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1-5-77

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federal register

WEDNESDAY, JANUARY 5, 1977

highlights

PART I:

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OHMO	CSC		DOT/OHMO	CSC
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.

federal register

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Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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Title 3—The President

Executive Order 11949 • **December 31, 1976**

Economic Impact Statements

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The title of Executive Order No. 11821 of November 27, 1974 is amended to read "Economic Impact Statements".

SEC. 2. Section 5 of Executive Order No. 11821 of November 27, 1974 is amended by deleting "December 31, 1976" and substituting therefor "December 31, 1977".

Gerald R. Ford

THE WHITE HOUSE,
December 31, 1976.

[FR Doc.77-555 Filed 1-4-77;10:27 am]

EDITORIAL NOTE: The President's statement of Dec. 31, 1976, on economic impact statements, is printed in the Weekly Compilation of Presidential Documents (vol. 13, no. 2).

rules and regulations

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES)[1] DEPARTMENT OF AGRICULTURE

PART 26—GRAIN STANDARDS

Federal Fees for Services Performed by Representatives of Federal Grain Inspection Service

Statement of considerations. Pursuant to the authority in sections 7, 7A, 7B, and 16 of the United States Grain Standards Act (7 U.S.C. 71 et seq., as amended by Public Law 94–582, (90 Stat. 2867)), the Department of Agriculture is amending §§ 26.71, 26.72, and 26.73 of the regulations (7 CFR 26.71, 26.72, and 26.73) under the Act to establish, revise, or restate the fees for grain inspection, weighing, and related services, performed in the United States and Canada by representatives of the Federal Grain Inspection Service.

The United States Grain Standards Act, as amended (sections 7(j)(1) and (2), 7A(e) and (1)(1) and (2), and (16)) authorizes the charging and collection of fees for the inspection, weighing, and supervision of weighing of grain, and the testing of inspection and weighing equipment by representatives of the Federal Grain Inspection Service; for certain activities of the Service, outside its Washington, D.C., office, relating to the direct supervision of delegated State agency and designated official agency personnel and the direct supervision of field-based personnel of the Service; and for the costs incurred, outside the Washington, D.C., office, in performing other weighing functions of the Service. The Act provides that the fees shall be reasonable and, as nearly as possible, cover the costs to the Service incident to the performance of such services. Section 16 of the Act authorizes regulations deemed necessary to effectuate the purposes or provisions of the Act.

Sections 26.71, 26.72, and 26.73 of the regulations are amended to establish, revise, or restate, as needed, fees for services performed by representatives of the Service in the United States and Canada. The amended sections include revisions in the fees for appeal inspection services performed in the United States, and revise or restate the fees for inspection services performed in Canada. The amended sections establish fees for official inspection, weighing, and related services conducted by Service representatives in the United States and Canada, including original inspection and reinspection services, official weighing and supervision of weighing services, and testing of inspection and weighing equipment; and determining the eligibility of storage or handling facilities for weighing service.

Provisions are also included for assessing and collecting fees from delegated State inspection or weighing agencies and from designated official agencies, as well as official inspection or weighing agencies that continue to operate for an interim period pursuant to section 27 of Public Law 94–582, to cover supervision costs as provided in the Act. These supervision fees are to be collected after the service is provided by the agency.

In some instances, the information used as a basis for the fees consists of estimates based on time studies, and on expected volume and costs. Further evaluations will be made, and the fees will be adjusted, as needed, to equate the fees as nearly as possible with the cost of the services.

Accordingly §§ 26.71, 26.72, and 26.73 of the regulations (7 CFR 26.71, 26.72, and 26.73) are amended to read as follows:

§ 26.71 Federal services.

(a) *The fees shown in Schedules A and B apply to Federal grain inspection and weighing services in the United States and Canada.*

[1] Including matters within the responsibility of the Federal Grain Inspection Service.

