for inspection and testing of shock suppressors (snubbers) at Indian Point Unit No. 2.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or 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 September 2, 1976, (2) Amendment No. 21 to License No. DPR–26, 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 Hendrick Hudson Free Li-

brary, 31 Albany Post Rd., Montrose, 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 13th day of October 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
*Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.*

[FR Doc.76-31082 Filed 10-22-76;8:45 am]

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[Docket No. 50-321]

## GEORGIA POWER CO. AND OGLETHORPE ELECTRIC MEMBERSHIP CORP.

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR-57, issued to Georgia Power Company and Oglethorpe Electric Membership Corporation, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment revises the Hatch Unit No. 1 Technical Specifications by (1) replacing the existing Operating Limit Minimum Critical Power Ratio (MCPR) of 1.32 with exposure-dependent limits, (2) replacing the existing Safety Limit MCPR of 1.06 with a limit of 1.05, and (3) reducing the existing 100% recirculation flow Rod Block Monitor trip setting from 107% to 106% rated thermal power.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 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 August 25, 1976, (2) Amendment No. 38 to License No. DPR-57, 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 Appling County Public Library, Parker Street, Baxley, Georgia 31513.

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 15th day of October 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc.76-31084 Filed 10-22-76;8:45 am]

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[Docket No. 50-321]

## GEORGIA POWER CO. AND OGLETHORPE ELECTRIC MEMBERSHIP CORP.

### Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 37 to Facility Operating License No. DPR-57 issued to Georgia Power Company and Oglethorpe Electric Membership Corporation, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plan, Unit No. 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance. The amendment to the Technical Specifications adds a section which will incorporate a program for the surveillance of shock suppressors (snubbers) on safety releated systems.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or 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 September 4, 1975, as supplemented by letters dated March 10, 1976 and August 2, 1976, (2) Amendment No. 37 to License No. DPR-57 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 Appling County Public Library, Parker Street, Baxley, Georgia 31513.

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 15th day of October 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc.76-31085 Filed 10-22-76;8:45 am]

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[Dockets Nos. 50-321 and 50-366]

## GEORGIA POWER CO. AND OGLETHORPE ELECTRIC MEMBERSHIP CORP.

### Issuance of Amendments to Facility Operating License No. DPR-57 and Construction Permit No. CPPR-90

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DRP-57 and Amendment No. 4 to Construction Permit No. CPPR-90 issued to Georgia Power Company and Oglethorpe Electric Membership Corporation for the operation of Edwin I. Hatch Nuclear Plant Unit No. 1 (Hatch-1) and for the construction of Edwin I. Hatch Nuclear Plant Unit No. 2 (Hatch-2), respectively. These units are boiling water reactors and are located in Appling County, Georgia. The amendments are effective as of the date of issuance.

The amendments reflect a change in ownership of facilities Hatch Units Nos. 1 and 2. As a result of the change The Municipal Electric Authority of Georgia (MEAG) and the City of Dalton, Georgia (DALTON) will acquire 17.7 percent and 2.2 percent undivided interests, respectively, in the ownership of the facilities. The Georgia Power Company will retain sole responsibility for overall planning, design, construction, operation, maintenance and disposal of the facilities.

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 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 statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated January 29, 1976, (2) Amendment No. 36 to License No. DPR-57, (3) Amendment No. 4 to Construc-

tion Permit No. CPPR–90, and (4) 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 Appling County Public Library, Parker Street, Baxley, Georgia 31513.

A copy of items (2), (3) and (4) 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 18th day of October 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc.76–31089 Filed 10–22–76;8:45 am]

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[Docket No. 50–344]

## PORTLAND GENERAL ELECTRIC COMPANY

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. NPF–1 issued to Portland General Electric Company which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is effective as of its date of issuance.

The amendment adds a special test exception to Section 2.1.3 of the Technical Specifications in Appendix B relating to the allowable heat discharge rate during power operation for the purpose of conducting a two-week thermal plume mapping study.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action. A negative declaration to this effect is appropriate.

For further details with respect to this action, see (1) the application for amendment dated October 4, 1976, (2) Amendment No. 11 to License No. NPF–1 and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon. 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 6th day of October 1976.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
*Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc.76–31090 Filed 10–22–76;8:45 am]

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[Docket Nos. STN 50–556, STN 50–557]

## PUBLIC SERVICE COMPANY OF OKLAHOMA, AND ASSOCIATED ELECTRIC COOPERATIVE, INC., (BLACK FOX STATION, UNITS 1 AND 2)

### Amended Notice of Hearing on Application For Construction Permits

A Notice of Hearing on Application for Construction Permit was published in the FEDERAL REGISTER on January 23, 1976 (41 FR 3515) concerning the application of the Public Service Company of Oklahoma and the Associated Electric Cooperative, Inc. to construct two boiling water nuclear reactors designated as the Black Fox Station, Units 1 and 2 (the facilities). The facilties are to be located in the Township of Inola, Oklahoma, 23 miles east of Tulsa on the east side of the Verdigris River in Rogers County. Public Service Company of Oklahoma and Associated Electric Cooperative, Inc. were identified as co-owners of the proposed facility in the original application. However, pursuant to an agreement entered into May 14, 1976, Western Farmers Electric Cooperative, Inc. became a co-owner in the facilities. The three utilities will share in the ownership, financial support, and electrical output of the facilities as set forth below:

| Party | Share (percent) | Megawatts electrical/ unit |
|---|---|---|
| Public Service Co. of Oklahoma | 60.87 | 700 |
| Associated Electric Cooperative | 21.74 | 250 |
| Western Farmers Electric Cooperative, Inc. | 17.39 | 200 |

Public Service Company of Oklahoma is to have full responsibility for the construction, operation, and licensing of the facilities.

As a result of the addition of Western Farmers Electric Cooperative, Inc. as co-owner, the Atomic Safety and Licensing Board (the Board) on behalf of the U.S. Nuclear Regulatory Commission (the Commission) is hereby issuing an Amended Notice of Hearing on Application for Construction Permits for the proposed facilities. This Amended Notice does not alter or expand the issues for consideration set forth in the initial Notice of Hearing. By this Amended Notice the Commission is, however, affording any person whose interest may be affected by the addition of Western Farmers Electric Cooperative, Inc. as co-owner the opportunity to participate in this proceeding.

Any person whose interest may be affected by the addition of Western Farmers Electric Corporation, Inc. as co-owner and who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714. A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he or she should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his or her interest and the basis for his or her contentions with regard to each aspect on which he or she desires to intervene. A petition that sets forth contentions relating to matters outside the jurisdiction of the Commission will be denied.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene and have the right to participate in the hearing, including the right to present evidence and to conduct appropriate examination and cross-examination of witnesses.

A petition for leave to intervene must be filed with the Secretary of the Commission and others as specified below by November 29, 1976. A petition for leave to intervene which is not timely will be denied unless the Board determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Board has considered those factors specified in 10 CFR 2.714(a)((1)–(4) and 2.714(d).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement on the record. Such aperson does not become a party, but may state his or her position and raise questions which he or she would like answered to the extent that the questions are within the scope of the issues set forth in the original Notice of Hearing. Limited appearances will be

permitted at the time of the hearing at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board.

Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission and others by November 29, 1976.

Papers required to be filed in this proceeding shall be filed by mail or telegram and addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of the petition or request for limited appearance should also be sent to James Tourtellotte, Esq., Counsel for NRC Staff, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Andrew T. Dalton, Esq., 2536 East 51st Street, Tulsa, Oklahoma 74105; Mrs. Carrie Dickerson, Citizens Action for Safe Energy, Inc., P.O. Box 924, Claremore, Oklahoma 74017; Mrs. Ilene H. Younghein, 3900 Cashion Place, Oklahoma City, Oklahoma 73112; Michael I. Miller, Esq. and R. Rex Renfrow III, Esq., Isham, Lincoln and Beale, One First National Plaza, Suite 4200, Chicago, Illinois 60603; and Charles B. Crane, Esq., Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102. In addition, a copy of the petition or request for limited appearance should be sent to the members of the Board at the following address: Frederick J. Shon, Member, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Dr. Paul W. Purdom, Member, Atomic Safety and Licensing Board, c/o Environmental Studies Institute, Drexel University, Philadelphia, Pennsylvania 19104; Daniel M. Head, Chairman, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

For further details, see the Environmental Report, the Application and Amendment No. 1, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. on weekdays. These documents are also available for public inspection at the Tulsa City County Library, 400 Civic Center, Tulsa, Oklahoma 74102.

Issued at Bethesda, Md., this 20th day of October 1976.

For the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
*Chairman.*

[FR Doc.76-31348 Filed 10-22-76;8:45 am]

## REGULATORY GUIDE

### Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. 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.

Regulatory Guide 1.123, "Quality Assurance Requirements for Control of Procurement of Items and Services for Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with the Commission's regulations. The guide deals with quality assurance requirements for control of procurement of items and services during the design, construction, and operations phases of nuclear power plants. This guide endorses ANSI Standard N45.2.13–1976, "Quality Assurance Requirements for Control of Procurement of Items and Services for Nuclear Power Plants."

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. Public comments on Regulatory Guide 1.123 will, however, be particularly useful in evaluating the need for an early revision if received by December 17, 1976.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

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 issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. 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 14th day of October 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
*Director, Office of Standards Development.*

[FR Doc.76-31087 Filed 10-22-76;8:45 am]

[Docket No. 50-29]

## YANKEE ATOMIC ELECTRIC CO.

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR-3 issued to Yankee Atomic Electric Company which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) located in Rowe, Massachusetts. The amendment is effective as of the date of issuance.

The amendment changes the requirement in the Technical Specifications relating to the ECCS accumulator pressure, to reflect actual accumulator flow in the ECCS performance analysis for Core XII which we have previously found to be acceptable and in compliance with 10 CFR § 50.46. The previous specification was not consistent with the ECCS performance analysis. Since the time that this inconsistency was identified earlier in the year, the licensee has operated at the correct pressure on the interim basis. This amendment modifies the facility Technical Specification to reflect this corrected presure.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration, or 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 11, 1976, and supplements dated May 11, 17, 19, 1976, and June 16, 1976, (2) Amendment No. 25 to License No. DPR-3 and (3) the Commission's related Safety Evaluations dated May 19, 1976 and October 7, 1976. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. 20555, and at the Greenfield Public Library, 402 Main Street, Greenfield, Massachusetts 01581. 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 7th day of October 1976.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
*Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc.76-31080 Filed 10-22-76;8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET

### CLEARANCE OF REPORTS

#### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 18, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

COMMUNITY SERVICES ADMINISTRATION

National Program Summary:
- CSA 490, single time, agency grantees, Lowry, R. L., Budget Review Division, 395-3772.
- CSA 490, single time, community action agencies, Lowry, R. L., Budget Review Division, 395-3772.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Notice of Intent to Submit Application to National Endowment for the Arts for a Challenge Grant, annually, charitable and educational organizations, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Bureau of Census:
- Sales, Inventory and Purchases Survey, B-233, monthly, retail business forms, Laverne V. Collins, 395-5867.
- Survey of Hired Farm Workers—December 1976 CPS, CPS-1, single time, 55,000 households in December CPS national sample, Strasser, A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Office of Education, Application for Federal Assistance (Nonconstruction Programs)—Instructions for Library Training Programs, Title II-B, HEA 1965, OE-547, annually, institutions of higher education, Lowry, R. L., 395-3772.

National Institute of Education, California Beginning Teacher Evaluation Study, NIE 165 A and Others (See SF-83), elementary school teachers in San Francisco Bay area, Kathy Wallman, 395-6140.

Public Health Service, Women's Community Health Care Survey, single time, low-income women, aged 13-44, in Dallas County, Tex., Richard Eisinger, 395-6140.

Office of the Secretary, Single Letter of Credit Questionnaire for Recipients, OS-19-76, single time, hospitals, universities, research institutes, Budget Review Division, 395-4775.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Application for Project Mortgage Insurance, FHA-3201, on occasion, project sponsors, Housing, Veterans and Labor Division, 395-3532.

DEPARTMENT OF TRANSPORTATION

Departmental and Other:
- Prospectus for proposed contract entitled: Motorist Attitudes Toward Large Trucks, single time, motorists driving on roads in presence of large trucks, Strasser, A., 395-5867.
- Re-Use of Abandoned Railroad Rights-of-Way, single time, State Government, Strasser, A., 395-5867.

REVISIONS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Individual Grant Application, NEA-2 (Rev.), on occasion, individual, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration:
- Report of Restrictive Trade Practice or Boycott Request That Discriminates Against U.S. Citizens or Firms, DIB-630P, on occasion, U.S. exporters, freight forwarders, shippers, etc., Caywood, D. P., 395-3443.
- Report of Restrictive Trade Practice or Boycott request, DIB-621P, quarterly, U.S. exporters shippers, freight forwarders, Caywood D. P., 395-3443.

Bureau of Census, Survey of Plant Capacity, MQ-C1, annually manufacturing establishments, Peterson, M.O., 395-5631.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Office of education, Current Project Report Title VI Public Law 89-329, Improvement of Undergraduate Institutions, OE-1052, on occasion, institutions of post-secondary education, Lowry, R. L., 395-3772.

National Center for Education Statistics:
- Elsegis: Biennial and Fall Surveys, OE 2350-5, annually, Sea's, Kathy Wallman, 395-6140.
- Fast Response Survey System NCES 2379, on occasion, educational organizations, Kathy Wallman, 395-6140.

Office of Education:
- Annual Survey of Children in Local Institutions for Neglected or Delinquent Children or in Correctional Institutions, ESEA T-1, OE-4376, 1, annually, local agencies for neglected or delinquent children, Kathy Wallman, 395-6140.
- Application for Grant for Equipment and Materials to Improve Undergraduate Instruction Title VI-A HEA, OE-3600, annually, institutions of postsecondary education, Lowry, R.L., 395-3772.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Work Stoppage Report—Government, BLS-3006, on occasion, organizations involved in work stoppages, Strasser, A., 395-5867.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
- Lenders Application for Contract of Federal Loan Insurance, OE-1156, on occasion, banks, savings and loan associations and credit unions, Marsha Traynham, 395-4529.
- College Retention of Former Upward Bound Students, OE-1225, semi-annually, college registrars, Marsha Traynham, 395-4529.
- Social and Rehabilitation Service, Report on Methods of Dealing With Questions of Recipient Fraud in State Public Assistance Programs, SRSNCSS110, annually, State public assistance agencies, sunderhauf, M.B., 395-6140.

DEPARTMENT OF LABOR

Bureau of Labor Statistics:
- Retail Prices—Food Away From Home, 2912.01, quarterly, businessmen, Strasser, A., 395-5867.
- Retail Prices—Fuel and Utilities, BLS 2922, annually, businessmen, Strasser, A., 395-5867.
- Retail Prices—Newspapers, 2953.50, monthly individuals, Strasser, A., 395-5867.

Transit Fares Consumer Prices, BLS 2818, monthly, businesses, Strasser, A., 395-5867.

PHILLIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.76-31396 Filed 10-22-76;8:45 am]

### CLEARANCE OF REPORTS

#### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 19, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Study of the Economic Impact of Sportfishing, single time, tackle manufacturers, bait dealers and charter boats, Maria Gonzalez, Hulett, D. T., 395–6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary, Data Collection Instrument for Migrant Child Welfare Project, single time, 12 State sample, Sunderhauf, M. B., 395–6140.

Social Security Administration, Ombudsman Demonstration Project, SSA–3439, single time, users and nonusers of ombudsman and social security recipients, Sunderhauf, M. B., 395–6140.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Claim for Amounts Due in the Case of a Deceased Beneficiary, SSA–1724, on occassion, relatives or legal representative of a deceased beneficiary, Caywood, D. P., 395–3443.

EXTENSIONS

SELECTIVE SERVICE SYSTEM

Statement of Intention (DOD Referral), SSS RS–8, on occasion, RSP enrollee, Marsha Traynham, 395–4529.

Statement of Intention—Presidential Clemency, Board of Office of Pardon Attorney Referral, SSS RS–9, on occasion, RSP enrollee, Marsha Traynham, 395–4529.

Certificate of Service Performed, SSS RS–7, monthly, RSP employer, Marsha Traynham, 395–4529.

Reconciliation Service Enrollment Card, Registration Card, Registration Card (Mailer), SSS form 1, on occasion, enrollees in presidential amnesty program, Marsha Traynham, 395–4529.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Management Consultant Questionnaire, AID 1420–6, on occasion, management consultants, Warren Topelius, 395–5872.

AID Urban and Regional Planner Consultant Questionnaire, AID 1420–19, on occasion, urban and regional planner consultants, Warren Topelius, 395–5872.

Investor's Report, 1520–10, monthly, Investors in AID housing guaranty projects, Warren Topelius, 395–5872.

PHILLIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.76–31396 Filed 10–22–76;8:45 am]

## CLEARANCE OF REPORTS

### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 15, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

ACTION

Attitude Awareness Survey, single time, individuals, Richard Eisinger, 395–6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, Project Head Start Program Information Report, semiannually, Head Start Program grantees, Lowry, R. L., 395–3772.

REVISIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Farm Production Expenditure Survey, annually, farmers, Hullett, D. T., 395–4730.

EXTENSIONS

DEPARTMENT OF COMMERCE

Economic Development Administration, Title X Project Completion Form, ED 736, single time, State, local governments, and nonprofit organizations, C. Louis Kincannon, 395–3211.

Maritime Administration:

Application for Admission to Practice Before the Maritime Administration and the Maritime Subsidy Board (Non-Attorneys), MA 327, on occasion, persons who wish to practice before MSB/MA-Nonattorneys, Warren Topelius, 395–5872.

Vessel Data—Vessels of 1,500 Gross Tons or more and Vessels Under 1,500 Gross Tons, MA 510, 511, on occasion, shipping companies, Warren Topelius, 395–5872.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Primary Antimony (Report by Producers, Consumers, Dealers), 6–10016–QA, quarterly, producers and consumers of primary antimony, Cynthia Wiggins, 395–5631.

PHILLIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.76–31397 Filed 10–22–76;8:45 am]

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

### LABOR RESEARCH ADVISORY COUNCIL COMMITTEES

### Notice of Meetings and Agenda

The regular fall meetings of committees of the Labor Research Advisory Council will be held on November 22, 23, and 24 in Room 4454, General Accounting Office Building, 441 G Street, N.W., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

MONDAY, NOVEMBER 22

9:30 A.M.—COMMITTEE ON PRICES AND LIVING CONDITIONS

1. Description of the work of the National Bureau of Economic Research on the Wholesale Price Index.
2. Status report on the dissemination of data from the 1972–73 Consumer Expenditure Survey.
3. Review of the Consumer Price Index Revision Program.
4. Discussion of approaches to developing family budget statistics.

MONDAY, NOVEMBER 22

1:30 P.M.—COMMITTEE ON WAGES AND INDUSTRIAL RELATIONS

1. Work in progress.
2. Report on the Employment Cost Index.
3. Report on the effect of public sector labor-management legislation on strikes.
4. Discussion of work hours.
5. Developing a mechanism for long-range program planning.

TUESDAY, NOVEMBER 23

9:30 A.M.—COMMITTEE ON FOREIGN LABOR AND TRADE—COMMITTEE ON PRODUCTIVITY, TECHNOLOGY, AND GROWTH

1. Status of the work on trade statistics monitoring system.
2. The unemployment figures for foreign countries—Discussion of methods of achieving comparability.
3. Comparative wage rates among countries.
4. Development of quarterly industry productivity measures.

TUESDAY, NOVEMBER 23

1:30 P.M.—COMMITTEE ON MANPOWER AND EMPLOYMENT

1. New labor force projections.
2. Proposal to collect earnings rates in the Current Population Survey.
3. New developments in seasonal adjustment that might affect BLS procedures for labor force series.
4. Report on the local area unmployment statistics program.
5. Proposal to collect job vacancy statistics.

WEDNESDAY, NOVEMBER 24

9:45 A.M.—COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH STATISTICS

1. Recommendations of the Commission on Federal Paperwork.
2. General Accounting Office report on occupational safety data.
3. Office of Management and Budget and the annual survey.
4. Status of annual surveys for 1975, 1976, and 1977.
5. National Emphasis Program quarterly survey.
6. OSHS data information sources.
7. State participation in the Supplementary Data System.
8. Quality Assurance Program.
9. Supplementary Data System.
10. Arkansas research project.
11. Recordkeeping issues—surveillance and monitoring.
12. Occupational illnesses.

The meetings are open. It is suggested that persons planning to attend as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523–1247.

Signed at Washington, D.C. this 20th day of October 1976.

JULIUS SHISKIN,
*Commissioner of Labor Statistics.*

[FR Doc.76-31221 Filed 10-22-76;8:45 am]

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## Employment and Training Administration

## JOB CORPS

### Waiver of Readjustment Allowance Requirements for Experimental Project

The schedule of living and readjustment allowances for Job Corpsmembers are set forth in § 97a.83 of Title 29, Code of Federal Regulations, 40 FR 50811, 50826 (October 31, 1975). The Job Corps wishes to conduct an experimental project altering the current allowance schedules at three Job Corps Centers for twelve months to determine how such variations will affect the participants' morale, motivation, length of stay in the Job Corps, and postprogram outcomes.

The experimental project has been designed to provide supplementary monthly allowances, known as "bonus allowances," to participants, in addition to the living allowance and any incentive or other increases to the living allowance under the current schedule. The amount of any bonus allowance given to the Corpsmember will be deducted from the Corpsmember's readjustment allowance. Three different experimental plans have been designed under the project; each will be administered at one of three Job Corps Centers.

#### PHOENIX JOB CORPS CENTER PLAN

The plan to be operated at the Phoenix Job Corps Center, Phoenix, Arizona, provides a $5 bonus allowance to be paid to each corpsmember at the center along with the corpsmember's living allowance on the first payday following the corpsmember's second month in the Job Corps. The bonus allowance will be increased by $5 per month until the twelfth month in the Job Corps or the completion of the experimental project, whichever comes earlier. If a corpsmember was in the Job Corps prior to the beginning of the experimental project or transfers to the Center during the term of the project, the corpsmember will receive a bonus allowance each month during the project in the amount that corpsmember would have received had the individual been a participant in the project during the individual's entire service in the Job Corps. For example, a corpsmember at the Phoenix Center who has completed eight months in the Job Corps prior to the beginning of the experimental project will be treated as if that individual had been a participant in the experimental project for eight months. This does not grant any entitlement to past bonus allowances the individual might have received had participation in the project begun in the corpsmember's first month in the Job Corps. Of course, after completing the twelfth month in the Job Corps the corpsmember will complete participation in the project.

The payment schedule for the Phoenix Job Corps Center Plan is printed as Table I following this notice.

#### PINE RIDGE JOB CORPS CENTER PLAN

The plan to be operated by the Pine Ridge Job Corps Center, Chadron, Nebraska, will affect all corpsmembers at the center after their fourth month in the Job Corps. On the payday they are paid for their fourth month in the Job Corps, corpsmembers at the center will receive a $15 bonus allowance along with the living allowance. The bonus allowance will be increased by $10 for the paydays with respect to the next two months of participation in the project or the Job Corps, whichever is less, with similar increases of $5 in the bonus allowance on the paydays with respect to the seventh, ninth, and eleventh months. The bonus allowance will be paid until the twelfth month in the Job Corps or completion of the experimental project, whichever comes earlier. If a corpsmember was in the Job Corps prior to the beginning of the project or transfers to the center during the term of the project the corpsmember will receive a bonus allowance each month in the amount that corpsmember would have received had the individual been a participant in the project during the individual's entire service in the Job Corps. For example, a corpsmember at the Pine Ridge Center who has completed eight months in the Job Corps prior to participation in the project will be treated as if that individual had been a participant in the project for eight months. This does not grant any entitlement to past bonus allowances the individual might have received had participation in the project begun in the corpsmember's first month in the Job Corps. Of course, after completing the twelfth month in the Job Corps the corpsmember will complete participation in the project.

The payment schedule for the Pine Ridge Job Corps Center is printed as Table II following this notice.

#### COLUMBIA BASIN JOB CORPS CENTER PLAN

The plan to be operated by the Columbia Basin Job Corps Center, Moses Lake, Washington will be offered to each corpsmember at the center upon completion of the individual's fourth month in the Job Corps. A corpsmember at this center may decline to participate in the project. Subsequently, the individual may choose to participate in the project in any month but not after the completion of the twelfth month in the Job Corps or the end of the experimental project. This does not grant any entitlement to past bonus allowances the individual might have received had the corpsmember begun participation in the project in the individual's first month in the Job Corps or in the first month of the project.

A corpsmember participating in the project at the Columbia Basin Center will receive a monthly $25 bonus allowance upon completion of each of the fourth through twelfth months in the Job Corps or until the end of the project, whichever is earlier. However, corpsmembers at the center from whose readjustment allowances spouse and/or dependent child(ren) allotments are deducted will receive only a monthly $15 bonus allowance, so that there will be balances in their readjustment allowance accounts at the completion of their service in the Job Corps. If a corpsmember was in the Job Corps prior to the beginning of the project or transfers to the center during the term of the project the corpsmember will receive, if the individual chooses to participate in the project, a bonus allowance each month in the amount the corpsmember would have received had the individual been a participant in the project during the individual's entire service in the Job Corps. For example, a corpsmember at the Columbia Basin Center who has completed eight months in participation in the Job Corps prior to participation in the project will be treated as if that individual had been a participant in the project for eight months. This does not grant any entitlement to past bonus allowances the individual might have received had participation in the project begun in the corpsmember's first month in the Job Corps. Of course, after completing the twelfth month in the Job Corps the corpsmember will complete participation in the project.

The payment schedule for the Columbia Basin Job Corps Center Plan is printed as Table III following this notice.

#### GENERAL PROVISIONS

The following general provisions apply to all three plans included in this experimental project:

1. The amount of any bonus allowance paid to a corpsmember in any month of participation in this experimental project shall be deducted from the readjustment allowance accrued that month by the corpsmember.

2. The payment of bonus allowances will be based on length of stay in the Job Corps, not upon behavior of the corpsmember.

3. This project shall have no effect on incentive increases in the monthly living allowance, known by the terms specialist, leaderships, senior specialist, merit raises, or other terms, currently available to corpsmembers pursuant to § 97a.83(f) of Title 29, Code of Federal Regulations. Similarly, reductions in the living allowance for misconduct may still be made pursuant to that section.

4. The sum of bonus allowances and readjustment allowances accrued by a corpsmember at the end of any month of participation in the project shall be equal to the total amount of readjustment allowance the corpsmember would have accrued at that point in time had the corpsmember not been a participant in the project.

5. Each center participating in this project should explain the current schedule of allowances and the experimental schedule of allowances to all corpsmem-

bers at the center and to new corpsmembers who begin service at the center during the course of the project.

WAIVER

Based on the authority granted to the Secretary of Labor in section 413(b) of the Comprehensive Employment and Training Act of 1973, as amended (CETA), 29 U.S.C. 923(b), to waive any part of Title IV of CETA, 29 U.S.C. 911 et seq., for experimental purposes, and the delegation of that authority to the Assistant Secretary for Employment and Training by Secretary's Order No. 4–75 (40 FR 18515; April 28, 1975), I hereby waive the schedule of accrual of readjustment allowances for Job Corps members contained in section 409(c) of CETA, 29 U.S.C. 819(c), as implemented by section 97a.83(i) of Title 29, Code of Federal Regulations, for the purposes of conducting the above-described experimental project at the Phoenix, Pine Ridge, and Columbia Basin Job Corps Centers. This waiver shall be in effect during the expected life of the experimental project, from November 1, 1976, through October 31, 1977.

Signed at Washington, D.C., this 19th day of October 1976.

WILLIAM H. KOLBERG,
*Assistant Secretary for Employment and Training.*

TABLE I.—*Phoenix Job Corps Center payment schedule*

| | Living allowance | Bonus allowance | Adjusted accrued readjustment allowance [1] |
|---|---|---|---|
| Month: | | | |
| 1st | $30 | 0 | $50 |
| 2d | 30 | $5 | 95 |
| 3d | 30 | 10 | 135 |
| 4th | 30 | 15 | 170 |
| 5th | 30 | 20 | 200 |
| 6th | 30 | 25 | 225 |
| 7th | 30 | 30 | 245 |
| 8th | 30 | 35 | 260 |
| 9th | 30 | 40 | 270 |
| 10th | 30 | 45 | 275 |
| 11th | 30 | 50 | 275 |
| 12th | 30 | 55 | 270 |

[1] This does not take into account any deductions authorized under 29 CFR 97a.83 (m) or (n).

TABLE II.—*Pine Ridge Job Corps Center payment schedule*

| | Living allowance | Bonus allowance | Adjusted accrued readjustment allowance [1] |
|---|---|---|---|
| Month: | | | |
| 1st | $30 | 0 | $50 |
| 2d | 30 | 0 | 100 |
| 3d | 30 | 0 | 150 |
| 4th | 30 | $15 | 185 |
| 5th | 30 | 25 | 210 |
| 6th | 30 | 35 | 225 |
| 7th | 30 | 40 | 235 |
| 8th | 30 | 40 | 245 |
| 9th | 30 | 45 | 250 |
| 10th | 30 | 45 | 255 |
| 11th | 30 | 50 | 255 |
| 12th | 30 | 50 | 255 |

[1] This does not take into account any deductions authorized under 29 CFR 97a.83(m) or (n).

TABLE III.—*Columbia Basin Job Corps Center payment schedule*

| | Living allowance | Bonus allowance [1] | Adjusted accrued readjustment allowance [2] |
|---|---|---|---|
| Month: | | | |
| 1st | $30 | 0 | $50 |
| 2d | 30 | 0 | 100 |
| 3d | 30 | 0 | 150 |
| 4th | 30 | $25 | 175 |
| 5th | 30 | 25 | 200 |
| 6th | 30 | 25 | 225 |
| 7th | 30 | 25 | 250 |
| 8th | 30 | 25 | 275 |
| 9th | 30 | 25 | 300 |
| 10th | 30 | 25 | 325 |
| 11th | 30 | 25 | 350 |
| 12th | 30 | 25 | 375 |

[1] For corpsmembers with spouse or dependent child (ren) allotments the bonus allowance is $15 in the 4th through 12th months.

[2] This does not take into account any deductions authorized under 29 CFR 97a.83 (m) or (n) or the lower bonus allowance for corpsmembers with spouse or child(ren) allotments.

[FR Doc.76–31222 Filed 10–22–76;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 176]

### ASSIGNMENT OF HEARINGS

OCTOBER 20, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 118159 (Sub 179), National Refrigerated Transport, Inc. now being assigned December 7, 1976 (1 day) at St. Louis, Missouri, and will be held in the Moot Courtroom, School of Law, St. Louis University, 3642 Lindell Boulevard.

MC 105269 (Sub 61), Graff Trucking Co., Inc. now assigned November 1, 1976 at Chicago, Illinois is now cancelled, application dismissed.

MC 107743 Sub 41, and MC 107743 Sub 42, System Transport, Inc. now being assigned January 11, 1977, (2 Weeks), at Chicago, Ill., in a hearing room to be later designated.

MC 115331 (Sub-No. 401), Truck Transport, Inc., now assigned December 7, 1976, at St. Louis, Mo. is cancelled and application dismissed.

MC 75406 (Sub-No. 40), Superior Forwarding Company, Inc., now being assigned December 6, 1976 (2 weeks) at Little Rock, Arkansas; in a hearing room to be later designated.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76–31251 Filed 10–22–76;8:45 am]

### FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 20, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 4327—*Iron or Steel Articles to Beaumont, Texas.* Filed by Southwestern Freight Bureau, Agent (No. B–641), for interested rail carriers. Rates on iron or steel articles, in carloads as described in the application, from Alton, East St. Louis, and Federal, Illinois, also Kansas City and St. Louis, Missouri. Grounds for relief—Rate relationship and market competition. Tariff—Supplement 228 to Southwestern Freight Bureau, Agent, tariff 301–F, I.C.C. No. 5098. Rates are published to become effective on November 17, 1976.

By the Commission.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76–31257 Filed 10–22–76;8:45 am]

### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

[Notice No. 51]

OCTOBER 26, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before November 15, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitoners must be specified in their petitions with particularity.

No. MC–FC–75901. By order of October 19, 1976 the Motor Carrier Board, on reconsideration, approved the transfer to Keyway Freight Lines, A corporation, Wilmington, Calif., of the Certificate in

No. MC–70011 and the Certificate of Registration in No. MC–70011 (Sub-No. 5), issued June 13, 1951 and April 14, 1964, respectively, to Daigh & Steward Truck Co., A Corporation, Bakersfield, Calif., the former authorizing transportation of machinery, materials, supplies, and equipment, incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in Kern, King, Los Angeles, and San Joaquin Counties, Calif.; and the latter evidencing a right of the holder to engage in transportation in interstate or foreign commerce as described in certificate No. 61693, dated March 21, 1961, issued by the Public Utilities Commission of California. Donald Murchison, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212, attorney for applicants.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76–31254 Filed 10–22–76;8:45 am]

[Notice No. 52]

## MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 26, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a (b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–76766. By application filed October 18, 1976, MORNEAU MOVERS, INC., 46 Wight Street, Berling, N.H., 03570, seeks temporary authority to lease the operating rights of MORNEAU & SONS, INC., 46 Wight Street, Berling, N.H., 03570, under section 210a(b). The transfer to MORNEAU MOVERS, INC., of the operating rights of MORNEAU & SONS, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76–31255 Filed 10–22–76;8:45 am]

[Notice No. 53]

## MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 26, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a (b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–76778. By application filed October 18, 1976, ROMA CORPORATION, Mohican Hotel, Suite 307, New London, Connecticut 06320, seeks temporary authority to lease the operating rights of P & J TRUCKING, INCORPORATED, 31 Cook Drive, Uncasville, Connecticut, 06382, under section 210a(b). The transfer to ROMA CORPORATION, of the operating rights of P & J TRUCKING, INCORPORATED, is presently pending.

By the Commission.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76–31256 Filed 10–22–76;8:45 am]

[Notice No. 54]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC–FC–76631, filed October 12, 1976. Transferee: HARWOOD FREIGHT, INC., 621 Memorial Drive, Chattanooga, Tenn. 37405. Transferor: PINSON AIR FREIGHT & TRANSPORT, INC., P.O. Box 96, Dalton, Ga. 30720. Applicants' representative: Henry C. Tharpe, Jr., P.O. Box 398, Dalton, Ga. 30720. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–33502, issued by the Commission April 6, 1971, as follows: Motion picture films, sound films, theatre supplies and advertising, and newspapers, between Crossville, Tenn., and Sparta, Tenn., serving all intermediate points; and films and associated commodities and newspapers, between Chattanooga, Tenn., and Huntsville, Ala., serving all intermediate points and the off-route points of Tracy City and Whitwell, Tenn.; between Chattanooga, Tenn., and Sparta, Tenn., serving the intermediate points of Crossville and McMinnville, Tenn. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76635, filed June 18, 1976. Transferee: Gilbert Van Veldhuizen, 1410 Wilson Street, Sheldon, Iowa 51201. Transferor: John Buysman, Jr., 1419 Elm Court, Sheldon, Iowa 51201. Applicants' representative: Robert T. Lawley, Attorney at Law, 300 Reisch Building, Springfield, Illinois 62701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits Nos. MC–15197 and MC–15197 (Sub-No. 4), issued July 25, 1947 and August 19, 1970, respectively, as follows: Dry earth paint (impregnated with disinfectant), insecticides, disinfectants, animal and poultry tonics and medicines, mineral feeds, advertising matter, and premiums, from Quincy, Ill., to points in O'Brien, Sioux, Osceola, Lyon, Clay, Dickinson, Sac, Woodbury, Plymouth, Cherokee, Buena Vista, Palo Alto, Ida, and Emmet Counties, Iowa; damaged or refused shipments, and unclaimed shipments, of the above-specified commodities, from the above-specified destination points to Quincy, Ill.; and mineral, animal and poultry feed mixture, animal and poultry feed concentrates, tonics, and medicines, dry earth paint (impregnated with disinfectants), insecticides, livestock and poultry feeders and equipment, advertising matter and premiums, from Quincy, Ill. to Alexandria, S. Dak. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76688, filed September 23, 1976. Transferee: RICCI TRANSPORTATION CO., INC., Odessa Avenue at Aloe Street, Pomona, N.J. 08240. Transferor: JOHN VIANO AND EDWARD VIANO, a partnership, doing business as VIANO BROTHERS, Harding Highway, Landisville, N.J. 08326. Applicants' representative: Joseph F. Hoary, 121 S. Main Street, Taylor, Pa. 18517. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC 60122, MC 60122 (Sub-No. 5), and MC 60122 (Sub-No. 6), issued March 14, 1949, January 25, 1965, and December 27, 1972, respectively, as follows: (1) Agricultural commodities, from Landisville, N.J., to points and places in the New York, N.Y., Commercial Zone, as defined by the Commission in 1 M.C.C. 665; (2) malt beverages, in containers, from New York, N.Y., to Landisville, N.J.; (3) empty malt beverage containers, from Landisville, N.J., to New York, N.Y.; and (4) malt beverages, in containers, from Baltimore, Md., and Winston-Salem, N.C., to Landisville, N.J. Transferee is presently authorized to operate as a contract carrier under Permit No. MC 138510 and Subs thereunder and as a

common carrier under Certificate No. MC 127955. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76692, filed August 2, 1976. Transferee: ALFRED DE LUCA, doing business as GILBERT & AL TRANSFER, 8605 Howell Road, Bethesda, Md. 20034. Transferor: GILBERT FALCONE AND ALFRED DE LUCA, a partnership, doing business as GILBERT & AL TRANSFER, 6111 Brook Drive, Falls Church, Va. 22044. Applicants' representative: Chester A. Zyblut, Attorney at Law, Suite 366, 1030 Fifteenth Street, N.W., Washington, D.C. 20005. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 117986 and MC 117986 (Sub-No. 2), issued August 20, 1959 and September 15, 1970, respectively, and authority contained in gateway elimination Notice E–1, as follows: Bananas, from Baltimore, Md., to Roanoke, Danville, Richmond, and Norfolk, Va., Wilmington, Del., Camden, N.J., Washington, D.C., and Allentown, Harrisburg, and Philadelphia, Pa.; from Washington, D.C., to Richmond, Va., and Wilmington, Del.; between Norfolk, Va., and Washington, D.C.; and from port facilities in the New York, N.Y., Commercial Zone, as defined by the Commission, to Washington, D.C.; and bananas, and agricultural commodities otherwise exempt from economic regulation under section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Wilmington, Del., to points in Maryland, Virginia, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76708, filed August 19, 1976. Transferee: EAST COAST TRUCKING, INC., 90 Rentell Road, Hamden, Conn. 06514. Transferor: PITTSFIELD FREIGHT LINES, INC., P.O. Box 824, Stockbridge, Mass. 01262. Applicants' Representative: John E. Fay, 630 Oakwood Avenue, West Hartford, Conn. 06110. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 141085 (Sub-No. 1), issued by the Commission June 9, 1976, as follows: Processed log products, millwork, materials, accessories, parts, and supplies for assembly, processing, and manufacture of log homes, between Great Barrington, Mass., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, New Hampshire, New York, Pennsylvania, Vermont, Virginia, Maine, Rhode Island, and North Carolina. Restriction: The operations authorized are limited to a transportation service to be performed under a continuing contract, or contracts with New England Log Homes, Inc., of Great Barrington, Mass. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC–FC–76736, filed September 9, 1976. Transferee: THUNDER BAY MOVING & STORAGE, INC., 1120 S. Second Avenue, Alpena, Mich. 49707. Transferor: L & K, INC., doing business as SILVER MOVING & STORAGE, Alpena, Mich. Applicants' representative: Mary Kaye Burton, 1120 S. Second Avenue, Alpena, Mich. 49707. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 134596, issued December 16, 1970, as corrected March 9, 1971, and acquired by transferor in No. MC–FC–76262, dated January 5, 1976, consummated February 12, 1976, as follows: Used household goods, and office and laboratory equipment, between points in that part of Michigan on, north, and east of a line beginning at Manistee, Mich., and extending along Michigan Highway 55 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 27 at or near Clare, Mich., and thence along U.S. Highway 27 to the Michigan-Indiana State line, subject to certain restrictions. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76743, filed August 30, 1976. Transferee: MAGIC VALLEY TRUCK BROKERS, INC., 7990 Overland Road, Boise, Idaho 83705. Transferor: MILLIE BLASER, doing business as MAGIC VALLEY TRUCK BROKERS, 7990 Overland Road, Boise, Idaho 83705. Applicants' representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought for purchase by transferee of the operating rights as set forth in License No. MC 130161, issued by the Commission, May 21, 1973, as follows: (1) Frozen foods, manufactured potato products, fresh and frozen meats, manufactured meat products, and (2) commodities, the transportation of which is partially exempt under section 203(b)(6) of the Act, in mixed loads with the Commodities in (1) above, from points in Washington, Oregon, Colorado, and Idaho, to points in Ohio, Indiana, Illinois, Wisconsin, Michigan, and points in the United States on and west of a line beginning at the mouth of the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasco and Koochiching Counties, Minn., to the United States-Canada Boundary Line, and return. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76751 filed September 24, 1976. Transferee: SUPREME CARRIERS, INC., Highway 83 North (P.O. Box 606), Liberal, Kans., 67901. Transferor: EUGENE H. FRANZ, doing business as GRO-MOR LIQUID FEED COMPANY, Highway 83 (P.O. Box 106), Liberal, Kans., 67901. Applicants' representative: Erle W. Francis, Suite 719, Capitol Federal Bldg., 700 Kansas Ave., Topeka, Kans., 66603. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC 126862 (Sub-No. 2), issued September 3, 1965, as follows: Liquid animal feed premix (except (1) those produced from vegetable and animal fats and oils and (2) molasses), in bulk, in tank vehicles, from the plantsite of Feed Service Corporation near Crete, Nebr., to points in Colorado, New Mexico, that part of Kansas on and west of U.S. Highway 81, and that part of Oklahoma on and west of the eastern boundary lines of Grant, Garfield, Logan, Oklahoma, Grady, Stephens, and Jefferson Counties, Okla. Restriction: The operations are limited to a transportation service to be performed under a continuing contract, or contracts, with the following shippers: E. W. Mitchell and Associates, of Roswell, N. Mex., Shurgro Liquid Feed, Inc., of Clovis, N. Mex., and American Fertilizer and Chemical Co., of Denver, Colo. Morea liquefied premix and liquid animal feeds, in bulk, in tank vehicles (except (1) those produced from vegetable or animal fats and oils, and (2) molasses), from the site of the Feed Service Corporation Plant located near Crete, Nebr., to points in Arkansas, Louisiana, and Texas, and points in that part of Oklahoma on and east of the eastern boundary of Grant, Garfield, Logan, Oklahoma, Grady, Stephens, and Jefferson Counties, Okla. Restriction: The operations are limited to a transportation service to be performed under a continuing contract, or contracts, with the following shippers: Feed Service Corporation, of Crete, Nebr., E. W. Mitchell, of Roswell, N. Mex., and Shurgro, of Clovis, N. Mex. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76753, filed September 27, 1976. Transferee: MORRIS W. HOLLEY & SON, INC., Box 85, Kentland, Ind. 47951. Transferor: HOLLY BROTHERS & SON, INC., Box 85, Kentland, Ind. 47951. Applicants' representative: James J. Werner, Everett McKinley Dirksen Bldg., Room 1086, 219 S. Dearborn Street, Chicago, Ill. 60604. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 89524 and No. MC 89524 (Sub-No. 4), issued October 3, 1961, and September 27, 1962, respectively, as follows: Crushed stone and agricultural limestone, (1) from Kentland, Ind., to points in Iroquois and Vermillion Counties, Ill.; and (2) from the plantsite of the Newton County Stone Company near Kentland, Ind., to points in Kankakee County, Ill.; Sand and gravel, from the plantsite of the Brandt's Gravel and Sand Company near Morocco, Ind., to points in Iroquois and Kankakee Counties, Ill.; Superphosphate, in bulk, in dump vehicles, from Ashkum, Morris, and Calumet City, Ill., to the plant site of Virginia-Carolina Chemical Corporation, at Remington, Ind.; and Fertilizer, in bulk, in dump vehicles, from the plantsite of Virgina-Carolina Chemical Corporation at Remington, Ind., to specified points in Illinois. Transferee presently holds no authority from this Commission. Appli-

cation has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76766, filed September 22, 1976. Transferee: MORNEAU MOVERS INC., 46 Wight Street, Berlin, N.H. 03570. Transferor: MORNEAU & SONS, INC., 46 Wight Street, Berlin, N.H. 03570. Applicants' representative: John D. Morton Sr., 46 Wight Street, Berlin, N.H. 03570. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 93172 issued January 16, 1961, as follows: Household goods, as defined by the Commission, Between Berline, N.H., and points in that part of New Hampshire, Maine, and Vermont within 150 miles of Berline, N.H., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, and Massachusetts. Between points in Coos County, N.H., on and north of U.S. Highway 2, on the one hand, and, on the other, points in Maine, Vermont, Massachusetts, and Connecticut. Between Keene, N.H., on the one hand, and, on the other, points in Maine, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.6-31258 Filed 10-22-76;8:45 am]

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[Notice No. 140]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 19, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 13900 (Sub-No. 28TA), filed October 8, 1976. Applicant: MIDWEST HAULERS, INC., 228 Superior St., Toledo, Ohio 43604. Applicant's representative: Leslie A. Peters, 4027 S. Wells St., Chicago, Ill. 60609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, which are at the time moving on bills of lading of freight forwarders, between Phoenix and Tucson, Ariz.; Reno and Las Vegas, Nev.; Salt Lake City and Sacramento, Calif., and points within their respective commercial zones on the one hand, and, on the other, Chicago, Ill.; Milwaukee, Wis.; St. Louis, Mo.; and points within their respective commercial zones; with permission to tack the grant of authority herein to the carrier's existing authority over Chicago, Ill., and St. Louis, Mo., for the purpose of providing through transportation service between the points in the west named above and the following points in the east: Baltimore, Md.; Boston, Mass.; Cincinnati, Ohio; Cleveland, Ohio; Detroit, Mich.; Edison, N.J.; Harrisburg, Pa.; New York, N.Y.; Newark, N.J.; Philadelphia, Pa.; and Pittsburgh, Pa.; and points within their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 6 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., for copies thereof which may be examined at the field office named below. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 64808 (Sub-No. 23TA), filed October 8, 1976. Applicant: W. S. THOMAS TRANSFER INC., 1854 Morgantown Ave., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, *and advertising material*, from South Volney, N.Y., to points in West Virginia, for 180 days. Supporting shippers: There are approximately 11 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Bldg., Wheeling, W. Va. 26003.