SCHEDULE A.—*Fees for Federal grain inspection and weighing services in the United States*[1]

	Original inspection				Reinspection or appeal inspection[2][3]	
	Contract service		Noncontract service			
	Regular workday	Nonregular workday	Regular workday	Nonregular workday	Regular workday	Nonregular workday
INSPECTION SERVICES (BULK OR SACKED GRAIN)						
(i) Official sample-lot inspection (sec. 26.6) (white certificate):						
(i) For grade and official factor determinations:						
(A) Based on sample obtained other than during loading or unloading (fee includes cost of sampling):						
(1) Truck or trailer (per truck or trailer or part truck or trailer, except as noted)	[4] $14.00	[4] $18.00	$12.00	$14.50	$15.50	$18.00
(2) Box car (per car or part car, except as noted)	[4] 14.00	[4] 18.00	15.00	18.00	19.00	22.00
(3) Hopper car (per car or part car, except as noted)	[4] 14.00	[4] 18.00	18.00	22.00	23.00	27.00
(4) Barge (per barge or part barge, except as noted)	[4] 14.00	[4] 18.00	48.00	60.00	63.00	70.00
(5) All other lots or part lots (per man-hour per Service representative)	14.00	18.00	16.00	20.00	21.00	25.00
(B) Based on sample obtained during loading or unloading (any lot or part lot) (per man-hour per Service representative)	14.00	18.00	16.00	20.00	21.00	25.00
(C) Based on official file sample (any lot or part lot, per sample)	(5)	(5)	(5)	(5)	13.00	15.50
(ii) For official factor or other criteria determinations:						
(A) Based on sample used for grade and official factor determinations:						
(1) Factor determinations (per factor, except as noted)	[4] 14.00	[4] 18.00	4.00	5.00	5.25	6.25
(2) Protein test (per sample)	11.50	13.50	11.50	13.50	11.50	13.50
(3) Aflatoxin test (per sample):						
(i) Florisil method	12.00	15.00	12.00	15.00	12.00	15.00
(ii) TLC (thin layer chromatography method)	18.00	22.00	18.00	22.00	18.00	22.00
(B) Based on new sample (any lot or part lot)	(5)	(5)	(5)	(5)	(5)	(5)
(2) Special inspection services (quality information, sampling, stowage examination, testing of inspection equipment, demonstrating official inspection functions, furnishing standard illustrations, and related services (sec. 26.6) (per man-hour per service representative)[7]	14.00	18.00	16.00	20.00	21.00	25.00

	Original Inspection				Reinspection or appeal inspection [2] [4]	
	Contract service		Noncontract service			
	Regular workday	Nonregular workday	Regular workday	Nonregular workday	Regular workday	Nonregular workday
(3) Warehousemen's sample-lot inspection (yellow certificate) or submitted sample inspection and type sample-lot inspection (sec. 26.6) (pink certificate):						
(i) For grade and official factor determinations (per sample, except as noted)	[6] 14.00	[6] 18.00	9.50	12.00	13.00	15.50
(ii) For official factor or other criteria determinations:						
(A) Factor determinations (per factor)	[6] 14.00	[6] 18.00	4.00	5.00	5.25	6.25
(B) Protein test (per sample)	11.50	13.50	11.50	13.50	11.50	13.50
(C) Aflatoxin test (per sample):						
(1) Florisil method	12.00	15.00	12.00	15.00	12.00	15.00
(2) TLC (thin layer chromatography) method	18.00	22.00	18.00	22.00	18.00	22.00
(4) Minimum fee per service request (applicable only when request is cancelled after service representative arrives at point of service—Fee does not include standby):						
(i) Services covered by unit fee	[8]	[6] 18.00	[8]	[8] [9]	[8]	[8]
(ii) Services covered by hourly fee (per service representative)	[8]	18.00	18.00	20.00	21.00	25.00
(5) Standby (per man-hour per service representative) [5]	[8]	18.00	16.00	20.00	21.00	25.00

WEIGHING SERVICES (BULK OR SACKED GRAIN)	Original weighing or appeal weighing [1]					
	Designated Inspection Point				Noninspection point—Contract service	
	Contract Service		Noncontract Service			
	Regular workday	Nonregular workday	Regular workday	Nonregular workday	Regular workday	Nonregular workday
(1) Official weighing or supervision of weighing (per man-hour per service representative)	$14.00	$18.00	$16.00	$20.00	$14.00	18.00
(2) Special weighing services (determining weighing service eligibility, testing of weighing equipment, checkweighing sacked grain, checkloading sacked grain, demonstrating official weighing functions, and related services) (per man-hour per service representative) [3]	14.00	18.00	16.00	20.00	14.00	18.00
(3) Minimum fee per service request (applicable only when request is cancelled after service representative arrives at point of service—Fee does not include standby) (per service representative)	[7]	18.00	16.00	20.00	[7]	18.00
(4) Standby (per man-hour per service representative) [5]	[7]	18.00	16.00	20.00	[7]	18.00
(5) Carrier condition and/or scale record report (not available as a single service)	[10]	[10]	5.00	5.00	[10]	[10]

[1] The fees include the costs of administration and supervision by field-based service representatives. For costs included in the unit and the hourly fees, and fees in addition to the unit and the hourly fees, see sec. 26.72(a) and sec. 26.72(b). If both inspection and weighing services are performed concurrently by a service representative, and hourly fees are applicable, one-half of the working time will be assessed for inspection services and one-half will be assessed for weighing services.

[2] If it is found that there was a material error in the inspection or weighing from which a reinspection, an appeal inspection or weighing, or a Board appeal inspection is taken, the specified reinspection, appeal inspection or weighing, or board appeal inspection fee shall not be assessed. (But see sec. 26.72(b) for fees that are assessed in all instances.)

[3] Board appeal inspections are based on file samples. The fee for board appeal inspections shall be $32 per sample during a regular workday and $36 per sample during a nonregular workday.

[4] Per man-hour.

[5] Not applicable.

[6] Same fees as in (i)(ii)(A), plus applicable sampling charge—see (2).

[7] Only 1 inspection or weighing fee, as applicable, will be charged for these services whether performed singly or concurrently.

[8] The unit fee.

[9] For application of fee for standby, see sec. 26.73(b).

[10] No charge.

SCHEDULE B.—*Fees for Federal grain inspection and weighing services in Canada* [1]

	Original inspection or reinspection [2]				Appeal inspection [3] [4]	
	Contract service		Noncontract service			
	Regular workday	Nonregular workday	Regular workday	Nonregular workday	Regular workday	Nonregular workday
INSPECTION SERVICES (BULK OR SACKED GRAIN)						
(1) Official sample-lot inspection (sec. 26.6) (white certificate):						
(i) For grade and official factor determinations:						
(A) Based on new sample (any lot or part lot) (per man-hour per service representative)	$18.00	$22.00	$22.00	$26.00	[5]	[5]
(B) Based on official file sample (any lot or part lot, per sample, except as noted) (not available on original inspection)	[6] 18.00	[6] 22.00	22.00	26.00	$32.00	$36.00
(ii) For official factor or other criteria determination:						
(A) Based on sample used for grade and official factor determinations (any lot or part lot):						
(1) Factor determinations (per factor, except as noted)	[6] 18.00	[6] 22.00	4.00	5.00	5.25	6.25
(2) Protein test (per sample)	11.50	13.50	11.50	13.50	11.50	13.50
(3) Aflatoxin test (per sample):						
(i) Florisil method	12.00	15.00	12.00	15.00	12.00	15.00
(ii) TLC (thin layer chromatography method)	18.00	22.00	18.00	22.00	18.00	22.00
(B) Based on new sample (any lot or part lot)	[5]	[5]	[5]	[5]	[5]	[5]
(2) Special inspection services (quality information, sampling, stowage examination, testing of inspection equipment, demonstrating official inspection functions, furnishing standard illustrations, and related services (sec. 26.6) (per man-hour per service representative) [7]	18.00	22.00	22.00	26.00	22.00	26.00
(3) Submitted sample inspection and type sample-lot inspection (sec. 26.6) (pink certificate):						26.00
(i) For grade and official factor determination (per sample, except as noted)	[6] 18.00	[6] 22.00	22.00	26.00	32.00	
(ii) For official factor or other criteria determinations:						6.25
(A) Factor determinations (per factor, except as noted)	[6] 18.00	[6] 22.00	4.00	5.00	5.25	13.50
(B) Protein test (per sample)	11.50	13.50	11.50	13.50	11.50	
(C) Aflatoxin test (per sample):						
(1) Florisil method	12.00	15.00	12.00	15.00	12.00	15.00
(2) TLC (thin layer chromatography method)	18.00	22.00	18.00	22.00	18.00	22.00
(4) Minimum fee per service request (applicable only when request is canceled after service representative arrives at point of service—fee does not include standby):						
(i) Services covered by unit fee	[5]	[6] 22.00	[5]	[5]	[5]	[5]
(ii) Services covered by hourly fee (per service representative)	[5]	22.00	22.00	26.00	32.00	36.00
(5) Standby (per man-hour per service representative) [8]	[5]	22.00	22.00	26.00	[5]	[5]

WEIGHING SERVICES (Bulk or Sacked Grain)	Original weighing or appeal weighing [2]			
	Contract service		Noncontract service	
	Regular workday	Nonregular workday	Regular workday	Nonregular workday
(1) Official weighing (per man-hour per service representative)	$20.00	$24.00	$25.00	$29.00
(2) Special weighing services (determining weighing service eligibility, testing of weighing equipment, checkweighing sacked grain, checkloading sacked grain, demonstrating official weighing functions, and related services) (per man-hour per service representative) [7]	20.00	24.00	25.00	29.00
(3) Minimum fee per service request (applicable only when request is cancelled after service representative arrives at point of service—fee does not include standby) (per service representative)	[4]	24.00	25.00	29.00
(4) Standby (per man-hour per service representative) [8]	[4]	24.00	25.00	29.00