No. MC 98964 (Sub-No. 12TA) (Correction), filed September 8, 1976, published in the FEDERAL REGISTER issue of September 21, 1976, and republished as corrected this issue. Applicant: P.B.I. FREIGHT SERVICE, 960 North 1200 West, Orem, Utah 84057. Applicant's representative: Robert Reeder, 79 South State St., Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment), between junction U.S. Highway 6 and 50 with the Utah-Nevada State Line, and Ely, Nev., serving all intermediate points and off-route points of Baker, the Fred Baker Ranch, the Lehman Caves National Monument, the Nevada State Fish Hatchery, from junction U.S. Highway 6 and 50 and the Utah-Nevada State Line over combined route 6 and 50 to Ely, Nev., and return over the same route. Restriction: The authority above is restricted against traffic originating at or destined to Ely, Nev., or points within five (5) miles thereof. Applicant intends to tack the authority above with the existing authority of P.B.I. Freight Service at junction U.S. Highway 6 and 50 with the Utah-Nevada State Line so as to provide the through movement of freight from the points P.B.I. Freight Service is presently authorized to serve to the points for which authority is here sought and from the points for which authority is here sought to the points P.B.I. Freight Service is presently authorized to serve. Applicant also intends to interline with other carriers at Ely, Connors Pass and Baker, Nev., for 180 days. Supporting shippers: There are approximately 6 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Lyle D. Helfer, District, Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138. The purpose of this republication is to indicate that applicant intends to interline in this proceeding.

No. MC 103993 (Sub-No. 873TA), filed October 12, 1976. Applicant: MORGAN DRIVE AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from Redwood County, Minn., to points in Illinois, Indiana, Montana, Michigan, Ohio, Wisconsin, Iowa, North Dakota, and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Schult Mobile Home Corporation, U.S. 20 East, P.O. Box 151, Middlebury, Ind. 46540. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W.

Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 107403 (Sub-No. 988TA), filed October 13, 1976. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adipic acid*, in bulk, in tank vehicles, from Gonzalez, Fla., to Bayonne, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, Mo. 63166. Send protests to: Monica A. Bodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 107515 (Sub-No. 1031TA), filed October 12, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from the plantsite and facilities of Coronet Foods, Inc., at or near Wheeling, W. Va., to points in Alabama, Arkansas, Georgia, Louisiana, Mississippi, North Carolina, Texas and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Coronet Foods, Inc., P.O. Box 6115, Wheeling, W. Va. 26003. Send Protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 116967 (Sub-No. 21TA) (CORRECTION), filed September 20, 1976, published in the FEDERAL REGISTER issue of October 6, 1976, and republished as corrected this issue. Applicant: WONDAAL TRUCKING CO., INC., 2856 Ridge Road, Lansing, Ill. 60438. Applicant's representative: Samuel Ruff, 2109 Broadway, East Chicago, Ill. 46312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Face and common building brick*, approximately 8" equivalents, from the Michigan Vitrified Brick Co., in Corunna, Mich., to their distributor W. E. Olsen Co., W. E. Olsen Co., 538 Busse Highway, in Park Ridge, Ill., under a continuing contract with W. E. Olsen Co., Applicant intends to tack its existing authority with MC 116967 Sub-20, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. E. Olsen Co., 538 Busse Highway, Park Ridge, Ill. 60068. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604. The purpose of this republication is to state the field representative's name and address.

No. MC 118142 (Sub-No. 137TA), filed October 12, 1976. Applicant: M. BRUENGER & CO., INC., 6250 N. Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horsemeat*, fresh and frozen, from Stanwood and Chehalis, Wash., to Chicago, Ill.; Palestine, Tex.; and the United States-Canadian Inernational Boundary Line located at or near Detroit, Mich. Supporting shipper: Carnex, Inc., 24711 Florence Road, P.O. Box 231, Stanwood, Wash. 98292. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101, Litwin Bldg., 110 N. Market, Wichita, Kans. 67202.

No. MC 119908 (Sub-No. 39TA), filed October 12, 1976. Applicant: WESTERN LINES, INC., Box 1145, Houston, Tex. 77001. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, from the plantsite and facilities of Masonite Corporation located in Pulaski County, Ark., to points in Alabama, Florida, Georgia, Louisiana, Mississippi and Texas, for 180 days. Supporting shipper: Masonite Corporation, Box 1300, Little Rock, Ark. 72203. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 124340 TA (CORRECTION), filed August 10, 1976, published in the FEDERAL REGISTER issue of September 9, 1976, and republished as corrected this issue. Applicant: HERBERT F. CLARK, JR., INC., R.D. 2, Box 357 D, Selkirk, N.Y. 12158. Applicant's representative: Neil D. Breslin, 99 Washington Ave., Albany, N.Y. 12210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, from Village of Green Island, N.Y., to Providence, R.I., Newark, N.J., Port of Entry at Niagara Falls, N.Y., Fairless Hills, Pa., Greenfield, Mass. and Sayerville, N.J., for 180 days. Supporting shipper: Freedman & Son, Inc., P.O. Box 1533, Green Island, N.Y. 12183. Send protests to: Robert A. Radler, District Supervisor, P.O. Box 1167, Albany, N.Y. 12201. The purpose of this republication is to indicate that Sayerville is located in New Jersey in lieu of New York.

No. MC 127187 (Sub-No. 20TA), filed October 12, 1976. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Blvd., Fergus Falls, Minn. 56537. Applicant's representative: James B. Hovland, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals* (except liquids in bulk), from the facilities of Land O'Lakes, Inc., at or near Des Moines, Iowa, to points in Minnesota, Nebraska and Wisconsin, for 180 days. Supporting shipper: Land O'Lakes, Inc., Agricultural Services Division, 2827 8th Ave., South, Fort Dodge, Iowa 50501. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 129537 (Sub-No. 16TA), filed October 13, 1976. Applicant: REEVES TRANSPORTATION CO., Route 5, Dews Pond Road, Calhoun, Ga. 30701. Applicant's representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, Fla. 33602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets and rugs*, from points in Floyd, Bartow, Chatooga, Muscogee, Gordon, Whitfield, Murray, Walker, Catoosa and Troup Counties, Ga., to points in Duval County, Fla., for 180 days. Supporting shipper: Deering Milliken, Inc., 1 Dallas St., Lagrange, Ga. 30240. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 129872 (Sub-No. 3TA), filed October 13, 1976. Applicant: SCHUSTER TRANSPORT, INC., Knapp, Wis. 54749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural tractors and related parts*, from Racine County, Wis., to points in Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska and Kansas, restricted to traffic originating at the facilities of J. I. Case Co., at Racine County, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. I. Case Co., 700 State St., Racine, Wis. 53404. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 135895 (Sub-No. 13TA), filed October 13, 1976. Applicant: DON RAY BOYD & JACKIE ROGERS, doing business as, B & R DRAYAGE COMPANY, P.O. Box 8534, Battlefield Station, Jackson, Miss. 39204. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Miss. 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bottles, carboys, demijohns and jars, and closures, and damaged or rejected shipments* of said commodities, between the plantsites and warehouses of Chattanooga Glass Company, at or near Gulfport and Mineral Wells, Miss.; Chattanooga, Tenn.; and Corsicana, Tex., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chattanooga Glass Company, 400 W. 45th St., Chattanooga, Tenn. 37410. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room

212, 145 E. Amite Bldg., Jackson, Miss. 39201.

No. MC 138274 (Sub-No. 36TA), filed October 12, 1976. Applicant: SHIPPERS BEST EXPRESS, INC., 2151 N. Redwood Road, Salt Lake City, Utah 84116. Applicant's representative: Chester Zyblut, 366 Executive Bldg., 1030 Fifteenth St., N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61, M.C.C. 209 and 766 (except commodities in bulk), from Fort Morgan, Colo., to Chicago, Ill.; Covington and Louisville, Ky.; Claremont, N.H.; New York City and Schenectady, N.Y.; Newark and Hawthorne, N.J.; Bangor and Portland, Maine; Detroit, Mich.; Boston, Mass.; Hartford, Conn.; Cleveland and Salem, Ohio; Los Angeles, San Diego, San Jose, San Francisco, Oakland, Sacramento, Calif.; Las Vegas and Reno, Nev.; Seattle and Spokane, Tacoma, Wash.; and Portland, Oreg., for 180 days. Supporting shippers: Morgan Colorado Beef Company, RD No. 1; and A & Z Meat Processing Co., Inc., P.O. Box 956, Ft. Morgan, Colo. 80701. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 138869 (Sub-No. 7TA), filed October 12, 1976. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, 4481 Moreland Ave., Conley, Ga. 30027. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St., N.W., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass bathtubs, tub showers and shower stalls*, from Middlebury, Ind., to points in Illinois, Michigan, Ohio, Wisconsin, Minnesota, Iowa, Nebraska, Kansas, Missouri, Oklahoma, Arkansas, Texas, Louisiana, Kentucky, Tennessee, West Virginia, Virginia, North Carolina, South Carolina, Mississippi, Alabama, Georgia, Florida; and from Parkesbury, Pa., to points in Ohio, New York, New Jersey, Connecticut, Massachusetts, Rhode Island, the District of Columbia, Vermont, New Hampshire, Maine, Maryland, Delaware, Virginia, West Virginia, Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina and Florida, under a continuing contract with Crane Co., for 180 days. Supporting shipper: Crane Co., 300 Park Ave., New York, N.Y. 10022. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 141291 (Sub-No. 3TA), filed October 13, 1976. Applicant: T & B LEASING, INC., P.O. Box 590, Lafayette, Ala. 36862. Applicant's representative: Robert L. Wright, c/o Bowater Southern Paper Corporation, Calhoun, Tenn. 37309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodchips*, in bulk, from Albertville, Ala., and Cullman, Ala., to Guntersville, Ala., for subsequent movement by water in interstate commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hiwassee Land Company, Calhoun, Tenn. 37309. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

PASSENGER APPLICATION

No. MC 946 (Sub-No. 5TA), filed October 13, 1976. Applicant: FERDINAND ARRIGONI, INC., 3320 Hutchinson Ave., Bronx, N.Y. 10469. Applicant's representative: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, N.Y. 11021. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers*, special operations, from Bronx, N.Y., to the racing facility and football stadium of the New Jersey Sports and Exposition Authority, East Rutherford, N.J., for 180 days. Supporting shipper: Martin G. Holleran, Counsel, New Jersey Sports and Exposition Authority, East Rutherford, N.J. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

WATER CARRIER APPLICATION

WC-438 (Sub-No. 5TA), filed October 12, 1976. Applicant: THE DELTA QUEEN STEAMBOAT CO., 322 E. 4th St., Cincinnati, Ohio 45202. Applicant's representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, Ohio 45202. Authority sought to operate as a common carrier, by water transporting: *Passengers and their automobiles*, in overnight cruises, by self-propelled vessels, between New Orleans, La., and Houston, Tex., on the Gulf of Mexico Intracoastal Waterway, serving intermediate ports, for 180 days. Joinder: Applicant states it will join the requested authority to serve points along the Illinois, Arkansas, Ohio, Kanawha, Mississippi, Tennessee, Cumberland, Yazoo and Wolf Rivers, for 180 days. Supporting shipper: Jos. P. Hofrichter, Vice-President, Fox Travel Inc., 404 Carew Tower, Cincinnati, Ohio 45202. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 550 Main St., Cincinnati, Ohio 45202.

By the Commission.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76-31253 Filed 10-22-76;8:45 am]

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[Notice No. 141]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 20, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5470 (Sub-No. 113TA), filed October 12, 1976. Applicant: TAJON, INC., R.D. No. 5, P.O. Box 146, Mercer, Pa. 16137. Applicant's representative: Richard W. Sanguigni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, in dump vehicles, from Buffalo, N.Y., and Elmira, N.Y., to Greensboro, Cordele, Carrollton, Macon, Athens and Atlanta, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Berne Metal Co., Inc., 328 Howard St., Buffalo, N.Y. 14220. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 113362 (Sub-No. 303TA), filed October 13, 1976. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 E. Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, P.O. Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite facility of Kraft Foods, New Ulm, Minn., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New York, New Jersey, Delaware,

Virginia, Maryland, and the District of Columbia, restricted to transportation of traffic originating at the named origin point and destined to the named destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraft Foods, 500 Peshtigo Court, Chicago, Ill. 60609. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. 113843 (Sub-No. 234TA), filed October 13, 1976. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products and food ingredients*, in vehicles equipped with mechanical refrigeration, from Vineland, Penns Grove, Magnolia, Lakewood, and Blackwood, N.J., and Philadelphia, Swoyersville, West Chester and Scranton, Pa., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut and Rhode Island, for 180 days. Supporting shippers: There are approximately 16 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway St., Boston, Mass. 02114.

No. MC 115322 (Sub-No. 123TA), filed October 12, 1976. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Applicant's representative: J. V. McCoy, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite of Kennett Canning Company, Kennett Square, Pa., to points in Florida and Georgia, for 180 days. Supporting shipper: Kennett Canning Company, Box K, Kennett Square, Pa. 19348. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 117940 (Sub-No. 189TA), filed October 13, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box, 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant and facility of Kraft Foods, at New Ulm, Minn., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New York, New Jersey, Delaware, Virginia, Maryland, and the District of Columbia, restricted to the transportation of traffic originating at named origin point and destined to named destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraft Foods, 500 Peshtigo Ct., Chicago, Ill. 60609. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., United States Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 125254 (Sub-No. 35TA), filed October 13, 1976. Applicant: MORGAN TRUCKING CO., 1201 E. 5th St., P.O. Box 714, Muscatine, Iowa 52761. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal and poultry feed* (except in bulk), from the plantsite of Doane Products Company, at Muscatine, Iowa, to points in Pennsylvania, New Jersey, New York, Maryland, Connecticut, Rhode Island, Florida, Massachusetts, Vermont, New Hampshire, Maine and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Doane Products Company, P.O. Box 879, Joplin, Mo. 64801. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 126276 (Sub-No. 158TA), filed October 8, 1976. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 N. LaSalle, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic products and products* produced or distributed by manufacturers and converters of paper products (except paper and paper products), and (2) *paper and paper products* when moving in mixed loads with plastic products and products produced or distributed by manufacturers and converters of paper products, from Louisville, Ky., to Millville, N.J., and Atlanta, Ga., under a continuing contract with The Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of Operating authority. Supporting shipper: The Continental Group, Inc., Daniel Dorney, Manager of Distribution-Sales Service, 200 E. Northwest Highway, Palatine, Ill. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 134387 (Sub-No. 37TA), filed Ocotber 12, 1976. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, Calif. 90208. Applicant's representative: Lucy Kennard Bell, 606 S. Olive St., Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty cans and can ends*, from points in Sacramento County, Calif., to points in Jackson and Marion Counties, Oreg., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Del Monte Corporation, P.O. Box 3575, San Francisco, Calif. 94119. Send protests to: Mary A. Francy, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 139492 (Sub-No. 2TA), filed October 12, 1976. Applicant: H. O. SMESTAD CO., P.O. Box 299, Great Falls, Mont. 59401. Applicant's representative: G. Robert Crotty, Jr., 400 First National Bank Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and carbonated beverages*, from Tacoma, Renton, Bellevue, and Spokane, Wash., to Great Falls, Mont., under a continuing contract with Devine & Asselstine, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: George H. Asselstine, Jr., President, Devine & Asselstine, Inc., P.O. Box 1443, Great Falls, Mont. 59403. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 142207 (Sub-No. 4TA), filed October 12, 1976. Applicant: GULF COAST TRUCK SERVICES, INC., P.O. Box 29486, New Orleans, La. 70189. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Road, NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and particle board* (except in bulk, in tank vehicles), from the plantsite and storage facilities of Olinkraft, Inc., located at or near Winnfield and Lillie, La., and Huttig, Ark., to points in Arkansas, Nebraska, Missouri, Oklahoma, and Texas, for 180 days. Supporting shipper: Olinkraft, Inc., P.O. Box 488, West Monroe, La. 71291. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Ave., 9038 U.S. Postal Service Bldg., New Orleans, La. 70113.

No. MC 142431 (Sub-No. 1TA), filed October 12, 1976. Applicant: WAYMAR TRANSPORT CORP., 3200 Scott St., Des Moines, Iowa 50317. Applicant's representative: Marvin Maddy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61, M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Spencer Foods, Inc., located at or near Spencer and Hartley, Iowa and Schuyler, Nebr., to Baltimore, Beaver

Heights, Dorsey, and Landover, Md.; Boston, Roxbury, Haverhill, Brockton, and North Billerica, Mass.; Washington, D.C.; and points in New Jersey and New York, restricted to traffic originating at the above origins and restricted to traffic destined to the above destinations, for 180 days. Supporting shipper: Spencer Foods, Inc., P.O. Box 1228, Spencer, Iowa 51301. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 142532TA, filed October 12, 1976. Applicant: SUNSHINE CARTAGE CORP., 8890 SW. 36th St., Miami, Fla. 33174. Applicant's representative: Richard B. Austin, 214 Palm Coast II Bldg., 5255 NW. 87th Ave., Miami, Fla. 33178. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers and/or containers*, with or without wheels, loaded or empty, between points in Dade County, Fla., restricted to traffic having a prior or subsequent movement by water in interstate or foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 15 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 NW. 53rd Terrace, Miami, Fla. 33166.

PASSENGER APPLICATIONS

No. MC 142530TA, filed October 13, 1976. Applicant: PIONEER BUS CORP., 6093 Strickland Ave., Brooklyn, N.Y. 11234. Applicant's representative: Samuel B. Zinder, 38 Cutter Mill Road, Great Neck, N.Y. 11022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special operations, from Brooklyn, N.Y., to the racing facility and football stadium of the New Jersey Sports and Exposition Authority, East Rutherford, N.J., for 180 days. Supporting shipper: Martin G. Holleran, Counsel, The New Jersey Sports and Exposition Authority, East Rutherford, N.J. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 142531TA, filed October 13, 1976. Applicant: CLAUSEN TRANSPORTATION CORPORATION, 25 Surrey Lane, Valley Stream, N.Y. 11580. Applicant's representative: Sidney J. Leshin, 575 Madison Ave., New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special round-trip operations, beginning and ending in the County of Suffolk, N.Y., and extending to Meadowlands in East Rutherford, N.J., or Bridgeport, Conn., with intermediate stops in Nassau County, N.Y., for 180 days. Supporting shippers: There are approximately 17 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

By the Commission.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76-31257 Filed 10-22-76;8:45 am]

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[I.C.C. ORDER NO. 3; S.O. No. 1252]

## BALTIMORE AND OHIO RAILROAD CO.

### Rerouting or Diversion of Traffic

In the opinion of Joel E. Burns, Agent, The Baltimore and Ohio Railroad Company is unable to transport freight cars with dimensions in excess of Plate C, routed over its line between Parkersburg, West Virginia, and Zanesville, Ohio, because of bridge damage at West Marietta, Ohio.

*It is ordered*, That:

(a) *Rerouting traffic.* The Baltimore and Ohio Railroad Company being unable to transport freight cars with dimensions in excess of Plate C, routed over its line between Parkersburg, West Virginia, and Zanesville, Ohio, because of bridge damage at West Marietta, Ohio, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement.

(b) *Concurrence of receiving road to be obtained.* The Baltimore and Ohio Railroad Company, in rerouting cars in accordance with this order, shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* The Baltimore and Ohio Railroad Company, when rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., October 13, 1976.

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1976, unless otherwise modified, changed, or suspended.

*It is further ordered*, That this order shall be served upon the Association of American Railroads, Car Service Division, as Agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement; and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 12, 1976.

INTERSTATE COMMERCE COMMISSION,[1]
JOEL E. BURNS,
*Agent.*

[FR Doc.76-31245 Filed 10-22-76;8:45 am]

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[I.C.C. Order No. 6; S.O. No. 1252]

## BALTIMORE AND OHIO RAILROAD CO.

### Rerouting or Diversion of Traffic

In the opinion of Jeol E. Burns, Agent, The Baltimore and Ohio Railroad Company is unable to transport certain traffic over its line between Weverton, Maryland and Hagerstown, Maryland, because of track conditions.

*It is ordered*, That:

(a) *Rerouting traffic.* The Baltimore and Ohio Railroad Company, being unable to transport certain traffic over its line between Weverton, Maryland, and Hagerstown, Maryland, because of track conditions, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement.

(b) *Concurrence of receiving road to be obtained.* The Baltimore and Ohio Railroad Company, in rerouting cars in accordance with this order, shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* The Baltimore an Ohio Railroad Company, when rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided

[1] Replaces Revised I.C.C. Order No. 131 issued under Revised Service Order No. 994.)

for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., October 13, 1976.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1977, unless otherwise modified, changed or suspended.

*It is further ordered,* That this order shall be served upon the Association of American Railroads, Car Service Division, as Agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement; and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 12, 1976.

INTERSTATE COMMERCE COMMISSION,[1]
JOEL E. BURNS,
*Agent.*

[FR Doc.76-31246 Filed 10-22-76;8:45 am]

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[I.C.C. Order No. 8; S.O. No. 1252]

## LOUISVILLE AND NASHVILLE RAILROAD CO.

### Rerouting or Diversion of Traffic

In the opinion of Joel E. Burns, Agent, the Louisville and Nashville Railroad Company (LN) is unable to transport traffic over its line between Otter Creek Jct., Indiana, and Brazil, Indiana, because of track conditions.

*It is ordered,* That:

(a) *Rerouting traffic.* The LN being unable to transport traffic over its line between Otter Creek Jct., Indiana, and Brazil, Indiana, because of track conditions, that line is hereby authorized to reroute or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements, now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., October 13, 1976.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 15, 1977, unless otherwise modified, changed, or suspended.

*It is further ordered,* That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 12, 1976.

INTERSTATE COMMERCE COMMISSION,[1]
JOEL E. BURNS,
*Agent.*

[FR Doc.76-31248 Filed 10-22-76;8:45 am]

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[I.C.C. Order No. 11; S.O. No. 1252]

## NORFOLK AND WESTERN RAILWAY CO.

### Rerouting or Diversion of Traffic

In the opinion of Joel E. Burns, Agent, the Norfolk and Western Railway Company is unable to transport traffic over its line between Ottumwa and South Ottumwa, Iowa, because of bridge damage.

*It is ordered,* That:

(a) The Norfolk and Western Railway Company, being unable to transport traffic over its line between Ottumwa and South Ottumwa, Iowa, because of bridge damge, that carrier and its connections are hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other roalroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements new exist between them with reference to the division of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., October 13, 1976.

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1976, unless otherwise modified, changed, or suspended.

*It is further ordered,* That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 12, 1976.

INTERSTATE COMMERCE COMMISSION,[1]
JOEL E. BURNS,
*Agent.*

[FR Doc.76-31250 Filed 10-22-76;8:45 am]

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[I.C.C. Order No. 10; S.O. No. 1252]

## SAN DIEGO & ARIZONA EASTERN RAILWAY CO.

### Rerouting or Diversion of Traffic

In the opinion of Joel E. Burns, Agent, the San Diego & Arizona Eastern Railway Company is unable to transport traffic over its line between El Centro, California, and San Diego, California, because of slides and washouts between milepost 94.4 and milepost 118.0.

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[1] Replaces I.C.C. Order No. 154 issued under Revised Service Order No. 994.

[1] Replaces I.C.C. Order No. 157 issued under Revised Service Order No. 994.

[1] Replaces I.C.C. Order No. 176 issued under Revised Service Order No. 994.

*It is ordered,* That:

(a) The San Diego & Arizona Eastern Railway Company, being unable to transport traffic over its line between El Centro, California, and San Diego, California, because of slides and washouts between milepost 94.4 and milepost 118.0, that carrier and its parent company, the Southern Pacific Transportation Company, are hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the division of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., October 13, 1976.

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1976, unless otherwise modified, changed, or suspended.

*It is further ordered,* That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement, under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 12, 1976.

INTERSTATE COMMERCE COMMISSION,[1]
JOEL E. BURNS,
*Agent.*

[FR Doc.76-31249 Filed 10-22-76;8:45 am]

[I.C.C. Order No. 7; S.O. No. 1252]

## WATERLOO RAILROAD CO.

### Rerouting or Diversion of Traffic

In the opinion of Joel E. Burns, Agent, the Waterloo Railroad Company, is unable to transport traffic over its line between Waterloo, Iowa, and Cedar Rapids, Iowa, because of track conditions.

*It is ordered,* That:

(a) *Rerouting traffic.* The Waterloo Railroad Company being unable to transport traffic over its line between Waterloo, Iowa, and Cedar Rapids, Iowa, because of track conditions, that line is hereby authorized to reroute or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., October 13, 1976.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1977, unless otherwise modified, changed, or suspended.

*It is further ordered,* That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 12, 1976.

INTERSTATE COMMERCE COMMISSION,[1]
JOEL E. BURNS,
*Agent.*

[FR Doc.76-31247 Filed 10-22-76;8:45 am]

[1] Replaces I.C.C. Order No. 175 issued under Revised Service Order No. 994.

[1] Replaces I.C.C. Order No. 155 issued under Revised Service Order No. 994.

federal register

TUESDAY, OCTOBER 26, 1976




PART II:

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Federal Insurance Administration

■

# NATIONAL FLOOD INSURANCE PROGRAM

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket Nos. R-75-315, 75-324, 75-335, R-76-366]

## REVISION

### A. General

On January 21, 1975, March 26, 1975, June 3, 1975, and January 8, 1976, notices of proposed rulemaking were published in the Federal Register (40 FR 3310, 40 FR 13420; 40 FR 23878 and 41 FR 1500). Those notices proposed revisions to existing regulations, primarily to reflect experience gained in the operation of the Program, including the revision of flood plain management criteria, and to reflect interpretations of statutory language added since the date of the last comprehensive revision in September 1971 as recodified on December 22, 1971, at 36 FR 24759. Interested persons were encouraged to submit written comments or suggestions to the Administrator for a minimum of 60 days following the publication of each notice, but to the extent administratively feasible all comments (written or oral) received prior to the date of adoption of this final revised rule have been considered. In addition, public hearings on the provisions of the proposed revisions of the flood plain management criteria were conducted during June and July of 1975 in Washington, D.C.; Miami, Florida; New Orleans, Louisiana; Los Angeles, California; Kansas City, Kansas; Chicago, Illinois; and New York, New York. Persons who desired to make oral presentations were given an opportunity to do so in accordance with the notice of hearing (40 FR 25478).

During the comment period and the hearings, approximately 500 oral and written comments were received, including an extensive submission exceeding 100 pages, and approximately 2,000 pages of transcript generated by the public hearings. Hearings held by the United States Senate and the House of Representatives generated consideration of various issues raised by Members of Congress and witnesses. The Program's operations and regulations were the subject of several comprehensive reports by the General Accounting Office and many recommendations of those reports which concerned regulatory changes have been adopted. In addition, four statutory changes to the Program were adopted during the time the regulations were being revised (Pub. L. 94-50, Pub. L. 94-173, Pub. L. 94-198, and Pub. L. 94-375).

The Federal Insurance Administrator, after full review of the extensive submissions and, consideration of all concerning the National Flood Insurance Program (42 U.S.C. 4001-4128), reached policy decisions of both substantive and procedural character.

Both commentators and administrators of the Program found that flood plain management is an issue involving both the domestic economy and the health and welfare of the Nation. Most private citizens are unaware, unless immediately affected, of the precise nature of the issues facing the Nation on this problem. Although the feasibility of flood insurance as a possible solution and viable alternative was reflected in legislation passed in 1956, funds were not appropriated because the legislation did not require flood mitigation measures. As required by the Southeast Hurricane Relief Act of 1965 the report, "Insurance and Other Programs of Financial Assistance to Flood Victims" from the Secretary of the Department of Housing and Urban Development to the President, was transmitted to the Congress on August 12, 1966. This document, available as a reprint from the Federal Insurance Administration, together with the report entitled "A Unified National Program for Managing Flood Losses," a communication from the President of the United States transmitting a report by the Task Force on Federal Flood Control Policy on August 10, 1966, provides the basic concepts upon which the program is based. A progress report is currently under consideration by the Water Resources Council based on the experience of the past decade.

The amendment of Parts 1909 et seq. as previously proposed, is hereby adopted with certain modifications as set forth below. Because of the revision, it proved necessary to make certain conforming changes to other parts not published for comment. In view of this, the Administrator determined that these other parts, together with pertinent rulings and delegations, should also be reviewed, and, as appropriate, revised. Accordingly, this document contains all final National Flood Insurance Program regulations updated and revised in a single publication for the convenience of the public.

The discussion which follows highlights significant changes. While not an exhaustive outline, it has been prepared for the convenience of the public by reference to parts, subparts, sections, appendices, etc., in the following order: Part 1909 (General provisions), Part 1910 (Criteria for Land Management and Use), Part 1911 (Insurance coverage and rates), Part 1912 (Sale of insurance and adjustment of claims), Part 1913 [Reserved]; Part 1914 (Communities eligible for the sale of insurance), Part 1915 (Identification and mapping of special hazard areas), Part 1916 (Consultation with local officials), Part 1917 (Appeals from proposed flood elevation determinations), Part 1918 (Administrative Hearing Procedures); Part 1919 [Reserved]; Part 1920 (Procedure for map correction; Part 1921 [Reserved]; Part 1922 [Reserved]; Part 1923 [Reserved]; Part 1924 [Reserved]; Part 1925 (Exemption of state-owned properties under self-insurance plan).

Three key areas of concern were expressed in the comments. There were individuals or organizations who generally support the purposes of the Program, although suggesting technical changes; there were those who contend the Program as presently constituted is ineffective in promoting wise use of the Nation's flood plains; and, there were those who believe that the Program inappropriately restricts landowners. As the statutory intent is clear, the Federal Insurance Administration has not made changes to the basic structure of the Program, but, to the extent possible, has tried to provide equity for those individuals who have previously located in flood plains without recognizing the hazard or the economic consequences of selecting the hazardous location.

Several major policy areas are still unresolved within the Federal Insurance Administration because inconclusive or inadequate data exists upon which to promulgate appropriate regulations. These areas include (1) impact on flood hazards of wetland development; and (2) the possible necessity for coastal setback requirements where velocity waters and coastal or other shoreline wave wash is a hazard. It is the intention of the Administrator to consider rulemaking in these areas of concern if present studies on the subjects indicate a need for regulatory revisions.

While these revised regulations permit the construction of residential basements after the community has obtained an exception, the Administrator intends to issue a technical amendment to permit residential basements which have been floodproofed watertight to standards specified by the FIA. In conjunction with the amendment, communities will be furnished the watertight standards and procedures for implementing them. In the interim, floodproofed residential basements are allowed, but only after the community has been granted an exception. Otherwise, the potential unsound construction of basements would be permitted before ascertaining how to enforce the required watertight standards.

On March 26, 1976, a revised definition of "substantial improvement" was published in the Federal Register (Vol. 41, No. 60, at 12680). A further technical amendment to that definition is included within this revised rule, in order to clarify that the term's exemption for the cost of complying with local codes is applicable to code specifications solely necessary to assure safe living conditions and that it applies to an improvement (i.e., rehabilitation) and not to repair or reconstruction. The Administrator intends to issue as proposed rulemaking further revisions on threshold criteria to the definition of "substantial im-

provement" as soon as an Environmental Impact Statement has been completed and filed with the Council of Environmental Quality. The proposal is expected to accomplish two major objectives: It will allow rehabilitation of low value structures by permitting up to $25,000 rehabilitation without falling under the "substantial improvement" definition; and it will define as "substantial improvement" any structure with repeated losses or a single loss greater than 80 percent of the market value of the structure before the loss. The accomplishment of this second objective will enable safer construction for rehabilitated structures, thereby protecting the loss of life and property due to flood damages. This issuance should occur about June 15, 1977.

### B. Comments

To provide a vehicle for promoting increased understanding of the available choices in the Nation's flood plains, the major comments concerning the proposed rule are addressed within the preamble, with reasons given for their inclusion within the final rule or their rejection.

### Part 1909 General Provisions

#### Section 1909.1 Definitions

a. The following terms have been added as new definitions:

(1) Appurtenant structure.
(2) Area of shallow flooding.
(3) Chief Executive Officer.
(4) Development.
(5) Existing structures.
(6) Existing mobile home park or mobile home subdivision.
(7) Expansion to an existing mobile home park or mobile home subdivision.
(8) Flood protection system.
(9) Flood-related erosion.
(10) Flood-related erosion area.
(11) Flood-related erosion area management.
(12) Freeboard.
(13) General Counsel.
(14) Independent Scientific body.
(15) Mangrove stand.
(16) Map.
(17) New mobile home park or mobile home subdivision.
(18) Principally above ground.
(19) Project cost.
(20) Regulatory floodway.
(21) Risk premium rates.
(22) Riverine.
(23) Sand dunes.
(24) Sheet flow area.
(25) Special hazard area.

b. The following definitions have been modified:

(1) Accounting period.
(2) Actuarial rates.
(3) Area of special flood-related erosion hazard.
(4) Area of special flood hazard.
(5) Area of special mudslide (i.e., mudflow) hazard.
(6) Base flood.
(7) Chargeable rates.
(8) Coastal high hazard area.
(9) Contents coverage.
(10) Criteria.
(11) Deductible.
(12) Emergency Flood Insurance Program.
(13) Erosion.
(14) Exception.
(15) Existing construction.
(16) First layer coverage.
(17) Flood elevation study.
(18) Flood Hazard Boundary Map.
(19) Flood Insurance Rate Map.
(20) Flood plain.
(21) Flood plain management regulations.
(22) Floodway.
(23) Habitable floor.
(24) Insurance adjustment organization.
(25) Mean sea level.
(26) Mobile home.
(27) Mudslide.
(28) National Flood Insurers Association.
(29) New construction.
(30) Participating community.
(31) Person.
(32) Regular program.
(33) Second layer coverage.
(34) Servicing company.
(35) Standard Flood Insurance Policy.
(36) Start of construction.
(37) State coordinating agency.
(38) Storm cellar.
(39) Structure.
(40) Subsidized rates.
(41) Substantial improvement.
(42) Variance.
(43) Water surface elevation.

c. The following definitions have been deleted:

(1) Erosion area.
(2) Erosion area having special erosion hazards.
(3) Erosion area management.
(4) Flood plain area having special flood hazards.
(5) Limits of coverage.
(6) Mudslide (i.e., mudflow) area having special mudslide hazards.
(7) Structure coverage.

#### Section 1909.2 Description of the Program

Several comments seeking clarification of this section were submitted. One, which suggested stressing the connection between the allowance of federally-subsidized flood insurance and the need for local flood plain management, is reflected in the final rule. A recommendation that a provision for citizen's suits be included is presently under study in HUD's Office of General Counsel. The suggestion that more specific requirements, including penalties for violations, be emphasized as conditions for flood insurance was rejected, since imposition of penalties on property owners violating local flood plain management regulations is a local responsibility.

#### Section 1909.3 Emergency Program

The Emergency Program was extended until September 30, 1977, by Pub. L. 94-375, effective August 3, 1976.

#### Section 1909.4 References

In response to a suggestion that the Program regulations direct State and local officials to other Federal laws and programs relating to flood plain management, a new § 1909.4 has been added. In addition to setting forth all the statutory references to the National Flood Insurance Program itself, this section provides citations to Federal statutes, regulations, guidelines, Executive Orders, and Congressional reports relevant to the Program.

#### Section 1909.22 Prerequisites for the Sale of Flood Insurance

Comments generally related to the annual report's form and requirements. A suggestion that local governments be supplied with a standard form specifying the information required has been adopted by FIA. The suggestion that communities be required to notify FIA of annexations through their annual reports rather than immediately upon occurrence was rejected because FIA maps must be corrected as quickly as possible and the annexing community must adopt flood plain management regulations. Therefore, immediate notification of annexations is necessary, as specified in §§ 1909.22(a)(9)(v) and 1914.4. Additionally, objections were received concerning the language committing a community to "delineate * * * limits of the areas having special flood, mudslide or flood-related erosion hazards * * *" Since local officials believed they were committing themselves to undertake an extensive and costly effort, this provision has been modified to make it clear that a community is only required to assist the Administrator in his delineation. Finally, a new section was proposed to require specific local official action, including the adoption of procedures for public participation in and enforcement of local commitments to carry out the objectives of the Program. The Administrator encourages public participation and Part 1916 provides for specific means by which such an objective may be assured during the various stages of the preparation of a flood insurance study.

Title IV, section 403, of the Inter-governmental Cooperation Act of 1968, and section 204(c) of the Demonstration Cities and Metropolitan Development Act of 1966 require Federal agencies to establish notification and review systems to facilitate coordinated planning on an intergovernmental basis for certain Federal assistance programs. To further such objectives, State, regional, and local viewpoints are to be solicited so that, to the maximum extent possible and consistent with national objectives, all Federal aid for development purposes is consistent with State, regional, and local comprehensive planning. Pursuant to the directive within Part I at paragraph 10 of Attachment A to Revised OMB Circular No. A-95, the Administrator has established new procedures in order to satisfy the Acts cited above.

Section 1909.22(d) requires all communities applying for participation in

the emergency Flood Insurance Program to submit a copy of their application to establish State and areawide clearinghouses. The appropriate clearinghouses may assist in assuring that the applicant's actions are consistent with State, regional, and local activities relating to comprehensive planning and flood plain management. However, the Administrator may approve a community's program application before receiving comments from the clearinghouses to preclude the possibility of a community suffering from a disastrous flood where, but for the review by a clearinghouse, federally-subsidized flood insurance would have been available.

SECTION 1909.23 PRIORITIES FOR SALE OF INSURANCE

This section has been rewritten to indicate that State governments have primary responsibility for determination of risk study priorities, subject to other administrative necessities.

SECTION 1909.24 SUSPENSION OF COMMUNITY ELIGIBILITY

Considerable concern was expressed over suspension of community program eligibility for failure to adopt or enforce flood plain management regulations. Regarding suspension for failure to adopt, several provisions were offered. One, which suggested a hearing be provided prior to suspension, was rejected as a new regulatory provision because the adoption of flood plain management regulations is an objective fact and, no clear purpose would be served by hearing prior to suspension.

Another comment suggested that when a locality has failed to adopt adequate flood plain management regulations FIA notify the State in which the community is located that Program suspension will not occur if the State provides for regulations satisfying the Program's requirements within the required time period. The Administrator agrees and has included such a new provision within the revised rule.