[1] The fees include the costs of administration and supervision by field-based service representatives. For costs included in the unit and the hourly fees, and fees in addition to the unit and the hourly fees, see sec. 26.72(a) and sec. 26.72(b). If both inspection and weighing services are performed concurrently by a service representative, and hourly fees are applicable, one-half of the working time will be assessed for inspection services and one-half will be assessed for weighing services.

[2] If it is found that there was a material error in the inspection or weighing from which a reinspection or an appeal inspection or weighing is taken, the specified reinspection or appeal inspection or weighing fee shall not be assessed. (But see sec. 26.72(b) for fees that are assessed in all instances.)

[3] Appeal inspections from original inspections or reinspections for grade and/or factor determinations are based on file samples.

[4] Not applicable.

[5] Per man-hour.

[6] Same fees as in (1)(ii)(A), plus applicable sampling charge—see (7).

[7] Only 1 inspection or weighing fee, as applicable, will be charged for these services whether performed singly or concurrently.

[8] The unit fee.

[9] For application of fee for standby, see sec. 26.73(b).

(b) *Supervision fees relating to continuing agencies, delegated State agencies, and designated official agencies.* (1) Agencies or persons continuing to provide official inspection or weighing services on an interim basis pursuant to section 27 of Public Law 94–582 (90 Stat. 2889) shall pay supervision fees in accordance with section 27 and paragraph (b)(4) of this section.

(2) Each delegated State agency and each designated official agency shall pay supervision fees to the Service in accordance with sections 7(j)(2) and 7A(1)(2) of the Act and paragraph (b)(4) of this section.

(3) The supervision fees authorized by section 27 of Public Law 94–582 and sections 7(j)(2) and 7A(1)(2) of the Act shall be in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service, outside of the Service's Washington, D.C., office, in the supervision (i) of agency personnel by field-based Service personnel in regard to the performance by the agencies of official functions under the Act and (ii) of field-based Service personnel by other field-based Service personnel in regard to the performance of the supervision functions under paragraph (b)(3)(i). The fees shall not include costs incurred by the Service in connection with performing, or supervising the performance of, appeal inspections or weighings or other Federal inspection or weighing services by the Service under the Act, or under other Acts, or costs incurred under sections 7(g)(3), 9, 10, and 14 of the Act.

(4) Fees under this paragraph shall be established separately with respect to (i) supervising inspection services, and (ii) supervising weighing services performed by agencies under the Act. The fee for supervising inspection services, including supervision of equipment testing services, shall be at the rate of $0.80 per thousand bushels (8/100 cent per bushel) of grain for which an agency provides inspection services under the Act. The fee for supervising weighing services performed at export port locations, including supervision of equipment testing services, shall be at the rate of $0.35 per thousand bushels (3.5/100 cent per bushel) of grain for which the agency provides weighing services under the Act. The fee for supervising weighing services performed under the Act at other than export port locations, including supervision of equipment testing services, shall be at the rate of $16 per man-hour per Service representative on a regular workday, and $20 per man-hour per Service representative on a nonregular workday. The fees will be reviewed by the Service at least annually or more frequently when the Service has reason to believe that the fees do not accurately reflect the costs of the supervision for which the fees are authorized.

(5) Bills for supervising inspection and weighing services performed by an agency under the Act will be issued monthly after the services have been performed by the agency under supervision of the Service.[9] The bills for supervising inspection services at any location and for supervising weighing services at export port locations will be based on the computed volume of grain inspected, or weighed, as applicable, by the agency under the Act during the preceding month. The bills for supervising weighing services at other than export port locations will be based on the total man-hours worked in performing the supervision during the preceding month.

§ 26.72 Federal services: Explanation of fees; additional fees.

(a) *Costs included in unit and hourly fees.* The fees specified in § 26.71(a) for regular workdays and nonregular workdays shall include (1) the cost of per diem or subsistence during travel and the cost of transportation to perform the service requested; (2) call-back overtime payments to employees of the service; (3) postage and other delivery costs; and (4) except as provided in paragraph (b)(2) of this section, the cost of certification.