Concerning suspension for failure to enforce, many suggestions were proposed. Some believed that FIA should notify individual residents of their community's suspension or that Servicing Companies be required to notify policyholders or potential purchasers of the suspension. While administrative limitations prevent adoption of this policy on an individual basis, the Department will issue a press release to the local media explaining reasons for and effects of a community's impending suspension. It was proposed that the provision pertaining to the reinstatement procedure after a community has been suspended for failure to adequately enforce be changed from a one year waiting period to conditional reinstatement for one year. The section has been modified to permit either option. Additionally, some comments stressed the need for monitoring all participating communities in order to maintain the credibility of the Program. Such an effort is presently under way. Finally, in response to a suggestion that a hearing be provided prior to suspension for failure to enforce, the section has been changed to specify that such a hearing may be conducted at the discretion of the Administrator.

PART 1910—CRITERIA FOR LAND MANAGEMENT AND USE

SECTION 1910.1 PURPOSE OF SUBPART

This section sets forth the general requirements addressed in §§ 1910.3, 1910.4 and 1910.5 (flood plain management regulations for flood-prone, mudslide-prone and flood-related erosion-prone areas). It was suggested and accepted that a provision be drafted that would specify that local or State flood plain management regulations that are more restrictive than the Program's requirements are to take precedence.

SECTION 1910.2 MINIMUM COMPLIANCE WITH FLOOD PLAIN MANAGEMENT CRITERIA

A Report of the Comptroller General of the United States, dated September 19, 1975, recommended that the Program regulations set forth requirements in the event a community proposes to regulate development in the identified flood hazard areas based on flood data which differs, because of natural or man-made physical changes, from such data initially established by FIA. Therefore, in addition to a new § 1915.5, which specifies procedures for notifying FIA of physical changes reflecting flooding conditions, a new paragraph has been added, at § 1910.2(h), which requires the prior approval of the Administrator before a community may adopt and enforce flood plain management regulations based upon modified data reflecting man-made or natural physical changes.

For the same reasons justifying § 1909.22(d), the Administrator has included a new subparagraph in § 1910.2(i) which recognizes the beneficial role of State and areawide clearinghouses in assisting communities to adopt adequate flood plain management regulations for compliance with the Regular Flood Insurance Program. This new section requires communities to notify the appropriate clearinghouses that the community has a six month period in which to adopt comprehensive flood plain management regulations consistent with the technical flood hazard data provided by the Administrator. During this period the clearinghouses may aid the community in developing its regulations and in assuring regional coordination.

Section 1910.2(i) also requires a community to submit a copy of its subsequently adopted regulations to the clearing houses. The Administrator usually will not approve such regulations before the sixty day period expires in which the clearinghouses could have reviewed the community's submission. However, an exception to this sixty day period is appropriate to allow for speedier action because of the mandatory program requirement that a participating community must adopt satisfactory flood plain management regulations within six months of receiving technical data or face Program suspension, and because of the Administrator's experience that some communities submit their ordinances shortly before the deadline. Clearinghouses which transmitted comments will be given a copy of the disposition by the Administrator concerning the community's regulations within seven working days of taking such actions.

SECTION 1910.3 FLOOD PLAIN MANAGEMENT REGULATIONS FOR FLOOD-PRONE AREAS

Section 1910.3(a). The suggestion that the regulation for building permits for all proposed construction be broadened to effectively manage the flood plains for the purpose of flood loss reduction by requiring permits for all new "development", as well as as for construction presently defined as "structures", was adopted. The regulations now specify that a community shall review all new "development," including "structures" and other activities such as filling, paving and dredging.

It was recommended and adopted that a community assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law.

It was suggested that the types of materials which would be flood-resistant or watertight be specified. This was rejected, because the requirements under § 1910.3 are performance standards. Such standards generally do not require the use of specific construction materials in recognition of varying local conditions across the Nation and the concomitant need for flexibility.

*Section 1910.3(b)*. Permit review only within identified special flood hazard areas was criticized because uncontrolled development outside such areas can aggravate flooding conditions. However, it is the Administrator's policy that once FIA has published a map for a particular community, the requirements for the applicability of flood plain management regulations are limited to those areas specifically identified as having special flood hazards. It should be noted that FIA maps will be revised if a community's flood hazard areas are changed.

A new subsection requires all subdivision proposals and other proposed new development to include base flood elevation data within such proposals if the development encompasses 50 or more lots or 5 acres, whichever is lesser.

The proposed requirement to obtain, review and reasonably utilize the best available Federal, State, or other base flood elevation data, until other data has been provided by the Administrator, as criteria for elevating or floodproofing new structures was received favorably, and has been adopted as final. Under the rule, it is in the community's discretion, where conflicting flood hazard data exists before FIA has issued final base flood elevations, to reasonably select the best available data.

The suggestion of several small communities that they be permitted to approximate the building elevations through use of United States Geologic Survey maps if new construction takes place in the identified special flood hazard areas, in order to obtain elevation information concerning the lowest floor of the structures, was rejected because an accurate elevation determination is necessary for flood insurance rating purposes.

While the proposed rule, requiring riverine communities to show evidence of coordination with all upstream, downstream or adjacent communities which would be adversely affected, was generally favored, two distinct criticisms were raised frequently: (1) The terms "evidence of coordination" and "adversely affected" are too vague; and (2) the requirement of notice to FIA for all development proposals, regardless of size or potential impact, increases local paper work and "red tape" needlessly. Thus, the final rule has been modified to require a community: (1) To give notice to adjacent communities and the State coordinating agency prior to alteration or relocation of a watercourse; and (2) to assure that the flood carrying capacity within the altered or relocated portion of the watercourse will be maintained.

Requirements for mobile homes and for mobile home parks and mobile home subdivisions were contained within the proposed rule at § 1910.3(c), (d) and (e). After reviewing the written and oral comments, the Administrator has decided to incorporate into § 1910.3(b)(8) the mobile home standards relating to "tie downs" (anchoring) and to evacuation plans. Such standards are appropriate within all identified special flood hazard areas, even before any base flood elevations have been determined. Because the Administrator believes that a requirement to anchor mobile homes placed within flood-prone areas before the effective date of these regulations would be regulating retroactively, a suggestion to that effect was rejected. In response to comments critical of references to regulatory standards found only in sources other than the regulations themselves, the proposed regulations' reference to the mobile home "tie down" standards of the Mobile Home Manufacturer's Association has been replaced with specific and definitive standards.

*Section 1910.3(c)*. Concerning the requirement to elevate the lowest floor (including basement) of all new construction and substantial improvements of residential structures within special flood hazard areas, comments were divided. Some suggested a less restrictive requirement; others advocated elevating the structure to a height exceeding the base flood level; and, still others contended that no additional construction should take place in known special flood hazard areas.

The Administrator continues to believe that the requirement to elevate the lowest floor (including basement) to or above the base flood level is reasonable; however, provisions have been retained within § 1910.6 whereby the Administrator may (1) grant a community an exception from the requirement, (2) permit a lesser standard if the community can demonstrate unique circumstances justifying the exception, or (3) allow completely floodproofed basements if the community adopts detailed floodproofing standards satisfactory to the Administrator. For those communities electing to enact more restrictive elevation standards, a new provision has been inserted within the optional planning considerations § 1910.22, encouraging such additional elevation above the base flood level for a safety factor (i.e., "freeboard").

Numerous comments were received concerning the requirement to elevate or floodproof all new and substantially improved nonresidential structures. Suggestions included translating into lay terms, the U.S. Army Corps of Engineers' floodproofing specifications referenced in the Program's regulations, to requiring elevation for all new nonresidential structures and, therefore, elimination of the floodproofing option. Others remarked that floodproofing standards should be determined at the local level and that certification of the standards by a professional engineer or architect places too great a burden on small communities.

The floodproofing provision has been revised to delete any reference to the U.S. Army Corps of Engineers' floodproofing publication, while retaining the Corps' watertight floodproofing performance standard. An option has been inserted for a community to either require floodproofing certifications from a professional engineer or architect or to submit to FIA an enacted local code containing detailed floodproofing specifications satisfying the watertight performance standards.

Some commentators remarked that the application of the watertight performance standard for all nonresidential structures is too stringent, because different considerations should be given to low-value construction, and to recreational, shipping, fishing and agricultural uses. This matter is presently under study.

Regarding the requirement to elevate mobile homes to or above the base flood level, many comments were received. Strong sentiment was expressed that mobile homes placed in new sections of mobile home parks already completed be exempted from the elevation requirement. Because the suggestion would result in "grandfathering-in" the entire park, it was rejected by the Administrator. Many comments agreed that it was equitable to treat existing mobile home parks and new mobile home parks differently, as set forth in the proposed rule. It was requested that "mobile home" be defined. Finally, some comments expressed a desire for more restrictive standards. For example, there was a suggestion that community regulations should require trailer park owners to obtain permits to place trailers on a lot or to replace existing trailers upon their removal.

Few changes have been made in the final rule with respect to mobile homes. To limit potential hardship for mobile home owners moving mobile homes into existing mobile home parks and mobile home subdivisions, elevation requirements have been eliminated; the requirements have been retained, however, where new mobile home parks and mobile home subdivisions are located in the flood plain in order to minimize loss of life and property. Since a community should be notified if an increased number of mobile homes is to be placed on lots, a new subsection has been added requiring that a permit for the placement of any mobile home in a flood-prone area be obtained from the community. The term "mobile home" has been defined to exclude motorized vehicles and recreational trailers, and ambiguities removed by new definitions of an "existing mobile home park or mobile home subdivision," an "expansion to an existing mobile home park or mobile home subdivision," and a "new mobile home park or mobile home subdivision."

Numerous comments were received dealing with primary flooding problems resulting from waters having very shallow depths, since these areas have further characteristics of no clearly defined channel and the path of flooding is unpredictable and indeterminate. It was suggested that such areas not be defined as having special flood hazards, thereby negating the flood plain management and mandatory flood insurance purchase requirements. As a result of the findings from a study commissioned by the Administrator, a new procedure for shallow flooding has been adopted. Because normal construction techniques should protect against shallow flooding of less than twelve inches, FIA will no longer designate as an area of special flood hazard any area of shallow flooding of less than one foot, and no mandatory insurance purchase requirement will apply to such

areas. Areas of shallow flooding with depths from one foot to three feet will be designated as an A0 Zone with an elevation depth rounded off to the nearest foot, i.e., 1, 2, or 3 feet. In the A0 Zone, the purchase of flood insurance will be required and for flood plain management purposes, the lowest floor, including basement, of new residential structures must be elevated above the crown of the nearest street to an elevation equal to the depth number specified by the zone designation. For nonresidential structures, the lowest floor, including basement, must be floodproofed above the crown of the nearest street to an elevation equal to the depth number specified by the zone designation.

Comments, concerning the requirement a community assure that the cumulative effect of all development would not increase the water surface elevation of the base flood more than one foot, included opposition to the use of any fill in the flood plain, the request to substitute a more general standard (such as will not "measurably" increase), and concern that it would be burdensome for small communities to determine the one foot rise. A study is underway which will seek to alleviate this concern. Furthermore, for all communities for which a floodway may be determined in the future, that determination will be made during the initial Flood Insurance Study, thereby eliminating the necessity for the one foot rise calculation to be determined on a case-by-case basis. Additionally, the Administrator continues to believe that the one foot rise standard is a reasonable and sufficiently specific minimum standard.

*Section 1910.3(d)*. Comments regarding a designated floodway exhibited concern and confusion on several points, in particular the delineation and permitted uses. Concerning the delineation of the floodway, a Study initially is undertaken by FIA to determine the area within the flood plain necessary to discharge the waters of the 100-year flood while allowing for only a one foot rise in flood waters. (In the event of the election for more restrictive standards, the floodway could be based upon less than a one foot rise). Afterwards, the community delineates the precise boundaries of the floodway based on the data from the Study. Once this floodway has been delineated, no development which would result in any increase in flood heights during the 100-year flood may be permitted.

Regarding development permitted in the floodway, some comments favored complete prohibition, while others encouraged development. Because the Administrator recognizes the extreme danger of building in an area reserved for discharging floods and believes that building in a floodway aggravates the extent of flooding (thereby creating additional dangers to others), the standard for not permitting any development within a floodway that would cause an increase in flood heights is appropriate. Thus, if it can be demonstrated that proposed development will not cause any increased flood heights, such development may be undertaken, but only after meeting the other applicable flood plain management requirements. Furthermore, the regulations have been clarified concerning the placement of mobile homes within the regulatory floodway. The placement of mobile homes is limited to existing mobile home parks and mobile home subdivisions.

*Section 1910.3(e)*. Opposition, based upon aesthetic concerns, was expressed on the requirement that within identified coastal high hazard areas all new structures must be elevated on and adequately anchored to pilings. To address such concerns, the American Institute of Architects was engaged to undertake a Study, and shortly a report will be published illustrating attractive architecturally feasible means by which the elevation requirements may be satisfied. In response to concerns that more specificity is needed to preclude unsafe design of elevated structures in coastal high hazard areas, the revised rule stipulates that a registered professional engineer or architect must certify that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and wave wash.

The proposed rule's prohibition of fill for structural support generated great response, ranging from absolute opposition to full endorsement of the prohibition—even where fill is not used for structural support. The provision is retained in the final rule, but it should be noted that this provision does not change the existing regulations; rather, its sole purpose is to clarify the uses for which fill can be utilized within the coastal high hazard area.

The regulations have been clarified concerning the placement of mobile homes within the coastal high hazard area, and limit their placement to existing mobile home parks and mobile home subdivisions.

Concern was expressed for the preservation of primary and secondary dunes because they were considered not only keys to the survival of the beach and coastal areas, but also protection against loss of life and property during flooding. It was also professed that vegetation in the coastal high hazard areas could greatly aid in flood mitigation. Because of such concerns, a new provision has been added to the revised rule requiring communities to prohibit the man-made alteration of sand dunes and mangrove stands. Since it has not been satisfactorily documented that other forms of physical features (including wetlands) act to reduce flood losses, FIA has commissioned a study to determine the effect of physical features in flood mitigation. Based upon the findings of the study (for example, if wetlands significantly mitigate flooding in coastal high hazard areas), proposed revisions of regulations will be promulgated.

SECTION 1910.4 FLOOD PLAIN MANAGEMENT CRITERIA FOR MUDSLIDE (I.E., MUDFLOW) PRONE AREAS

This section has been rewritten for clarity.

SECTION 1910.5 FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD-RELATED EROSION PRONE AREAS

This section has been rewritten for clarity.

SECTION 1910.6 VARIANCES AND EXCEPTIONS BECAUSE OF LOCAL CONDITIONS

Both supportive and opposition comments were received on the variances provisions. Support was based upon objection to any local granting of variances, particularly where such variance would result in the placement of an obstacle in the floodway; opposition views focused on issues of local determination, arbitrariness of the one-half acre lot limitation, and an allegation the provisions are too strict.

The requirement that a copy of each variance granted by the community, along with supporting data, be submitted to FIA was criticized as too bureaucratic and burdensome to smaller communities. In principle, the idea for disclosure was accepted but the required method of notice-giving recordation on each deed—was challenged on several grounds, including its effectiveness and possible conflict with State law. Relative to historic properties and variances, it was suggested that such properties be exempt from floodproofing requirements.

The proposed regulations did not intend to set absolute criteria for granting of a variance, since it is the community which, after appropriate review, approves or disapproves a request. Rather, the regulations support FIA's authority to review the grounds on which variances were granted and to take action (including action to suspend) where a pattern of variance issuances indicates an absence of unusual hardship or just and sufficient cause. For example, in the instance of a community issuing a variance for a structure to be erected on a lot exceeding one-half acre, the final rule reflects FIA's position that the degree of technical justification required increases greatly and that extreme and undue hardship must be shown.

The reporting procedure has been amended so that communities may report variances issued in their annual reports to FIA rather than on an issuance-by-issuance basis. The final rule exempts historic properties from any floodproofing requirements.

To reflect State laws which prohibit recordation of a property variance on a deed, the recording requirement has been dropped, and the final rule requires the community to notify in writing the seeker

of a variance that issuance of such a variance will result in significantly high premium rates and increases risks to life and property.

Finally, because any obstruction in a designated floodway greatly increases risk to loss of life and property, no variance for the placement of an obstruction in a floodway shall be allowed.

Comments concerning the exception provisions were many. One sought a distinction between "exceptions" and "variances". The former describes a waiver granted to a community by the Administrator from a particular flood plain management Program requirement if extraordinary circumstances are shown. The latter means a grant of relief by a community to an individual from the terms of the community's flood plain management regulations.

Overall, the exception provisions have been clarified. A provision has been added whereby the Administrator, in accordance with HUD Handbook 1390.1, shall issue an environmental clearance on an exception's impact on the natural, man-made and social environment.

The proposed provision to allow an exception for floodproofed basements generated mixed comment. Those in support believed it more rational and equitable to permit basements below the 100-year flood level as long as the watertight standards were followed and as long as sufficient justification and compelling need were demonstrated. In response to comments, use of the Corps of Engineer's "Floodproofing Regulations" is not required nor is a variance for constructing below the 100-year flood level in a community which has been granted an exception for basements. Such a requirement would have resulted in needless duplication of effort, since the granting of the exception was based on a showing of unusual hardship and submittal of satisfactory technical data relating to watertight standards. Performance standards for floodproofed basements are retained and will be followed by a technical amendment permitting floodproofed residential basements without the need for a community-wide exception.

SECTION 1910.7 REVISIONS OF CRITERIA FOR FLOOD PLAIN MANAGEMENT REGULATIONS

A comment requesting clarification of "reasonable time" permitted a community to revise its local regulations to conform to changes in the Program's regulations has resulted in substituting "six months from the effective date of any new regulation" for "reasonable time".

SUBPART B

A new Subpart B to Part 1910 has been added concerning requirements for State flood plain management regulations. This subpart, through the provisions of §§ 1910.11, 1910.12 and 1910.13 emphasizes the obligation for adequate flood plain management by States if they are to be authorized flood insurance. Criteria set forth in §§ 1910.3, 1910.4 and 1910.5 shall be satisfied for all State-owned properties in FIA identified special hazard areas, and for the purchase of a Standard Flood Insurance Policy or for the approval by the Administrator, under Part 1925, of State self-insurance plan.

The method used by a State to adopt and administer flood plain management regulations will be dictated by State law and related factors. With respect to administration, one possible mechanism by which a State could comply with the Program standards can be illustrated by considering the permit requirements of § 1910.3. A State could satisfy this review process requirement by assigning to the State agency currently responsible for the approval of construction on State property the duty to analyze proposals to assure compliance with the Program standards.

SUBPART C

SECTION 1910.22 PLANNING CONSIDERATIONS FOR FLOOD-PRONE AREAS

A community must completely evaluate the standards contained in this Subpart even though formal adoption is not mandated.

The Subpart has been expanded and reflects the Administrator's belief that a community has an excellent opportunity after a flood disaster to combat future flood losses through an affirmative program.

Many comments addressed the issue of full disclosure. While the Administrator recognizes that State law precludes the recordation of the granting of variances on title records, he urges that communities consider alternate means by which prospective and interested parties may be notified that certain structures are located within flood-prone areas.

The Administrator concurs with comments expressing concern that the subsidence of flood-prone properties increases the susceptibility of structures on those properties to flood damages, and suggests that, for at least a ten year period, new development in such areas be elevated above the base flood level equal to the expected subsidence.

As indicated, a study is underway to determine the usefulness, from a flood mitigation standpoint, for setbacks within coastal high hazard areas. Pending a determination, it is recommended that communities implement such a setback. However, in areas identified by the Administrator as subject to flood-related erosion hazards, a setback is required under the provisions of § 1910.5.

The revised rule reflects suggestions that communities consider the requirement of additional elevation above the base flood level for new development within special flood hazard areas, to protect against wave wash, floating debris and against floods having a magnitude greater than the base flood and to compensate for future urban development.

To underscore a concern about the placement of plants and facilities in which hazardous materials are manufactured within any floodway or coastal high hazard area, communities are urged to consider prohibiting such placements.

SECTION 1910.23 PLANNING CONSIDERATION FOR MUDSLIDE (I.E.; MUDFLOW) PRONE AREAS

This section has been rewritten for clarity.

SECTION 1910.24 PLANNING CONSIDERATIONS FOR FLOOD-RELATED EROSION PRONE AREAS

This section has been rewritten for clarity.

SECTION 1910.25 STATE COORDINATION

States are strongly urged to adopt the provisions of this section to enhance sound flood plain management.

A new provision recommends that States amend their recording acts so that information relating to flood hazards and flood insurance may be made known to the public. Furthermore, it was suggested that, where States have established minimum flood plain, mudslide, and flood-related erosion regulatory standards consistent with those established for eligibility in the Program, the Administrator accept the State regulations and a certificate from the State Coordinating Agency in satisfaction of local community compliance with the program regulations. This has been and continues to be FIA policy.

PART 1911—INSURANCE COVERAGE AND RATES

This Part, concerning coverage and rates for flood insurance, has been modified primarily for clarity. In particular, §§ 1911.5(g) and 1911.5(h) have been rewritten to conform to the specific exclusions set forth in the Standard Flood Insurance Policy. Additionally, a new paragraph has been included in § 1911.5, specifying the relationship of the agent or broker to the insurer, insured, the National Flood Insurers Association, and the Federal government. The terms of the Standard Flood Insurance Policy shall comply with the appropriate statutory and regulatory requirements, and in this context the producer is considered an agent or broker for the insured vis a vis the government or NFIA. Example: The policy may not be issued to any person even after payment of the correct premium in a nonparticipating community. See "Boothe v. American Assurance Co." 327 So. 2d 477 (1976). However, to prevent the occurrence of inequity consequent upon the producer's failure to transmit to the insurer the premium otherwise properly paid to the producer by the applicant for insurance, the regulations makes the producer the agent of the Association solely for the purpose of transmitting the premium.

A new provision is included in the final rule (at § 1911.12) regarding insurance rates based on a flood protection

system involving Federal funds. This section was originally issued as proposed in a separate FEDERAL REGISTER publication on January 21, 1975. The final rule does not materially alter the regulation as proposed. However, there was confusion expressed in the comments on the proposed regulation concerning the kinds of flood protection systems that would trigger lowered actuarial flood insurance rates. While the section applies only to flood protection systems involving Federal funds, all flood protection systems, whether they be Federal, State, local or private, are recognized by the Administrator after their completion, but only if the completed system altered 100-year flood elevations. Therefore, in such cases, FIA maps would be revised and all previously-applicable actuarial rates would be modified to reflect the changed flood risk. The new § 1911.12 applies only to flood protection systems involving Federal funds because of the passage of the Housing and Community Development Act of 1974, which added a new section 1307(e) to Title XIII of the Housing and Urban Development Act of 1968. Through this enactment, Congress intended to permit lower actuarial flood insurance rates for circumstances in which "adequate progress" had been accomplished toward the completion of a flood protection system involving Federal funds, and for which any delay in the completion was beyond the local community's control. Many comments were received advocating that even where "adequate progress" on a flood protection system was accomplished, thereby invoking lower flood insurance rates, that all flood plain management standards based on 100-year flood elevations should remain in effect until the system is complete. The Administrator has decided to require the enforcement of the flood plain management regulations which are applicable to emergency program communities when he has determined that "adequate progress" has been accomplished toward the completion of a flood protection system involving Federal funds. The specific requirements are set forth in § 1910.3(c)(9).

PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

This part has been rewritten for clarity. Additionally, in response to comments concerning a flood insurance premium refund where a map has been revised, thereby removing a property's flood hazard designation, a new § 1912.5, has been added. This section references the procedure by which such a premium refund may be authorized.

PART 1913

This part is reserved, to be utilized at a later date at the Administrator's discretion.

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

This part has been rewritten for clarity, and in particular, three sections, §§ 1914.3, 1914.4 and 1914.5, have been modified.

In § 1914.3, hazard zone designations and applicable map reference symbols have been clarified. In response to comments favoring deletion from the A zone of areas having shallow flooding, the Administrator has done so for such flooding up to a depth of one foot. A new zone designated as AO (i.e., area of shallow flooding) applies to areas for which water depths range between one and three feet. Furthermore, the section identifies all zones in which the mandatory flood insurance purchase requirement applies. (This inclusion was in response to several requests.)

In § 1914.4, the effect on community eligibility resulting from boundary changes, governmental reorganization, etc. (on which FIA has been previously silent within the regulations) has been set forth. The section discusses the consequences when a community not participating in the Program acquires by means of annexation, incorporation, or otherwise, an area within another community participating in the Program. Second, the section discusses the consequences when a community participating in the Program acquires by means of annexation, incorporation, or otherwise, another area which was previously located in a community either participating or not participating in the Program. Third, the section discusses the consequences when an area within a community participating in the Program becomes autonomous or becomes a portion of a newly autonomous community.

In § 1914.5, the relationship of flood insurance rates to zone designations has been clarified.

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

Comments contended that the regulations did not make allowances for notification to FIA of changes in a community's base flood elevations as a result of physical changes affecting flooding conditions. In response to such comments, as well as the previously mentioned Comptroller General's Report, a new § 1915.5 has been included. This section sets forth the procedures by which a community shall notify the Administrator of physical changes affecting flooding conditions by submitting technical or scientific data.

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

This part has been rewritten for clarity.

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

This part has been rewritten for clarity. In particular, the order of the provisions contained in §§ 1917.8 and 1917.9 have been reversed.

PART 1918—APPEALS OF THE ADMINISTRATOR'S PROPOSED FLOOD ELEVATION DETERMINATIONS BY ADMINISTRATIVE HEARINGS

This part has been rewritten for clarity.

PART 1919

The part is reserved, to be utilized at a later date at the Administrator's discretion.

PART 1920—PROCEDURES FOR MAP CORRECTION

This part has been rewritten for clarity. Additionally, a new § 1920.8, has been added. This section provides for a premium refund after a letter of map amendment, subject to the conditions set forth in § 1912.5 of this subchapter.

PART 1921—PART 1924

These parts are reserved, to be utilized at a later date at the Administrator's discretion.

PART 1925

A number of comments were received in response to the June 3, 1975, publication of proposed rulemaking concerning the exemption of State-owned structures and their contents under a self-insurance plan. While numerous submissions from State governments indicated that the regulation could be satisfied by such States, other comments raised specific concerns and recommendations.

Opposition to the requirement of a special State insurance fund having a specified percentage of reserves based upon market value of State properties in special hazard areas has been accommodated by permitting other indemnification procedures; therefore, an enforceable commitment of funds by a State, the enforceability of which must be certified by the State's Attorney General, may be accepted by the Administrator in lieu of a self-insurance fund.

In response to objections to the inventory requirement stipulating the inclusion of both current replacement cost and present economic value of State-owned structures and their contents, the final rule has been altered to allow use of either replacement cost or present economic value.

The provision requiring submission of a record of flood loss experience covering a recommended period of 25–50 years has been modified to require that such a record need only reflect 5 years of flood damage experience.

A comment requested clarification of the types of properties required to be included under a State self insurance plan. The requirement applies only to those State-owned structures and their contents for which coverage could otherwise be made available under the Standard Federal Flood Insurance Policy. Part 1911 contains a discussion of the specific structures and contents that may be covered under such a Policy.

Concern was raised that a State desiring to insure its properties through a self-insurance plan would be subject to more stringent requirements than a State insuring its properties through Federal flood insurance coverage. However, in recognition of the fact that the State self-insurance option is a special arrangement to accommodate State governments, the Administrator may set reasonable conditions for his acceptance of a self-insurance plan.

A draft Environmental Impact Statement concerning the Program's regulations was filed with the Council of Environmental Quality (39 FR 43419). After an analysis of the public comments received, a final Environmental Impact Statement was prepared and filed with the Council of Environmental Quality. This document is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C.

A statement of non-major determination concerning the Program's regulations was prepared and submitted to the Council on Wage and Price Stability. Documentation for such determination is available for inspection and copying according to the rules and regulations of the Department during regular business hours in Room 6262, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C.

Effective date: This revision becomes effective on December 1, 1976.

Accordingly, effective December 1, 1976 Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is revised to read as follows:

## PART 1909—GENERAL PROVISIONS

### Subpart A—General

Sec.
1909.1 Definitions.
1909.2 Description of program.
1909.3 Emergency program.
1909.4 References.

### Subpart B—Eligibility Requirements

1909.21 Purpose of subpart.
1909.22 Prerequisites for the sale of flood insurance.
1909.23 Priorities for the sale of flood insurance under the regular program.
1909.24 Suspension of community eligibility.

AUTHORITY: Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); sec. 1306, 82 Stat. 575; 42 U.S.C. 4013; sec. 1361, 82 Stat. 587; 42 U.S.C. 4102.

### § 1909.1 Definitions.

### Subpart A—General

As used in this subchapter—

*"Accounting period"* means any annual period during which the Agreement is in effect. Each accounting period under the Agreement applies separately to all policies issued under the Program during the time period.

*"Act"* means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001–4128.

*"Actuarial rates"*—see "risk premium rates."

*"Administrator"* means the Federal Insurance Administrator, to whom the Secretary has delegated the administration of the Program (34 FR 2680–81, February 27, 1969, as amended 39 FR 2787, January 24, 1974).

*"Affiliates"* means two or more associated business concerns which are or can be directly or indirectly controlled by one or more of the affiliates or by a third party.

*"Agreement"* means the contract entered into for the term of any accounting period by and between the Administrator and the Association whereby the Association or its subcontractors will sell policies of flood insurance under the Program within areas designated by the Administrator and will adjust and pay claims for losses arising under such policies. The Agreement is renewed automatically with respect to each subsequent accounting period unless either the Administrator or the Association gives the other written notice of intention to terminate on or before January 31 of the then current accounting period.

*"Applicant"* means a community which indicates a desire to participate in the Program.

*"Appurtenant Structure"* means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

*"Area of shallow flooding"* means a designated A0 or V0 Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

*"Area of special flood-related erosion hazard"* is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

*"Area of special flood hazard"* is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, A0, A1–99, V0, and V1–30.

*"Area of special mudslide (i.e., mudflow) hazard"* is the land within a community most likely to be subject to severe mudslides (i.e., mudflows). The area may be designated as Zone M on the FHBM. After the detailed evaluation of the special mudslide (i.e., mudflow) hazard area in preparation for publication of the FIRM, Zone M may be further refined.

*"Association"* means the National Flood Insurers Association discussed in Parts 1911 and 1912 of this subchapter, and is the private insurance industry pool composed of two or more of its members or any member acting for or on behalf of the Association under the Agreement.

*"Base flood"* means the flood having a one percent chance of being equalled or exceeded in any given year.

*"Building"*—see *"structure."*

*"Chargeable rates"* mean the rates established by the Administrator pursuant to section 1308 of the Act for first layer limits of flood insurance on existing structures.

*"Chief Executive Officer"* of the community ("CEO") means the official of the community who is charged with the authority to implement and administer laws, ordinances and regulations for that community.

*"Coastal high hazard area"* means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone V1–30.

*"Community"* means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

*"Contents coverage"* is the insurance on personal property within an enclosed structure, including the cost of debris removal, and the reasonable cost of removal of contents to minimize damage. Personal property may be household goods usual or incidental to residential occupancy, or merchandise, furniture, fixtures, machinery, equipment and supplies usual to other than residential occupancies.

*"Criteria"* means the comprehensive criteria for land management and use for flood-prone areas developed under 42 U.S.C. 4102 for the purposes set forth in Part 1910 of this subchapter.

*"Curvilinear Line"* means the border on either a FHBM or FIRM that delineates the special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazard areas and consists of a curved or contour line that follows the topography.

*"Deductible"* means the fixed amount or percentage of any loss covered by insurance which is borne by the insured prior to the insurer's liability.

*"Department"* means the U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

*"Development"* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

*"Eligible community"* or "participating community" means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program.

*"Emergency Flood Insurance Program"* or *"emergency program"* means the Program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

*"Erosion"* means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.

*"Exception"* means a waiver from the provisions of Part 1910 of this subchapter directed to a community which re-

lieves it from the requirements of a rule, regulation, order or other determination made or issued pursuant to the Act.

*"Existing construction,"* means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

*"Existing mobile home park or mobile home subdivision,"* means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of flood plain management regulations adopted by a community.

*"Expansion to an existing mobile home park or mobile home subdivision"* means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

*"Existing structures"* see *"existing construction."*

*"Federal agency"* means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

*"Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions"* means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration.

*"Financial assistance"* means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance, other than general or special revenue sharing or formula grants made to States.

*"Financial assistance for acquisition or construction purposes"* means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance for emergency work essential for the protection and preservation of life and property performed pursuant to the Disaster Relief Act of 1970 or any subsequent Act of Congress which supersedes or modifies the Disaster Relief Act of 1970, or the Disaster Relief Act of 1974. It includes only financial assistance insurable under the Standard Flood Insurance Policy.

*"First-layer coverage"* is the maximum amount of structural and contents insurance coverage available under the Emergency Program.

*"Flood"* or *"Flooding"* means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(3) Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (a)(1) of this section.

*"Flood elevation determination"* means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

*"Flood elevation study"* means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

*"Flood Hazard Boundary Map"* (FHBM) means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M, and/or E.

*"Flood insurance"* means the insurance coverage provided under the Program.

*"Flood Insurance Rate Map"* (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

*"Flood Insurance Study"* see *"flood elevation study."*

*"Flood plain"* or *"flood-prone area"* means any land area susceptible to being inundated by water from any source (see definition of "flooding").

*"Flood plain management"* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.

*"Flood plain management regulations"* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*"Flood protection system"* means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

*"Floodproofing"* means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*"Flood-related erosion"* means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

*"Flood-related erosion area"* or *"flood-related erosion prone area"* means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

*"Flood-related erosion area management"* means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and flood plain management regulations.

*"Floodway"*—see *"regulatory floodway."*

*"Floodway encroachment lines"* mean the lines marking the limits of floodways on Federal, State and local flood plain maps.

*"Freeboard"* means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater

than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

*"General Counsel"* means the General Counsel of the U.S. Department of Housing and Urban Development.

*"Habitable Floor"* means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "Habitable Floor."

*"Independent scientific body"* means a non-federal technical or scientific organization involved in the study of land use planning, flood plain management, hydrology, geology, geography, or any other related field of study concerned with flooding.

*"Insurance adjustment organization"* means any organization or person engaged in the business of adjusting loss claims arising under the Standard Flood Insurance Policy.

*"Insurance company"* or *"insurer"* means any person or organization authorized to engage in the insurance business under the laws of any State.

*"Mangrove stand"* means an assemblage of mangrove trees which are mostly low trees noted for a copious development of interlacing adventitous roots above the ground and which contain one or more of the following species: Black mangrove (Avicennia Nitida); red mangrove (Rhizophora Mangle); white mangrove (Languncularia Racemosa); and buttonwood (Conocarpus Erecta).

*"Map"* means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Insurance Administration.

*"Mean sea level"* means the average height of the sea for all stages of the tide.

*"Mobile home"* means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. The term includes, but it is not limited to, the definition of "mobile home" as set forth in regulations governing the Mobile Home Safety and Construction Standards Program (24 CFR 3282.7(a)).

*"Mobile home park or mobile home subdivision"*—see *"existing mobile home park or mobile home subdivision"* or *"new mobile home park or mobile home subdivision."*

*"Mudslide"* (i.e., mudflow) describes a condition where there is a river, flow or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of brush cover, and the subsequent accumulation of water on or under the ground preceded by a period of unusually heavy or sustained rain. A mudslide (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

*"Mudslide (i.e., mudflow) prone area"* means an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

*"Mudslide (i.e., mudflow) area management"* means the operation of an overall program of corrective and preventive measures for reducing mudslide (i.e. mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and flood plain management regulations.

*"National Flood Insurers Association"* is the industry flood insurance pool authorized by the Secretary in accordance with sections 1331 and 1332 of the Act (see "Agreement" and "Association") (42 U.S.C. 4051–4052). The Association headquarters are currently located at 1755 South Jefferson Davis Highway, Suite 1102, Arlington, Virginia 22202 (703) 920–8830.

*"New construction"* means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later. For flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community.

*"New mobile home park or mobile home subdivision"* means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of flood plain management regulations adopted by a community.

*"100-year flood"* see *"base flood."*

*"Participating community,"* also known as an "eligible community," means a community in which the Administrator has authorized the sale of flood insurance.

*"Person"* includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

*"Policy"* means the Standard Flood Insurance Policy.

*"Premium"* means the total premium payable by the insured for the coverage or coverages provided under the policy. The calculation of the premium may be based upon either chargeable rates or risk premium rates, or a combination of both.

*"Principally above ground"* means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

*"Program"* means the National Flood Insurance Program authorized by 42 U.S.C. 4001–4128.

*"Project cost"* means the total financial cost of a flood protection system (including design, land acquisition, construction, fees, overhead, and profits), unless the Federal Insurance Administrator determines a given "cost" not to be a part of such project cost.

*"Regular Program"* means the Program authorized by the Act under which risk premium rates are required for the first half of available coverage (also known as "first layer" coverage) for all new construction and substantial improvements started on or after the effective date of the FIRM, or after December 31, 1974, for FIRM's effective on or before that date. All buildings, the construction of which started before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date, are eligible for first layer coverage at either subsidized rates or risk premium rates, whichever are lower. Regardless of date of construction, risk premium rates are always required for the second layer coverage and such coverage is offered only after the Administrator has completed a risk study for the community.

*"Regulatory floodway"* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*"Risk premium rates"* mean those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

*"Riverine"* means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

*"Sand dunes"* mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

*"Second layer coverage"* means an additional limit of coverage equal to the amounts made available under the Emergency Program, and made available under the Regular Program only where authorized by the Administrator.

*"Secretary"* means the Secretary of Housing and Urban Development.

*"Servicing company"* means a corporation, partnership, association, or any other organized entity which subcontracts with the National Flood Insurers Association to service insurance policies under the National Flood Insurance Program for a particular area.

*"Sheet flow area"*—see *"area of shallow flooding."*

*"Special Hazard Area"* means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on a FHBM or FIRM as Zone, A, AO, A1–99, VO, V1–30, M or E.

*"Standard Flood Insurance Policy"* means the flood insurance policy issued

by the National Flood Insurers Association pursuant to Federal statutes and regulations.

*"Start of construction"* means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

*"State"* means any State, the District of Columbia, the territories and possessions of the United States, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

*"State coordinating agency"* means the agency of the state government, or other office designated by the Governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program in that state.

*"Storm cellar"* means a space below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornado or similar wind storm activity.

*"Structure"* means, for flood plain mangement purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home. "Structure" for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a mobile home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

*"Subsidized rates"*—means the rates established by the Administrator involving in the aggregate a subsidization by the Federal government.

*"Substantial improvement"* means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

*"Variance"* means a grant of relief by a community from the terms of a flood plain management regulation.

*"Water surface elevation"* means the projected heights in relation to Mean Sea Level reached by floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

### § 1909.2 Description of program.

(a) The National Flood Insurance Act of 1968 was enacted by Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448, August 1, 1968) to provide previously unavailable flood insurance protection to property owners in flood-prone areas. Mudslide (as defined in § 1909.1) protection was added to the Program by the Housing and Urban Development Act of 1969 (Pub. L. 91–152, December 24, 1969). Flood-related erosion (as defined in § 1909.1) protection was added to the Program by the Flood Disaster Protection Act of 1973 (Pub. L. 93–234, December 31, 1973). The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally-related financial assistance for acquisition or construction purposes with respect to insurable buildings and mobile homes within an identified special flood, mudslide (i.e., mudflow), or flood-related erosion hazard area that is located within any community participating in the Program. The Act also requires that on and after July 1, 1975, or one year after a community has been formally notified by the Administrator of its identification as community containing one or more special flood, mudslide (i.e., mudflow), or flood-related erosion hazard areas, no such Federal financial assistance, including mortgage loans from federally-regulated lenders, shall be provided within such an area unless the community in which the area is located is then participating in the Program, subject to certain exceptions. See FIA published Guidelines at § 1909.4(c).

(b) To qualify for the sale of federally-subsidized flood insurance a community must adopt and submit to the Administrator as part of its application, flood plain management regulations, satisfying at a minimum the criteria set forth at Part 1910 of this subchapter, designed to reduce or avoid future flood, mudslide (i.e., mudflow) or flood-related erosion damages. These regulations must include effective enforcement provisions.

(c) Minimum requirements for adequate flood plain management regulations are set forth in § 1910.3 for flood-prone areas, in § 1910.4 for mudslide (i.e., mudflow) areas and in § 1910.5 for flood-related erosion areas. Those applicable requirements and standards are based on the amount of technical information available to the community.

### § 1909.3 Emergency program.

The 1968 Act required a risk study to be undertaken for each community before it could become eligible for the sale of flood insurance. Since this requirement resulted in a delay in providing insurance, the Congress, in section 408 of the Housing and Urban Development Act of 1969 (Pub. L. 91–152, December 24, 1969), established an Emergency Flood Insurance Program as a new Section 1336 of the National Flood Insurance Act (42 U.S.C. 4056) to permit the early sale of insurance in flood-prone communities. The emergency program, which under existing law extends to September 30, 1977, does not affect the requirement that a community must adopt adequate flood plain management regulations pursuant to Part 1910 of this subchapter but permits insurance to be sold before a study is conducted to determine risk premium rates for the community. The program still requires upon the effective date of a FIRM the charging of risk premium rates for all new construction and substantial improvements and for higher limits of coverage for existing structures.

### § 1909.4 References.

(a) The following are statutory references for the National Flood Insurance Program, under which these regulations are issued:

(1) National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), Pub. L. 90–448, approved August 1, 1968, 42 U.S.C. 4001 et seq.

(2) Housing and Urban Development Act of 1969 (Pub. L. 91–152, approved December 24, 1969).

(3) Flood Disaster Protection Act of 1973 (87 Stat. 980), Pub. L. 93–234, approved December 31, 1973.

(4) Section 816 of the Housing and Community Development Act of 1974 (87 Stat. 975), Pub. L. 93–383, approved August 22, 1974.

(5) Pub. L. 94–375 (effective August 3, 1976).

(6) The above statutes are included in 42 U.S.C. 4001 et seq.

(b) The following are references relevant to the National Flood Insurance Program:

(1) Executive Order 11296 (Evaluation of Flood Hazard in Locating Federally-Owned or Financed Buildings, Roads, and other Facilities, and in Disposing of Federal Lands and Properties, dated August 10, 1966 (31 FR 10663–64, August 11, 1966).

(2) The Flood Control Act of 1960 (Pub. L. 86–645).

(3) Title II, section 314 of Title III and section 406 of Title IV of the Disaster Relief Act of 1974 (Pub. L. 93–288).

(4) Coastal Zone Management Act (Pub. L. 92–583), as amended Pub. L. 94–370.

(5) Water Resources Planning Act (Pub. L. 89–90), as amended Pub. L. 94–112 (October 16, 1975).

(6) Title I, National Environmental Policy Act (Pub. L. 91–190).

(7) Land and Water Conservation Fund Act (Pub. L. 89–578), and subsequent amendments thereto.

(8) Water Resources Council, Principals and Standards for Planning, Water and Related Land Resources (38 FR 24778–24869, September 10, 1973).

(9) Executive Order 11593 (Protection and Enchancement of the Cultural Environment), dated May 13, 1971 (36 FR 8921, May 15, 1971).

(10) 89th Cong., 2nd Session, H.D. 465.

(11) Required land use element for comprehensive planning assistance under section 701 of the Housing Act of 1954, as amended by the Housing and Community Development Act of 1974 (24 CFR § 600.72).

(c) The following reference guidelines represent the views of the Federal Insurance Administration with respect to the mandatory purchase of flood insurance under section 102 of the Flood Disaster Protection Act of 1973: Mandatory Purchase of Flood Insurance Guidelines (39 FR 26186–26193, July 17, 1974; 40 FR 16710, April 14, 1975; 40 FR 54277–54278, November 21, 1975; and 41 FR 2426, January 16, 1976.

## Subpart B—Eligibility Requirements

### § 1909.21 Purpose of subpart.

This subpart lists actions that must be taken by a community to become eligible and to remain eligible for the Program.

### § 1909.22 Prerequisites for the sale of flood insurance.

(a) To qualify for flood insurance availability a community shall apply for the entire area within its jurisdiction, and shall submit:

(1) Copies of legislative and executive actions indicating a local need for flood insurance and an explicit desire to participate in the National Flood Insurance Program;

(2) Citations to State and local statutes and ordinances authorizing actions regulating land use and copies of the local laws and regulations cited;

(3) A copy of the flood plain management regulations the community has adopted to meet the requirements of §§ 1910.3, 1910.4 and/or § 1910.5 of this subchapter. This submission shall include copies of any zoning, building, and subdivision regulations, health codes, special purpose ordinances (such as a flood plain ordinance, grading ordinance, or flood-related erosion control ordinance), and any other corrective and preventive measures enacted to reduce or prevent flood, mudslide (i.e., mudflow) or flood-related erosion damage;

(4) A list of the incorporated communities within the applicant's boundaries;

(5) Estimates relating to the community as a whole and to the flood, mudslide (i.e., mudflow) and flood-related erosion prone areas concerning:

(i) Population;

(ii) Number of one to four family residences;

(iii) Number of small businesses; and

(iv) Number of all other structures.

(6) Address of a local repository, such as a municipal building, where the Flood Hazard Boundary Maps (FHBM's) and Flood Insurance Rate Maps (FIRM's) will be made available for public inspection;

(7) A summary of any State or Federal activities with respect to flood plain, mudslide (i.e., mudflow) or flood-related erosion area management within the community, such as federally-funded flood control projects and State-administered flood plain management regulations;

(8) A commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action reasonably necessary to carry out the objectives of the program; and

(9) A commitment to:

(i) Assist the Administrator at his request, in his delineation of the limits of the areas having special flood, mudslide (i.e., mudflow) or flood-related erosion hazards;

(ii) Provide such information concerning present uses and occupancy of the flood plain, mudslide (i.e., mudflow) or flood-related erosion areas as the Administrator may request;

(iii) Maintain for public inspection and furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a FHBM or FIRM, any certificates of flood-proofing, and information on the elevation (in relation to mean sea level) of the level of the lowest habitable floor (including basement if habitable) of all new or substantially improved structures, and include whether or not such structures contain a basement, and if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed;

(iv) Cooperate with Federal, State, and local agencies and private firms which undertake to study, survey, map, and identify flood plain, mudslide (i.e., mudflow) or flood-related erosion areas, and cooperate with neighboring communities with respect to the management of adjoining flood plain, mudslide (i.e., mudflow and/or flood-related erosion areas in order to prevent aggravation of existing hazards;

(v) Upon occurrence, notify the Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce flood plain management regulations for a particular area. In order that all FHBM's and FIRM's accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished flood plain management regulatory authority.

(b) An applicant shall legislatively:

(1) Appoint or designate the agency or official with the responsibility, authority, and means to implement the commitments made in paragraph (a) of this section, and

(2) Designate the official responsible to submit an annual report to the Administrator concerning the community participation in the Program including, but not limited to, the development and implementation of flood plain management regulations and,

(3) Utilize annual report form (OMB No. 63–R1546) as follows:

FEDERAL INSURANCE ADMINISTRATION - ANNUAL REPORT 1975

( ) Community _____ County _____ State _____

( ) Responsible Official _____ ( ) Title _____ ( ) Telephone _____

( ) Address _____

Signature _____ Date _____

( ) ☐ Please check this box and indicate above any change since your last annual report

1. PHYSICAL CHANGES AND RECENT FLOODING IN YOUR COMMUNITY

a. Boundary Changes. Have your community's corporate limits or boundaries changed since your last annual report? (IF YES, PLEASE ATTACH A NEW MAP SHOWING REVISED COMMUNITY BOUNDARIES). Yes [ ] No [ ]

b. Natural Changes. Have there been any natural or physical changes which would increase or decrease flooding in your community? (e.g., subsidence, pronounced erosion, seismic effects, sedimentation, or debris build-up)? (IF YES, PLEASE ATTACH THE MOST RECENT FIA FLOOD HAZARD MAP AND INDICATE THE EXTENT OF CHANGES AND THE AREAS AFFECTED). Yes [ ] No [ ]

c. Man-Made Changes. Have there been any projects or activities which would increase or decrease flooding in your community (e.g., dams, dikes, levees, bridges, storm sewers, drainage facilities, extensive filling)? (IF YES, PLEASE ATTACH THE MOST RECENT FIA FLOOD HAZARD MAP AND INDICATE THE EXTENT OF THE ACTIVITIES AND THE AREAS AFFECTED). Yes [ ] No [ ]

d. Recent Flooding. Has any flooding occurred in your community since the last annual report? (IF YES, PLEASE ATTACH THE MOST RECENT FIA FLOOD HAZARD MAP SHOWING THE AREAS AFFECTED, AND ON A SEPARATE SHEET INDICATE FOR EACH FLOOD THE OCCURRENCE DATE, WATER ELEVATION, NUMBER OF STRUCTURES DAMAGED AND ESTIMATE THE FINANCIAL DAMAGE). Yes [ ] No [ ]

2. AMENDMENTS TO EXISTING LAWS

Have any amendments relating to floods or flood areas been made to your community's codes and/or flood plain management laws since your last annual report? (IF YES, PLEASE ATTACH A CERTIFIED COPY OF THE ADOPTED AMENDMENTS). Yes [ ] No [ ]

3. COORDINATION, STATISTICS, AND ESTIMATES

a. Coordination. Has your community had any problems in coordinating its flood plain management program with adjacent communities? (IF YES, PLEASE ATTACH A SEPARATE SHEET EXPLAINING THE PROBLEMS). Yes [ ] No [ ]

b. Statistics. The following data will serve as an indication of your community's effectiveness in enforcing its flood plain management measures.

| | Number Requested | Number Granted |
|---|---|---|
| (1.) Construction permits in the flood-prone areas | | |
| (2.) Variances from the 100-year flood elevation requirement | | |
| (3.) Other variances from FIA flood plain management requirements | | |
| (4.) Total variances from all FIA requirements (combined total of #(2) & (3)) | | |
| (5.) Of the total variances from all FIA requirements, how many were for structures on lots exceeding 1/2 acre? | | |

c. Estimates. (Estimate the answer for the following, using the best data and sources available):

| | Population | No. of 1-4 Family Structures | No. of Small Business Structures | No. of All Other Structures |
|---|---|---|---|---|
| Estimates of totals in the special flood hazard areas delineates on the FIA Flood Insurance Rate Map (i.e., using all zones except B, C, & D) | | | | |
| Estimates of totals in the entire community. | | | | |

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(c) The documents required by paragraph (a) of this section and evidence of the actions required by paragraph (b) of this section shall be submitted to the Federal Insurance Administrator, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

(d) A copy of the documents required by paragraph (a) of this section and evidence of the actions required by paragraph (b) of this section shall be submitted by an applicant to the appropriate State and areawide clearinghouses established in accordance with Part I of OMB Circular No. A-95 (41 FR 2052-2065, January 13, 1976). Clearinghouse review of the documents shall not be a prerequisite to the Administrator's acceptance of a community's application for the availability of flood insurance under the Emergency Program. However, clearinghouses may assist the applicant in assuring maximum consistency with State, regional and local comprehensive plans and flood plain management programs.

### § 1909.23 Priorities for the sale of flood insurance under the regular program.

Flood-prone, mudslide (i.e., mudflow) and flood-related erosion prone communities are placed on a register of areas eligible for ratemaking studies and then selected from this register for ratemaking studies on the basis of the following considerations—

(a) Recommendations of State officials;

(b) Location of community and urgency of need for flood insurance;

(c) Population of community and intensity of existing or proposed development of the flood plain, the mudslide (i.e., mudflow) andth e flood-related erosion area;

(d) Availability of information on the community with respect to its flood, mudslide (i.e., mudflow) and flood-related erosion characteristics and previous losses;

(e) Extent of State and local progress in flood plain, mudslide (i.e., mudflow) area and flood-related erosion area management, including adoption of flood plain management regulations consistent with related ongoing programs in the area.

### § 1909.24 Suspension of community eligibility.

(a) A community eligible for the sale of flood insurance shall be subject to suspension from the Program for failing to submit copies of adequate flood plain management regulations meeting the minimum requirements of paragraphs (b), (c), (d) or (e) of § 1910.3 or paragraph (b) of § 1910.4 or § 1910.5, within six months from the date the Administrator provides the data upon which the flood plain regulations for the applicable paragraph shall be based. Where there has not been any submission by the community, the Administrator shall notify the community that 90 days remain in the six month period in order to submit adequate flood plain management regulations. Where there has been an inadequate submission, the Administrator shall notify the community of the specific deficiencies in its submitted flood plain management regulations and inform the community of the amount of time remaining within the six month period. If, subsequently, copies of adequate flood plain management regulations are not received by the Administrator, he shall, no later than 30 days before the expiration of the original six month period, provide written notice to the community and to the state and assure publication in the FEDERAL REGISTER under Part 1914 of this subchapter, of the community's loss of eligibility for the sale of flood insurance, such suspension to become effective upon the expiration of the six month period. Should the community remedy the defect and the Administrator receive copies of adequate flood plain management regulations within the notice period, the suspension notice shall be rescinded by the Administrator. If the Administrator receives notice from the State that it has enacted adequate flood plain management regulations for the community within the notice period, the suspension notice shall be rescinded by the Administrator. The community's eligibility shall remain terminated after suspension until copies of adequate flood plain management regulations have been received and approved by the Administrator.

(b) A community eligible for the sale of flood insurance which fails to adequately enforce or repeals its flood plain management regulations meeting the minimum requirements set forth in §§ 1910.3, 1910.4 or § 1910.5 shall be subject to suspension of its Program eligibility. Under such circumstances, the

Administrator shall grant the community 30 days in which to show cause why it should not be suspended. The Administrator may conduct a hearing before commencing suspensive action. If a community is to be suspended, the Administrator shall inform it upon 30 days prior written notice and publication in the FEDERAL REGISTER under Part 1914 of this subchapter of its loss of eligibility for the sale of flood insurance. In the event of impending suspension, the Administrator shall issue a press release to the local media explaining the reasons and effects of the suspension. The community's eligibility shall only be reinstated by the Administrator upon his receipt of a local legislative or executive measure reaffirming the community's formal intent to adequately enforce the flood plain management regulations adopted in compliance with the requirements of this Subpart, together with evidence of action taken by the community to abrogate, to the maximum extent possible, the action(s) which caused the suspension. In such cases, the Administrator, in order to evaluate the community's performance under the terms of its submission, may either conditionally reinstate the community's eligibility or withhold reinstatement for a period not to exceed one year from the date of his receipt of the submission.

(c) The Administrator shall promptly notify the Association of those communities whose eligibility has been suspended, and the Association shall promptly notify its servicing companies. Flood insurance shall not be sold or renewed in any suspended community until the Association is subsequently notified by the Administrator of the date of the community's formal reinstatement. Policies sold or renewed within a community during a period of ineligibility are deemed to be voidable by the Administrator whether or not the parties to sale or renewal had actual notice of the ineligibility.

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## PART 1910—CRITERIA FOR LAND MANAGEMENT AND USE

Subpart A—Requirements for Flood Plain Management Regulations

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1910.2 Minimum compliance with flood plain management criteria.
1910.3 Flood plain management criteria for flood-prone areas.
1910.4 Flood plain management criteria for mudslide (i.e., mudflow)-prone areas.
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Subpart C—Additional Considerations in Managing Flood-Prone, Mudslide (i.e., Mudflow)-Prone, and Flood-Related Erosion-Prone Areas

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1910.26 Local coordination.

AUTHORITY: Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); Sec. 1306, 82 Stat. 575; 42 U.S.C. 4013; Sec. 1361, 82 Stat. 587; 42 U.S.C. 4102.

### Subpart A—Requirements for Flood Plain Management Regulations

#### § 1910.1 Purpose of subpart.

(a) The Act provides that flood insurance shall not be sold or renewed under the program within a community, unless the community has adopted adequate flood plain management regulations consistent with Federal criteria. Responsibility for establishing such criteria is delegated to the Administrator.

(b) This subpart sets forth the criteria developed in accordance with the Act by which the Administrator will determine the adequacy of a community's flood plain management regulations. These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone, mudslide (i.e., mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over any less restrictive conflicting local laws, ordinances or codes. Except as otherwise provided in § 1910.6, the adequacy of such regulations shall be determined on the basis of the standards set forth in § 1910.3 for flood-prone areas, § 1910.4 for mudslide areas and § 1910.5 for flood-related erosion areas.

(c) Nothing in this subpart shall be construed as modifying or replacing the general requirement that all eligible communities must take into account flood, mudslide (i.e., mudflow) and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use.

(d) The criteria set forth in this subpart are minimum standards for the adoption of flood plain management regulations by flood-prone, mudslide (i.e., mudflow)-prone and flood-related erosion-prone communities. Any community may exceed the minimum criteria under this Part by adopting more comprehensive flood plain management regulations utilizing the standards such as contained in subpart C of this Part. In some instances, community officials may have access to information or knowledge of conditions that require, particularly for human safety, higher standards than the minimum criteria set forth in subpart A of this Part. Therefore, any flood plain management regulations adopted by a State or a community which are more restrictive than the criteria set forth in this Part are encouraged and shall take precedence.

#### § 1910.2 Minimum compliance with flood plain management criteria.

(a) A flood-prone community applying for flood insurance eligibility shall meet the standards of § 1910.3(a) in order to become eligible if a FHBM has not been issued for the community at the time of application. Thereafter, the community will be given a period of six months from the date the Administrator provides the data set forth in § 1910.3 (b), (c), (d), or (e) in which to meet the requirements of the applicable paragraph. If a community has received a FHBM, but has not yet applied for Program eligibility, the community shall apply for eligibility directly under the standards set forth in § 1910.3(b). Thereafter, the community will be given a period of six months from the date the Administrator provides the data set forth in § 1910.3 (c), (d), or (e) in which to meet the requirements of the applicable paragraph.

(b) A mudslide (i.e., mudflow)-prone community applying for flood insurance eligibility shall meet the standards of § 1910.4(a) to become eligible. Thereafter, the community will be given a period of six months from the date the mudslide (i.e., mudflow) areas having special mudslide hazards are delineated in which to meet the requirements of § 1910.4(b).

(c) A flood-related erosion-prone community applying for flood insurance eligibility shall meet the standards of § 1910.5 (a) to become eligible. Thereafter, the community will be given a period of six months from the date the flood-related erosion areas having special erosion hazards are delineated in which to meet the requirements of § 1910.5(b).

(d) Communities identified in Part 1915 of this subchapter as containing more than one type of hazard (e.g., any combination of special flood, mudslide [i.e., mudflow], and flood-related erosion hazard areas) shall adopt flood plain management regulations for each type of hazard consistent with the requirements of §§ 1910.3, 1910.4 and 1910.5.

(e) Local flood plain management regulations may be submitted to the State Coordinating Agency designated pursuant to § 1910.25 for its advice and concurrence. The submission to the State shall clearly describe proposed enforcement procedures.

(f) The community official responsible for submitting annual reports to the Administrator pursuant to § 1909.22(b)(2) of this subchapter shall also submit copies of each annual report to any State Coordinating Agency.

(g) A community shall assure that its comprehensive plan is consistent with the flood plain management objectives of this Part.

(h) The community shall adopt and enforce flood plain management regulations based on data provided by the Administrator. Without prior approval of

the Administrator, the community shall not adopt and enforce flood plain management regulations based upon modified data reflecting natural or man-made physical changes.

(i) The community, upon its receipt of the data set forth in paragraph (c), (d) or (e) of § 1910.3 or paragraph (b) of § 1910.4 or § 1910.5, shall inform the appropriate State and areawide clearinghouse established in accordance with Part I of OMB Circular No. A-95 (41 FR 2052-2065, January 13, 1976), that the community has a period of six months in which to adopt and submit to the Administrator adequate flood plain management regulations. (The clearinghouses are encouraged to assist the community within the six month period in developing such regulations and in assuring regional coordination). The community shall submit to the appropriate State and areawide clearinghouse, concurrently with its submission to the Administrator, a copy of all adopted flood plain management regulations intended to comply with paragraphs (c), (d) or (e) of § 1910.3 or paragraph (b) of § 1910.4 or § 1910.5. Clearinghouse review, for a period not to exceed sixty days from the date a community submits flood plain management regulations to the clearinghouse, shall be provided prior to the Administrator's action on such regulations. Clearinghouse comments, or a statement by the community that no comments or recommendations have been received from the clearinghouse, should be submitted by the community to the Administrator. However, it may be necessary for the clearinghouse to review the community's regulations within a shorter time period in the event of pending action to suspend the community's Program participation, pursuant to § 1909.24 of this Subchapter, for failure to adopt adequate flood plain management regulations within the required six months. The Administrator, within seven working days of taking a major action on the community's flood plain management submission, shall provide a copy of his disposition concerning the submission to each clearinghouse from which a comment was received.

### § 1910.3 Flood plain management criteria for flood-prone areas.

The Administrator will provide the data upon which flood plain management regulations shall be based. If the Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review and reasonably utilize data available from other Federal, State or other sources pending receipt of data from the Administrator. However, when special flood hazard area designations and water surface elevations have been furnished by the Administrator, they shall apply. The symbols defining such special flood hazard designations are set forth in § 1914.3 of this subchapter. In all cases the minimum requirements governing the adequacy of the flood plain management regulations for flood-prone areas adopted by a particular community depend on the amount of technical data formally provided to the community by the Administrator. Minimum standards for communities are as follows:

(a) When the Administrator has not defined the special flood hazard areas within a community, has not provided water surface elevation data, and has not provided sufficient data to identify the floodway or coastal high hazard area, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall:

(1) Require permits for all proposed construction or other development in the community, including the placement of mobile homes, so that it may determine whether such construction or other development is proposed within flood-prone areas;

(2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure, (ii) be constructed with materials and utility equipment resistant to flood damage, and (iii) be constructed by methods and practices that minimize flood damage;

(4) Review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that (i) all such proposals are consistent with the need to minimize flood damage within the flood-prone area, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided to reduce exposure to flood hazards;

(5) Require within flood-prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and

(6) Require within flood-prone areas (i) new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and (ii) on-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

(b) When the Administrator has designated areas of special flood hazards (A zones) by the publication of a community's FHBM, but has neither produced water surface elevation data nor identified a floodway or coastal high hazard area, the community shall:

(1) Require permits for all proposed construction and other developments including the placement of mobile homes, within Zone A on the community's FHBM;

(2) Require the application of the standards in paragraphs (a) (2), (3), (4), (5) and (6) of this section to development within Zone A on the community's FHBM;

(3) Require that all subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data;

(4) Obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State, or other source, until such other data has been provided by the Administrator, as criteria for requiring that (i) all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level and (ii) all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or floodproofed to or above the base flood level;

(5) For the purpose of the determination of applicable flood insurance risk premium rates within Zone A on a community's FHBM, (i) obtain the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement, (ii) obtain, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed, and (iii) maintain a record of all such information with the official designated by the community under § 1909.22(a) (9) (iii);

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Administrator;

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

(8) Require that all mobile homes to be placed within Zone A on a community's FHBM shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that (i) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side; (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side; (iii) all components of the anchoring system be capable of carrying a force of 4,800

pounds; and (iv) any additions to the mobile home be similarly anchored;

(9) Require that an evacuation plan indicating alternate vehicular access and escape routes be filed with appropriate Disaster Preparedness Authorities for mobile home parks and mobile home subdivisions located within Zone A on the community's FHBM.

(c) When the Administrator has provided a notice of final base flood elevations within Zones A1–30 on the community's FIRM and, if appropriate, has designated A0 zones A99 zones and unnumbered A zones on the community's FIRM, but has not identified a regulatory floodway or coastal high hazard area, the community shall:

(1) Require the standards of paragraph (b) of this section within all A1–30 zones unnumbered A zones and A0 zones, on the community's FIRM;

(2) Require that all new construction and substantial improvements of residential structures within Zones A1–30 on the community's FIRM have the lowest floor (including basement) elevated to or above the base flood level, unless the community is granted an exception by the Administrator for the allowance of basements and/or storm cellars in accordance with § 1910.6(b) (3)(b) and (4);

(3) Require that all new construction and substantial improvements of nonresidential structures within Zones A1–30 on the community's firm (i) have the lowest floor (including basement) elevated to or above the base flood level or, (ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(4) Provide that where floodproofing is utilized for a particular structure in accordance with paragraphs (c)(3) and (c)(8) of this section or (b)(3) of §1910.-6 either (i) a registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood, and a record of such certificates indicating the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the official designated by the community under § 1909.22(a)(9)(iii); or, (ii) a certified copy of a local regulation containing detailed floodproofing specifications which satisfy the watertight performance standards of paragraph (c)(3) of this section or (b)(3) of § 1910.6 shall be submitted to the Administrator for approval;

(5) Require within Zones A1–30 on the community's FIRM for new mobile home parks and mobile home subdivisions, for expansions to existing mobile home parks and mobile home subdivisions, and for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, that (i) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level, (ii) adequate surface drainage and access for a hauler are provided, and (iii) in the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten feet apart, and reinforcement is provided for pilings more than six feet above the ground level;

(6) Require for all mobile homes to be placed within Zones A1–30 on the community's FIRM, but not into a mobile home park or mobile home subdivision that (i) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level, (ii) adequate surface drainage and access for a hauler are provided, and (iii) in the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than 10 feet apart, and reinforcement is provided for piers more than six feet above ground level;

(7) Require within any A0 zone on the community's FIRM that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the community's FIRM;

(8) Require within any A0 zone on the community's FIRM that all new construction and substantial improvements of nonresidential structures (i) have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the FIRM, or (ii) together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(9) Require within any A99 zones on a community's FIRM the standards of paragraphs (a)(1) thru (a)(4)(i) and (b)(5) thru (b)(9) of this section;

(10) Require until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1–30 on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(d) When the Administrator has provided a notice of final base flood elevations within Zones A1–30 on the community's FIRM and, if appropriate, has designated A0 zones A99 zones and unnumbered A zones on the community's FIRM, and has provided data from which the community shall designate its regulatory floodway, the community shall:

(1) Meet the requirements of paragraphs (c)(1) through (c)(9) of this section;

(2) Select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;

(3) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway that would result in any increase in flood levels within the community during the occurrence of the base flood discharge;

(4) Prohibit the placement of any mobile homes, except in an existing mobile home park or mobile home subdivision, within the adopted regulatory floodway.

(e) When the Administrator has provided a notice of final base flood elevations within Zones A1–30 on the community's FIRM and, if appropriate, has designated A0 zones, A99 zones and unnumbered A zones on the community's FIRM, and has identified on the community's FIRM Zone V1–30 (coastal high hazard area), the community shall:

(1) Meet the requirements of paragraphs (c)(1) through (c)(10) of this section;

(2) For the purpose of the determination of applicable flood insurance risk premium rates within Zone V1–30 on a community's FIRM, (i) obtain the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement, (ii) obtain, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed, and (iii) maintain a record of all such information with the official designated by the community under § 1909.22(a)(9)(iii);

(3) Provide that all new construction within Zones V1–30 on the community's FIRM is located landward of the reach of mean high tide;

(4) Provide (i) that all new construction and substantial improvements within Zones V1–30 on the community's FIRM are elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level and (ii) that a registered professional engineer or architect certify that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash;

(5) Provide that all new construction and substantial improvements within Zones V1–30 on the community's FIRM

have the space below the lowest floor free of obstructions or be constructed with "breakaway walls" intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven water is minimized. Such temporarily enclosed space shall not be used for human habitation;

(6) Prohibit the use of fill for structural support of buildings within Zones V1–30 on the community's FIRM;

(7) Prohibit the placement of mobile homes, except in existing mobile home parks and mobile home subdivisions, within Zones V1–30 on the community's FIRM;

(8) Prohibit man-made alteration of sand dunes and mangrove stands within Zones V1–30 on the community's FIRM which would increase potential flood damage.

**§ 1910.4 Flood plain management criteria for mudslide (i.e., mudflow)-prone areas.**

The Administrator will provide the data upon which flood plain management regulations shall be based. If the Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review, and reasonably utilize data available from other Federal, State or other sources pending receipt of data from the Administrator. However, when special mudslide (i.e., mudflow) hazard area designations have been furnished by the Administrator, they shall apply. The symbols defining such special mudslide (i.e., mudflow) hazard designations are set forth in § 1914.3 of this subchapter. In all cases, the minimum requirements for mudslide (i.e., mudflow)-prone areas adopted by a particular community depend on the amount of technical data provided to the community by the Administrator. Minimum standards for communities are as follows:

(a) When the Administrator has not yet identified any area within the community as an area having special mudslide (i.e., mudflow) hazards, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall

(1) Require permits for all proposed construction or other development in the community so that it may determine whether development is proposed within mudslide (i.e., mudflow)-prone areas;

(2) Require review of each permit application to determine whether the proposed site and improvements will be reasonably safe from mudslides (i.e., mudflows). Factors to be considered in making such a determination should include but not be limited to (i) the type and quality of soils, (ii) any evidence of ground water or surface water problems, (iii) the depth and quality of any fill, (iv) the overall slope of the site, and (v) the weight that any proposed structure will impose on the slope;

(3) Require, if a proposed site and improvements are in a location that may have mudslide (i.e., mudflow) hazards, that (i) a site investigation and further review be made by persons qualified in geology and soils engineering, (ii) the proposed grading, excavations, new construction, and substantial improvements are adequately designed and protected against mudslide (i.e., mudflow) damages, (iii) the proposed grading, excavations, new construction and substantial improvements do not aggravate the existing hazard by creating either on-site or off-site disturbances, and (iv) drainage, planting, watering, and maintenance be such as not to endanger slope stability.

(b) When the Administrator has delineated Zone M on the community's FIRM, the community shall:

(1) Meet the requirements of paragraph (a) of this section; and

(2) Adopt and enforce a grading ordinance or regulation in accordance with data supplied by the Administrator which (i) regulates the location of foundation systems and utility systems of new construction and substantial improvements, (ii) regulates the location, drainage and maintenance of all excavations, cuts and fills and planted slopes, (iii) provides special requirements for protective measures including but not necessarily limited to retaining walls, buttress fills, sub-drains, diverter terraces, benchings, etc., and (iv) requires engineering drawings and specifications to be submitted for all corrective measures, accompanied by supporting soils engineering and geology reports. Guidance may be obtained from the provisions of the 1973 edition and any subsequent edition of the Uniform Building Code, sections 7001 through 7006, and 7008 through 7015. The Uniform Building Code is published by the International Conference of Building Officials, 50 South Los Robles, Pasadena, California 91101.

**§ 1910.5 Flood plain management criteria for flood-related erosion-prone areas.**

The Administrator will provide the data upon which flood plain management regulations for flood-related erosion-prone areas shall be based. If the Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review, and reasonably utilize data available from other Federal, State or other sources, pending receipt of data from the Administrator. However, when special flood-related erosion hazard area designations have been furnished by the Administrator they shall apply. The symbols defining such special flood-related erosion hazard designations are set forth in § 1914.3 of this subchapter. In all cases the minimum requirements governing the adequacy of the flood plain management regulations for flood-related erosion-prone areas adopted by a particular community depend on the amount of technical data provided to the community by the Administrator. Minimum standards for communities are as follows:

(a) When the Administrator has not yet identified any area within the community as having special flood-related erosion hazards, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall

(1) Require the issuance of a permit for all proposed construction, or other development in the area of flood-related erosion hazard, as it is known to the community;

(2) Require review of each permit application to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing flood-related erosion hazard; and

(3) If a proposed improvement is found to be in the path of flood-related erosion or to increase the erosion hazard, require the improvement to be relocated or adequate protective measures to be taken which will not aggravate the existing erosion hazard.

(b) When the Administrator has delienated Zone E on the community's FIRM, the community shall

(1) Meet the requirements of paragraph (a) of this section; and

(2) Require a setback for all new development from the ocean, lake, bay riverfront or other body of water, to create a safety buffer consisting of a natural vegetative or contour strip. This buffer will be designated by the Administrator according to the flood-related erosion hazard and erosion rate, in conjunction with the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic and climatic characteristics of the community's land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

**§ 1910.6 Variances and exceptions.**

(a) The Administrator does not set forth absolute criteria for granting variances from the criteria set forth in §§ 1910.3, 1910.4, and 1910.5. The issuance of a variance is for flood plain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The community, after examining the applicant's hardships, shall approve or disapprove a request. While the granting of variances generally is limited to a lot size less than one-half acre (as set forth in Paragraph (a)(2) of this section), deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. The Administrator may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Administrator may take appropriate action under § 1909.24(b) of this subchapter.

Variances may be issued by a community for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in this Section. Procedures for the granting of variances by a community are as follows:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

(2) Variances may be issued by a community for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of paragraphs (a) (3), (4), (5) and (6) of this section;

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) A community shall notify the applicant in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a) (6) of this section; and

(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual report submitted to the Administrator.

(b) (1) The requirement that each flood-prone, mudslide (i.e., mudflow)-prone, and flood-related erosion prone community must adopt and submit adequate flood plain management regulations as a condition of initial and continued flood insurance eligibility is statutory and cannot be waived, and such regulations shall be adopted by a community within the time periods specified in §§ 1910.3, 1910.4 or § 1910.5. However, certain exceptions from the standards contained in this subpart may be permitted where the Administrator recognizes that, because of extraordinary circumstances, local conditions may render the application of certain standards the cause for severe hardship and gross inequity for a particular community. Consequently, a community proposing the adoption of flood plain management regulations which vary from the standards set forth in §§ 1910.3, 1910.4, or § 1910.5, shall explain in writing to the Administrator the nature and extent of and the reasons for the exception request and shall include sufficient supporting economic, environmental, topographic, hydrologic, and other scientific and technical data, and data with respect to the impact on public safety and the environment.

(2) The Administrator shall prepare a Special Environmental Clearance to determine whether the proposal for an exception under paragraph (b) (1) of this section will have significant impact on the human environment. The decision whether an (i) Environmental Impact Statement (EIS) or (ii) a Finding of Inapplicability is required must be made by the Environmental Clearance Officer of the initiating office with the approval of the Assistant Secretary for Community Planning and Development based on review by the Director, Office of Environmental Quality and the General Counsel (Assistant General Counsel for Finance and Administrative Law) in accord with HUD Handbook 1390.1 (38 FR 19182, 19186), "Departmental Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality" which implements the National Environmental Policy Act of 1969 (Pub. L. 91–190) for HUD programs, and guidelines of the Council on Environmental Quality (40 CFR Part 1500). Ninety or more days may be required for an environmental quality clearance if the proposed exception will have significant impact on the human environment thereby requiring on EIS.

(3) In accordance with paragraph (b) (1) of this section, a community may propose flood plain management regulations which adopt standards for basements below the base flood level. The Administrator may approve the proposal when the basements are to be designed so that below the base flood level the structure is watertight (i.e., completely dry without human intervention during flooding) with walls impermeable to the passage of water and structural components with the capability to resist hydrostatic and hydrodynamic loads and effects of buoyancy.

(4) In accordance with paragraph (b) (1) of this section, a community may propose flood plain management regulations to permit storm cellars below the base flood level. The Administrator may approve the proposal for storm cellars (as defined in § 1909.1 of this subchapter) after the community has demonstrated an historical need for storm cellars as a means of shelter against recorded occurrences of severe tornado or similar wind storm activities in the area and based upon a community's acknowledgement that (i) all new storm cellars shall be limited to nonhabitable uses, (ii) all electrical, heating and other mechanical equipment shall be above the base flood level for all new storm cellars; and (iii) the design of storm cellars shall assure that the integrity of the main structure during time of flooding is maintained.

### § 1910.7 Revisions of criteria for flood plain management regulations.

From time to time Part 1910 may be revised as experience is acquired under the Program and new information becomes available. Communities will be given six months from the effective date of any new regulation to revise their flood plain management regulations to comply with any such changes.

### § 1910.8 Definitions.

The definitions set forth in Part 1909 of this subchapter are applicable to this Part.

## Subpart B—Requirements for State Flood Plain Management Regulations

### § 1910.11 Purpose of this subpart.

(a) A State is considered a "community" pursuant to § 1909.1 of this Subchapter; and, accordingly, the Act provides that flood insurance shall not be sold or renewed under the Program unless a community has adopted adequate flood plain management regulations consistent with criteria established by the Administrator.

(b) This subpart sets forth the flood plain management criteria required for State-owned properties located within special hazard areas identified by the Administrator. A State shall satisfy such criteria as a condition to the purchase of a Standard Flood Insurance Policy for a State-owned structure or its contents, or as a condition to the approval by the Administrator, pursuant to Part 1925 of this subchapter, of its plan of self-insurance.

### § 1910.12 Flood plain management criteria for State-owned properties in special hazard areas.

(a) The State shall comply with the minimum flood plain management criteria set forth in §§ 1910.3, 1910.4, and 1910.5. A State either shall:

(1) Comply with the flood plain management requirements of all local communities participating in the program in which State-owned properties are located; or

(2) Establish and enforce flood plain management regulations which, at a minimum, satisfy the criteria set forth in §§ 1910.3, 1910.4, and 1910.5.

(b) The procedures by which a state government adopts and administers flood plain management regulations satisfying the criteria set forth in §§ 1910.3, 1910.4 and 1910.5 may vary from the procedures by which local governments satisfy the criteria.

(c) If any State-owned property is located in a non-participating local community, then the State shall comply with the requirements of paragraph (a) (2) of this section for the property.

### § 1910.13 Noncompliance.

If a State fails to submit adequate flood plain management regulations applicable to State-owned properties pursuant to § 1910.12 within six months of the effective date of this regulation, or

fails to adequately enforce such regulations, the State shall be subject to suspensive action pursuant to § 1909.24. Where the State fails to adequately enforce its flood plain management regulations, the Administrator shall conduct a hearing before initiating such suspensive action.

## Subpart C—Additional Considerations in Managing Flood-Prone, Mudslide (i.e., mudflow)-Prone and Flood-Related Erosion-Prone Areas

### § 1910.21 Purpose of this subpart.

The purpose of this subpart is to encourage the formation and adoption of overall comprehensive management plans for flood-prone, mudslide (i.e., mudflow)-prone and flood-related erosion-prone areas. While adoption by a community of the standards in this subpart is not mandatory, the community shall completely evaluate these standards.

### § 1910.22 Planning considerations for flood-prone areas.

(a) The flood plain management regulations adopted by a community for flood-prone areas should:

(1) Permit only that development of flood-prone areas which (i) is appropriate in light of the probability of flood damage and the need to reduce flood losses, (ii) is an acceptable social and economic use of the land in relation to the hazards involved, and (iii) does not increase the danger to human life;

(2) Prohibit nonessential or improper installation of public utilities and public facilities in flood-prone areas.

(b) In formulating community development goals after the occurrence of a flood disaster, each community shall consider—

(1) Preservation of the flood-prone areas for open space purposes;

(2) Relocation of occupants away from flood-prone areas;

(3) Acquisition of land or land development rights for public purposes consistent with a policy of minimization of future property losses;

(4) Acquisition of frequently flood-damaged structures;

(c) In formulating community development goals and in adopting flood plain management regulations, each community shall consider at least the following factors—

(1) Human safety;

(2) Diversion of development to areas safe from flooding in light of the need to reduce flood damages and in light of the need to prevent environmentally incompatible flood plain use;

(3) Full disclosure to all prospective and interested parties (including but not limited to purchasers and renters) that (i) certain structures are located within flood-prone areas, (ii) variances have been granted for certain structures located within flood-prone areas, and (iii) premium rates applied to new structures built at elevations below the base flood substantially increase as the elevation decreases;

(4) Adverse effects of flood plain development on existing development;

(5) Encouragement of floodproofing to reduce flood damage;

(6) Flood warning and emergency preparedness plans;

(7) Provision for alternative vehicular access and escape routes when normal routes are blocked or destroyed by flooding;

(8) Establishment of minimum floodproofing and access requirements for schools, hospitals, nursing homes, orphanages, penal institutions, fire stations, police stations, communications centers, water and sewage pumping stations, and other public or quasi-public facilities already located in the flood-prone area, to enable them to withstand flood damage, and to facilitate emergency operations;

(9) Improvement of local drainage to control increased runoff that might increase the danger of flooding to other properties;

(10) Coordination of plans with neighboring community's flood plain management programs;

(11) The requirement that all new construction and substantial improvements in areas subject to subsidence be elevated above the base flood level equal to expected subsidence for at least a ten year period;

(12) For riverine areas, requiring subdividers to furnish delineations for floodways before approving a subdivision;

(13) Prohibition of any alteration or relocation of a watercourse, except as part of an overall drainage basin plan. In the event of an overall drainage basin plan, provide that the flood carrying capacity within the altered or relocated portion of the watercourse is maintained;

(14) Requirement of setbacks for new construction within Zones V1–30 on a community's FIRM;

(15) Requirement of additional elevation above the base flood level for all new construction and substantial improvements within Zones A1–30 and V1–30 on the community's FIRM to protect against such occurrences as wave wash and floating debris, to provide an added margin of safety against floods having a magnitude greater than the base flood, or to compensate for future urban development;

(16) Requirement of consistency between state, regional and local comprehensive plans and flood plain management programs;

(17) Requirement of pilings or columns rather than fill, for the elevation of structures within flood-prone areas, in order to maintain the storage capacity of the flood plain and to minimize the potential for negative impacts to sensitive ecological areas;

(18) Prohibition, within any floodway or coastal high hazard area, of plants or facilities in which hazardous substances are manufactured.

### § 1910.23 Planning consideration for mudslide (i.e., mudflow)-prone areas.

The planning process for communities identified under Part 1915 of this subchapter as containing Zone M, or which indicate in their applications for flood insurance pursuant to § 1909.22 of this subchapter that they have mudslide (i.e., mudflow) areas, should include—

(a) The existence and extent of the hazard;

(b) The potential effects of inappropriate hillside development, including

(1) Loss of life and personal injuries, and

(2) Public and private property losses, costs, liabilities, and exposures resulting from potential mudslide (i.e., mudflow) hazards;

(c) The means of avoiding the hazard including the (1) availability of land which is not mudslide (i.e., mudflow)-prone and the feasibility of developing such land instead of further encroaching upon mudslide (i.e., mudflow) areas, (2) possibility of public acquisition of land, easements, and development rights to assure the proper development of hillsides, and (3) advisability of preserving mudslide (i.e., mudflow) areas as open space;

(d) The means of adjusting to the hazard, including the (1) establishment by ordinance of site exploration, investigation, design, grading, construction, filing, compacting, foundation, sewerage, drainage, subdrainage, planting, inspection and maintenance standards and requirements that promote proper land use, and (2) provision for proper drainage and subdrainage on public property and the location of public utilities and service facilities, such as sewer, water, gas and electrical systems and streets in a manner designed to minimize exposure to mudslide (i.e., mudflow) hazards and prevent their aggravation;

(e) Coordination of land use, sewer, and drainage regulations and ordinances with fire prevention, flood plain, mudslide (i.e., mudflow), soil, land, and water regulation in neighboring communities;

(f) Planning subdivisions and other developments in such a manner as to avoid exposure to mudslide (i.e., mudflow) hazards and the control of public facility and utility extension to discourage inappropriate development;

(g) Public facility location and design requirements with higher site stability and access standards for schools, hospitals, nursing homes, orphanages, correctional and other residential institutions, fire and police stations, communication centers, electric power transformers and substations, water and sewer pumping stations and any other public or quasi-public institutions located in the mudslide (i.e., mudflow) area to enable them to withstand mudslide (i.e., mudflow) damage and to facilitate emergency operations; and

(h) Provision for emergencies, including (1) warning, evacuation, abatement, and access procedures in the event of mudslide (i.e., mudflow), (2) enactment of public measures and initiation of private procedures to limit danger and damage from continued or future mudslides (i.e., mudflow), (3) fire prevention procedures in the event of the rupture of gas or electrical distribution systems by mudslides, (4) provisions to

avoid contamination of water conduits or deterioration of slope stability by the rupture of such systems, (5) similar provisions for sewers which in the event of rupture pose both health and site stability hazards and (6) provisions for alternative vehicular access and escape routes when normal routes are blocked or destroyed by mudslides (i.e., mudflow);

(i) The means for assuring consistency between state, areawide, and local comprehensive plans with the plans developed for mudslide (i.e., mudflow)-prone areas;

(j) Deterring the nonessential installation of public utilities and public facilities in mudslide (i.e., mudflow)-prone areas.

### § 1910.24 Planning considerations for flood-related erosion-prone areas.

The planning process for communities identified under Part 1915 of this subchapter as containing Zone E or which indicate in their applications for flood insurance coverage pursuant to § 1909.22 of this subchapter that they have flood-related erosion areas should include—

(a) The importance of directing future developments to areas not exposed to flood-related erosion;

(b) The possibility of reserving flood-related erosion-prone areas for open space purposes;

(c) The coordination of all planning for the flood-related erosion-prone areas with planning at the State and Regional levels, and with planning at the level of neighboring communities;

(d) Preventive action in E zones, including setbacks, shore protection works, relocating structures in the path of flood-related erosion, and community acquisition of flood-related erosion-prone properties for public purposes;

(e) Consistency of plans for flood-related erosion-prone areas with comprehensive plans at the state, regional and local levels.