(b) *Fees in addition to unit and hourly fees.* (1) Fees for standby shall be assessed in all cases except no fee shall be assessed for standby performed on a regular workday under a service contract.

(2) The original and one copy of each original, divided-original, reinspection, appeal, or Board appeal certificate shall be issued to the applicant of record or to his order. In an appeal or Board appeal, a copy of each certificate or divided certificate shall also be issued to each respondent of record or to his order. The fee for each additional copy furnished on request of an applicant or a respondent shall be $2.50 per copy. This fee includes the cost of administration and supervision by field-based Service employees.

[9] Each agency will be notified when weighing service supervision begins.

§ 26.73 Computation and payment of fees; general fee information.

(a) *When hourly rates begin.* Hourly rates shall begin when the Service representative arrives at the point of service and is available to perform service, and shall end when the representative departs from the point of service, computed to the nearest quarter hour (less meal time, if any).

(b) *Computing standby.* Standby shall be computed whenever a Service representative (1) has been requested by an applicant to perform a service at a specified time and location, (2) is on duty and is ready to perform the service requested, and (3) is unable to perform the service requested because of a delay by the applicant for any reason. Standby shall be computed to the nearest quarter hour (less meal time, if any).

(c) *Definitions relating to fees.* The following definitions shall apply to terms used in §§ 26.71, 26.72, and this section.

(1) "Regular workday" shall mean the hours of 6 a.m. to 6 p.m., local time, any Monday, Tuesday, Wednesday, Thursday, or Friday, that is not a "holiday."

(2) "Nonregular workday" shall mean any "holiday" and any other time that is not included in a "regular workday."

(3) "Holiday" shall mean the legal public holidays specified in paragraph (a) of section 6103, title 5, of the United States Code (5 U.S.C. 6103(a)) and any other day declared to be a holiday by Federal statute or Executive order. Under section 6103 and Executive Order No. 10358, as amended, if the specified legal public holiday falls on a Saturday, the preceding Friday shall be deemed to be the holiday, or if the specified legal public holiday falls on a Sunday, the following Monday shall be deemed to be the holiday.

(4) "Service representative" shall mean an authorized salaried employee of the Service; and a person licensed by the Administrator under a contract with the Service.

(5) "Contract service" shall mean services performed pursuant to a contract between an applicant and the Service.

(d) *To whom fees assessed.* (1) Fees for inspection and weighing services performed by Service representatives, including fees for standby, and fees for extra copies of certificates, shall be assessed to and paid by the applicant for the services.

(2) Fees for determining the eligibility of a grain storage or handling facility for official weighing or supervision of weighing service shall be paid by the person seeking to demonstrate such eligibility.

(3) Fees for the supervision by Service representatives of delegated State agencies, designated official agencies and other agencies or persons under § 26.71 (b) shall be assessed to and paid by the agencies or persons.

(e) *Form and time of payment.* Bills for fees assessed under the regulations for Federal inspection and weighing services will be issued by the Service at 4-week intervals. Bills for fees assesed to delegated State agencies, designated official agencies, and other agencies or persons under § 26.71(b) will be issued as provided in § 26.71(b)(5). Payment of bills shall be made by check, draft, or money order payable to the Federal Grain Inspection Service. Payment shall be made within 30 calendar days after the due date shown on the bill.

(f) *Advance payment.* If required by the Administrator, fees (except those under paragraph (d)(3)) shall be paid in advance. Any fees paid in excess of the amount due shall be refunded or offset on future billings.

(g) *Fees when an application for service is withdrawn or service is refused.* If an application for service is withdrawn or a service is refused pursuant to the regulations, the person who made the application for the service shall pay only such expenses as were incurred in connection with the service prior to the withdrawal or refusal. (See § 26.71(a) for minimum fee per service request.)

(h) *Refunds.* The Administrator will cause to be refunded to the appropriate agency, or person, or offset on future billings, any fees paid to the Service in excess of the amount due the Service.

(i) *Revolving fund.* Funds received for fees assessed by the Service shall be deposited in a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under the Act.

(j) *Material error.* Except as provided in § 26.72(b)(1), if it is found that there was a material error in the inspection from which a reinspection is taken, or in the inspection or weighing from which an appeal inspection or weighing, or a Board appeal inspection is taken, no fees shall be assessed. For the purpose of §§ 26.71 and 26.73, a "material error" shall be an error which results in a change in grade, or any comparable change, in inspection or weight determinations as prescribed in the instructions.

(k) Fees for Federal services authorized by the Act but not prescribed in § 26.71 shall be fixed by the Administrator and published in such form as he deems appropriate.