### § 1910.25 State coordination.

(a) State participation in furthering the objectives of this part should include:

(1) Encouraging and assisting communities in qualifying for participation in the Program;

(2) Enacting where necessary, legislation to enable counties and municipalities to regulate flood, mudslide (i.e., mudflow) and flood-related erosion area development;

(3) Designating an agency of the State government to be responsible for coordinating Federal, State, and local aspects of flood plain, mudslide (i.e., mudflow) area and flood-related erosion area management activities in the State;

(4) Assisting in the delineation of flood-related erosion areas, mudslide (i.e., mudflow) areas, riverine floodways, and coastal high hazard areas, and providing all relevant technical data to the Administrator;

(5) Establishing minimum State flood plain, mudslide (i.e., mudflow) and flood-related erosion regulatory standards consistent with those established in this Part;

(6) Guiding and assisting municipal and county public bodies and agencies in developing flood plain, mudslide (i.e., mudflow) and flood-related erosion area management plans and flood plain management regulations;

(7) Recommending priorities for ratemaking studies among those communities of the State which qualify for such studies;

(8) Communicating flood plain, mudslide (i.e., mudflow) and flood-related erosion area information to local governments and to the general public;

(9) Participating in flood, mudslide (i.e., mudflow) and flood-related erosion warning and emergency preparedness programs;

(10) Assisting communities in disseminating information on minimum elevations for structures permitted in flood plain areas having special hazards, and in disseminating other information relating to mudslide (i.e., mudflow) and flood-related erosion areas having special hazards;

(11) Advising public and private agencies (particularly those whose activities or projects might obstruct drainage or the flow of rivers or streams or increase slope instability) on the avoidance of unnecessary aggravation of flood, mudslide (i.e., mudflow) and flood-related erosion hazards;

(12) Requiring that proposed uses of flood plain, mudslide (i.e., mudflow) and flood-related erosion areas conform to standards established by State environmental and water pollution control agencies to assure that proper safeguards are being provided to prevent pollution during periods of flooding;

(13) Providing local communities with information on the Program, with particular emphasis on the coordination of State and Federal requirements pertaining to the management of flood-prone, mudslide (i.e., mudflow)-prone, and flood-related erosion-prone areas;

(14) Assuring coordination and consistency of flood plain management and planning with comprehensive planning at the state, areawide and local levels;

(15) Amending state recording acts so that the following may be recorded for the public's knowledge: (i) a parcel of land and/or a structure is located within a flood-prone, mudslide (i.e., mudflow) and/or flood-related erosion prone area and (ii) a variance has been granted for building at an elevation below the base flood level, thereby resulting in increased premium rates for flood insurance under the Program.

(16) Assuring coordination between its State Coordinating Agency and any State office established to supervise state participation in the Coastal Zone Management Program;

(17) Providing notification to the Administrator in the event a participating community violates the Program's requirements;

(18) Assuring coordination efforts in the event a dispute over enactment and administration of flood plain management regulations arises between communities.

(b) For States whose flood plain, mudslide (i.e., mudflow) area and flood-related erosion area management program substantially encompass the activities described in paragraph (a) of this Section, the Administrator shall:

(1) Give special consideration to State priority recommendations before selecting communities for ratemaking studies from the register described in § 1909.23 of this subchapter;

(2) Accept State approved and certified local flood plain management regulations as meeting the requirements of this Part.

### § 1910.26 Local coordination.

(a) Local flood plain, mudslide (i.e., mudflow) and flood-related erosion area management, forecasting, emergency preparedness, and damage abatement programs should be coordinated with relevant Federal, State, and regional programs;

(b) A community adopting flood plain management regulations pursuant to these criteria should coordinate with the appropriate State agency to promote public acceptance and use of effective flood plain, mudslide, (i.e., mudflow) and flood-related erosion regulations;

(c) A community should notify adjacent communities prior to substantial commercial developments and large subdivisions to be undertaken in areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards.

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## PART 1911—INSURANCE COVERAGE AND RATES

Sec.


1911.1 Purpose of Part.
1911.2 Definitions.
1911.3 Types of coverage.
1911.4 Limitations on coverage.
1911.5 Special terms and conditions.
1911.6 Maximum amounts of coverage available.
1911.7 Risk premium rate determinations.
1911.8 Applicability of risk premium rates.
1911.9 Establishment of chargeable rates.
1911.10 Minimum premiums.
1911.11 Adding coverage while policy is in force.
1911.12 Rates based on a flood protection system involving Federal funds.


AUTHORITY: Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); Sec. 1306, 82 Stat. 575; 42 U.S.C. 4013.

### § 1911.1 Purpose of Part.

This Part describes the types of properties eligible for flood insurance coverage under the Program, the limits of such coverage, and the premium rates actually to be paid by insureds. The specific communities eligible for coverage are designated by the Administrator from time to time as applications are approved under the emergency program and as ratemaking studies of communities are completed prior to the regular program. Lists of such communities are periodically published under Part 1914 of this subchapter.

§ 1911.2 Definitions.

The definitions set forth in Part 1909 of this subchapter are applicable to this Part.

§ 1911.3 Types of coverage.

Insurance coverage under the Program is available for structures and their contents. Coverage for each may be purchased separately. One policy to provide insurance for more than one structure is not available under the Program.

§ 1911.4 Limitations on coverage.

(a) All flood insurance made available under the Program is subject:

(1) To the Act, the Amendments thereto, and the Regulations issued under the Act;

(2) To the terms and conditions of the Standard Flood Insurance Policy, which shall be approved by the Administrator for substance and form, and is subject to interpretation by the Administrator as to scope of coverage pursuant to the applicable statutes and regulations;

(3) To the specified limits of coverage set forth in the Application and Declarations page of the policy; and

(4) To the maximum limits of coverage set forth in § 1911.6.

(b) Insurance under the Program is available only for loss due to flood, as defined in § 1909.1 of this subchapter. The policy covers damage from a general condition of flooding in the area which results from other than natural causes, such as the breaking of a dam, but does not cover damage which results from causes on the insured's own property or within his control or from any condition which causes damage, which condition is substantially confined to the insured's premises or properties immediately adjacent thereto.

(c) The policy does not cover losses from rain, snow, sleet, hail, or water spray that do not result in a general condition of flooding. It covers losses from freezing or thawing, or from the pressure of weight of ice and water, only where they occur simultaneously with and as a part of flood damage. It covers losses from mudslide (i.e., mudflow) but does not cover damage from landslides or from earthquakes or similar earth movements which are volcanic or tectonic in origin. The policy does not cover erosion which is not flood-related, claims resulting from occurrences already in progress at the time of the inception date of the term of the policy, or losses caused by land slippage rather than mudslide (see definition of mudslide/mudflow in § 1909.1 of this subchapter). Damage by seepage and sewer backup may be covered only when directly resulting from a flooding situation. Abnormal erosion caused by high water levels accompanied by violent wave action along a lake or other body of water is considered a flood (see definition of flood-related erosion in § 1909.1 of this subchapter). However, there is no coverage where normal, continuous wave action, accompanied by erosion or the gradual and anticipated wearing away of the land is the proximate cause of property damage.

(d) The policy protects against loss to contents only at the location described in the application, except that contents necessarily removed from the premises for preservation from a flood are protected against loss or damage from flood at the new location pro rata for a period of 30 days.

§ 1911.5 Special terms and conditions.

(a) No new flood insurance or renewal of flood insurance policies shall be written for properties declared by a duly constituted State or local zoning or other authority to be in violation of any flood plain, mudslide (i.e. mudflow) or flood-related erosion area management or control law, regulation, or ordinance.

(b) In order to reduce the administrative costs of the Program, of which the Federal Government pays a major share, payment of the full policyholder premium must be made at the time of application.

(c) Because of the seasonal nature of flooding, refunds of premiums upon cancellation of coverage by the insured are permitted only on the termination of an ownership interest in the covered property at the location described in the policy. Refunds of premiums for any other reason are subject to the conditions set forth in § 1912.5 of this subchapter.

(d) Each loss sustained by the insured is subject to a deductible provision under which the insured bears a portion of the loss before payment is made under the policy. The amount of the deductible for each loss occurrence is (1) for structural losses, $200 or 2 percent of the amount of the loss applicable to the structure, whichever is greater, and (2) for contents losses, $200 or 2 percent of the amount of the loss applicable to the contents, whichever is greater.

(e) Payment for a loss under the policy does not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate flood occurrence, but all losses arising out of a continuous or protracted occurrence are deemed to have arisen out of a single occurrence.

(f) The insured may apply an amount not to exceed 10 percent of the limit of liability for structural coverage on residential property to appurtenant structures and outbuildings (such as carports, garages, and guest houses).

(g) The following property and contents for residential structures are not insurable under the Program:

(1) Accounts, bills, currency, deeds, evidence of debt, money, securities, bullion, manuscripts or other valuable papers or records, and coins or stamps;

(2) Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water; or personal property in the open;

(3) Land values, lawns, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways and other paved or poured surfaces outside the foundation walls of the structure;

(4) Animals, birds, fish, aircraft, motor vehicles including parts and equipment (other than motorized equipment pertaining to the service of the premises and not licensed for highway use), trailers on wheels, watercraft including their furnishings and equipment; or business property.

(h) The following property and contents for nonresidential structures are not insurable under the Program:

(1) Accounts, bills, currency, deeds, evidence of debt, money, securities, bullion, manuscripts or other valuable papers or records, and coins or stamps;

(2) Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water; personal property in the open;

(3) Land values, lawns, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways and other paved or poured surfaces outside the foundation walls of the structures;

(4) Automobiles including parts and equipment, any self-propelled vehicle or machine, except motorized equipment not licensed for use on public thoroughfares and operated principally on the premises of the insured; watercraft or aircraft.

(i) The policy on an eligible property may be cancelled by the insurer only for nonpayment of premium. However, any willful misrepresentation or concealment of any material fact by the insured at any time voids the entire policy as of the date the wrongful act was committed, but does not affect coverage prior to the date of the wrongful act.

(j) The Standard Flood Insurance Policy is authorized only under terms and conditions established by Federal statute, the Program's regulations, the Administrator's interpretations and the express terms of the policy itself. Accordingly, representations regarding the extent and scope of coverage which are not consistent with the National Flood Insurance Act of 1968, as amended, or the Program's regulations, are void. The duly licensed property or casualty agent is considered a producer for the insured and does not act as agent for the Federal Government, the Association or the Servicing Company, except that in any case where a claimant shall establish that the absence of coverage for a loss sustained by him resulted solely from the producer's negligent or fraudulent failure to transmit to the servicing company the insurance premium paid seasonably and in the appropriate amount by the claimant to such producer, the Administrator may, in order to prevent an inequity, direct the National Flood Insurers Association to pay the loss the same as though such premium had in fact been received by it in return for an assignment by the claimant of all of his rights against the producer.

§ 1911.6 Maximum amounts of coverage available.

(a) Except in Alaska, Hawaii, the Virgin Islands, and Guam, the maximum limits of coverage of the policy under the regular program are the following,

and under the emergency program are one-half the following:

(1) For structures used for residential purposes, designed for the occupancy of a single family (including townhouses or row houses), and customarily regarded as separate structures which are either separated from other structures by standard firewalls or open space:

(i) $70,000 structural coverage.

(ii) $20,000 contents coverage, which may be purchased by the owner or the tenant.

(2) For dwelling properties containing more than one dwelling unit:

(i) $200,000 aggregate structural coverage.

(ii) $20,000 aggregate per unit contents coverage.

(b) In Alaska, Hawaii, the Virgin Islands, and Guam the maximum limits of coverage under the regular program are the following, and under the emergency program are one-half the following:

(1) For structures used for residential purposes, designed for the occupancy of a single family (including townhouses or row houses), and customarily regarded as separate structures which are either separated from other structures by standard firewalls or open space:

(i) $100,000 structural coverage

(ii) $20,000 contents coverage, which may be purchased by the owner or the tenant.

(2) For dwelling properties containing more than one dwelling unit:

(i) $300,000 aggregate structural coverage.

(ii) $20,000 contents coverage for each unit, which may be purchased by the owner or the tenant;

(c) The maximum limits of coverage of the policy for all other properties under the regular program are the following, and under the emergency program are one-half the following:

(1) $200,000 aggregate structural coverage for any single structure,

(2) $200,000 contents coverage for each unit, which may be purchased by the owner or the tenant.

### § 1911.7 Risk premium rate determinations.

(a) Pursuant to section 1307 of the Act, the Administrator is authorized to undertake studies and investigations to enable him to estimate the risk premium rates necessary to provide flood insurance in accordance with accepted actuarial principles, including applicable operating costs and allowances. Such rates are also referred to in this subchapter as "actuarial rates."

(b) The Administrator is also authorized to prescribe by regulation the rates which can reasonably be charged to insureds in order to encourage them to purchase the flood insurance made available under the Program. Such rates are referred to in this subchapter as "chargeable rates." Generally, for areas having special flood, mudslide (i.e., mudflow), and flood-related erosion hazards, chargeable rates are considerably lower than actuarial rates.

### § 1911.8 Applicability of risk premium rates.

Risk premium rates are applicable to all flood insurance made available for:

(a) Any structure, the construction or substantial improvement of which was started after December 31, 1974 or on or after the effective date of the initial FIRM, whichever is later.

(b) Coverage which exceeds the following limits:

(1) For dwelling properties in States other than Alaska, Hawaii, the Virgin Islands, and Guam (i) $35,000 aggregate liability for any property containing only one unit, (ii) $100,000 for any property containing more than one unit, and (iii) $10,000 liability per unit for any contents related to such unit.

(2) For dwelling properties in Alaska, Hawaii, the Virgin Islands, and Guam (i) $50,000 aggregate liability for any property containing only one unit, (ii) $150,000 for property containing more than one unit, and (iii) $10,000 aggregate liability per unit for any contents related to such unit.

(3) For all other properties (i) $100,000 for the structure and (ii) $100,000 for contents of any such unit.

(c) Any structure or the contents thereof for which the chargeable rates prescribed by this Part would exceed the risk premium rates.

### § 1911.9 Establishment of chargeable rates.

(a) Pursuant to section 1308 of the Act, chargeable rates per year per $100 of flood insurance are established as follows for all areas designated by the Administrator under Part 1914 of this subchapter for the offering of flood insurance:

*Rates for new and renewal policies*

| Type of structure | Rate per year per $100 coverage on structure | Rate per year per $100 coverage on contents |
|---|---|---|
| (1) Residential | $0.25 | $0.35 |
| (2) All other (including hotels and hotels with normal occupancy of less than 6 mo in duration) | .40 | .75 |

(b) The contents rate shall be based upon the use of the individual premises for which contents coverage is purchased.

### § 1911.10 Minimum premiums.

The minimum premium required for any policy, regardless of the amount of coverage, is $25. The minimum premium required for any added coverage or increase in the amount of coverage during the term of an existing policy is $4, regardless of the unexpired term of the policy at the time of the change.

### § 1911.11 Adding coverage while policy is in force.

(a) Adding new coverage or increasing the amount of coverage in force is permitted during any policy term.

(b) The additional premium for additional coverage or an increase in the amount of coverage shall be calculated pro rata in accordance with the rates currently in force, with a minimum premium of $4.

(c) The effective date and time of any new or added coverage, or of any increase in the amount of coverage, shall be 12:01 am (standard time) of the 16th calendar day after the date of the application, provided that this waiting period is waived during the 30 day period following both the date of initial community eligibility in the emergency and regular programs.

### § 1911.12 Rates based on a flood protection system involving Federal funds.

(a) Where the Administrator determines that a community has made adequate progress on the construction of a flood protection system involving federal funds which will significantly limit the area of special flood hazards, the applicable risk premium rates for any property, located within a special flood hazard area intended to be protected directly by such system will be those risk premium rates which would be applicable when the system is complete.

(b) Adequate progress in paragraph (a) of this section means that the community has provided information to the Administrator sufficient to determine that substantial completion of the flood protection system has been effected because:

(1) 100 percent of the total financial project cost of the completed flood protection system has been authorized;

(2) At least 60 percent of the total financial project cost of the completed flood protection system has been appropriated;

(3) At least 50 percent of the total financial project cost of the completed flood protection system has been expended;

(4) The flood protection system's physical features are under construction and 50 percent completed as measured by the actual expenditure of the estimated construction budget funds; and

(5) The community has not been responsible for any delay in the completion of the system.

(c) Each request by a community for a determination must be submitted in writing to the Engineering Division, Office of Flood Insurance, Federal Insurance Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, and contain a complete statement of all relevant facts relating to the flood protection system, including, but not limited to, supporting technical data (e.g., U.S. Army Corps of Engineers flood protection project data), cost schedules, budget appropriation data and the extent of federal funding of the system's construction. Such facts shall include information sufficient to identify all persons affected by such flood protection system or by such request: a full and precise statement of intended purposes of the flood protection system; and a

carefully detailed description of such project, including construction completion target dates. In addition, true copies of all contracts, agreements, leases, instruments, and other documents involved must be submitted with the request. Relevant facts reflected in documents, however, must be included in the statement and not merely incorporated by reference, and must be accompanied by an analysis of their bearing on the requirements of paragraph (b) of this section, specifying the pertinent provisions. The request must contain a statement whether, to the best of the knowledge of the person responsible for preparing the application for the community, the flood protection system is currently the subject matter of litigation before any Federal, State or local court or administrative agency, and the purpose of that litigation. The request must also contain a statement as to whether the community has previously requested a determination with respect to the same subject matter from the Administrator, detailing the disposition of such previous request. As documents become part of the file and cannot be returned, the original documents should not be submitted.

(d) The effective date for any risk premium rates established under this section shall be the date of final determination by the Administrator that adequate progress toward completion of a flood protection system has been made in a community.

(e) A responsible official of a community which received a determination that adequate progress has been made towards completion of a flood protection system shall certify to the Administrator annually on the anniversary date of receipt of such determination that no present delay in completion of the system is attributable to local sponsors of the system, and that a good faith effort is being made to complete the project.

(f) A community for which risk premium rates have been made available under section 1307(e) of the National Flood Insurance Act of 1968, as amended, shall notify the Administrator if, at any time, all progress on the completion of the flood protection system has been halted or if the project for the completion of the flood protection system has been canceled.

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## PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

### Subpart A—Issuance of Policies


Sec.
1912.1 Purpose of Part.
1912.2 Definitions.
1912.3 National Flood Insurers Association.
1912.4 Limitations on sale of policies.
1912.5 Premium refund.
1912.6 Minimum commissions.
1912.7 Servicing companies.
1912.8 Notice to policyholders.


### Subpart B—Claims Adustmcnt and Judicial Review


1912.21 Claims adjustment.
1912.22 Judicial review.


AUTHORITY: Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); Sec. 1306, 82 Stat. 575; 42 U.S.C. 4013.

### Subpart A—Issuance of Policies

#### § 1912.1 Purpose of Part.

The purpose of this Part is to set forth the manner in which flood insurance under the Program is made available to the general public in those communities designated as eligible for the sale of insurance under Part 1914 of this subchapter, and to prescribe the general method by which the Administrator exercises his responsibility regarding the manner in which claims for losses are paid.

#### § 1912.2 Definitions.

The definitions set forth in Part 1909 of this subchapter are applicable to this Part.

#### § 1912.3 National Flood Insurers Association.

(a) Pursuant to sections 1331 and 1332 of the Act, the Administrator has entered into the Agreement with the Association to authorize it to sell flood insurance under the Program in communities designated by the Administrator and to accept responsibility for delivery of policies and payment of claims for losses as prescribed by and at the discretion of the Administrator.

(b) Membership in the Association shall be open to any insurance company or other insurer which—

(1) Has a license or certificate of authority to transact insurance business under the laws of any State;

(2) Has total admissible assets of at least $1 million;

(3) Agrees to assume a minimum net loss liability of $25,000 under policies of insurance issued in the name of the Association for each accounting period of membership;

(4) Pays an admission fee equal to $50 for each $25,000 of participation; and

(5) Agrees to such other reasonable conditions as the Administrator or, subject to the approval of the Administrator, as the Association may prescribe.

(c) No insurer shall be admitted to membership in the Association for a term less than a full accounting period, nor subsequent to the beginning of any accounting period as defined in § 1909.1 of this subchapter.

(d) Under the Agreement, any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization desiring to cooperate with the Association as fiscal agent or otherwise, is permitted to do so to the maximum extent practicable. The Association will use its best efforts to arrange for the issuance of flood insurance to any person qualifying for such coverage under Parts 1911 and 1914 of this subchapter who submits an application to the Association in accordance with the terms and conditions of the Agreement.

(e) Communications concerning membership and cooperation with the association, and its operations, should be directed to the National Flood Insurers Association, 1755 South Jefferson Davis Highway, Suite 1102, Arlington, Virginia 22202, (703–920–8830).

#### § 1912.4 Limitations on sale of policies.

(a) Each member of the insurance pool (i.e., the Association) authorized by 42 U.S.C. 4051–56 offering flood insurance under the Program shall be deemed to have agreed, as a condition of pool membership that it shall not offer flood insurance under any authority or auspices in any amount within the maximum limits of coverage specified in § 1911.6 of this subchapter, in any area the Administrator designates in Part 1914 of this subchapter as eligible for the sale of flood insurance under the Program, other than in accordance with this Part, the Agreement, and the Standard Flood Insurance Policy. Violation of this condition shall, at the discretion of the Administrator, exclude the violator from any further membership in or cooperation with the Association or the Program. Notwithstanding any other section of these regulations, any insurer, including members of the Association, authorized by a State insurance commissioner and on the National Association of Insurance Commissioners' Approved List may sell insurance in excess of the limits of coverage under the Standard Flood Insurance Policy.

(b) The agreement and all activities thereunder are subject to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and to the applicable Federal regulations and requirements issued from time to time pursuant thereto. No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination under the Program, on the ground of race, color, sex, creed or national origin. Any complaint or information concerning the existence of any such unlawful discrimination in any matter within the purview of this Part should be referred to the Administrator.

#### § 1912.5 Premium refund.

A Standard Flood Insurance Policyholder whose property has been determined not to be in a special hazard area after the map revision or a Letter of Map Amendment under Part 1920 of this subchapter may cancel the policy within the current policy year provided (a) he was required to purchase or to maintain flood insurance coverage, or both, as a condition for financial assistance, and (b) his property was located in an identified special hazard area as represented on an effective FHBM or FIRM when the financial assistance was provided. If no claim under the policy has been paid or is pending, the full premium shall be refunded for the current policy year, and for an additional policy year where the insured had been required to renew the policy during the period when a revised map was being reprinted.

#### § 1912.6 Minimum commissions.

The earned commission which shall be paid to any property or casualty insurance agent licensed in the state in which the insured property is located with respect to each policy or renewal he duly procures for an eligible purchaser shall not be less than $10. Any refunds of premiums authorized under this subchapter

shall not affect a previously earned commission, and no agent shall be required to return that earned commission. In the event of a premium refund because a policy has been canceled as a result of a map revision or Letter of Map Amendment, the Administrator shall reimburse the Association for the amount of the agent's previously earned commission.

§ 1912.7 Servicing companies.

The following servicing entities have been designated to act as servicing companies for the Association in the areas indicated:

SERVICING COMPANIES

ALABAMA

The Hartford Insurance Group, The Hartford Building, 100 Edgewood Avenue, Atlanta, Georgia 30301, (404) 521–2059.

ALASKA

Industrial Indemnity Company of Alaska, P.O. Box 307, Anchorage, Alaska 99510, (907) 279–9441.

ARIZONA

Aetna Technical Services, Inc., 3225 North Central Avenue, Phoenix, Arizona 85012, (602) 264–2621.

ARKANSAS

The Travelers Indemnity Company, 700 South University, P.O. Box 51, Little Rock, Arkansas 72203, (501) 644–5085.

CALIFORNIA (NORTHERN)

Fireman's Fund American Insurance Co., P.O. Box 3136, San Francisco, California 94119, (415) 421-1676.

CALIFORNIA (SOUTHERN)

Fireman's Fund American Insurance Co., P.O. Box 2323, Los Angeles, California 90051, (213) 381–3141.

COLORADO

CNA Insurance, 1660 Lincoln Street-Suite 1800, Denver, Colorado 80203, (303) 861–0561.

CONNECTICUT

Aetna Insurance Company, P.O. Box 1779, Hartford, Connecticut 06101, (203) 523–4861.

D.C.—DISTRICT OF COLUMBIA

(See Virginia)

DELAWARE

General Accident F&L Assurance Corp., Ltd. 414 Walnut Street, Philadelphia, Pennsylvania 19106, (215) 238–5512.

FLORIDA

The Travelers Indemnity Company, 1516 East Colonial Drive, Orlando, Florida 32803, (305) 896–2001.

GEORGIA

The Hartford Insurance Group, The Hartford Building, 100 Edgewood, Avenue, Atlanta, Georgia 30301, (404) 521–2059.

HAWAII

First Insurance Co. of Hawaii, Ltd., P.O. Box 2866, Honolulu, Hawaii, 96803, (808) 548–5511.

IDAHO

Aid Insurance Company, Snake River Division, 1845 Federal Way, Boise, Idaho 83701, (208) 343-4931.

ILLINOIS

State Farm Fire & Casualty Company, 2309 East Oakland Avenue, Blomington, Illinois 61709, (309) 557–7211.

INDIANA

American States Insurance Company, 500 North Meridian Street, Indianapolis, Indiana 46204, (317) 262–6696.

IOWA

Employers Mutual Casualty Company, P.O. Box 884, Des Moines, Iowa 50304, (515) 280–2511.

KANSAS

Royal-Globe Insurance Companies, 1125 Grand Avenue, Kansas City, Missouri 64141 (816) 842–6116.

KENTUCKY

CNA Insurance, 580 Walnut Street, Suite 1000, Cincinnati, Ohio 45202, (513) 579–9000.

LOUISIANA

Aetna Technical Services, Inc., P.O. Box 61003, New Orleans, Louisiana 70160, (504) 821–3626.

MAINE

Commercial Union Assurance Company, c/o Campbell, Payson & Noyes, 27 Pearl Street, Box 527 Pearl Street Station, Portland, Maine 04116, (207) 774–1431.

MARYLAND

U.S. Fidelity & Guaranty Company, P.O. Box 1138, Baltimore, Maryland 21203 (301) 547–3000.

MASSACHUSETTS (EASTERN)

Commercial Union Assurance Company, 1 Beacon Street, Boston, Massachusetts 02108, (617) 725–6128.

MASSACHUSETTS (WESTERN)

Aetna Insurance Company, P.O. Box 1779, Hartford, Connecticut 06101, (203) 523–4861.

MICHIGAN

Insurance Company of North America, 900 Tower Drive, Troy, Michigan 48084, (313) 879–5250, (313) 879–5254.

MINNESOTA (EASTERN)

The St. Paul Companies, 60 E. Marie Avenue, West St. Paul, Minnesota 55118 (612) 455–6600.

MINNESOTA (WESTERN)

The St. Paul Companies, 7900 Xerxes Avenue, South Minneapolis, Minnesota 55431, (612) 835–2600.

MISSISSIPPI

The Travelers Indemnity Company, 5360 Interstate 55 North, P.O. Box 2361, Jackson, Mississippi 39205.

MISSOURI (EASTERN)

MFA Insurance Company, 1817 West Broadway, Columbia, Missouri 65201, (314) 445–8441.

MISSOURI (WESTERN)

Royal-Globe Insurance Company, 1125 Grand Avenue, Kansas City, Missouri 64141, (816) 842–6116.

MONTANA

The Home Insurance Company, 8 Third Street, North, P.O. Box 1031, Great Falls, Montana 59401, (406) 761–8110.

NEBRASKA

Royal-Globe Insurance Company, 1125 Grand Avenue, Kansas City, Missouri 64141, (816) 842–6116.

NEVADA

The Hartford Insurance Group, P.O. Box 500, Reno, Nevada 89504, (702) 329–1061.

NEW HAMPSHIRE

Commercial Union Assurance Company, 1 Beacon Street, Boston, Massachusetts 02108, (617) 725–6128.

NEW JERSEY

Great American Insurance Company, 5 Dakota Drive, Lake Success, New York 11040, (201) 224–4200.

NEW MEXICO

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colorado 80203, (303) 861–0561.

NEW YORK

Great American Insurance Company, 5 Dakota Drive, Lake Success, New York 11040, (516) 775–6900.

NORTH CAROLINA

Kemper Insurance, 1229 Greenwood Cliff, Charlotte, North Carolina 28204, (704) 372–7150.

NORTH DAKOTA

The St. Paul Companies, The Hamm Building—Room 254, 408 St. Peter Street, St. Paul, Minnesota 55102, (612) 227–9581.

OHIO (NORTHERN)

Commercial Union Insurance Company, 1300 East 9th Street, Cleveland, Ohio 44114, (216) 522–1060.

OHIO (SOUTHERN)

CNA Insurance, 580 Walnut Street, Suite 1000, Cincinnati, Ohio 45202, (513) 579–9000.

OKLAHOMA

Republic Vanguard Insurance Co., P.O. Box 3000, Dallas, Texas 75221, (214) 528–0301.

OREGON

State Farm Fire & Casualty Company, 4600 25th Avenue, N.E., Salem, Oregon 97303, (503) 393–0101.

PENNSYLVANIA

General Accident F&L Assurance Corp., Ltd., 414 Walnut Street, Philadelphia, Pennsylvania 19106, (215) 238–5512.

PUERTO RICO

Commonwealth Insurance Company, P.O. Box S–4471, San Juan, Puerto Rico 00905, (809) 725–5430.

RHODE ISLAND

American Universal Insurance Company, 144 Wayland Avenue, Providence, Rhode Island 02904, (401) 351–4600.

SOUTH CAROLINA

Maryland Casualty Company, P.O. Box 11615, Charlotte, North Carolina 28209, (704) 525–8330.

SOUTH DAKOTA

The St. Paul Companies, The Hamm Building—Room 254, 408 St. Peter Street, St. Paul, Minnesota 55102, (612) 227–9581.

TENNESSEE

CNA Insurance, P.O. Box 410, 1101 Kermit Drive, Nashville, Tennessee 37217, (615) 256–3350.

TEXAS

The Home Insurance Company, 2100 Travis Street, Houston, Texas 77002, (713) 659–7525.

UTAH

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colorado 80203, (303) 861–0561.

VERMONT

Commercial Union Assurance Company, 1 Beacon Street, Boston, Massachusetts 02108, (617) 725–6128.

VIRGINIA

Insurance Company of North America, 5225 Wisconsin Avenue, NW., Washington, D.C. 20015, (202) 244–2000.

WASHINGTON

Firemen's Fund American Insurance Co., 1000 Plaza—Building 600, 6th and Stewart, Seattle, Washington 98101, (206) 587–3200.

WEST VIRGINIA

U.S. Fidelity & Guaranty Company, 3324 McCorkle Avenue, SE., Charleston, West Virginia 25304, (304) 344–1692.

WISCONSIN

Aetna Insurance Company, 5735 East River Road, Chicago, Illinois 60631, (312) 693–2500.

WYOMING

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colorado 80203, (303) 861–0561.

VIRGIN ISLANDS

(See Puerto Rico)

**§ 1912.8 Notice to policyholders.**

(a) Each member of the insurance pool (i.e. the Association) offering flood insurance pursuant to the National Flood Insurance Program (42 U.S.C. 4001–4128) shall provide a notice in all flood insurance policies issued and renewed as of January 15, 1977, containing the following information:

(1) Authority for issuance of policy.

(2) Servicing Company's name, address and toll free telephone number.

(3) Federal Insurance Administrator's address and toll free telephone number.

(b) Compliance with the requirements of paragraph (a) of this section will be satisfied provided the member of the insurance pool (i.e. the Association, complies with a format of notice as designated by the Administrator; and such notice shall, as a minimum, include the following information employing the same terms or substantially similar terms subject to prior approval by the Administrator:

DEAR POLICYHOLDER: The attached Standard Flood Insurance Policy or its renewal, has been issued pursuant to the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001–4128), by the National Flood Insurers Association in cooperation with the Federal Insurance Administration of the United States Department of Housing and Urban Development and is generally serviced by the

_____
Name

The _____ or your insurance agent
Name

will assist you if you need to report a loss or if you have any questions pertaining to the premium charged or the scope of the coverage afforded under the policy. In addition, the Federal Insurance Administration (FIA) is ready to be of assistance to you in these matters, if we or your agent cannot help you. Moreover, since the National Flood Insurance Program is intended to provide you with the highest caliber of service, FIA would welcome any suggestions you may have for improving the Program.

Please do not hesitate to write for assistance to:

Federal Insurance Administrator, Department of Housing and Urban Development, Washington, D.C. 20410, Telephone No. 800–424–8872 or 800–424–8873.

## Subpart B—Claims Adjustment and Judicial Review

**§ 1912.21 Claims adjustment.**

(a) In accordance with the Agreement, the Association shall arrange for the prompt adjustment and settlement of all claims arising from policies of insurance issued under the program. Investigation of such claims may be made though the facilities of its members, nonmember insurers, or insurance adjustment organizations, to the extent required and appropriate for the expeditious processing of such claims. Settlements made and loss adjustment expenses incurred shall, subject to audit, be binding on the Administrator, barring a prior objection by the Administrator to the loss payment made or expense incurred.

(b) All adjustment of losses and settlements of claims shall be made in accordance with the terms and conditions of the policy and Parts 1911 and 1912 of this subchapter.

**§ 1912.22 Judicial Review.**

Upon the disallowance by the Association or its agent of any claim on grounds other than failure to file a proof of loss, or upon the refusal of the claimant to accept the amount allowed upon any such claim, after appraisal pursuant to policy provisions, the claimant within one year after the date of mailing by the Association or its agent of the notice of disallowance or partial disallowance of the claim may, pursuant to 42 U.S.C. 4053, institute an action on such claim against the Association, only in the U.S. District Court for the district in which the insured property or the major portion thereof shall have been situated, without regard to the amount in controversy.

## PART 1913—[RESERVED]

## PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Sec.

1914.1 Purpose of part.
1914.2 Definitions.
1914.3 Flood insurance maps.
1914.4 Effect on community eligibility resulting from boundary changes, governmental reorganization, etc.
1914.5 Relationship of rates to zone designations.
1914.6 List of eligible communities.

AUTHORITY: Sec. 7(b), 79 Stat. 670; 42 U.S.C. 3535(d); Sec. 1361, 82 Stat. 587; 42 U.S.C. 4102.

**§ 1914.1 Purpose of Part.**

(a) 42 U.S.C. 4012(c), 4022, and 4102 require that flood insurance in the maximum limits of coverage under the regular program shall be offered in communities only after the Administrator has (1) identified the areas of special flood, mudslide (i.e., mudflow) or flood-related erosion hazards within the community under Part 1915 of this subchapter; and/or (2) completed a risk study for the applicant community. A period of 15 years ending July 31, 1983, was allotted for this purpose. The priorities for conducting such risk studies are set forth in §§ 1909.23 and 1910.25 of this subchapter. A purpose of this Part is periodically to list those communities in which the sale of insurance under the regular program has been authorized.

(b) 42 U.S.C. 4056 authorizes an emergency implementation of the National Flood Insurance Program whereby, for a period ending on September 30, 1977, the Administrator may make subsidized coverage available to eligible communities prior to the completion of detailed risk studies for such areas. This Part also describes procedures under the emergency program and lists communities which become eligible under that program.

**§ 1914.2 Definitions.**

The definitions set forth in Part 1909 of this subchapter are applicable to this Part.

**§ 1914.3 Flood Insurance Maps.**

(a) The following maps may be prepared by the Administrator for use in connection with the sale of flood insurance:

(1) Flood Insurance Rate Map (FIRM): This map is prepared after the risk study for the community has been completed and the risk premium rates have been established. It indicates the risk premium rate zones applicable in the community and when those rates are effective. The symbols used to designate those zones are as follows:

| Zone symbol: | |
|---|---|
| A | Area of special flood hazard without water surface elevations determined. |
| A1–99 | Area of special flood hazard with water surface elevations determined. |
| A0 | Area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. |
| V1–30 | Area of special flood hazards, with velocity, that is inundated by tidal floods (coastal high hazard area). |
| V0 | Area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft and with velocity. |
| B | Area of moderate flood hazards. |
| C | Area of minimal hazards. |
| D | Area of undetermined but possible, flood hazards. |
| M | Area of special mudslide (i.e., mudflow) hazards. |

| *Zone symbol:* | |
|---|---|
| N | Area of moderate mudslide (i.e., mudflow) hazards. |
| P | Area of undetermined, but possible, mudslide hazards. |
| E | Area of special flood-related erosion hazards. |

Areas identified as subject to more than one hazard (flood, mudslide (i.e., mudflow), flood-related erosion) will be designated by use of the proper symbols in combination.

(2) Flood Hazard Boundary Map (FHBM). This map is issued by the Administrator delineating Zones A, M, and E within a community.

(b) Notice of the issuance of new or revised FHBMs or FIRMs is given in Part 1915 of this subchapter. The mandatory purchase of insurance is required within designated Zones A, A1–99, A0, V1–30, V0, M, and E.

(c) The FHBM or FIRM shall be maintained for public inspection at the following locations:

(1) The Information Office of the State agency or agencies designated by statute or the respective Governors to cooperate with the Administrator in implementing the Program whenever a community becomes eligible for Program participation and the sale of insurance pursuant to this section or is identified as flood-prone pursuant to Part 1915 of this subchapter;

(2) One or more official locations within the community in which flood insurance is offered, which shall be specified in Part 1915 of this subchapter at the time identification of the community as flood-prone is announced by publication in the FEDERAL REGISTER;

(3) The NFIA servicing company for the State or area (additional copies may be obtained from the appropriate servicing company) (See § 1912.7);

(4) The official record copy of each official map shall be maintained in FIA files in Washington, D.C.

### § 1914.4 Effect on community eligibility resulting from boundary changes, governmental reorganization, etc.

(a) When a community not participating in the Program acquires by means of annexation, incorporation, or otherwise, an area within another community participating in the Program, no new flood insurance shall be made available as of the effective date of annexation until the newly acquiring community participates in the Program. Until the effective date of participation, existing flood insurance policies remain in effect until the policy's date of expiration, but shall not be renewed.

(b) When a community participating in the Program acquires by means of annexation, incorporation, or otherwise, another area which was previously located in a community either participating or not participating in the Program, the community shall have six months from the date of acquisition to formally amend its flood plain management regulations in order to include all flood-prone areas within the newly acquired area. The amended regulations shall satisfy the applicable requirements in § 1910.3 of this subchapter based on the data previously provided by the Administrator. In the event that the newly acquired area was previously located in a community participating in the Program, the provisions of this section shall only apply if the community, upon acquisition, and pending formal adoption of the amendment to its flood plain management regulations, certifies in writing over the signature of a community official that within the newly acquired area the flood plain management requirements previously applicable in the area remain in force. In the event that the newly-acquired area was previously located in a community not participating in the Program, the provisions of the section shall only apply if the community, upon acquisition, and pending formal adoption of the amendments to its flood plain management regulations, certifies in writing over the signature of a community official that it shall enforce within the newly-acquired area the requirements of § 1910.3(b) of this subchapter. During the six month period, existing flood insurance policies shall remain in effect until their date of expiration, may be renewed, and new policies may be issued. Failure to satisfy the applicable requirements in § 1910.3 shall result in the community's suspension from Program participation pursuant to § 1909.24 of this subchapter.

(c) When an area previously a part of a community participating in the Program becomes autonomous or becomes a portion of a newly autonomous community resulting from boundary changes, governmental reorganization, changes in state statutes or constitution, or otherwise, such new community shall be given six months from the date of its independence to adopt flood plain management regulations within the special hazard areas subject to its jurisdiction and to submit its application for participation as a separate community in order to retain eligibility for the sale of flood insurance. The regulations adopted by such new community shall satisfy the applicable requirements in § 1910.3 of this subchapter based on the data previously provided by the Administrator. The provisions of this section shall only apply where the new community upon the date of its independence certifies in writing over the signature of a community official that, pending formal adoption of flood plain management regulations, the flood plain management requirements previously applicable in that area remain in effect. During the six month period, existing flood insurance policies shall remain in effect until their dates of expiration, may be renewed, and new policies may be issued. Failure to satisfy the applicable requirements in § 1910.3 of this subchapter shall result in the community's suspension from Program participation pursuant to § 1909.24 of this subchapter.

(d) Where any community or any area within a community had in effect a FHBM or FIRM, but all or a portion of that community has been acquired by another community, or becomes autonomous, that map shall remain in effect until it is superseded by the Administrator, whether by republication as part of the map of the acquiring community, or otherwise.

(e) When a community described in paragraph (a), (b), (c), or (d) of this section has flood elevations in effect, no new appeal period under Parts 1916, 1917, and 1918 of this subchapter will begin except as new scientific and technical data are available.

### § 1914.5 Relationship of rates to zone designations.

(a) In order to expedite a community's qualification for flood insurance under the emergency program, the Administrator may authorize the sale of such insurance without designating any Zones A, M, or E within a community, provided the community has previously adopted flood plain management regulations meeting the requirements of § 1910.3(a), § 1910.4 (a) or § 1910.5(a) of this subchapter. When the Administrator has obtained sufficient technical information to delineate Zones A, M, or E, he shall delineate the tentative boundaries on a FHBM.

(b) Upon the effective date of the FIRM, flood insurance will continue to be available throughout the entire community at chargeable rates (i.e., subsidized) for first layer coverage of existing structures, but will be only available at risk premium rates for all new construction and substantial improvements. Upon the effective date of a FIRM, second layer coverage is available only at risk premium rates for all structures.

(c) Detailed insurance information may be obtained from the servicing companies. See Part 1912 of this subchapter.

### § 1914.6 List of eligible communities.

The sale of flood insurance pursuant to the National Flood Insurance Program (42 U.S.C. 4001–4128) is authorized for the communities set forth under this section. Previous listings under this Part continue in effect until revised.

NOTE.—For references to FR pages showing lists of eligible communities see the List of CFR Sections Affected.

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## PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

Sec.


1915.1 Purpose of Part.
1915.2 Definitions.
1915.3 List of communities with special hazard areas (FHBM's in effect).
1915.4 List of communities with detailed engineering data (FIRM's).
1915.5 Requirement to submit new technical data.
1915.6 Administrative withdrawal of maps.


AUTHORITY: Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d), Sec. 1360, 82 Stat. 587, 42 U.S.C. 4101.

### § 1915.1 Purpose of part.

42 U.S.C. 4101 authorizes the Administrator to identify and publish information with respect to all areas within the

United States having special flood, mudslide (i.e., mudflow) and flood-related erosion hazards. The purpose of this Part is to list those communities that have been identified by the Administrator as having such special flood, mudslide (i.e., mudflow) or flood-related erosion hazards. Additional communities will be added to this list from time to time as the necessary information becomes available. This Part also provides a list of communities for which detailed engineering data in the form of water surface elevation data for the flood with one percent chance of being equalled or exceeded in any given year and the flood insurance rate zones for the special hazard areas within those communities has been made available. Additionally, this Part contains information concerning the revision of Flood Hazard Boundary Maps (FHBM's) or Flood Insurance Rate Maps (FIRM's), and notice of administrative withdrawal of special flood hazard maps (i.e., FHBM's or FIRM's).

### § 1915.2 Definitions.

The definitions set forth in Part 1909 of this subchapter are applicable to this Part.

### § 1915.3 List of communities with special hazard areas (FHBM's in effect).

NOTE.—For the list of communities and the designated A, M, and E zones issued under this Section and not carried in the Code of Federal Regulations, see the List of CFR Sections Affected.

### § 1915.4 List of communities with detailed engineering data (FIRM's).

(a) This section provides a cumulative list of communities for which the Administrator has published a FIRM, thereby usually providing water surface elevations for the special flood hazard area.

(b) The effective date of the most recent revision of the FIRM for the communities listed are entered as follows: 41 FR 26403.

### § 1915.5 Requirement to submit new technical data.

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. Within six months of the date that such information becomes available, a community shall notify the Administrator of the changes by submitting technical or scientific data in accordance with this paragraph. Such submission is necessary so that upon confirmation of those physical changes affecting flooding conditions risk premium rates and flood plain management requirements will be based upon current data.

(a) The Chief Executive Officer (CEO) of a community participating in the Program shall submit to the Administrator technical or scientific information indicating that the base flood elevations on the community's FIRM do not accurately reflect flood risks as they currently exist. Such information shall include, but not necessarily be limited to:

(1) A topographic map exhibiting ground elevation contours in greater detail than maps available at the time of the flood insurance study, or exhibiting topographic or ground elevation changes since the flood insurance study was performed; and

(2) Hydrologic data which has become available since the flood insurance study was performed, such as photographs or historical records of a major flooding occurrence or a flood study or information developed by an appropriate authoritative source, such as a Federal or State agency, a County Water Control District, and a County, City or private registered professional engineer. Hydrologic information shall be of sufficient detail so that the hydrologic computations may be evaluated by the Administrator; or

(3) Information about flood control projects, such as stream channelization, construction of new dams, reservoirs, artificial canals, private levees, or flood protection systems. Such information shall:

(i) Be submitted at least six months prior to the expected completion date of the project, and

(ii) Include a complete plan of the project with cross sections and dimensions, together with a detailed map of the affected area indicating changes in base flood elevations caused by construction of the project, and

(iii) Be reflected on the community's FIRM only after the project has been completed, except as may be provided in this subchapter.

(b) The technical and scientific information indicating changes in base flood elevations shall be submitted to:

Engineering Division, Office of Flood Insurance, Federal Insurance Administration, U.S. Dept. of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

(c) Upon receipt of the scientific or technical data, the Administrator shall (1) mail an acknowledgement to the CEO, and (2) notify the CEO within 90 days that:

(i) The base flood elevations on the effective FIRM are correct and shall not be modified; or

(ii) The flood elevations on the effective FIRM shall be modified, and new base flood elevations shall be established under the provisions of Part 1917 of this subchapter; or

(iii) An additional 90 days is required to evaluate the scientific or technical data submitted.

### § 1915.6 Administrative withdrawal of maps.

(a) Flood Hazard Boundary Maps (FHBM's). The following is a cumulative list of withdrawals pursuant to this Part: 40 FR 5149; 40 FR 17015; 40 FR 20798; 40 FR 46102; 40 FR 53579; 40 FR 56672; 41 FR 1478; 41 FR 5090; 41 FR 13351; 41 FR 17725.

(b) Flood Insurance Rate Maps (FIRM's). The following is a cumulative list of withdrawals pursuant to this Part: 40 FR 17015; 41 FR 1478; 41 FR 17726.

## PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Sec.
1916.1 Purpose of Part.
1916.2 Definitions.
1916.3 Establishment of community case file and flood elevation study docket.
1916.4 Appointment of Consultation Coordination Officer.
1916.5 Responsibilities of CCO.
1916.6 Duties of CCO.

AUTHORITY: Sec. 205(a), 87 Stat. 983 (42 U.S.C. 4128).

### § 1916.1 Purpose of part.

(a) The purpose of this Part is to comply with section 206 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4107) by establishing procedures for flood elevation determinations of Zones A1–99 and V1–30 within the community so that adequate consultation with the community officials shall be assured.

(b) The procedures in this Part shall apply when base flood elevations are to be determined or modified.

(c) The Administrator or his delegate shall:

(1) Specifically request that the community submit pertinent data concerning flood hazards, flooding experience, plans to avoid potential hazards, estimate of historical and prospective economic impact on the community, and such other appropriate data (particularly if such data will necessitate a modification of a base flood elevation).

(2) Notify local officials of the progress of surveys, studies, investigations, and of prospective findings, along with data and methods employed in reaching such conclusions; and

(3) Encourage local dissemination of surveys, studies, and investigations so that interested persons will have an opportunity to bring relevant data to the attention of the community and to the Administrator.

### § 1916.2 Definitions.

The definitions set forth in Part 1909 of this subchapter are applicable to this Part.

### § 1916.3 Establishment of community case file and flood elevation study docket.

(a) A file shall be established for each community at the time initial consideration is given to studying that community in order to establish whether or not it contains flood-prone areas. Thereafter, the file shall include copies of all correspondence with officials in that community. As the community is tentatively identified, provided with base flood elevations, or suspended and reinstated, documentation of such actions by the Administrator shall be placed in the community file. Even if a map is administratively rescinded or withdrawn after notice under Part 1915 of this subchapter or the community successfully rebuts its flood-prone designation, the file will be maintained indefinitely.

(b) A portion of the community file shall be designated a flood elevation study consultation docket and shall be established for each community at the time the

contract is awarded for a flood elevation study. The docket shall include copies of (1) all correspondence between the Administrator and the community concerning the study, reports of any meetings among the Federal Insurance Administration representatives, property owners of the community, the state coordinating agency, study contractors or other interested persons, (2) relevant publications, (3) a copy of the completed flood elevation study, and (4) a copy of the Administrator's final determination.

(c) A flood elevation determination docket shall be established and maintained in accordance with Part 1917 of this subchapter.

**§ 1916.4 Appointment of consultation coordination officer.**

The Administrator shall appoint an employee of the Department of Housing and Urban Development, or other designated Federal employee, as the Consultation Coordination Officer (CCO) for each community when a contract is awarded for a Flood Elevation Study, and, in writing, shall advise the community and the appropriate state coordinating agency or official for the state in which the community is located of the designation of the CCO.

**§ 1916.5 Responsibilities of CCO.**

(a) The CCO shall be responsible for arranging consultation among appropriate officials of a community in which any proposed Flood Insurance Study is undertaken, the state coordinating agency, and the organization under contract or the auspices of the Federal Insurance Administration undertaking the study.

(b) The CCO shall encourage local dissemination of surveys, studies, and investigations so that interested parties will have an opportunity to bring relevant data to the attention of the community and to the Administrator.

(c) The CCO shall be responsible for encouraging the submission of community information concerning the study by providing sample press releases or other materials to accomplish such purpose.

**§ 1916.6 Duties of CCO.**

(a) The primary duty of a CCO is to provide consultation with appropriate officials of the community so that they may be fully informed of (1) the responsibilities placed on them by the Program, (2) the administrative procedures followed by the Federal Insurance Administration, (3) the community's role in developing the FIRM, and (4) the responsibilities of the community if it participates or continues to participate in the Program.

(b) Before the commencement of the community's proposed Flood Insurance Study, the CCO for the community in which the study is to be conducted, together with a representative of the organization undertaking the study, shall meet with officials of the community. The state coordinating agency shall be notified of this meeting and may attend it. At this meeting, the CCO shall inform the local officials of (1) the date when the study will commence, (2) the nature and purpose of the study, (3) the areas involved, (4) the manner in which the study shall be undertaken, (5) the general principles to be applied, and (6) the intended use of the data obtained.

(c) After a Flood Insurance Study has commenced in any community, the CCO for that community shall serve as a liaison among the local officials, the state coordinating agency, and the organization undertaking the study in order to keep all interested parties informed as to the progress of the study.

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## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Sec.


1917.1 Purpose of Part
1917.2 Definitions
1917.3 Establishment and maintenance of a flood elevation determination docket (FEDD)
1917.4 Proposed flood elevation determination
1917.5 Right of appeal
1917.6 Basis of appeal
1917.7 Collection of appeal data
1917.8 Appeal Procedures
1917.9 Final determination in the absence of an appeal by the community
1917.10 Rates during pendency of final determination
1917.11 Notice of final determination
1917.12 Appeal to District Court


AUTHORITY: Sec. 1304(a), 82 Stat. 574 (42 U.S.C. 4012).

**§ 1917.1 Purpose of Part.**

The purpose of this Part is to establish procedures implementing the provisions of section 110 of Flood Disaster Protection Act of 1973.

**§ 1917.2 Definitions.**

The definitions set forth in Part 1909 of this subchapter are applicable to this Part.

**§ 1917.3 Establishment and maintenance of a flood elevation determination docket (FEDD).**

The Administrator shall establish a docket of all matters pertaining to flood elevation determinations. The docket files shall contain the following information:

(a) The name of the community subject to the flood elevation determination;

(b) A copy of the notice of the proposed flood elevation determination to the Chief Executive Officer (CEO) of the Community;

(c) A copy of the notice of the proposed flood elevation determination published in a prominent local newspaper of the community;

(d) A copy of the notice of the proposed flood elevation determination published in the FEDERAL REGISTER;

(e) Copies of all appeals by private persons received by the Administrator from the CEO;

(f) Copies of all comments received by the Administrator on the notice of the proposed flood elevation determination published in the FEDERAL REGISTER.

(g) A copy of the community's appeal or a copy of its decision not to appeal the proposed flood elevation determination;

(h) A copy of the flood insurance study for the community;

(i) A copy of the FIRM for the community;

(j) Copies of all materials maintained in the flood elevation study consultation docket; and

(k) A copy of the final determination with supporting documents.

**§ 1917.4 Proposed flood elevation determination.**

The Administrator shall propose flood elevation determinations in the following manner:

(a) Publication of the proposed flood elevation determination for comment in the FEDERAL REGISTER;

(b) Notification by certified mail, return receipt requested, of the proposed flood elevation determination to the CEO; and

(c) Publication of the proposed flood elevation determination in a prominent local newspaper at least twice during the ten day period immediately following the notification of the CEO.

**§ 1917.5 Right of appeal.**

(a) Any owner or lessee of real property, within a community where a proposed flood elevation determination has been made pursuant to section 1363 of the National Flood Insurance Act of 1968, as amended, who believes his property rights to be adversely affected by the Administrator's proposed determination, may file a written appeal of such determination with the CEO, or such agency as he shall publicly designate, within ninety days of the second newspaper publication of the Administrator's proposed determination.

**§ 1917.6 Basis of appeal.**

The sole basis of an appeal under this Part shall be the possession of knowledge or information indicating that the elevations proposed by the Administrator are scientifically or technically incorrect.

**§ 1917.7 Collection of appeal data.**

(a) Appeals by private persons to the CEO shall be submitted within ninety (90) days following the second newspaper publication of the Administrator's proposed flood elevation determination to the CEO or to such agency as he may publicly designate and shall set forth scientific or technical data that tend to negate or contradict the Administrator's findings.

(b) Copies of all individual appeals received by the CEO shall be forwarded, as soon as they are received, to the Administrator for information and placement in the Flood Elevation Determination Docket.

(c) The CEO shall review and consolidate all appeals by private persons and issue a written opinion stating whether the evidence presented is sufficient to justify an appeal on behalf of such persons by the community in its own name.

(d) The decision issued by the CEO on the basis of his review, on whether an

appeal by the community in its own name shall be made, shall be filed with the Administrator not later than ninety days after the date of the second newspaper publication of the Administrator's proposed flood elevation determination and shall be placed in the FEDD.

**§ 1917.8 Appeal procedure.**

(a) If a community appeals the proposed flood elevation determination, the Administrator shall review and take fully into account any technical or scientific data submitted by the community that tend to negate or contradict the information upon which his proposed determination is based.

(b) The Administrator shall resolve such appeal by consultation with officials of the local government, or by administrative hearings under the procedures set forth in Part 1918 of this subchapter, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice.

(c) The final determination by the Administrator where an appeal is filed shall be made within a reasonable time.

(d) Nothing in this section shall be considered to compromise an appellant's rights granted under § 1917.12.

(e) The Administrator shall make available for public inspection the reports and other information used in making the final determination. This material shall be admissible in a court of law in the event the community seeks judicial review in accordance with § 1917.12.

**§ 1917.9 Final determination in the absence of an appeal by the community.**

(a) If the Administrator does not receive an appeal from the community within the ninety days provided, he shall consolidate and review on their own merits the individual appeals which, in accordance with § 1917.7 are filed within the community and forwarded by the CEO.

(b) The final determination shall be made pursuant to the procedures in § 1917.8 and, modifications shall be made of his proposed determination as may be appropriate, taking into account the written opinion, if any, issued by the community in not supporting such appeals.

**§ 1917.10 Rates during pendency of final determination.**

(a) Until such time as a final determination is made and proper notice is given, no person within a participating community shall be denied the right to purchase flood insurance at the subsidized rate.

(b) After the final determination and upon the effective date of a FIRM, risk premium rates will be charged for new construction and substantial improvements. The effective date of a FIRM shall begin not later than six months after the final flood elevation determination.

**§ 1917.11 Notice of final determination.**

The Administrator's notice of the final flood elevation determination for a community shall be in written form and published in the FEDERAL REGISTER, and copies shall be sent to the CEO, all individual appellants and the State Coordinating Agency.

**§ 1917.12 Appeal to District Court.**

(a) An appellant aggrieved by the final determination of the Administrator may appeal such determination only to the United States District Court for the District within which the community is located within sixty days after receipt of notice of determination.

(b) During the pendency of any such litigation, all final determinations of the Secretary shall be effective for the purposes of this title unless stayed by the court for good cause shown.

(c) The scope of review of the appellate court shall be in accordance with the provisions of 5 U.S.C. 706, as modified by 42 U.S.C. 4104(b).

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## PART 1918—ADMINISTRATIVE HEARING PROCEDURES

Sec.

1918.1 Purpose of Part.
1918.2 Definitions.
1918.3 Right to administrative hearings.
1918.4 Judge.
1918.5 Establishment of docket.
1918.6 Time and place of hearing.
1918.7 Conduct of hearings.
1918.8 Scope of review.
1918.9 Admissible evidence.
1918.10 Burden of proof.
1918.11 Right of judge to obtain scientific or technical advice.
1918.12 Determination.
1918.13 Relief.

AUTHORITY: Sec. 1304(a), 82 Stat. 574 (42 U.S.C. 4012).

**§ 1918.1 Purpose of Part.**

The purpose of this Part is to establish procedures for appeals of the Administrator's base flood elevation determination, whether proposed pursuant to section 1363(e) of the Act (42 U.S.C. 4104) or modified because of changed conditions or the availability of additional newly acquired scientific or technical information.

**§ 1918.2 Definitions.**

The definitions set forth in Part 1909 of this subchapter are applicable to this Part.

**§ 1918.3 Right to administrative hearings.**

An administrative hearing under this Part shall only be held if a community appeals the Administrator's flood elevation determination established pursuant to § 1917.8 of this subchapter, or otherwise, and the Administrator has determined that such appeal cannot be resolved by consultation with officials of the community, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice.

**§ 1918.4 Judge.**

Each hearing shall be conducted by an Administrative Law Judge (hereinafter "Judge") certified by the Civil Service Commission or by a Hearing Officer (hereinafter "Judge") designated by the Secretary.

**§ 1918.5 Establishment of docket.**

The General Counsel shall establish a docket for appeals referred to him by the Administrator for administrative hearings. This docket shall include, for each appeal, copies of all materials contained in the FEDD file on the matter, copies of all correspondence in connection with the appeal, all motions, orders, statements and other legal documents, a transcript of the hearing, and the judge's final determination.

**§ 1918.6 Time and place of hearing.**

(a) The time and place of each hearing shall be designated by the judge for that hearing. He shall promptly advise the Administrator and the General Counsel of such designation.

(b) The judge's notice of the time and place of hearing shall be sent by the Flood Insurance Docket Clerk by registered or certified mail, return receipt requested, to all appellants. Such notice shall include a statement indicating the nature of the proceedings and their purpose and all appellants' entitlement to counsel. Notice of the hearing must be sent no less than 30 days before the date of hearing unless such period is waived by all appellants.

**§ 1918.7 Conduct of hearings.**

(a) The judge shall be responsible for the fair and expeditious conduct of proceedings.

(b) The Administrator shall be represented by the General Counsel or his designee.

(c) One administrative hearing shall be made for any one community unless the judge for good cause shown grants a separate appeal or appeals.

(d) The CEO or his designee shall represent all appellants from that community; provided that any appellant may petition the judge to allow such appellant to make an appearance on his own behalf. Such a petition shall be granted only upon a showing of good cause.

(e) The Administrator shall assure that a transcribed verbatim record is made of the proceeding which shall be available for inspection by any appellant. An appellant may order copies of the transcribed verbatim record directly from the reporter and shall be responsible for payments.

**§ 1918.8 Scope of review.**

Review at administrative hearings shall be limited to an examination of knowledge or information presented by each appellant indicating that elevations proposed by the Administrator are scientifically or technically incorrect.

**§ 1918.9 Admissible evidence.**

(a) Legal rules of evidence shall not be in effect at administrative hearings. However, only evidence relevant to issues within the scope of review under § 1918.8 shall be admissible.

(b) The community's FEDD file shall be admissible.

(c) Documentary and testimonial evidence shall be admissible.

(d) Admissibility of non-expert testimony shall be within the discretion of the judge.

(e) The community's statement of reasons for appealing shall be admissible.

(f) All testimony shall be under oath.

§ 1918.10 Burden of proof.

The burden shall be on appellants to prove that the flood elevation determination is not scientifically or technically correct.

§ 1918.11 Right of judge to obtain scientific or technical advice.

The judge may submit conflicting technical or scientific data to an independent scientific body or appropriate Federal agency for advice.

§ 1918.12 Determination.

The judge shall make a written determination on the evidence presented at the hearing within 30 days after the conclusion of the hearing.

§ 1918.13 Relief.

The sole relief which shall be granted under this Part is a modification of the Administrator's proposed determination by the judge in accordance with his determination under § 1918.12. This modification shall be binding on the Administrator.

## PART 1919 [RESERVED]

## PART 1920—PROCEDURE FOR MAP CORRECTION

MAPPING DEFICIENCIES UNRELATED TO COMMUNITY-WIDE ELEVATION DETERMINATIONS

Sec.

1920.1 Purpose of Part.
1920.2 Definitions.
1920.3 Right to submit technical information.
1920.4 Review by the Administrator.
1020.5 Letter of Map Amendment.
1920.6 Distribution of Letter of Map Amendment.
1920.7 Notice of Letter of Map Amendment.
1920.8 Premium refund after Letter of Map Amendment.

AUTHORITY: Sec. 1304(a), 82 Stat. 574 (42 U.S.C. 4011).

MAPPING DEFICIENCIES UNRELATED TO COMMUNITY-WIDE ELEVATION DETERMINATIONS

§ 1920.1 Purpose of Part.

The purpose of this Part is to provide an administrative procedure whereby the Federal Insurance Administrator (Administrator) will review the scientific or technical submissions of an owner or lessee of property who believes his property has been inadvertently included in designated A, A0, A1–99, V0 and V1–30 Zones, as a result of the transposition of the curvilinear line to either street or to other readily identifiable features. The necessity for this part is due in part to the technical difficulty of accurately delineating the curvilinear line on either a FHBM or FIRM. Where there has been a final base flood elevation determination, any alteration of the topography shall not be subject to this procedure. Appeals of such determinations are subject to the provisions of Part 1917 of this subchapter.

§ 1920.2 Definitions.

The definitions set forth in Part 1909 of this subchapter are applicable to this Part.

§ 1920.3 Right to submit technical information.

(a) Any owner or lessee of property (applicant) who believes his property has been inadvertently included in a designated A, A0, A1–99, V0 and V1–30 Zones on a FHBM or a FIRM, may submit scientific or technical information to the Administrator for his review.

(b) Scientific and technical information for the purpose of this Part may include, but is not limited to the following:

(1) An actual copy of the recorded plat map bearing the seal of the appropriate recordation official (e.g. County Clerk, or Recorder of Deeds) indicating the official recordation and proper citation (Deed or Plat Book Volume and Page Numbers), or an equivalent identification where annotation of the deed or plat book is not the practice.

(2) A topographical map showing (i) ground elevation contours, (ii) the total area of the property in question, (iii) the location of the structure or structures located on the property in question, (iv) the elevation of the lowest floor (including basement) of the structure or structures and (v) an indication of the curvilinear line which represents the area subject to inundation by a base flood. The curvilinear line should be based upon information provided by any appropriate authoritative source, such as a Federal Agency, the appropriate state agency (e.g. Department of Water Resources), a County Water Control District, a County or City Engineer, a Federal Insurance Administration Flood Insurance Study, or a determination by a Registered Professional Engineer;

(3) A copy of the FHBM or FIRM indicating the location of the property in question;

(4) A certification by a Registered Professional Engineer or Licensed Land Surveyor of the type of structure and that the lowest floor (including basement) of the structure is above the base flood level. Where there has been a final flood elevation determination, and fill has altered the topography, such certification should include the date that the fill was placed on the property.

§ 1920.4 Review by the Administrator.

The Administrator, after reviewing the scientific or technical information submitted under the provisions of § 1920.3, shall notify the applicant in writing of his determination within 60 days from the date of receipt of the applicant's scientific or technical information that:

(a) The property is within a designated A, A0, A1–99, V0 or V1–30 Zone, and shall set forth the basis of such determination; or

(b) The property should not be included within a designated A, A0, A1–99, V0, or V1–30 Zone and that the FHBM or FIRM will be modified accordingly; or

(c) An additional 60 days is required to make a determination.

§ 1920.5 Letter of Map Amendment.

Upon determining from available scientific or technical information that a FHBM or a FIRM requires modification under the provisions of § 1920.4(b), the Administrator shall issue a Letter of Map Amendment which shall state:

(a) The name of the Community to which the map to be amended was issued;

(b) The number of the map;

(c) The identification of the property to be excluded from a designated A, A0, A1–99, V0 or V1–30 Zone.

§ 1920.6 Distribution of Letter Map Amendment.

(a) A copy of the Letter of Map Amendment shall be sent to the applicant who submitted scientific or technical data to the Administrator.

(b) A copy of the Letter of Map Amendment shall be sent to the local map repository with instructions that it be attached to the map which the Letter of Map Amendment is amending.

(c) A copy of the Letter of Map Amendment shall be sent to the map repository in the state with instructions that it be attached to the map which it is amending.

(d) A copy of the Letter of Map Amendment will be sent to any community or governmental unit that requests such Letter of Map Amendment.

(e) A copy of the Letter of Map Amendment shall be sent to the National Flood Insurers Association.

(f) A copy of the Letter of Map Amendment will be maintained by the Federal Insurance Administration in its community case file.

§ 1920.7 Notice of Letter of Map Amendment.

The Administrator shall publish a notice in the FEDERAL REGISTER that the FHBM or FIRM map for a particular community has been amended by letter determination issued pursuant to this Part.

§ 1920.8 Premium refund after Letter of Map Amendment.

A Standard Flood Insurance Policyholder whose property has become the subject of a Letter of Map Amendment under this Part may cancel the policy within the current policy year and receive a premium refund under the conditions set forth in § 1912.5 of this subchapter.

## PARTS 1921–1924—[RESERVED]

## PART 1925—EXEMPTION OF STATE-OWNED PROPERTIES UNDER SELF-INSURANCE PLAN

### Subpart A—General

Sec.

1925.1 Purpose of Part.
1925.2 Definitions.
1925.3 Burden of proof.

### Subpart B—Standards for Exemption

1925.10 Applicability.
1925.11 Standards.
1925.12 Application by a State for exemption.
1925.13 Review by the Administrator.
1925.14 States exempt under this Part.

AUTHORITY: Sec. 7(d), 79 Stat. 670 7(d); 42 U.S.C. 3535(d); and 42 U.S.C. 4128.

## Subpart A—General

### § 1925.1 Purpose of Part.

The purpose of this Part is to establish standards with respect to the Administrator's determinations that a State's plan of self-insurance is adequate and satisfactory for the purposes of exempting such State, under the provisions of section 102(c) of the Act, from the requirement of purchasing flood insurance coverage for State-owned structures and their contents in areas identified by the Administrator as A, A0, M, V, V0, and E Zones, in which the sale of insurance has been made available, and to establish the procedures by which a State may request exemption under section 102(c).

### § 1925.2 Definitions.

The definitions set forth in Part 1909 of this subchapter are applicable to this Part.

### § 1925.3 Burden of proof.

In any application made by a State to the Administrator for certification of its self-insurance plan, the burden of proof shall rest upon the State making application to establish that its policy of self-insurance is adequate and equals or exceeds the standards provided in this Part.

## Subpart B—Standards for Exemption

### § 1925.10 Applicability.

A State shall be exempt from the requirement to purchase flood insurance in respect to State-owned structures and, where applicable, their contents located or to be located in areas identified by the Administrator as A, AO, M, V, VO and E Zones, and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, provided that the State has established a plan of self-insurance determined by the Administrator to equal or exceed the standards set forth in this subpart.

### § 1925.11 Standards.

(a) In order to be exempt under this Part, the State's self-insurance plan shall, as a minimum:

(1) Constitute a formal policy or plan of self-insurance created by statute or regulation authorized pursuant to statute.

(2) Specify that the hazards covered by the self-insurance plan expressly include the flood and flood-related hazards which are covered under the Standard Flood Insurance Policy.

(3) Provide coverage to state-owned structures and their contents equal to that which would otherwise be available under a Standard Flood Insurance Policy.

(4) Consist of a self-insurance fund and/or a commercial policy of insurance or reinsurance for which provision is made in statute or regulation and which is funded by periodic premiums or charges allocated for state-owned structures and their contents in areas identified by the Administrator as A, A0, M, V, V0, and E Zones. The person or persons responsible for such self-insurance fund shall report on its status to the chief executive authority of the State, or to the legislature, or both, not less frequently than annually. The loss experience shall be shown for each calendar or fiscal year from inception to current date based upon loss and loss adjustment expense incurred during each separate calendar or fiscal year compared to the premiums or charges for each of the respective calendar or fiscal years. Such incurred losses shall be reported in aggregate by cause of loss under a loss coding system adequate, as a minimum, to identify and isolate loss caused by flood, mudslide (i.e., mudflow) or flood-related erosion. The Administrator may, subject to the requirements of paragraph (a)(5) of this section, accept and approve in lieu of, and as the reasonable equivalent of the self-insurance fund, an enforceable commitment of funds by the State, the enforceability of which shall be certified to by the State's Attorney General, or other principal legal officer. Such funds, or enforceable commitment of funds in amounts not less than the limits of coverage which would be applicable under Standard Flood Insurance Policies, shall be used by the State for the repair or restoration of State-owned structures and their contents damaged as a result of flood-related losses occurring in areas identified by the Administrator as A, A0, M, V, V0, and E Zones.

(5) Provide for the maintaining and updating by a designated State official or agency not less frequently than annually of an inventory of all State-owned structures and their contents within A, A0, M, V, V0, and E Zones. The inventory shall: (i) include the location of individual structures; (ii) include an estimate of the current replacement costs of such structures and their contents, or of their current economic value; and (iii) include an estimate of the anticipated annual loss due to flood damge.

(6) Provide the flood loss experience for State-owned structures and their contents based upon incurred losses for a period of not less than the 5 years immediately preceding application for exemption, and certify that such historical information shall be maintained and updated.

(7) Include, pursuant to § 1910.12 of this subchapter, a certified copy of the flood plain management regulations setting forth standards for State-owned properties within A, A0, M, V, V0, and E Zones.

(b) The Administrator shall determine the adequacy of the insurance provisions whether they be based on available funds, an enforceable commitment of funds, commercial insurance, or some combination thereof, but has discretion to waive specific requirements under this Part.

### § 1925.12 Application by a State for exemption.

Application for exemption made pursuant to this Part shall be made by the Governor or other duly authorized official of the State accompanied by sufficient supporting documentation which certifies that the plan of self-insurance upon which the application for exemption is based meets or exceeds the standards set forth in § 1925.11.

### § 1925.13 Review by the Administrator.

(a) The Administrator may return the application for exemption upon finding it incomplete or upon finding that additional information is required in order to make a determination as to the adequacy of the self-insurance plan.

(b) Upon determining that the State's plan of self-insurance is inadequate, the Administrator shall in writing reject the application for exemption and shall state in what respects the plan fails to comply with the standards set forth in § 1925.11 of this subpart.

(c) Upon determining that the State's plan of self-insurance equals or exceeds the standards set forth in § 1925.11 of this subpart, the Administrator shall certify that the State is exempt from the requirement for the purchase of flood insurance for State-owned structures and their contents located or to be located in areas identified by the Administrator as A, A0, M, V, V0, and E Zones. Such exemption, however, is in all cases provisional. The Administrator shall review the plan for continued compliance with the criteria set forth in this Part and may request updated documentation for the purpose of such review. If the plan is found to be inadequate and is not corrected within ninety days from the date that such inadequacies were identified, the Administrator may revoke his certification.

(d) Documentation which cannot reasonably be provided at the time of application for exemption shall be submitted within six months of the application date. The Administrator may revoke his certification for a State's failure to submit adequate documentation after the six month period.

### § 1925.14 States exempt under this Part.

The following States have submitted applications and adequate supporting documentation and have been determined by the Administrator to be exempt from the requirement of flood insurance on State-owned structures and their contents because they have in effect adequate State plans of self-insurance: Maine, Georgia, and Oregon.

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

Effective date: This revision becomes effective on December 1, 1976.

Issued: October 18, 1976.

J. ROBERT HUNTER,
*Federal Insurance Administrator.*

[FR Doc.76-31040 Filed 10-22-76;8:45 am]

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TUESDAY, OCTOBER 26, 1976




PART III:

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Office of the Secretary

■

# DISPLACED BUSINESS CONCERNS

## Actual Reasonable Moving Expenses

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-241]

PART 42—RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Eligibility of Costs Incurred by Displaced Business Concern at Replacement Site

The Department of Housing and Urban Development (HUD) gave notice on May 6, 1976, at 41 FR 18762, that it proposed to revise § 42.65 of the HUD regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act"). As explained in the notice, the proposed revision of § 42.65 would limit the types of costs incurred by a displaced business concern at its replacement location that could be included in a claim for a relocation payment for "actual reasonable moving expenses." Interested persons were given until June 7, 1976, to submit comments to the Department with respect to the proposed revision.

HUD received 54 written comments, all of which were carefully considered. Many of the comments expressed a concern that the revised policy would exacerbate financial hardships encountered by many displaced business concerns that incur substantial costs for changes made to their replacement site or structure in order to be able to resume operations. While HUD understands this concern and is sympathetic to the objective of reducing excessive financial burdens that often accompany forced moves, none of the comments, either individually or taken as a whole, presented a viable alternative to the proposed policy.

A second theme in a number of the comments was based not so much on opposition to the proposed policy, as on the potential impact the change would have on localities where HUD categorical programs (such as urban renewal) have not yet been completed. The comments described inequities that would result in an existing project where businesses not yet displaced may receive lesser benefits than businesses relocated earlier. The comments also pointed out that many businesses in such projects have made plans or commitments based on the prior regulation.

HUD has taken two steps to help ameliorate the problems of transition described in the comments. First, a 6-month period has been provided before the revision of the regulations will become effective. This should take care of most individual businesses that are committed to plans made in accordance with the prior regulation. Second, a provision has been included (§ 42.65(d)(6)) under which localities may request that the prior regulation continue to apply with respect to businesses not yet displaced from certain projects that were underway before the revised regulation was published.

Some of the comments suggested certain language changes to help clarify the material, and these have been incorporated. Other comments, suggesting policy or procedural changes in provisions of § 42.65 not being revised, will be retained by HUD and addressed within the context of revisions to the regulations considered in the future.

In summary, the revision of § 42.65:

1. Reorganizes the section to identify separately for residential displacement (§ 42.65(b)) and nonresidential displacement (§ 42.65(c)) the types of costs that may be eligible for inclusion as a moving expense. Sections 42.65(b) and 42.65(c) replace the listing of costs in former § 42.65(a) and all of former § 42.65(b). A number of paragraphs in § 42.65 have been renumbered without substantial change.

2. Rewords, for clarity, the language in former § 42.65(a)(4) pertaining to eligible insurance costs. The provision now appears in §§ 42.65(b)(5) and 42.65(c)(5).

3. Rewords former § 42.65(b)(1) to define more specifically the types of installation costs eligible for inclusion as a moving expense and to state them separately for residential displacement (§ 42.65(b)(3)) and for nonresidential displacement (§ 42.65(c)(3)). With respect to the latter, the proposed language has been revised to clarify that eligible installation costs may include expenditures for modifications made to utilities at the replacement location to adapt them for use with relocated machinery, equipment, or other personal property.

4. Deletes former § 42.65(b)(2) relating to compensability of costs incurred by a business concern for changes made at its replacement location.

5. Rewords former § 42.65(b)(4) to define more specifically the types of costs for professional services eligible for inclusion as a moving expense (§ 42.65(c)(8)).

6. Changes the heading of § 42.65(d) to reflect revised and expanded coverage. The paragraph now covers not only special requirements and limitations that apply to nonresidential moves, but also the provisions (described above) explaining how the effective date is to be applied (§ 42.65(d)(7)) and permitting exceptions to the effective date of the revised regulations under certain circumstances (§ 42.65(d)(6)). Revised §§ 42.65(d)(1) through (5) incorporate material formerly set forth in §§ 42.65(b)(5), 42.65(c), and 42.65(d). Material on "substitute equipment" (§ 42.65(d)(5)) has been revised to define more specifically the types of costs eligible for inclusion as a moving expense.

Administrative procedures set forth in HUD Handbook 1371.1 REV (Relocation Policies and Procedures) are being revised to conform to § 42.65 as revised hereunder. Also, the applicable relocation claim forms (HUD-4004 and HUD-4004A) are being revised to reflect the revision of the regulations. State agencies carrying out HUD-assisted activities subject to the Uniform Act will receive copies of the Handbook change and a supply of the revised claim forms in accordance with the existing Departmental distribution system. However, State agencies should retain a supply of the 9-74 version of the claim forms, and the related Handbook procedures, for use in processing the claim of any business concern or farm operation that began its move before the effective date of this regulation or that is displaced by a project, program, or activity for which an exception has been made in accordance with § 42.65(d)(6).

Since there has been no substantive change in the revision of § 42.65 as proposed on May 6, 1976, and as set forth hereunder, the Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 and the certification that the economic and inflationary impacts of the revision have been carefully evaluated in accordance with OMB Circular A-107, made in connection with the revision as proposed, remain in effect. The finding and the certification are available for examination during business hours in the office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C.

Accordingly, § 42.65 is revised as follows:

§ 42.65 Actual reasonable moving expenses.

(a) *General.* A State agency shall make a payment to a displaced person who satisfies the pertinent eligibility requirements of § 42.55 and the requirements of this section for actual reasonable expenses specified below and subject to the limitations set forth in paragraph (d) of this section for moving himself, his family, business, farm operation, or other personal property. In all cases the amount of a payment shall not exceed the cost of the least expensive feasible method of accomplishing the activity in connection with which a claim has been filed, as determined by the State agency.

(b) *Residential.* Actual reasonable moving and related expenses to which a displaced person (homeowner or tenant) may be entitled shall include:

(1) Transportation not to exceed a distance of 50 miles from the site from which displaced, except where the State agency determines that relocation beyond such distance of 50 miles is justified;

(2) Packing, crating, unpacking, and uncrating personal property;

(3) Disconnecting, dismantling, removing, reassembling, reconnecting, and installing relocated household appliances and other personal property;

(4) Such storage of personal property, for a period generally not to exceed 12 months, as the State agency determines to be necessary in connection with relocation;

(5) Insurance of personal property in connection with the move and any necessary storage as determined by the State agency; and

(6) The reasonable replacement value of property lost, stolen, or damaged (not through the fault or negligence of the displaced person, his agent, or employee) in the process of moving, where insurance covering such loss, theft, or damage is not reasonably available.

(c) *Nonresidential.* Actual reasonable moving and related expenses to which a displaced business concern and farm operation may be entitled shall include:

(1) Transportation not to exceed a distance of 50 miles from the site from which displaced, except where the State agency determines that relocation beyond such distance of 50 miles is justified;

(2) Packing, crating, unpacking, and uncrating personal property;

(3) Disconnecting, dismantling, removing, reassembling, and installing relocated machinery, equipment, and other personal property, including connection to utilities available at the replacement location and modifications necessary to adapt such property to the replacement location or to utilities available at the replacement location or to adapt such utilities to the personal property;

(4) Such storage of personal property, for a period generally not to exceed 12 months, as the State agency determines to be necessary in connection with relocation;

(5) Insurance of personal property in connection with the move and any necessary storage as determined by the State agency;

(6) The reasonable replacement value of property lost, stolen, or damaged (not through the fault or negligence of the displaced person, his agent, or employee) in the process of moving, where insurance covering such loss, theft, or damage is not reasonably available.

(7) The cost of any license, permit, or certification required by a displaced business concern to the extent such cost is necessary to the reestablishment of its operation at a new location; and

(8) The reasonable cost of any professional services (including but not limited to architects', attorneys', or engineers' fees, or consultants' charges) necessary for (i) planning the move of personal property, (ii) moving the personal property, or (iii) installation of relocated personal property at the replacement site.

(d) *Special requirements, limitations, and exceptions—Businesses and farm operations.*—

(1) *Notification to State agency and inspection of property.* Except as provided in this subparagraph, no payment for actual reasonable moving expenses shall be made to a displaced person for moving his business or farm operation unless:

(i) The State agency has received at least 30 days (or such earlier date as the State agency may determine necessary, but not earlier than 90 days) prior to the moving date, written notice from such displaced person of his intention to move or dispose of personal property used in connection with such business or farm operation (which property shall be described generally in the notice), and the date of such intended move or disposition; and

(ii) The displaced person has permitted, at all reasonable times, the inspection by or on behalf of the State agency of such property at the site from which the business or farm operation is displaced.

(iii) For the purpose of this subparagraph, "moving date" shall mean the date on which the first item of such property is intended to be moved or disposed of. The State agency may make a relocation payment notwithstanding nonreceipt of such timely notice only if the agency has determined that there was reasonable cause for the failure of the displaced person to give such notice, and the agency has adequately verified the facts pertaining to the move or disposition and the requested relocation payment.

(2) *General limitation on moving expenses.* Payment to a displaced person for moving expenses in connection with moving a business or farm operation shall not exceed the amount of the low bid submitted in accordance with paragraph (e)(2) of this section.

(3) *Self-moves.* A displaced person electing to self-move a business or farm operation may submit a claim for his moving expenses to the State agency in an amount not to exceed an acceptable low bid obtained by the State agency, without documentation of moving expenses actually incurred.

(4) *Personal property of low value and high bulk.* Where, in the judgment of the State agency, the cost of moving any item of personal property of low value and high bulk which is used in connection with any business or farm operation would be disproportionate in relation to its value, the allowable reimbursement for the expense of moving such property shall not exceed the difference between the cost of replacing the same with a comparable item available on the market and the amount which would have been received for such property on liquidation. This subparagraph may in appropriate situations be applied to claims involving the moving of junkyards, stockpiles, sand, gravel, minerals, and metals.

(5) *Substitute equipment.* Where an item of personal property which is used in connection with any business or farm operation is not moved but is replaced with a comparable item, the allowable reimbursement to the displaced person may not exceed the lesser of (i) the replacement cost (including installation at the replacement site), minus any proceeds received from the sale or trade-in of the replaced item, or (ii) the estimated cost of moving the replaced item, determined in accordance with paragraph (c) of this section except that no storage costs may be included in the estimate.

(6) *Exception for certain projects.* When relocation activities are taking place in connection with a project, program, or activity which is assisted by HUD under Title I of the Housing Act of 1949, as amended (42 U.S.C. 1450 et seq.), and which has not been financially closed out by HUD, the State agency carrying out the project, program, or activity may, with prior HUD concurrence, make payments to businesses and farm operations remaining to be displaced in accordance with the provisions of § 42.65 effective March 31, 1975. To obtain HUD concurrence, the State agency carrying out the project, program, or activity shall submit a request to the HUD field office of jurisdiction. The request shall be supported by written evidence that the governing body of the State agency and the chief executive of the locality approve the request and that all claims submitted by businesses or farm operations displaced by the project, program, or activity will be computed on the same basis. No funds used for payments to cover costs incurred in accordance with § 42.65(b)(2) of the regulations effective March 31, 1975, will be included in a calculation of funding need in connection with a request for urgent needs funds pursuant to Section 103(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5303(b)).

(7) *Exception for certain moves.* The provisions of this § 42.65 apply with respect to all moves begun on or after April 25, 1977. A move is considered to have begun on the date that the first item of personal property of the business concern or farm operation is moved from the former location to the replacement site. The State agency may make a payment to a displaced business concern or farm operation in accordance with the provisions of § 42.65 effective March 31, 1975, only where:

(i) A move was begun prior to April 25, 1977;

(ii) A move was made from a project for which an exception was granted in accordance with paragraph (b)(6) of this section;

(iii) A business concern or farm operation was unable to move directly to its replacement site prior to April 25, 1977, but, with the concurrence of the State agency, moved personal property to storage prior to that date; or

(iv) A business concern or farm operation, prior to April 25, 1977, took the following steps: (A) Entered into a written agreement to rent or purchase a replacement site; (B) provided written notification to the State agency of its intention to move, in accordance with paragraph (d)(1) of this section; and (C) obtained bids in accordance with paragraph 42.65(e)(2) below and submitted them for approval of the State agency.

(e) *Documentation in support of a claim.* (1) *General.* Except in the case of a displaced person conducting a self-move of a business or farm operation as provided in paragraph (d)(3) of this section, a claim for a payment under this section shall be supported by a bill or other evidence of expenses incurred. By prearrangement between the State agency, the site occupant, and the mover, evidenced in writing, the claimant or the mover may present an unpaid moving bill to the State agency, and the agency may pay the mover directly.