(l) *Information.* Information concerning the fee for any particular service under § 26.71(a) or the fee assessed against any delegated State agency or any designated official agency or other agency or person under § 26.71(b) may be obtained from the Administrator or from any regional or field office of the Service.

The costs to the Federal Grain Inspection Service of providing the services for which fees are prescribed in this document are matters known only to the Service and the collection of fees for such costs is prescribed by law. The United States Grain Standards Act of 1976 (Pub. L. 94-582) became effective November 20, 1976. Employees of the Service will be required or requested to provide inspection and weighing services in the United States pursuant to the Act in the near future. Therefore, it is found upon good cause that publication of a notice of proposed rulemaking and other public procedures on the provisions of §§ 26.71, 26.72, and 26.73, of the regulations as set forth in this document are impracticable and unnecessary and good cause is found for making certain provisions effective less than 30 days after publication hereof.

Effective date: a. The provisions in § 26.71(a) establishing unit fees and hourly fees for original inspections and reinspections, and original weighings and appeal weighings in the United States (Schedule A) shall become effective on January 1, 1977.

b. The provisions in § 26.71(a) establishing unit fees and hourly fees for appeal inspections and Board appeal inspections in the United States (Schedule A) and for official inspections and weighings of United States grain in Canada (Schedule B) shall become effective on January 16, 1977: *Provided,* That, with respect to such inspection services, the provisions in §§ 26.71, 26.72, and 26.73 of the regulations in effect immediately prior to the issuance hereof, shall remain in effect until January 16, 1977.

c. The provisions in § 26.71(b) providing for the assessment and collection of fees for the supervision by the Service of inspection services performed by delegated State agencies and designated official agencies, and agencies or persons continuing to provide inspection services on an interim basis pursuant to section 27 of Public Law 94-582, shall become effective on February 1, 1977. Bills will be issued on or after March 1, 1977, by the Service to the agencies or persons for the supervision provided by the Service during the period February 1 through February 28, 1977. Thereafter, bills will be issued by the Service at monthly intervals.

d. The provisions in § 26.71(b) for the assessment and collection of fees for the supervision by the Service of weighing services performed by delegated State agencies and designated official agencies, and agencies or persons continuing to provide weighing services on an interim basis pursuant to section 27 of Public Law 94-582, shall become effective in accordance with written notification sent to the agencies or persons.

e. In all other respects, the provisions in §§ 26.71, 26.72, and 26.73 shall become effective on January 1, 1977.

Done in Washington, D.C. on: December 28, 1976.

DONALD E. WILKINSON,
Interim Administrator.

[FR Doc.77-137 Filed 1-4-77;8:45 am]

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

[Tangerine Reg. 48, Amdt. 6]

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

Amendment of Size Regulation

This amendment of Tangerine Regulation 48 (§ 905.566; 41 FR 42177, 49801, 51029, 51796, 53649, 54917, is issued pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905). Effective January 3, 1977, the amendment lowers the minimum diameter requirement applicable to domestic fresh shipments of Florida tangerines from 2$^{5}/_{64}$ inches (size 176) to 2$^{1}/_{16}$ inches (size 210). The specification of such minimum size requirement for Florida tangerines is necessary to satisfy current and prospective demand for such fruit and maintain orderly marketing conditions.

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

(2) The amendment reflects the Department's appraisal of the current and prospective market demand conditions for Florida tangerines. This amendment relaxes current minimum size requirements applicable to domestic fresh shipments of tangerines. The action is consistent with the size distribution and remaining supply of tangerines in the production area. The amendment is designed to ensure an ample supply of

fruit to consumers. For the season through December 26, 1976, fresh shipments of Florida tangerines totaled 3,726 carlots, and there were an estimated 974 carlots remaining for fresh shipment. This amendment is consistent with the objectives of the act of promoting orderly marketing and protecting the interest of consumers.

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

Order. In § 905.566 (Tangerine Regulation 48; 41 FR 42177, 49801, 51029, 51796, 53649, 54917) the provisions of paragraph (a)(2) are revised to read as follows:

§ 905.566 Tangerine Regulation 48.

(a) * * *

(1) * * *

(2) Any tangerines, grown in the production area, which are of a size smaller than 2$^{4}/_{64}$ inches in diameter, except that a tolerance for tangerines smaller than such minimum diameter, shall be permitted as specified in § 51.1818 of the United States Standards for Grades of Florida Tangerines.

* * * * *

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

Dated, December 30, 1976, to become effective January 3, 1977.