(2) *Business and farm operations.* Each claim in excess of $1,000 for the costs incurred by a displaced person for

moving his business or farm operation shall be supported by bids obtained by the displaced person at least 15 days prior to the commencement of the move from three reputable firms covering the moving costs involved. Whenever it is not feasible to obtain three bids for any category of work, a written justification shall be submitted by the displaced person and no relocation payments shall be allowed in such cases unless the State agency has approved the justification. Where such bid requirement cannot be complied with under State law, or where estimates in an amount of less than $1,000 were obtained in good faith by the displaced person, such claim shall be supported by estimates in lieu of bids.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

Effective date. This revision is effective with respect to all moves begun on or after April 25, 1977.

Issued at Washington, D.C., October 19, 1976.

JOHN B. RHINELANDER,
*Acting Secretary of Housing and Urban Development.*

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TUESDAY, OCTOBER 26, 1976




PART IV:

# DEPARTMENT OF LABOR

■

# COMPREHENSIVE EMPLOYMENT AND TRAINING ACT PROGRAMS

## DEPARTMENT OF LABOR

### Office of the Secretary

### [ 29 CFR Parts 94, 95, 96, 98, 99 ]

### PROGRAMS UNDER COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

### Proposed Rulemaking

On October 1, 1976, the President signed into law the Emergency Jobs Programs Extension Act of 1976, Pub. L. 94-444, which amended certain sections of the Comprehensive Employment and Training Act (Pub. L. 93-203) and the Emergency Jobs and Unemployment Assistance Act (Pub. L. 93-507).

The purpose of the Emergency Jobs Programs Extension Act of 1976 is to provide funds to both continue the operation of public service jobs programs and to create public service jobs projects and activities of no longer than one year's duration for the long-term unemployed and for welfare recipients. The Department is proposing regulations under the Comprehensive Employment and Training Act at 29 CFR Parts 94 through 99 to implement the Emergency Jobs Programs Extension Act of 1976. In addition to amendments to the regulations under Titles I, II and VI of the Act which are necessitated by the Emergency Jobs Programs Extension Act, two additional changes to existing regulations are set forth in these proposed regulations. In Part 95, a provision has been included in § 95.34 to allow for prorating the dependents allowance for absence without good cause. In Part 96, § 96.24, paragraphs (c) and (j) are being amended to add a provision, and to be consistent with the maintenance of effort provisions of the new Part 99, whereby grantees will prepare and maintain documentation to substantiate compliance with the maintenance of effort requirements of the Act and regulations. Interested persons are invited to submit comments, data or arguments to: Assistant Secretary for Employment and Training, United States Department of Labor, 6th and D Streets, NW., Washington, D.C. 20213. Attention: Pierce A. Quinlan, Director, Office of Comprehensive Employment Development, until November 26, 1976. Comments are especially solicited with respect to Section 6 of the Emergency Jobs Programs Extension Act of 1976, which relates to the payment of unemployment compensation to participants. The Department has not yet decided how best to implement that section and, therefore, has not proposed complete implementation in this document.

Accordingly, 29 CFR Parts 94, 95, 96, 98 and 99 are proposed to be revised to read as follows:

### PART 4—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

1. Section 94.4 is amended by adding the following new paragraphs to read as follows:

§ 94.4 **Definitions.**

* * * * *

(nnn) "Lower living standard income level" shall mean that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent lower living standard budget level issued by the Bureau of Labor Statistics of the Department of Labor.

(ooo) "Project" shall mean a defined task, designed to provide a public service. Such task shall not expand existing public services, but shall provide a new kind of activity which would cease when the end product, representing the accomplishment of a group of persons working independently, is complete. Individuals participating in projects may be enrolled in either public service employment, work experience, or on-the-job training, provided that the activity results in the provision of a public service, as defined in § 94.4(tt).

(ppp) "Project applicant" shall mean States and agencies thereof, units of general local government and agencies thereof or combinations or associations or associations of such governmental units when the primary purpose of such combinations or associations is to assist such governmental units to provide public services, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purposes within an area served by one or more units of general local government, local educational agencies as defined in section 801(f) of the Elementary and Secondary Education Act of 1965, institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965, community based organizations as defined in § 94.4(k).

(qqq) "Rehire" shall mean an individual who has been laid-off from regular unsubsidized employment by the prime sponsor or program agent and who is subsequently recalled by the former employer into a position funded under the Act.

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### PART 95—PROGRAMS UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

2. Paragraph (b)(2)(i)(C)(*1*)(*vi*), (*vii*) and (3)(ii)(F) of § 95.14 are revised to read as follows:

§ 95.14 **Content and description of grant application.**

* * * * *

(b) * * *
(2) * * *
(i) * * *
(C) * * *
(*1*) * * *

(*vi*) A description of the arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under Section 1787 of Title 38, United States Code. (Sec. 105(a)(3)(e)).

(*vii*) For newly eligible prime sponsors, prime sponsors operating independently for the first time, and prime sponsors serving geographical areas in addition to that served in the previous program year, a description of the continuity of service to be provided.

* * * * *

(3) * * *
(ii) * * *

(F) Arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under Section 1787 of Title 38, United States Code. (Sec. 105(a)(3)(e)).

* * * * *

3. Section 95.17 is amended by revising paragraph (b)(8) and by adding a new paragraph (b)(14) to read as follows:

§ 95.17 **Standards for reviewing grant applications.**

* * * * *

(b) * * *

(8) The administrative costs in the application are reasonable and provide, to the maximum extent feasible, for Federal funds to be expended for direct program activities and services, and, if administrative costs exceed 20 percent of non-public service employment activities whether the prime sponsor has cited an adequate reason and provided supporting documentation. Costs for public service employment other than wages and fringe benefits may not exceed 15 percent (secs. 108(d)(2) and (203(b));

* * * * *

(14) The manpower plan provides for appropriate arrangements by the prime sponsor to promote maximum use of apprenticeship or other one-the-job opportunities pursuant to Section 1787 of Title 38, United States Code (Sec. 105(a)(3)(E));

* * * * *

4. Section 95.33(d)(4)(x) is revised to read as follows:

§ 95.33 **Types of manpower activities allowable.**

* * * * *

(d) * * *
(4) * * *

(x) Work experience participants may be used in home repair and winterization activities as provided in § 98.12(b)(3).

* * * * *

5. Paragraph (f)(1) of § 95.34 is revised to read as follows:

§ 95.34 **Training allowances.**

* * * * *

(f)(1) Dependents' allowances shall be reduced pro rata only for absences without good cause. The reduction of the weekly dependent's allowance shall be based on the ratio of the number of hours of absence without good cause to the number of hours which the individual is scheduled to participate in activities for which he/she receives allowances.

* * * * *

6. Paragraph (c)(1)(iv) of § 95.56 is revised to read as follows:

§ 95.56 **Program operations.**

* * * * *

(c) * * *

(1) * * *

(iv) Arrangements made by the State to assist the Secretary in carrying out his responsibilities for enforcing the requirements for Federal contractors to list all suitable employment openings with local offices of the State employment service and take affirmative action, as required in section 2012(a) of Title 38, United States Code. Such arrangements shall be explained in the State Comprehensive Manpower Plan and shall relate only to Federal contractors and subcontractors and should not be interpreted to include grantees, subgrantees or contractors under the Act (sec. 106(b)(5)).

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## PART 96—PROGRAMS UNDER TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

7. Paragraph (b)(2)(i) is revised to read as follows:

**§ 96.2 Allocation of funds.**

* * * * *

(b) * * *

(2) * * *

(i) When any portion of these funds is to be allocated using a distribution based upon a formula, the Secretary shall not later than 30 days prior to such allocation publish for comment in the FEDERAL REGISTER the specific formula for such distribution, the rationale behind the selection of the formula and the proposed amount for distribution to each eligible applicant. After consideration of comments received, the Secretary shall publish final allocations (sec. 202(c)).

* * * * *

8. Paragraph (b)(2)(i)(C)(2)(*vi*) and (*vii*) is revised to read as follows:

**§ 96.14 Content and description of grant application.**

* * * * *

(b) * * *

(2) * * *

(i) * * *

(C) * * *

(2) * * *

(*vi*) A description of the arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportuinties available under Section 1787 of Title 38, United States Code.

(*vii*) For newly eligible applicants, eligible applicants operating independently for the first time, and eligible applicants serving geographical area(s) in addition to that served in the previous program year, a description of the continuity of service to be provided.

9. Subparagraphs (11), (12) and (15) of § 96.23(b) are revised to read as follows:

**§ 96.23 Acceptable public employment positions.**

* * * * *

(b) * * *

(11) Jobs in each promotional line shall in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service jobs not subsidized under Title II. In accordance with § 96.24, when a promotional freeze affects non-CETA employees, it shall also apply to CETA participants similarly employed (sec. 205(c)(24));

(12) No job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective bargaining procedures have been complied with (sec. 205(c)(24));

* * * * *

(15) Consistent with the requirements of § 98.12(b)(3), of this subtitle, public sservice employment participants may be used in home repair and winterization/weatherization activities.

10. Paragraphs (c) and (j) of § 96.24 are revised to read as follows:

**§ 96.24 Maintenance of effort.**

* * * * *

(c) Eligible applicants, program agents and subgrantees may not terminate, layoff, or reduce the working hours of, an employee in anticipation of hiring an individual with funds available under the Act. In no case may participants be used to fill positions or provide services normally provided by temporary, part-time, or seasonal workers or contracted out, or to fill full-time vacancies, unless documentation is maintained, as provided in paragraph (j) of this section, that such action does not constitute a substitution of Federal funds for purposes that would otherwise have been supported by other resources.

* * * * *

(j) Eligible applicants, program agents, or subgrantees which utilize funds under this part to hire persons to fill positions previously supported by funds other than funds available under the Act or to provide services which are normally provided by temporary, part-time or seasonal workers or which is normally contracted out, shall maintain documentation that such use of funds does not constitute a violation of paragraph (c) or of any other requirement of this section. Such documentation shall be prepared and maintained in a form which clearly demonstrates that all requirements of this section are complied with and shall be readily available for the inspection of the RA for a period of not less than one year subsequent to the filling of any position to which these provisions are applicable. Prime sponsors shall, at the direction of the RA, submit such documentation or any budgetary expenditure records, revenue statements, and other information relevant to determinations under this section. RA's shall not approve any plan unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this section.

* * * * *

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## PART 98—ADMINISTRATIVE PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

11. Section 98.8(g) is revised to read as follows:

**§ 98.8 Program Status Summary, Financial Status Report and Monthly Report.**

* * * * *

(g) *Monthly Progress Report.* Grantees operating a Title II or VI funded program shall be required to submit the Monthly Progress Report (MPR) on which they will record the cumulative participants served and terminated, the number of participants on board at the end of the month, the number of participants who had previously been employed by the grantee or agent, and the actual versus planned accrued expenditures cumulative for the program year to the end of the month. The monthly report period is the calendar month. This report will be submitted to the appropriate RA no later than 20 working days after the end of the report period. The monthly report will be phased out when economic conditions and programmatic consideration no longer warrant its submission.

* * * * *

12. Paragraphs (b)(1), (b)(3), (d)(4) and (f)(2) of § 98.12 are revised to read as follows:

**§ 98.12 Allowable Federal costs.**

* * * * *

(b) *Restriction on use of funds in Public Service Employment Programs.* (1)(i)(A) Not less than 85 percent of the funds appropriated pursuant to the Act which are used by an eligible applicant for public service employment programs shall be expended for wages and fringe benefits to persons employed in public service jobs (sec. 203(b)).

(B) The remaining 15 percent may be used for administration, training, or supportive services to participants in public service employment. However, none of the 15 percent may be used to contract for capital improvements to real property used in the administration of the program.

(C) An eligible applicant which does not itself administer the entire program may not retain the entire 15 percent mentioned in (b)(1)(i)(B) of this section for its own use unless this is agreed to by its subgrantees. At least 7.5 percent of a subgrant must be available to the subgrantee for costs other than wages and fringe benefits.

(D) Training materials, work tools, uniforms or other equipment ordinarily provided by the employer to regular employees, and which are for the benefit and ownership of the participants may be considered fringe benefit costs for public service employment participants (sec. 208(a)(7)). However, such costs shall be charged to administration when such items are rented or otherwise do not become the property of the participant.

(ii) The 15 percent of funds used by a prime sponsor or an eligible applicant for public service employment programs under the Act, after the 85 percent requirement of this section is met, may be used for the acquisition of or rental or leasing of supplies, equipment, materials or real property, including equipment

and materials used in the training of public service employment participants, and work related supplies, equipment and materials for such participants. Acquisition of such equipment, materials and supplies, including rental costs, shall be governed by the administrative provisions of this section (secs. 203(b), 602 (b), 210)).

* * * * *

(3) Consistent with the maintenance of effort requirements of § 96.24, of this subtitle, the cost of participants' salaries and fringe benefits shall be allowable costs when such participants are used in home repair and winterization/weatherization activities where such activities are considered to be services normally provided by government and where work performed will not inure primarily to the benefit of a profitmaking organization. Home repair and winterization/weatherization activities shall be limited to dwellings of individuals who are at or below 125 percent of the poverty level (as defined in § 94.4) which are privately owned and owner-occupied, privately owned by a nonprofit organization, or units of public housing.

(4) Unless otherwise provided in Parts 94–99 of this subtitle, funds provided under one title of the Act may not be used to support costs of another title (Attachment A of FMC 74–4).

* * * * *

(d) * * *

(4) When required by § 98.24 or State Unemployment Insurance Laws to pay unemployment insurance costs, prime sponsors shall plan for those obligations to be incurred during the grant year. This responsibility includes unemployment insurance charge which will be incurred by subgrantees and contractors because of unemployment insurance liabilities incurred under programs under the Act. Unemployment insurance benefit costs are allowable for administrative staff hired in accordance with the administrative provisions of these regulations, and for participants in other than classroom training and public service employment. Unemployment insurance benefit costs for public service employment participants, including such participants who are also administrative staff, who become eligible for unemployment insurance by reason of their participation in the program shall be paid not from funds under the Act, but from funds appropriated pursuant to Part B, Section 220(a) of Pub. L. 94–444. However, administrative costs associated with the recordkeeping requirements necessary to implement Part B, Section 220(a) of Pub. L. 94–444, shall be allowable as an administrative cost under the Act.

* * * * *

(f) * * *

(2) *Fringe benefits.* Allowable fringe benefit costs for participants include, but are not limited to the following: Annual, sick, court and military leave pursuant to an approved leave system; employer's contribution for social security, employee's life and health insurance plans, workers compensation insurance, unemployment insurance where applicable; retirement benefits provided such benefits are granted under an approved plan; and such training materials, work tools, uniforms, or other equipment which may be charged to the fringe benefits category under Public Service Employment programs, in accordance with § 98.12(b)(1). Cost of living increases may not be charged to fringe benefits.

13. Paragraphs (b)(1) and (b)(5)(i) of § 98.18 are revised to read as follows:

* * * * *

**§ 98.18 Maintenance and retention of records.**

* * * * *

(b) * * *

(1) Financial records, supporting documents, statistical records and all other pertinent records shall be retained for a period of 3 years. Such financial records related to PSE programs shall be public information. No Federal requirements for records retention which exceed those established by State or local governments shall be otherwise imposed, except that: (sec. 704(d)).

* * * * *

(5)(i) The names of all participants supported under the Act are considered public information unless otherwise noted in this subtitle. The names, addresses, positions and salaries of all persons employed in public service employment positions under the Act are public information (sec. 704(d)).

* * * * *

14. Paragraph (a)(3) of § 98.20 is revised to read as follows:

**§ 98.20 Procurement and property management standards.**

* * * * *

(a) * * *

(3) The standards to be used for the procurement of supplies, equipment, and other materials and services with Federal grant funds are those described in Attachment O of FMC 74–7 with the following exceptions. On-the-job training contracts are not subject to the sole source approval requirement under paragraph 6(b) of Attachment O and selection of subgrantees is exempt from the requirements of Attachment O. When on-the-job training contracts are made under this exception a record of the name of the contractor, the amount and the services to be provided must be made available to the RA upon request. These standards are furnished to assure that such materials and services are obtained in compliance with the provisions of applicable Federal laws and Executive Orders.

* * * * *

15. Section 98.24(b) is revised to read as follows:

**§ 98.24 General benefits and working conditions for program participants.**

* * * * *

(b) Each participant in an on-the-job training, work experience, or public service employment program shall also be assured of health insurance, unemployment insurance (to the extent such benefits are allowable), coverage under collective bargaining agreements and other benefits at the same levels and to the same extent as other employees similarly employed, and to working conditions and promotional opportunities neither more nor less favorable than such other employees similarly employed (secs. 208 (a)(4), 703(5) and 703(6)). Nothing in this section shall be interpreted to require coverage for health insurance, unemployment insurance and similar benefits for participants, such as, work experience participants, where there is no employee of the employer performing the same or similar work in the employment situation. In determining whether the work is the same or similar to that of a person regularly employed, the prime sponsor will take into consideration, but shall not be limited to, employment status, type of work performed, job classification and method of appointment to the position.

* * * * *

16. Part 99 is revised to read as follows:

## PART 99—PROGRAMS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

### Subpart A—General


Sec.
99.1 Scope and purpose of this Part 99.
99.2 Allocation of funds.
99.3 Eligibility for funds.


### Subpart B—Grant Application


99.10 General.
99.11 Planning process; advisory councils.
99.12 Content and description of grant application.
99.13 Comment and publication procedures relating to submission of grant application.
99.14 Submission of grant application; standards for reviewing grant applications.
99.15 Application approval; application disapproval; grant agreement.
99.16 Use of alternative eligible applicant; services by the Secretary.
99.17 Modifications.


### Subpart C—Program Operation Requirements for Prime Sponsors


99.30 General.
99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.
99.32 Program performance requirements for prime sponsors.
99.33 Public service job activities.
99.34 Maintenance of effort.
99.35 Linkages with other employment and training programs; training and supportive services.
99.36 Placement goals.
99.37 Compensation and working conditions for participants.
99.38 Place of residence for participants.


### Subpart D—Program Operation Requirements of the Emergency Jobs Programs Extension Act of 1976


99.40 Apportionment of the prime sponsor's allocation.
99.41 Project and activity approval.
99.42 Eligibility for participation in Title VI programs.
99.43 Verification of participant eligibility.
99.44 Hours of work.
99.45 Administrative staff selection and compensation.

Subpart E—Administrative Provisions

Sec.
99.70 General.
99.71 Payments, financial management systems and audit.
99.72 Reporting requirements.
99.73 Reallocation of funds.
99.74 Allowable Federal costs.
99.57 Grantee contracts and subgrants.
99.76 Allocations of allowable costs among program activities.
99.77 Basic personnel standards for eligible applicants.
99.78 Adjustments in payments.
99.79 Termination of grant and closeout procedures.
99.80 Retention of records.
99.81 Program income and procurement standards.
99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.
99.83 Assessment and evaluation.
99.84 Hearings and judicial review.

Subpart F—Special Conditions for Grants to Indian Tribes and Alaskan Native Villages

99.90 General.
99.91 Grant responsibility.
99.92 Distribution of funds.
99.93 Eligibility for funds.
99.94 Funding of prime sponsors.
99.95 Participant eligibility.
99.96 Comments and publication procedures relating to submission of application for funding.
99.97 Planning process; advisory councils.
99.98 Travel requirements.
99.99 Nepotism and conflict of interest.
99:100 Nondiscrimination; political activities.
99.101 Subgrants.

## Subpart A—General

### § 99.1 Scope and purpose of this Part 99.

(a) This part contains the Department of Labor's regulations governing the establishment and operation of a public service and employment and training program under Title VI of the Act, as amended by the Emergency Jobs and Unemployment Assistance Act of 1974, Pub. L. 93-567, 88 Stat. 1845, and the Emergency Jobs Programs Extension Act of 1976, Pub. L. 94-444.

(b) This program is intended to provide the level of funds needed to sustain enrollment under Title VI through Fiscal Year 1977. Provision is also made for a shift in emphasis toward serving persons who are long-term unemployed or welfare recipients. whose family income's are 70 per cent or less of the lower living standard income level.

(c) Such long-term unemployed and welfare recipients are to make up at least 50 percent of those hired into the program, although a prime sponsor could choose to enroll a greater percentage or even only such persons.

(d) Provision is made for all program activity beyond what is required for sustaining Title VI enrollment to be in projects and activities, which are subject to the review of the prime sponsor's planning council. Such projects and activities must have only long-term unemployed and welfare participants.

(e) The duration of such projects and activities is limited to one year. While there is no regulatory limit to the duration of participation of enrollees in projects, it is strongly encouraged that the participation of such persons also be limited to one year.

(f) A prime sponsor may choose to fund opportunities in projects and activities when funds become available because of vacancies in the regular Title VI slots which it is sustaining. Prime sponsors are expected to provide a substantial part of project funds to nonprofit agencies.

(g) Work in projects must be above and beyond those services customarily provided by State or local jurisdictions and must not conflict with the maintenance of effort provisions of the Act or of the regulations in this part. Work performed in projects must be compared with similar work performed by regular employees to assure that prevailing wages are paid.

(h) Since whether a particiant is long-term unemployed is based on collecting, having exhausted, or being ineligible for unemployment compensation, prime sponsors are strong encouraged to arrange for verification of such information with SESAs.

(i) Definitions not found in this part for abbreviations and major terms may be found in Part 94 of this subtitle.

(j) Although the Emergency Jobs Programs Extension Act of 1976 authorizes the funding of projects for the long-term unemployed and for welfare recipients, Congress at the present time has appropriated by a continuing resolution only the amount of money which it believed would be enough to maintain the number of public service jobs which were filled on June 30, 1976. Consequently, it is not expected that there will be much money available for projects at this time. Therefore, these proposed regulations at § 99.40(b) propose a simplified administrative system for calculating the number of long-term unemployed and welfare recipients who are hired into the program. Because of the current lack of appropriations for projects and because the principal intent of the Emergency Jobs Programs Extension Act is to sustain the public service jobs programs, § 99.40 (a) proposes to allow prime sponsors to carry into the new grant period the number of participants on board on October 22, 1976, if that number is higher than the June 30, 1976 level.

(k) Statutory authority for the regulations contained in this part is found in section 702(a) of the Act. Other relevant sections of the Act are generally noted at the end of the substantive regulations in this part.

### § 99.2 Allocation of funds.

(a) The Secretary shall allocate not less than 2 percent of the funds available for Title VI of the Act to those eligible applicants defined in § 99.3 which are Indian tribes, bands, and groups qualified under section 302(c)(1) of the Act (sec. 602(e) and sec. 603(a)(1)).

(b) Not less than 90 percent of the funds remaining after the application of paragraph (a) of this section shall be allocated among eligible applicants defined in § 99.3 which are prime sponsors under Title I of the Act according to the following basic formula (sec. 603(a)(1)):

(1) Fifty percent of the funds shall be allocated among eligible applicants in proportion to the relative number of unemployed persons who reside in areas within the jurisdiction of such applicants compared to the number of unemployed persons who reside in all eligable applicants' areas in all the States (sec. 603(a)(2)(A)).

(2) Twenty-five percent of the funds shall be allocated among eligible applicants on the basis of the ratio of the excess number of unemployed persons, as defined below, who reside within the jurisdiction of the eligible applicant, to the total excess number of unemployed persons who reside within the jurisdictions of all eligible applicants. In allocating funds to an eligible applicant which is not a State, the term "excess number" shall mean the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant. For allocating funds to an eligible applicant which is a State, the term "excess number" shall mean either the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant, or the number of unemployed persons in excess of 4.5 percent of the labor force in areas eligible for assistance under Title II of the Act in the geographical area served by such State prime sponsor (under Title I of Title II), whichever is greater (sec. 603(a)(2)(C)).

(3) Twenty-five percent of the funds shall be alocated for use on behalf of residents of areas of substantial unemployment. An area of substantial unemployment, other than in relation to Indian tribes, bands, and groups, is any area within a prime sponsor's jurisdiction which has a population of at least 10,000 persons, qualifies for a minimum allocation of $25,000 under Title II of the Act, and has a rate of unemployment of at least 6.5 percent for a period of three consecutive months as determined by the Secretary of Labor at least once each fiscal year. These funds shall be allocated in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the eligible applicant as compared to the total number of unemployed persons residing in all areas of substantial unemployment (sec. 603(a)(2)(B)).

(c) The remaining funds, not to exceed 10 percent of the funds remaining after application of paragraph (a) of this section, may be distributed to prime sponsors under Title VI by the Secretary as the Secretary deems appropriate to carry out the purpose of Title VI, taking into account both changes in rates of unemployment, and the need for additional funds to continue the same level of public service employment activities previously supported under the Act within the jurisdiction of the eligible applicant (sec. 603(b)).

(i) When any portion of these funds is to be allocated using a distribution based upon a formula, the Secretary shall not latre than 30 days prior to such allocation publish in the FEDERAL REGISTER

the specific formula for such distribution, the rationale behind the selection of the formula and the proposed amount for distribution to each eligible applicant. After consideration of comments received within 30 days of the FEDERAL REGISTER notice, the Secretary shall publish final allocations (sec. 603(d)).

(d) In determining the allocations under paragraph (b) and (c) of this section, the term "jurisdiction" includes the jurisdiction of each unit of general local government as described in § 95.3 (a)(2) of this subtitle, whether or not such unit has entered into a consortium of units of general local government for the purposes of § 95.3(a)(3) of this subtitle (sec. 603(c)).

(e)(1) An eligible applicant shall distribute to a program agent, as defined in paragraph (e)(3) of this section, funds to be utilized to serve residents of the program agent's area unless the program agent declines to operate a program, in which case, the eligible applicant shall make other arrangements to serve the program agent's jurisdiction (sec. 204(d)(1)).

(2) If the Secretary does not specify an amount to be distributed to a program agent, the eligible applicant shall distribute funds to the program agent using the same intent used by the Secretary in distributing funds to eligible applicants.

(3) The term "program agent" under this part shall mean any unit of general local government (or combination of such units) located within an eligible applicant's jurisdiction which has a population of 50,000 or more (sec. 204(d)(1)).

(4) Notwithstanding paragraph (e)(1) of this section, a program agent which is a member of a consortium may make such agreements as agreed to by the consortium with regard to the administration of funds for the benefit of the residents of the eligible program agent's area.

### § 99.3 Eligibility for funds.

(a) Funds shall be allocated by the Secretary only to eligible applicants. The term "eligible applicant" shall mean prime sponsors qualified for Fiscal Year 1977 under Title I of the Act and Indian tribes, bands, and groups qualified for Fiscal Year 1977 under section 302(c)(1) of the Act (sec. 602(e)).

(b) A State shall not qualify as an eligible applicant for any geographical area within the jurisdiction of any other eligible applicant within the State unless the non-State eligible applicant has not submitted an approvable application for Title VI funds, or has stated to the Reginal Administrator, in writing, its desire to be served by the State (sec. 204(a)).

(c) A unit of general local government shall not qualify as an eligible applicant with respect to any area within the jurisdiction of another eligible unit of general local government unless the other unit has not submitted an approvable application for such areas, or has stated its desire to the RA, in writing, to be served by such larger unit (sec. 204(a)).

(d)(1) An eligible applicant shall distribute funds to program agents as provided in §99.2(e) (sec. 204(d)(2)).

(2) No program agent shall receive or continue to receive funds for any area within the jurisdiction of another program agent unless the RA determines that the other program agent has not carried out its administrative responsibility consistent with the application for financial assistance developed by the eligible applicant for developing, funding, overseeing, and monitoring programs within its areas (sec. 204(d)(3)).

(e) Funds for areas of substantial unemployment.

(1) An eligible applicant or program agent which contains an area or areas of substantial unemployment shall make available for services to residents of each such area those funds allocated to the eligible applicant under § 99.2(b)(3) (sec. 603(a)(2)(b)).

(2) An eligible applicant other than a State, or a program agent, whose entire jurisdiction qualifies as an area of substantial unemployment, shall, to the extent feasible, allocate funds allocated under § 99.2(b)(3) according to § 96.3(f)(1) of this subtitle.

(3) If the eligible applicant is a State whose entire jurisdiction qualifies as an area of substantial unemployment, the eligible applicant shall, to the extent feasible, allocate the funds allocated to it under § 99.2(b)(3) according to § 96.3(f)(2) of this subtitle.

(4) If an eligible applicant believes that there is an area of substantial unemployment within its jurisdiction that has not been designated as such by the Secretary it may recommend that such area be considered by the Secretary. In making any such recommendation, the eligible applicant must include a precise geographical definition of the area to be served and population data. Such recommendation shall be submitted to the RA. The Secretary shall, within a reasonable time, make a determination on the recommendation and inform the eligible applicant of the decision and the reasons therefor.

## Subpart B—Grant Application

### § 99.10 General.

(a) This subpart contains the procedures for obtaining grants to operate programs under Title VI of the Act (sec. 602(a)).

(b) The Secretary reserves the right to temporarily waive any of the grant procedures in this subpart and provide immediate funding authority when, and if, strict adherence to a procedure would result in a funding delay which would necessitate the lay-off currently employed participants.

### § 99.11 Planning process; advisory councils.

To receive financial assistance under Title VI of the Act, eligible applicants shall submit an appropriate comprehensive Title VI plan, pursuant to § 99.12. In developing and modifying such a plan, an eligible applicant shall utilize the planning process and the advisory councils pursuant to in § 95.13 (b), (c), (d), and (e) of this subtitle.

### § 99.12 Content and description of grant application.

(a) This section describes the grant application which the eligible applicant shall use to apply for its grant.

(b) Copies of all grant application forms and instructions are contained in the Forms Preparation Handbook.

(c) *Grant application forms.* (1) The Application for Federal Assistance identifies the eligible applicant and the amount of funds requested; it provides information concerning the area to be served and the number of people expected to benefit from the program. The Standard Form 424 contained in Federal Management Circular (FMC) 74-7 is being used.

(2) *The Comprehensive Title VI Plan.* The Comprehensive Title VI Plan is a statement of how the eligible applicant intends to use Title VI funds and to coordinate its activities with other employment and training programs and services operating within ts jurisdiction. The Comprehensive Title VI Plan consists of the Narrative of the Title VI Program, the Program Planning Summary, the Budget Information Summary, the Monthly Schedule, the Public Service Employment Occupational Summary, and the Program Summary all described below.

(d) *Narrative Description of the Title VI Program.* The Narrative Description of the Title VI program identifies and explains the employment and training problems within the eligible applicant's jurisdiction, describes proposed program activities and delivery systems to deal with those problems, and projects the results which may be expected from the program. These narrative description requirements represent an abbreviated version of the narrative description requirements of Title II (§ 96.14(b)(2)(1) of this subtitle. However, if information required in certain items below has already been provided in the current title II narrative description, a copy of this description may be attached in order to comply with these requirements. The Narrative Description of the Title VI program requires a detailed statement on the program including the following items:

(1) *Objectives and needs for the assistance.* (i) Program purpose; and

(ii) Analysis of need—A brief description of the labor market of the area including labor force and a description of the population groups most in need of services at this time.

(2) *Results and benefits expected.* This item should explain how the quantified results in Section I of the PPS impact on the needs of the labor force and the community services to be provided.

(3) *Approach.* (i) What provisions have been made to sustain the June 30, 1976, level in both Titles II and VI, or the current level, if higher?

(A) Identify the June 30, 1976, level in Titles II and VI. Identify the October 22, 1976, level, if different.

(B) Estimate amount of funds it will take to sustain the June 30, 1976, level or retain the October 22, 1976 level.

(C) Identify the number of participants that will be sustained under Title II.

(D) If any former participants are to be reinstated under the provisions of § 99.40(c) state the number of individuals involved. Submit adequate documentation to allow the RA to determine that such individuals qualify for reinstatement under § 99.40(d). This documentation must include the name, position, date of termination and reason for termination of each participant and any additional information required by the RA.

(ii) Describe the methods which will be used in providing training and supportive services if any, to long-term unemployed persons.

(iii) Provide the estimated average annual wage rate for PSE occupations and the rationale for obtaining this wage rate; keeping in mind the aim of obtaining a nationwide rate of $7,800.

(iv) Describe the unmet public service needs.

(v) Describe the method of recruitment on basis of new eligibility criteria and method of verification. Describe procedures that will be used to track and monitor the flow of participants in order to comply with the different eligibility requirements of section 607 (b) and (c).

(vi) Provide an explanation of the basis for the geographical distribution of funds within the prime sponsor's area.

(vii) Describe the plan for providing services to disabled, special and recently discharged veterans and welfare recipients.

(viii) For newly eligible applicants, eligible applicants operating independently for the first time and eligible applicants serving geographical area(s) in addition to that served in the previous program year, describe the continuity of service to be provided.

(ix) *Selection of delivery agents and project operators.* (A) An explanation of the methods and criteria to be used in the selection of deliveries of supportive services, training and other activities.

(B) An explanation of the methods and criteria to be used for soliciting and approving project applicants to operate projects to the extent known.

(x) *Describe the linkages established with other manpower and related agencies—* (4) *Management and administrative plan.* (i) Provide an Organizational Chart—if different from Title I and Title II.

(ii) Describe internal administrative controls, including personnel or merit system and grievance procedures.

(5) *Maintenance of effort data.* An eligible applicant shall estimate the number of jobs that will be filled by recalling former employees who have been terminated or laid-off. The eligible applicant shall, in addition, provide data (including fiscal and budgetary documents) and explanatory materials which establish that no termination or lay-off of employees was done to utilize Federal funds in lieu of local funds, but was the result of local budgetary conditions and would have occurred even if no Federal funds were available, under the Act, to provide for the employment of local or State governmental employees. This data shall include relevant materials related to the eligible applicant's local budget situation, including any relevant materials relating to special purpose local governments such as, but not limited to, transportation authorities. Other maintenance of effort requirements are found at § 99.34.

(e) *Program Planning Summary.* Planning Summary requires a prime sponsor to provide a quantitative statement of planned enrollment levels; the participants to be served by each program activity (classroom training, on-the-job training, public service employment, work experience, and other activities); and outcomes for program participants. It aiso requires an identification of the significant segments of the population and then umber of individuals to be served in each.

(f) *Budget Information Summary.* The Budget Information Summary requires a prime sponsor to provide a quantitative statement of planned expenditures and obligations. It requires prime sponsors to indicate yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services). The prime sponsor is to reflect planned quarterly obligations and planned expenditures by program activity.

(g) *Monthly Schedule.* A monthly estimate of total individuals enrolled at the end of the month and total cumulative expenditures shall be provided. Such monthly schedule will reflect the activity for each month during the grant period under Title VI.

(h) *Public Service Employment Occupational Summary.* The Public Service Employment Occupational Summary requires an eligible applicant operating a public service employment program under Title VI of the Act to provide a description of proposed job opportunities, occupations and wages fo rsimilar non-subsidized jobs in the employing agency at the sustaining level. Subsidized jobs provided in projects and activities should also be described to the extent known at the time of application.

(i) *Program Summary.* The Program Summary presents a distribution of jobs, training slots, and funds to be provided to eligible applicants and subgrantees. It designates the area to be served, the population and employing agencies of each area. To the extent known, the above information should also be provided for projects and activities.

(h) (1) *Assurances and Certifications.* The Assurances and Certifications form is a signature sheet on which the eligible applicant assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars and Office of Management and Budget (OMB) circulars. The Assurances and Certifications form will be provided in the grant application package.

(2) When prime sponsors are planning to fund job opportunities authorized under Section 304(a) of the Act, paragraphs (3), (4), (5), and (6), they must submit a certification to the Secretary in the grant application that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 604(a)).

(3) *Grant Signature Sheet.* The Grant Signature Sheet records the acceptance by the grantee and grantor of the terms and conditions of the grant and any changes to the grant. It records the time period for which the grant is effective, the grant allotment, the amount of funds obligated by the RA to the grantee, the Title of the Act under which funding is authorized and the name, title and signature of the approving official on both sides. A copy of the grant application shall be submitted to appropriate State and sub-State clearinghouse(s) at the same time that it submits its application to the RA.

**§ 99.13 Comment and publication procedures relating to submission of grant application.**

Each eligible applicant shall provide an opportunity for comment on the application as set out in § 95.15 of this subtitle. Except that newspaper publication and provision of the application to Governors and appropriate units of government may be simultaneously with submission of the grant application to the RA.

**§ 99.14 Submission of grant application; standards for reviewing grant applications.**

(a) Each eligible applicant shall submit its grant application to the RA on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 99.12.

**§ 99.15 Application approval; application disapproval; grant agreement.**

The procedures set forth in §§ 95.18 and 95.19 of this subtitle shall apply for Title VI applications and grant agreements.

**§ 99.16 Use of alternative eligible applicant; services by the Secretary.**

The provisions detailed in § 95.20 of this subtitle shall apply to applications and grants made pursuant to Title VI of the Act.

**§ 99.17 Modifications.**

The modification procedures set forth in § 95.21 of this subtitle shall apply to Title VI grants.

## Subpart C—Program Operation Requirements For Prime Sponsors

**§ 99.30 General.**

(a) This subpart contains the program operation requirements governing prime sponsors with respect to the creating and expanding of public service job opportunities for unemployed and underemployed persons (secs. 205, 602(a)).

(b) This subpart also contains special provisions governing prime sponsors

of areas of excessively high unemployment, which include:

(1) Prime sponsors of areas having an average unemployment rate in excess of 7 percent for the most recent three consecutive months based upon the best available information and subject to review by the RA, and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(2) Prime sponsors which are "exceptional circumstance" prime sponsors under section 102(a)(4) of the Act and which certify to the RA in the grant application or a request for modification that application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(3) Prime sponsors which are "concentrated employment program" prime sponsors under section 102(a)(5) of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area; and

(4) Prime sponsors which are State prime sponsors serving areas which are eligible for assistance under the Title II of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the Title II area.

### § 99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.

(a)(1) A prime sponsor shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle.

(2) A prime sponsor of an area of excessively high unemployment shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle, except that the provisions of § 96.21(c), (d) and (e) of this subtitle shall not apply.

(b) The responsibilities of program agents, as defined in § 99.2(e)(3), shall be those provided in § 96.22 of this subtitle.

### § 99.32 Program performance requirements for prime sponsors.

(a) A prime sponsor shall use funds under Title VI of the Act in accordance with the expenditure levels and enrollment levels described in the approved Comprehensive Title VI Plan and within the monthly schedule.

(b)(1) The RA shall review the program performance of each prime sponsor on a monthly basis and determine the adequacy of the prime sponsor's performance with respect to the expenditure and enrollment levels provided for in the Program Planning Summary, Budget Information Summary, and the monthly schedule.

(2) If a prime sponsor operates at a level below the monthly schedule, the RA may prescribe corrective action and/or technical assistance.

(c) The RA, on a monthly basis, shall make a general review of the prime sponsor's performance and goals to determine the responsiveness of the prime sponsor's program to the unemployment rates of its area and the employment needs of the persons within its jurisdiction.

### § 99.33 Public service job activities.

(a) A prime sponsor may provide:

(1) Public service jobs in employment projects, as defined in § 94.4(ooo) of this subtitle, which provide maximum employment opportunities for eligible persons (sec. 602(a));

(2) Public service employment programs which meet the requirements of § 96.23 of this subtitle (sec. 602(a));

(3) Basic manpower activities and services described in § 95.33(d) of this subtitle (sec. 201);

(4) Job opportunities with public employers, as described in paragraphs (3), (4), (5), and (6) of section 304(a) of the Act, if the prime sponsor certifies to the RA in the grant application or a modification that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 640(a));

(5) Where funds are utilized pursuant to paragraphs (a)(3) and (a)(4) of this section, all provisions under this part shall apply, except for references in such provisions to §§ 96.20, 96.21 (b)(c)(d)(e)(g) and (h), 96.23, 96.31, 96.32, 96.33, and 96.34 of this subtitle. In addition, those provisions applicable for programs under Title I, or Part A of Title III shall apply. However, when Title VI funds are used to fund public service employment, all of the provisions of this part shall apply.

(b) Funds allocated to prime sponsors of areas of excessively high unemployment may also be used for the following special program activities and services (sec. 604):

(1) Public service employment programs which meet the requirements of § 96.23 of this subtitle, except that § 96.23(b)(2), (3), and (8) shall not apply;

(2) The funding of jobs with public employers on community capital improvement projects, which would not be otherwise carried out (however, these activities must be activities that the prime sponsor is authorized to do and would normally perform itself rather than contract out). Such projects may include the rehabilitation, alteration, or improvement, but not new construction, of public buildings, roads and other public transportation facilities, health and education facilities, and other facilities for the improvement of the community in which the project is or will be located. Funds shall not be used, however, for employment in capital improvement projects which inures primarily to the benefit of a private profit-making organization (sec. 604(b)); and

(3) The funding of jobs in projects for functions that would normally be authorized for the jurisdiction but would not otherwise be carried out. The activities performed in the projects must be those which the prime sponsor has historically performed itself rather than those which would normally be performed by an outside contractor. Such projects may include construction (including new construction), rehabilitation, alteration, or improvement of water and waste disposal facilities in communities populations of 10,000 individuals or less which are outside the Standard Metropolitan Statistical Area, as defined by the Bureau of the Census.

### § 99.34 Maintenance of effort.

(a) Public service jobs funded under Title VI of the Act shall only be in addition to employment which would otherwise be financed by the prime sponsor without assistance under the Act (secs. 602(c), 205(c)(25)).

(b) To assure maintenance of effort, the prime sponsor shall see that a public service employment program under Title VI of the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of nonovertime work, wages, or employment benefits;

(3) Shall not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) Shall not substitute public service jobs for existing federally assisted jobs under federally supported programs other than those under the Act (secs. 602(c), 208(a)(1)).

(c) Prime sponsors, program agents and subgrantees may not terminate, layoff, or reduce the working hours of, an employee in anticipation of hiring an individual with funds available under Title VI. In no case may participants be used to fill positions or provide services normally provided by temporary, part-time, or seasonal workers or contracted out, or to fill full-time vacancies, unless documentation is maintained, as provided in paragraph (h) of this section, that such action does not constitute a substitution of Federal funds for purposes that would otherwise have been supported by other resources.

(d) No prime sponsor shall hire or allow the hiring of any person into any job funded under this part when any other person is on lay-off from the same or any substantially equivalent job (secs. 602(c), 205(c)(7)(8)). If the layoffs of regular employees occur during the grant period, participants may not remain in working in the same or substantially equivalent job within the employing agency that is affected by the lay-off. Such participants shall be transferred to positions not affected or be laid off or

terminated. Prime sponsors shall try to transfer them to Title I, if appropriate, or shall attempt to place them into unsubsidized employment before laying them off or terminating them (secs. 602(c), 205(c)(8)).