G. H. GOLDSBOROUGH,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-374 Filed 1-4-77; 8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.1]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

INCOME DEFINITIONS AND INTEREST CREDITS

On October 27, 1976, a proposal regarding additions and revisions to § 1822.3 and Exhibits E and E-2 of Subpart A of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations (39 FR 44993, as amended at 40 FR 42178) was published in the FEDERAL REGISTER (pages 47060-47065). The proposed revision changes the definition of annual income and adjusted annual income in § 1822.3 (n) and (o) for Section 502 Rural Housing loans. Exhibit E is revised to redelegate authorities for the granting and servicing of interest credits, for clarification and to state that interest credits will not be renewed when the dwelling has been enlarged or related facilities added so that the housing substantially exceeds modest standards for size, design, or cost. Paragraph 10 is added and makes clear that borrowers have the same right to appeal a decision concerning the granting, renewing, or cancellation of interest credits as they do for the determination of eligibility for a Section 502 Rural Housing loan. Exhibit E-2 reflects editorial changes.

Interested persons were given until November 11, 1976, to submit written comments, suggestions, or objections. All comments received with respect to the proposed revisions were given due consideration, and based upon those comments and other suggestions received from the Farmers Home Administration field staff, the following changes and additions are made:

1. Section 1822.3 (n) (3) (v) is revised to permit deductions from income for payments made to close relatives for child care and disabled dependent care only if the relative is actually employed by the borrower, or the close relative operates a business of caring for minors or incapacitated persons.

2. Exhibit E, paragraphs 4. (a) (2) and 6. (a) (6) are revised to state that the cash on hand that will be used to reduce the amount of the loan will be excluded when determining the borrowers net worth.

3. Paragraph 5. (c) is revised to make clear that interest credits may be granted when the borrower's spouse has abandoned the property and divorce or legal separation papers have been filed.

4. Paragraph 5. (d) is revised to include real estate taxes and insurance costs when determining that the borrower's circumstances have substantially changed.

5. A new paragraph 7. (f) is added to provide for corrections in existing Interest Credit Agreements when the amount of interest credits the borrower is entitled to receive is increased or deceased; the present paragraph 7. (f) is redesignated as paragraph 7. (g), and portions thereof revised.

6. Paragraph 8. (d) is revised to allow the County Supervisor to initiate corrective action on improper interest credits granted as a result of errors made by FmHA employees.

7. Paragraph 10. is revised to provide that the borrower will be notified of the right to appeal when interest credits are denied, reduced, canceled, or not renewed. Action time lines are established for each level of review.

Other minor editorial changes are made to clarify the language of the Subpart. Accordingly, § 1822.3 (n) and (o), Exhibit E, and Exhibit E-2 as revised, are hereby adopted to read as set forth below.

Effective date: These revisions shall become effective January 5, 1977.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: December 17, 1976.

FRANK W. NAYLOR, Jr.,
Acting Administrator, Farmers Home Administration.

1. Section 1822.3(n) and (o) are revised to read a set forth below:

§ 1822.3 Definitions.

* * * * *

(n) *Annual income.* This consists of planned income to be received by the applicant, spouse, and all other adults who live, or propose to live, in the dwelling during the next 12 months, or, in the case of a farmers, the period which most accurately reflects the annual cycle of his operation.

(1) *Income included.* All net farm and nonfarm business income and gross income from wages, salaries, commissions, pensions, social security, unemployment compensation, alimony, and all other sources, except as indicated in paragraph (n)(2) of this section must be counted.

(i) Welfare, social security, child support payments, and other payments made on behalf of minors will be included in the applicant's annual income.

(ii) All expected overtime and bonus income will be counted.

(iii) Any projected net farm and nonfarm business losses will be considered as "0" in determining annual income.

(2) *Exempted income.* The following income will not be counted:

(i) Earnings from employment or income from GI Bill, fellowships, scholarships, or assistantships for schooling received by a full time student who is not the applicant or spouse of the applicant.

(ii) Proceeds from the sale of equipment, mineral rights, or real estate sold under a short term contract (usually 3 years or less).

(iii) Cash value of food stamps, real estate tax exemptions, or similar types of assistance.

(iv) Payments received for the care of foster children.

(3) *Deductions from income.* In determining the applicant's annual income the following deductions are allowed:

(i) A deduction may be made in the same manner as outlined in Internal Revenue Service (IRS) regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the applicant's trade, business, or farming operation. The applicant must provide an itemized schedule showing the depreciation claimed. This schedule should be consistent with the amount of depreciation actually claimed for these items for Federal income tax purposes.