(e) Former employees who lost their jobs due to a bona fide lay-off may be hired into positions supported under this Part provided that such hiring does not constitute a violation of the maintenance of effort provisions of the Act and these regulations.

(f) No participant may be placed or remain working in any position substantially equivalent to a position which is vacant due to a hiring freeze unless the prime sponsor can demonstrate that:

(1) The freeze resulted from a lack of funds to sustain former staff levels and was not established because of the availability of funds under this part; and

(2) The promotional opportunities of regular employees will not be infringed upon.

(g) Prime sponsors shall notify the RA in writing of any layoff or hiring freeze in a department or agency where participants are employed in positions substantially equivalent to those affected by the layoff or hiring freeze.

(h) Prime sponsors, program agents, or subgrantees which utilize funds under this Part to hire persons to fill positions previously supported by funds other than funds available under the Act or to provide services which are normally provided by temporary, part-time or seasonal workers or which are normally contracted out, shall maintain documentation that such use of funds does not constitute a violation of paragraph (c) of this section nor of any other requirements of this section. Such documentation shall be prepared and maintained in a form which clearly demonstrates that all requirements of this section are complied with and shall be readily available for the inspection of the RA for a period of not less than one year subsequent to the filling of any position to which these provisions are applicable. Prime sponsors shall, at the direction of the RA, submit such documentation or any budgetary expenditure records, revenue statements, and other information relevant to determinations under this section. RA's shall not approve any plan unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this section.

(i) Funds shall not be used to provide public services, through a private or nonprofit organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area if such funding will result in a reduction of the customary level of such service by the State, political subdivision, or local educational agency.

(j) RAs and prime sponsors shall carefully review all programs to insure compliance with all maintenance of effort requirements.

**§ 99.35 Linkages with other employment and training programs; training and supportive services.**

(a) Each prime sponsor, where appropriate, shall maintain linkages with other employment and training programs as provided under the provisions of § 96.32 of this subtitle.

(b) As appropriate, each prime sponsor shall provide training and supportive services for participants as specified by § 96.31 of this subtitle.

**§ 99.36 Placement goals.**

Public service employment programs, to the extent feasible, shall meet placement goals as described in § 96.33 of this subtitle (secs. 602(c), 211(b)). The provisions of § 96.33(c)–(f), however, shall not be applicable to participants in projects and activities as described in § 99.40(a)(2).

**§ 99.37 Compensation and working conditions for participants.**

(a) Participants in public service employment programs and projects shall be compensated pursuant to § 96.34 of this subtitle.

(b) A prime sponsor may establish, on an area basis, jobs and wage structures for participants, taking into account the average wages in the area served and the cost of living in such areas, with the aim of effecting a nationwide, federally supported annual average wage rate equivalent of $7,800 per full-time position within the overall $10,000 federally supported salary limitation provided to public service jobholders. However, this provision in no way is intended to impair a prime sponsor's right to pay the maximum wage rate allowable. The RA is authorized to make recommendations, on an area basis, to prime sponsors pertaining to the provisions set forth in this paragraph.

(c) Participants in classroom training programs shall be compensated pursuant to § 95.34 of this subtitle.

(d) Participants in on-the-job training programs and projects shall be compensated pursuant to § 95.35 of this subtitle.

(e) Participants in work experience programs shall be compensated in accordance with § 95.33(d)(4)(viii) of this subtitle. When participants enrolled in work experience are working in projects, wages shall equal the highest of either of the rates specified in § 95.33(d)(4)(viii) of this subtitle or the prevailing rates of pay for persons employed in similar occupations by the same employer.

(f) The salary limitations specified in § 96.34(c) of this subtitle shall apply to compensation provided participants under Title VI.

**§ 99.38 Place of residence for participants.**

(a) *General.* (1) (i) At this time of both application and selection, program participants shall reside within the geographic area for which funds have been designated. A program agent, therefore, may not hire persons outside of its jurisdiction nor may a prime sponsor hire a person from the jurisdiction of another prime sponsor or of a program agent within its own jurisdiction.

(ii) Because of changes in program agent designations each program year, this policy does not require the layoff of participants eligible under the residency requirements that were applicable at the time of their selection.

(2) A prime sponsor or program agent may receive additional funds as a subgrantee of another prime sponsor or program agent to enroll residents of the other prime sponsor's or program agent's jurisdiction in any public service job or other manpower program under Title VI. The prime sponsor or program agent receiving funds must offer jobs or programs which are within reasonable commuting distance of residents of the other prime sponsor's or program agent's jurisdiction.

(3) *Consortia of eligible applicants.* If two or more prime sponsors have formed a consortium to operate programs under Titles I and VI, residents of any designated area within the boundaries of the consortium may be employed in public service jobs or enrolled in any other manpower activity either within the geographical boundaries of the consortium or outside such boundaries in which case the provisions of § 96.23(b)(7) of this subtitle shall apply: *Provided,* That the total amount of funds spent for residents of each participating prime sponsor equals the amount of funds that the area would have received if the consortium had not been formed.

(b) Funds provided under § 99.2(b)(1), (2) and § 99.2(c) shall be used on behalf of residents of the jurisdiction of the prime sponsor, or program agent, as appropriate.

(c) Funds provided under § 99.2(b)(3) shall be used only on behalf of residents of geographic areas eligible for assistance under Title II of the Act.

(d) *Consortia of units of general local government formed in order to qualify as program agents; multijurisdictional prime sponsors.* The provisions of paragraphs (a), (b) and (c) of this section shall apply to consortia of units of general local government formed in order to qualify as program agents and shall apply to multijurisdictional prime sponsors.

## Subpart D—Program Operation Requirements of the Emergency Jobs Programs Extension Act of 1976

**§ 99.40 Apportionment of the prime sponsor's allocation.**

(a) *General.* (1) (i) Each prime sponsor shall reserve from the funds available during Fiscal Year 1977 for its use under Title VI, an amount which, when added to the funds available during Fiscal Year 1977 for its use under Title II, shall be sufficient to sustain throughout FY 1977 the number of Titles II and VI participants who were in the program on June 30, 1976.

(ii) However, if the number of participants enrolled in Titles II and VI on Oc-

tober 22, 1976, plus any rehires who were terminated from Titles II and VI and who are approved for reinstatement in accordance with paragraph (c) of this section, is higher than the June 30, 1976, level of participants, the prime sponsor may reserve funds to carry the higher level into the new grant period. The prime sponsor should be aware, however, that its allocation, which shall be keyed to the June 30, 1976 level, may not be sufficient to operate at the higher level throughout FY 1977.

(iii) (A) Funds reserved in accordance with paragraph (a)(1)(i) of this section shall not be used to support a level of opportunities in excess of the June 30, 1976, level.

(B) Funds reserved in accordance with paragraph (a)(1)(ii) of this section shall not be used to support a level of opportunities in excess of the October 22, 1976, level plus any rehires who have been approved for reinstatement under paragraph (c) of this section.

(2) Funds remaining after the application of paragraph (a)(1) of this section shall be used for new projects as defined in § 94.4(ooo) of this subtitle, and activities, as described in § 99.33(a), not to exceed 12 months and subject to the approval procedures in § 99.41 (sec. 607(b)).

(b) *Enrollment of Title VI participants.* (1) At least fifty percent of the participants who become enrolled after grant approval shall meet the new eligibility criteria (§ 99.42(a)).

(i) Only participants meeting the new eligibility criteria shall be enrolled in projects and activities as specified in §§ 99.40(a)(2) and 99.41.

(2) Up to fifty percent of the participants who become enrolled after grant approval may meet the original Title VI eligibility criteria (see § 99.42(b)).

(i) Individuals enrolled after grant approval who meet the original Title VI eligibility criteria may be rehires, as defined in § 99.4(qqq), provided that the maintenance of effort provisions of § 99.34 are not violated.

(ii) In selecting individuals who meet the original Title VI criteria, prime sponsors may give preference to unemployed qualified former health and safety personnel for public health and safety positions (sec. 607(c)(2)).

(3) The number of participants who become enrolled in Title VI after grant approval who meet the new eligibility criteria shall at all times approximate fifty percent or greater of all participants who become enrolled in Title VI after grant approval.

(c) Any rehire who, after June 30, 1976, and before October 1, 1976, was laid off from a job supported under Titles II and VI because of the provisions of § 96.24 (e) and (f) of this subtitle may be reinstated by the prime sponsor into a Title VI position supported pursuant to paragraph (a)(1) of this section. However, reinstatement shall be subject to RA determination that they were laid off because of § 96.24 (e) and (f), after review of information provided in § 99.12 (d)(3)(i)(D). The reinstatement provision of this section shall not relieve a prime sponsor from compliance with § 99.34(d) (sec. 609(c)).

### § 99.41 Project and activity approval.

(a) Funds remaining after funds are reserved for supporting the level of opportunities determined in § 99.40(a)(1) shall be utilized for public service jobs in new projects, as defined in § 94.4(ooo), and activities, as described in § 99.33(a), not to exceed one year in duration (sec. 607(b)).

(b) Such projects and activities shall be funded as follows:

(1) Each prime sponsor shall establish procedures for its own use and the use of its program agents for notifying potentially eligible project applicants (as defined in § 94.4(ppp)) of the application process and cut-off date for acceptance of applications.

(2) Each prime sponsor is responsible for establishing procedures for its own use and the use of its program agents, whereby, upon receipt, a copy of each project/activity application shall be submitted to the prime sponsor's planning council to allow the council to submit comments and recommendations with respect to the application (sec. 609(a)).

(i) No member of a prime sponsor's planning council shall cast a vote on any matter in connection with a proposed project in which that member (or any organization with which that member is associated) has a direct interest (sec. 609(a)).

(3) Prime sponsors and program agents should give consideration to providing a substantial portion of the project and activity funds to nonprofit agencies, in order to insure that real, new jobs are created and to avoid substitution of Federal funds for services customarily provided by State and local governments.

(4) In reviewing project applications, prime sponsors, and program agents, should carefully consider any proposed expenditures for materials, supplies, equipment, and space in relation to the duration of the proposed projects.

(5) Prime sponsors and program agents shall not disapprove a project application without first considering any comments and recommendations submitted by the planning council and providing the applicant and the council with a written statement of the reasons for the disapproval (sec. 609(b)).

(6) In program agent areas, decisions on approving or disapproving project applications shall be made in accordance with § 96.22 of this subtitle.

### § 99.42 Eligibility for participation in Title VI programs.

(a) The following criteria shall be used by prime sponsors in determining participant eligibility pursuant to § 99.40 (a)(2) and (b)(1) and in selecting participants for these positions (sec. 608(a)).

(1) An eligible person must be a member of a family which has a current gross family income, determined pursuant to paragraph (a)(2) of this section, at or below 70 per centum of the lower living standard income level, as defined in § 94.4 (nnn), and

(i) Who has been receiving unemployment compensation for fifteen or more weeks; or

(ii) Who is ineligible for unemployment compensation and has been unemployed for fifteen or more weeks; or

(iii) Who has exhausted unemployment compensation benefits; or

(iv) Whose family is receiving Aid to Families with Dependent Children under Title IV of the Social Security Act.

(2) In determining current gross family income, the prime sponsor shall utilize whichever of the following procedures is most advantageous to the applicant:

(i) Total family income (exclusive of any unemployment compensation received by the applicant or public payments received by the family which a family member, including the applicant, will be disqualified from receiving, due to the employment of the applicant under Title VI, e.g., payments under the Aid to Families with Dependent Children of Unemployed Fathers Program) annualized based on the 3 months preceding application; or

(ii) Total family income (exclusive of any unemployment compensation received by the applicant or public payments as described in paragraph (a)(2)(i) of this section) received during the 12 months preceding application (sec. 608(a)(2)).

(3) The prime sponsor shall take reasonable steps to insure that funds used pursuant to § 99.40(a)(2) and (b)(1) are equitably allocated among the categories of eligible persons described in subdivisions (i), (ii), (iii), and (iv) of paragraph (a)(1) of this section. Such equitable allocation shall be made in light of the composition of the population of unemployed eligible persons served by the prime sponsor, to the extent that such data are available. No one group shall be served exclusively, and no group shall be excluded from service (sec. 608(c)).

(4) Participants under Title I, section 302 and section 303 of the Act, participants under Sections 5 and 6 of the Emergency Employment Act, and participants under Title X of the Public Works and Economic Development Act who are enrolled in Title II or VI activities, may be transferred pursuant to § 99.40(a)(2) or (b)(1) if they met the requirements of paragraph (a)(1) of this section and § 99.38 at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(b) In order to be eligible pursuant to § 99.40(b)(2), an individual shall be:

(1)(i) A person who has been unemployed for at least 30 days, as defined in § 94.4(hhh), prior to application, or who is underemployed, as defined in § 94.4 (fff), and who meets the residence requirements of § 99.38, is eligible pursuant to § 99.40(b)(2). The term residence is defined in § 96.27(f) of this subtitle; or

(ii) A person who has been unemployed for at least 15 days, as defined in

§ 94.4(hhh), except for the provision of § 94.4(hhh)(3), prior to application, or who is underemployed, as defined in § 94.4(fff) and who meets the residence requirements of § 99.38, is eligible for a job funded under § 99.40(b)(2) in areas of excessively high unemployment.

(2) A veteran who entered the U.S. Armed Forces during the Vietnam Era (August 5, 1964, to May 7, 1975), and who has served on active duty for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon discharge, for participation in an activity under § 99.40 (b)(2) without regard to the 30-day unemployment requirement which would otherwise pertain (sec. 2013, Vietnam Era Veterans' Readjustment Assistance Act of 1972, Pub. L. 92-540): *Provided*, Such veteran has not obtained permanent, full-time unsubsidized employment between the time of discharge and the time of application for participation in Title VI.

(3) A person participating in a public employment program under a Section 5 or Section 6 grant funded by the Emergency Employment Act (EEA) may be transferred into an activity under § 99.40 (b)(2), in order to provide for the orderly phaseout of the EEA grant, if he/she met the requirements of § 99.38 at the time his/her entry into EEA, and provided that maximum efforts have been made to place such an individual in unsubsidized employment or training.

(4) Title I, Title II, section 302, and section 303 participants under the Act, and participants under Title X of the Public Works and Economic Development Act, who are enrolled in Titles II or VI activities may be transferred pursuant to § 99.40(b)(2) only if they met the requirements of paragraph (b)(1) of this section at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(5) A person participating in a WIN public service employment program under Part C, Title IV, of the Social Security Act, who leaves or is removed from a public service employment position, shall be treated in the same manner as any other such applicant with respect to eligibility pursuant to § 99.40(b)(2):

(i) If such an individual is still receiving cash welfare payments, that individual meets the definition of unemployed for this title, and is immediately eligible if the individual also meets the requirements of § 99.38.

(ii) If the individual is no longer receiving welfare payments, that individual must meet the standard eligibility criteria for paragraph (b)(1) of this section.

### § 99.43 Verification of participant eligibility.

(a) A prime sponsor is responsible for assuring the eligibility of all participants under Title VI. The eligibility requirements of paragraphs (i), (ii), (iii), and (iv) of § 99.42(a)(1) of this Part are verifiable. Prime sponsors shall be liable for any payments made to participants determined ineligible during program audits or reviews or otherwise. Decisions on whether to verify eligibility and on the method of verification rest with the prime sponsor. However, in order to protect their liability, prime sponsors are encouraged to develop arrangements and procedures for the verification of participants as follows:

(1) Arrangements, including cooperative agreements, with SESAs for the verification of individuals whose applications indicate that they qualify pursuant to paragraphs (i), (ii), and (iii) of § 99.42(a)(1) of this Part; and

(2) Arrangements with public welfare agencies for the verification of individuals whose applications indicate that they qualify as an AFDC recipient (§ 99.42(a)(1)(iv)).

(b) As unemployment compensation recipients approach their 15th week or their exhaustion status, SESAs will be informing them of their possible eligibility for Title VI programs. Prime sponsors shall work with the SESA in the development of arrangements for informing these individuals of their possible eligibility for available opportunities.

(c) The following requirements are applicable in the selection process of participants for all jobs and activities filled under Title VI:

(1) The selection of participants shall be made in accordance with the provisions of § 96.25 of this subtitle.

(2) A person who obtains permanent, full-time unsubsidized employment after application shall no longer be considered eligible for Title VI, unless, even with such full-time employment, an applicant pursuant to § 99.40(b)(2) still meets the requirements of paragraph (b)(1) of this section.

(3) Citizenship may not be used as a criterion to prevent persons from participating in a program under Title VI. However, program participation shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or are otherwise legally available for work in the United States.

(4) While the selection of eligible full-time students for participation in programs funded under Title VI is not prohibited, prime sponsors should exercise caution in providing for such participation and should provide for such participation only in accordance with these regulations. Prior to providing such participation, prime sponsors should give special consideration to those persons most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under Title VI.

(5) A participant in a Title VI program may change jobs within a particular prime sponsor's or program agent's jurisdiction without reestablishing eligibility pursuant to paragraphs (a) or (b) of this section, but may not be employed in a job or activity for any other prime sponsor or program agent without again establishing eligibility pursuant to paragraphs (a) or (b) of this section.

(6) The provisions of § 96.28 and § 96.30, special consideration for most severely disadvantaged persons and groups to be provided special consideration, shall apply to programs funded under Title VI.

(7) The significant segments of a prime sponsor's population shall be served on an equitable basis, as provided in § 96.29 of this subtitle. In selecting individuals eligible pursuant to paragraph (a) of this section, the requirements of paragraph (a)(3) of this section are in addition to serving significant segments equitably.

### § 99.44 Hours of work.

In providing public service jobs and determining hours of work for individuals eligible pursuant to § 99.40(a)(2) and § 99.40(b)(1), each prime sponsor shall take into consideration the household support obligations of the individuals and shall give special consideration to such alternative working arrangements as flexible hours of work, shared time and part-time jobs, for participants with particular needs, e.g., parents of young children, older persons, and handicapped individuals (sec. 608(d)).

### § 99.45 Administrative staff selection and compensation.

(a) The Title VI administrative staff shall be selected and compensated in accordance with the provisions of § 96.35 of this subtitle.

(b) When administrative funds are utilized to pay the wages of supervisory personnel for projects, the promotional rights of existing employees to fill the supervisory positions shall be protected.

## Subpart E—Administrative Provisions

### § 99.70 General.

This subpart contains regulations on the administration of grants under Title VI of the Act. The regulations in this subpart reference the sections of Part 98 of this subtitle which apply to Title VI grants.

### § 99.71 Payments, financial management systems and audit.

§§ 98.2 through 98.6 of this subtitle relating to payments, financial management systems and audits apply to grants under Title VI of the Act (secs. 702(b), 713).

### § 99.72 Reporting requirements.

(a) Section 98.7 shall apply to Title VI programs (secs. 702(12), 713).

(b) Section 98.8 of this subtitle requiring submission of the Program Status Report and Monthly Report shall apply to programs under Title VI.

(c) Section 98.9 of this subtitle requiring submission of a Quarterly Summary of Participant Characteristics shall apply to programs under Title VI.

(d) Section 98.10 of this subtitle requiring submission of a Report of Fed-

eral Cash Transactions shall apply to programs under Title VI.

**§ 99.73 Reallocation of funds.**

(a) Irrespective of requirements under § 98.11 of this subtitle, the RA may make such reallocation, as he deems appropriate, of any amount of any allocation under Title VI of the Act to the extent that he determines that an eligible applicant will not be able to use such amount within a reasonable period of time.

(b) When the RA determines that a reallocation is appropriate, he shall give the grantee and the appropriate Governor 30-day notice of the proposed action to remove funds from the grant. Such notice shall include the specific reasons for the action being taken.

(c) The grantee and the Governor will be invited to submit comments on a proposed reallocation of funds. These comments shall be submitted to the RA within 30 days from the date of the notice. The RA shall notify the Governor and affected prime sponsors on any decision to reallocate funds and shall have any such decision published in the FEDERAL REGISTER.

(d) The procedures set out in this section are in lieu of any other procedure which might otherwise be applicable under § 98.40, et seq. of this subtitle.

(e) Any reallocation of funds shall be to an alternate eligible applicant to serve the same area or to eligible applicants to serve other areas. In reallocating such funds to serve other areas, priority shall be given first to eligible applicants within the same State and then to eligible applicants within other States, taking into consideration the number of eligible unemployed individuals in those areas (sec. 606).

**§ 99.74 Allowable Federal costs.**

(a) Section 98.12 of this subtitle concerning allowable Federal costs shall apply to Title VI grants. In addition, the cost of participants' salaries and fringe benefits or the cost of allowances in areas of excessively high unemployment may include jobs on community capital improvement projects, which would not otherwise be carried out by the grantee or subgrantee, including the rehabilitation, alteration, or improvement of public buildings, roads, and other transportation facilities, health and education facilities, and other facilities for the improvement of the community in which the community capital improvement project is or will be located, but such funds shall not be used for public service employment in new building and highway construction work or in other work which inures primarily to the benefit of a private profitmaking organization (sec. 604(b)(3)). The costs of participants' salaries and fringe benefits or the costs of allowances in areas of excessively high unemployment are allowable for participants engaged in construction, rehabilitation, alteration, or improvement of water and waste disposal facilities which would not otherwise be carried out, in communities having populations of 10,000 individuals or less which are outside the boundaries of a Standard Metropolitan Statistical Area (as defined by the Bureau of the Census) (sec. 604(a)(3)).

**§ 99.75 Grantee contracts and subgrants.**

Section 98.27 of this title shall apply to Title VI grants, except that contracts and subgrants may not extend more than 6 months beyond the term of the grant.

**§ 99.76 Allocations of allowable costs among program activities.**

Section 98.13 of this subtitle shall apply to Title VI grants.

**§ 99.77 Basic personnel standards for eligible applicants.**

(a) Section 98.14 of this title shall apply to Title VI grants (sec. 703(14)).

(b) The basic personnel standards, as set forth in § 98.14 of this subtitle, shall apply only to an eligible applicant's staff and not to program participants. However, in filling public service jobs funded under Title VI of the Act, eligible applicants shall insure that applicable personnel procedures and collective bargaining agreements have been met.

**§ 99.78 Adjustments in payments.**

Section 98.15 of this subtitle shall apply to Title VI grants (sec. 702(b)).

**§ 99.79 Termination of grant and closeout procedures.**

Sections 98.16 and 98.17 of this subtitle shall apply to Title VI grants (sec. 702(b)).

**§ 99.80 Retention of records.**

Section 98.18 of this subtitle shall apply to Title VI grants (sec. 703(a)(12)).

**§ 99.81 Program income and procurement standards.**

Sections 98.19 and 98.20 of this subtitle shall apply to Title VI grants.

**§ 99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.**

(a) Sections 98.21, 98.22 and 98.23 of this subtitle apply to Title VI programs (secs. 703(1), 710 and 712):

(b) Sections 98.24, 98.25, 98.26, 98.28, and 98.29 of this subtitle relating to general benefits and working conditions, retirement programs, procedures for resolving issues, nonfederal status of participants, and Davis-Bacon Act provisions, shall apply to Title VI programs.

**§ 99.83 Assessment and evaluation.**

Sections 98.30 through 98.34 shall apply to Title VI grants (sec. 703(14)).

**§ 99.84 Hearings and judicial review.**

Sections 98.40 through 98.49 of this subtitle shall apply to Title VI grants (except as otherwise provided in this part).

## Subpart F—Special Conditions for Grants to Indian Tribes and Alaskan Native Villages

**§ 99.90 General.**

This subpart contains special conditions for grants under Title VI of the Act to Indian tribes on Federal and State reservations, recognized tribes in the State of Oklahoma, and Alaskan Native Villages in the State of Alaska. To the extent that any provisions of this subpart differ from any other provision of this part, the provisions of this subpart shall govern. Otherwise, the requirements of this part 99 apply to programs under this subpart.

**§ 99.91 Grant responsibility.**

The Division of Indian and Native American Programs in the Office of National Programs shall have full responsibility for all matters pertaining to funds allocated to eligible applicants as defined under § 99.90 above. For purposes of this subpart, all references to RA in this Part 99 shall be read as Director, Division of Indian and Native American Programs.

**§ 99.92 Distribution of funds.**

Funds for use under this subpart shall be not less than 2 percent of all funds appropriated for Title VI programs. Such funds shall be allocated among the designated prime sponsors on the basis of the prime sponsor's Indian and Alaskan Native rate of unemployment compared to the rate of unemployment in all eligible areas. In making such allocations, the Secretary shall use the best data available.

**§ 99.93 Eligibility for funds.**

Indian tribes on Federal or State reservations, recognized tribes in Oklahoma and Alaskan Native villages shall be eligible for Title VI funds provided they meet the requirements of § 96.42 of this subtitle, except that recognized tribes in Oklahoma and Alaskan Native villages are exempt from the Federal or State reservation requirement.

**§ 99.94 Funding of prime sponsors.**

(a) A prime sponsor, if necessary, shall update its Preapplication for Federal Assistance (SF–424) to include a request for funding pursuant to Title VI of the Act. An eligible applicant which has not previously submitted a Preapplication shall comply with § 97.111 of this subtitle.

(b) A consortium, if necessary, shall amend its consortium agreement to insure that it covers activities funded under Title VI of the Act.

(c) Funds made available pursuant to Title VI shall be included in existing Fiscal Year 1977 grants via a modification if appropriate. If new grants are executed, they shall be for a period not to exceed 12 months.

(d) The Title VI modification of the new grant shall consist of the Employment Plan and the Grant Sheet. New grants shall also include appropriate Assurances and Certifications. The Employment Plan shall consist of:

(1) A full narrative description of the program;
(2) A program planning summary;
(3) A budget information summary;
(4) An occupational summary;
(5) A program summary; and
(6) A monthly plan.

§ 99.95 **Participant eligibility.**

Indian and Alaskan Natives who meet the eligibility and residency requirements of this part shall be eligible to participate in programs funded under Title VI.

§ 99.96 **Comments and publication procedures relating to submission of application for funding.**

Each eligible applicant shall provide an opportunity for comment on its Title VI plan as set out in § 97.115 of this subtitle.

§ 99.97 **Planning process; advisory councils.**

Eligible applicants shall utilize in their planning process the services of their planning councils authorized under § 97.113 of this subtitle. In addition, the provision of § 99.41 shall apply to the project application approval process.

§ 99.98 **Travel requirements.**

Travel regulations for grantees under this subpart shall be those at § 97.161(f)(7) of this subtitle.

§ 99.99 **Nepotism and conflict of interest.**

(a) No prime sponsor, subgrantee or contractor shall hire, or permit the hiring of, any person in a staff position, nor shall they accept any person as a participant, if a member of the person's immediate family is employed in an administrative capacity by the prime sponsor, subgrantee or contractor. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister. The term "staff position" includes all positions such as instructors, counselors, administrators, and suppliers of training and services. The term "employed in an administrative capacity" includes those persons who have overall administrative responsibility for a program, including: All elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under this subpart as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director and unit chiefs; and persons who have selection, hiring, placement, or supervisory responsibilities for public service employment participants. The Secretary may waive this requirement if adequate justification is received that no other persons within the subgrantee's jurisdiction are eligible and available for participation or employment by the prime sponsor.

(b) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the prime sponsor shall follow the tribal rule.

(c) Each prime sponsor shall establish safeguards to prohibit employees under the grant, board members, or tribal council members from using their positions for private gain for themselves or others with whom they have family, business or other ties.

§ 99.100 **Non-discrimination; political activities.**

Sections 98.21 and 98.23 shall be applicable to programs under this subpart except to the extent that those provisions conflict with 42 U.S.C. 2000e(b).

§ 99.101 **Subgrants.**

In addition to the requirements concerning subgrants, Indian tribes may require that subgrantees agree, to the maximum extent feasible, to hire as staff qualified Indians in accodance with 42 U.S.C. 2000e–2(i).

Signed in Washington, D.C., this 20th day of October 1976.

WILLIAM H. KOLBERG,
*Assistant Secretary for Employment and Training Administration.*

[FR Doc.76–31220 Filed 10–22–76;8:45 am]

federal register

TUESDAY, OCTOBER 26, 1976




PART V:

# PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

■

## PRIVACY ACT OF 1974

Systems of Records

# PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

## PRIVACY ACT OF 1974

### Systems of Records

Section 3(e)(4) of the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), requires that Federal agencies publish annually notices describing records which they maintain and which are subject to the Act. Pursuant to this requirement, the Pennsylvania Avenue Development Corporation is republishing the notices describing the records systems which it maintains.

This notice was drafted and the systems were selected with major reliance on the "Guidelines and Responsibilities" for the implementation of the Act published by the Office of Management and Budget (40 FR 28949, July 9, 1975) and "Guidance for the Inventory of Systems of Records Covered by the Privacy Act of 1974" published by the General Services Administration Privacy Board, April 21, 1975. These notices cover the same systems covered in the Corporation's 1975 publication, appearing at 40 FR 39674. Most of the notices have, however, been editorially revised for reasons of precision, correction and clarity of the systems notice. No new routine uses have been proposed.

Dated: September 27, 1976

John M. Woodbridge,
*Executive Director.*

#### PADC—1

**System name:** General Personnel Files (including Copies of OPF-CSC)-PADC

**System location:** Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004.

**Categories of individuals covered by the system:** Past and present employees of the Corporation; past and present members of Board of Directors; past and present experts and consultants who have been employed on an intermittent or temporary basis.

**Categories of records in the system:** Personnel information, including: position descriptions; performance appraisals; notifications of personnel action; travel records; payroll change slips; employment history; Personal Qualifications Statement (SF-171) and resumes; social security number; biographical sketches; applications for government motor vehicle operator's permits; employee telephone and address listings.

**Authority for maintenance of the system:** Pennsylvania Avenue Development Corporation Act of 1972, Sec. 6, Pub. L. 92-578, 86 Stat. 1270 (40 U.S.C. 875).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Appendix. Information is used in-house to complete reports, take personnel action, and fulfill other administrative requirements. Categories of users are Administrative Officer and Administrative Assistant and Supervisors.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Paper records stored in file folders.

**Retrievability:** Retrieved manually, by name of individual.

**Safeguards:** Records are stored in locking metal file cabinets in secured premises; access is limited to those whose official duties require access.

**Retention and disposal:** Records retained indefinitely.

**System manager(s) and address:** Administrative Officer, Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004.

**Notification procedure:** Address inquiries to Administrative Officer, at above address. See Corporation regulations on access in 36 CFR 903.

**Record access procedures:** Same as the above.

**Contesting record procedures:** Same as the above.

**Record source categories:** Individual to whom records pertain; supervisors; official personnel records.

**Systems exempted from certain provisions of the act:** None

#### PADC—2

**System name:** Time and Attendance Records—PADC

**System location:** Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004

**Categories of individuals covered by the system:** Past and present Corporation staff members; past and present members of Board of Directors; past and present experts and consultants who are employed on an intermittent or temporary basis.

**Categories of records in the system:** Records of all actual hours worked; annual leave status; sick leave status; copies of all time and attendance records.

**Authority for maintenance of the system:** Pennsylvania Avenue Development Corporation Act of 1972, Sec. 6, Pub. L. 92-578, 86 Stat. 1270 (40 U.S.C. 875).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Appendix. Records are used to prepare payroll checks and to maintain records of leave. Routine user is General Services Administration; records are also released to General Accounting Office for auditing and to Internal Revenue Service for investigation purposes.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Current records in system maintained in two loose-leaf notebooks; previous year records maintained in file storage.

**Retrievability:** Retrieved manually, by name of individual.

**Safeguards:** Data are maintained in secured premises.

**Retention and disposal:** Records retained indefinitely.

**System manager(s) and address:** Administrative Officer, Pennsylvania Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004.

**Notification procedure:** Address inquiries to Administrative Officer, at above address. See Corporation Regulations on access in 36 CFR 903.

**Record access procedures:** Same as the above.

**Contesting record procedures:** Same as the above.

**Record source categories:** Individual to whom records pertain; timekeeper; supervisors.

**Systems exempted from certain provisions of the act:** None

#### PADC—3

**System name:** Job Applications—PADC

**System location:** Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004.

**Categories of individuals covered by the system:** Individuals who have applied for positions with the Corporation.

**Categories of records in the system:** Job applications (SF-171) and resumes containing name, address, telephone number, date and place of birth, marital status, employment and educational history, and similar information.

**Authority for maintenance of the system:** Pennsylvania Avenue Development Corporation Act of 1972, Sec. 6, Pub. L. 92-578, 86 Stat. 1270 (40 U.S.C. 875).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Appendix. Information is used to evaluate prospective employees of the Corporation.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Material stored in file folders.

**Retrievability:** Retrieved manually, by name of individual.

**Safeguards:** Records are stored in locking metal file cabinets in secured premises.

**Retention and disposal:** Records are either returned to applicant or maintained for one year from date of receipt and then destroyed.

**System manager(s) and address:** Administrative Officer, Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004.

**Notification procedure:** Address inquiries to Administrative Officer, at above address. See Corporation Regulations on access in 36 CFR 903.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Individual to whom records pertain.

**Systems exempted from certain provisions of the act:** None

PADC—4

**System name:** General Accounting Records—PADC

**System location:** General Services Administration, Central Office; copies held by the Corporation. (GSA holds records for the Corporation under agreement).

**Categories of individuals covered by the system:** Corporation employees; Member of the Board of Directors; experts and consultants who have been employed on an intermittent or temporary basis.

**Categories of records in the system:** SF-1038, Application and account for advance of funds; SF-1164, Reimbursement Vouchers; SF-1112, Travel Voucher.

**Authority for maintenance of the system:** 31 U.S.C, generally; also Pennsylvania Avenue Development Corporation Act of 1972, Sec. 5, 6, Pub. L. 92-578, 86 Stat. 1269, 1270, (40 U.S.C. 874, 875)

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Appendix. Records also are released to General Accounting Office for audits; to the Internal Revenue Service for investigation; to the General Services Administration for administrative services; to the Treasury Department for reimbursement.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Paper and tape.

**Retrievability:** Manual and automated by name.

**Safeguards:** Stored in guarded building; released only to authorized personnel.

**Retention and disposal:** Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

**System manager(s) and address:** Administrative Officer, Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004.

**Notification procedure:** Address inquiries to Administrative Officer, at above address. See Corporation Regulations on access in 36 CFR 903.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** The subject individual; the Corporation.

**Systems exempted from certain provisions of the act:** None

PADC—5

**System name:** Payroll Records—PADC

**System location:** General Services Administration, Region 3 Office; copies held by the Corporation. (GSA holds records for the Corporation under agreement.)

**Categories of individuals covered by the system:** Past and present Corporation employees; past and present members of Board of Directors; past and present experts and consultants who have been employed on an intermittent or temporary basis.

**Categories of records in the system:** Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms; W2 forms; overtime requests; leave data; retirement records. Records are used by the Corporation and GSA employees to maintain adequate payroll information for Corporation employees and otherwise by Corporation and GSA employees who have a need for the record in the performance of their duties.

**Authority for maintenance of the system:** 31 U.S.C., generally; also Pennsylvania Avenue Development Corporation Act of 1972, Secs. 5, 6, Pub. L. 92-578, 86 Stat. 1269, 1270 (40 U.S.C. 874, 875).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Appendix. Records can be released to the General Accounting Office for audits; to the Internal Revenue Service for investigation; to the General Services Administration for administrative services.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Paper and microfilm.

**Retrievability:** Social Security Number.

**Safeguards:** Stored in guarded building; released only to authorized personnel.

**Retention and disposal:** Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

**System manager(s) and address:** Administrative Officer, Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004.

**Notification procedure:** Address inquiries to Administrative Officer, at above address. See Corporation Regulations on access in 36 CFR 903.

**Record access procedures:** Same as the above.

**Contesting record procedures:** Same as the above.

**Record source categories:** Individual to whom records pertain; the Corporation, including its timekeeper.

**Systems exempted from certain provisions of the act:** None

IPADC—6

**System name:** Equal Employment Opportunity Compliance and Complaint Files—PADC

**System location:** Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004.

**Categories of individuals covered by the system:** Individuals filing EEO complaints with the Corporation.

**Categories of records in the system:** Name, address, social security number, job title, wage rate, earnings, dates of employment, race, sex, work history, data on applications for employment, and complaint, including letter or document initiating complaint, directions on investigating complaint, affidavits, investigating report, and copies of correspondence with complainant.

**Authority for maintenance of the system:** U.S.C. 3301, 7151-7154, E.O. 11478

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Appendix; the purpose of the file is to cause action to be taken on discrimination complaints.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Paper records stored in file folders.

**Retrievability:** Retrieved manually, by name of individual.

**Safeguards:** Records are stored in locking metal file cabinets in secured premises; access is limited to those whose official duties require access.

**Retention and disposal:** Records retained indefinitely.

**System manager(s) and address:** General Counsel, Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004.

**Notification procedure:** Address inquiries to General Counsel, at above address. See Corporation Regulations on access in 36 CFR 903.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Individual to whom records pertain; fellow workers and employer pursuant to investigation of complaint.

**Systems exempted from certain provisions of the act:** None.

Appendix (PADC)

1. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security

clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

4. A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement or a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

5. A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

6. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

7. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving the individual when the individual is a constituent of the Member and has requested assistance from the Member with respect to the subject matter of the record.

[FR Doc.76-30516 Filed 10-14-76;9:36 am]

federal register

TUESDAY, OCTOBER 26, 1976




PART VI:

# RENEGOTIATION BOARD

■

# PRIVACY ACT OF 1974

## Systems of Records

# THE RENEGOTIATION BOARD

## PRIVACY ACT OF 1974

### Notice of Systems of Records

The Privacy Act of 1974, 5 U.S.C. 552a(e)(4) (Pub. L. 93-597), requires that each agency annually publish in the Federal Register a notice of the existence and character of systems of records that it maintains. Pursuant to that requirement, the Renegotiation Board hereby republishes the systems of records that it currently maintains.

The Board previously published at 40 F.R. 43000 (September 17, 1975) notices of the systems of records it maintains. There have been no other amendments or additions to the Board's notices regarding Privacy Act record systems.

Dated October 10, 1976

Rex M. Mattingly,
*Acting Chairman.*

System name: Payroll and Time and Attendance Records

System location:

The Renegotiation Board
Room 3126
2000 M Street, NW
Washigton, D.C. 20446

Categories of individuals covered by the system: Current and former employees of the Renegotiation Board.

Categories of records in the system: This system contains information and documents relating to employee's pay, income tax and insurance deductions, Civil Service Retirement or social security deductions, any additional allotments required, hours worked, and the recordation of annual and sick leave accruals, usage, and balances.

Authority for maintenance of the system: Title 5 U.S.C. Part II, Subpart D, Pay and Allowances, and Subpart E, Attendance and Leave.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used by the Renegotiation Board and the Washington Disbursing Center, Department of the Treasury, to pay employees, to make appropriate deductions and allotments, to prepare Wage and Earning Statements, and to record leave accruals, usage and balances.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on standard forms.

Retrievability: Records are indexed by Social Security Number and name.

Safeguards: Records are secured in locked file cabinets.

Retention and disposal: Payroll records are maintained up to a maximum of five years at which time they are transferred to the National Personnel Records Center, St. Louis, Missouri. Time and Attendance Reports and maintained for two years and are destroyed.

System manager(s) and address:

Director, Office of Administration
Renegotiation Board
2000 M Street, NW.
Washington, D.C. 20446.

Notification procedure:

Budget and Accounting Office
Renegotiation Board
2000 M Street, NW.
Washington, D.C. 20446

Record access procedures:

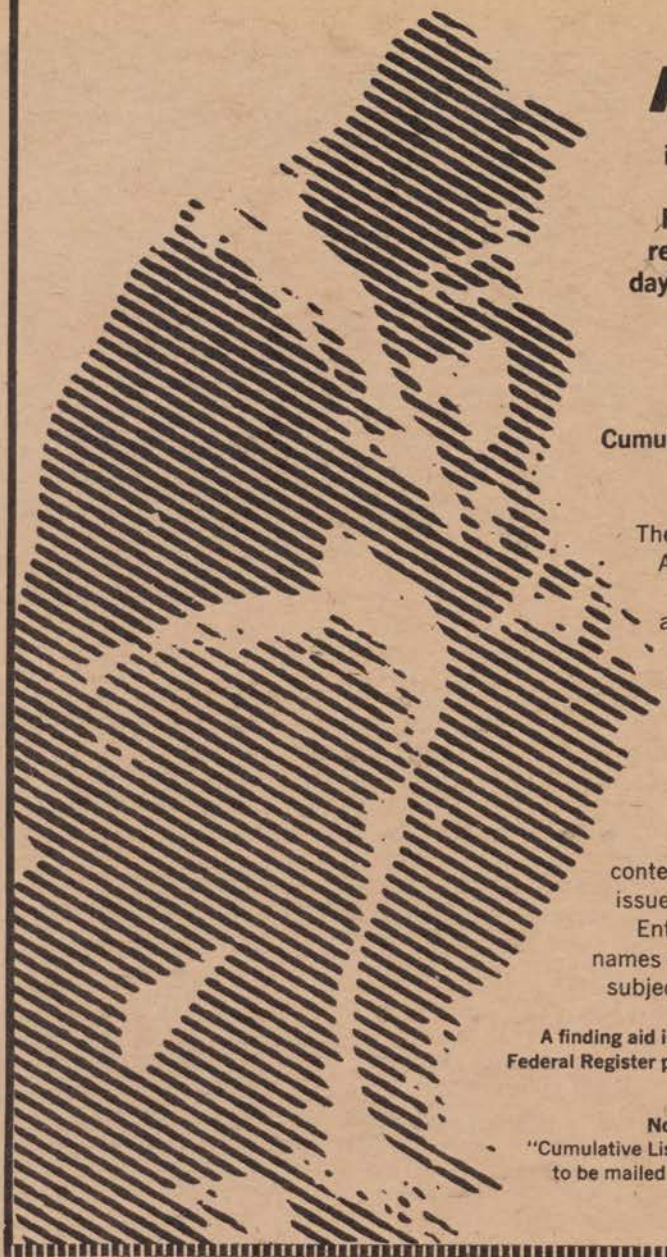
Director, Office of Administration
Renegotiation Board
2000 M Street, NW.,
Washington, D.C. 20446

Contesting record procedures:

Director, Office of Administration
Renegotiation Board
2000 M Street, NW.
Washington, D.C. 20446

Record source categories: Information in this system of records comes from the employee to whom it applies and from the agency officials.

[FR Doc.76-30591 Filed 10-14-76;2:06 pm]



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