(ii) A deduction may be made in the same manner as outlined in IRS regula-

tions for necessary business expenses actually paid by the employee in excess of the amount reimbursed by the employer. The deduction must be reasonable and, in the judgment of the approving officials, should be deducted from an employee's income to reflect annual income on an equal basis with other employed persons. Deductions, however, are not permitted for the following:

(A) Transportation to and from work.

(B) Cost of meals incurred on one day business trips.

(C) Educational expenses other than those incurred to meet the minimum requirements of the employee's present position.

(D) Fines and penalties for violation of laws.

(iii) Income deductions for child care, disabled dependent care, or care of an incapacitated husband or wife, may be made for expenditures actually paid to enable the husband or wife to be gainfully employed. The reason for any deduction must be recorded in detail in the applicant's loan docket. Such a deduction is authorized only if all the following conditions are met:

(A) For dependent children under the age of 15 cared for outside the home, the maximum monthly deduction will not exceed $200 for one child, $300 for two children, or $400 for three or more children.

(B) Expenses for child care services performed in the home are not limited to the expenses in paragraph (n)(3)(iii)(A) and (B) of this section, but are subject to the $400 maximum deduction each month.

(C) A deduction not to exceed $400 each month, for incapacitated husband or wife care, or care of disabled dependents age 15 or over who are incapable of self care is authorized only when service is performed in the home.

(D) In no case will the aggregate of all deductions for child care, disabled dependent care, or incapacitated husband or wife care exceed $400 per month.

(E) Payments for these services may not be to persons whom the borrower is entitled to claim as personal deductions for income tax purposes. Payments may be made to any other close relative only if the relative is actually employed by the borrower (e.g., the borrower pays appropriate FICA taxes) or the close relative operates a business of caring for minors or incapacitated persons.

(o) *Adjusted annual income.* This is annual income as defined in paragraph (n) of this section, less 5 percent thereof and less an additional $300 for each minor person, excluding the husband and wife, who is a member of the immediate family and lives in the home. The immediate family includes those persons related to the applicant by blood, marriage, or operation of law, such as adoption or legal guardianship.

* * * * *

2. Exhibit E of Subpart A is revised to read as follows:

EXHIBIT E—INTEREST CREDITS

1. *Purpose.* This Exhibit outlines the policies and procedures for granting and servicing interest credits on Section 502 Rural Housing (RH) loans.

2. *Policy.* The policy of the Farmers Home Administration (FmHA) is to grant interest credits on loans to lower income borrowers to assist them in obtaining decent, safe, and sanitary dwellings and related facilities.

3. *Definitions.* (a) *Borrower.* A borrower indebted for a "low or moderate" Section 502 insured loan approved or assumed on new terms on or after August 1, 1968. Interest credits are not authorized on "above moderate" Section 502 loans.

(b) *Annual payment borrowers.* Borrowers who signed promissory notes providing for annual payments, including borrowers converted to monthly payments through the use of Form 451-37, "Additional Partial Payment Agreement."

(c) *Monthly payment borrowers.* Borrowers who signed promissory notes providing for monthly payments.

(d) *Review period.* The review period for an annual payment borrower will be the months of August, September, and October. The review period for a monthly payment borrower will be the third, fourth, and fifth months prior to the anniversary date of the borrower's current Interest Credit Agreement.

(e) *Real estate taxes.* Real estate taxes for interest credit purposes means the amount of real estate taxes and assessments that will be actually due and payable on the dwelling and the dwelling site during the interest credit period, reduced by the amount of any tax exemptions available to the borrower, regardless of whether such exemptions are actually claimed and received. Tax exemptions may include such things as homestead exemptions, special exemptions for low-income families, senior citizens, veterans and others.

(f) *Interest credit agreement.* An agreement between FmHA and the borrower executed on Form FmHA 444-6 or Form 444-A6, "Interest Credit Agreement (Section 502 RH Loans)," which provides for interest credits on the borrower's loan.

4. *Eligibility For Interest Credits*—(a) *Initial loans.* Interest credit will be granted to a qualified borrower provided:

(1) The borrower's adjusted annual income exceeds the limit established for the State as indicated in Exhibit C of this Subpart, unless an exception is authorized by the State Director in accordance with § 1822.-15(a).

(2) The borrower's net worth does not exceed $5,000, excluding the value of the dwelling and dwelling site being improved, cash on hand that will be used to reduce the amount of the loan, and household goods and the debts against them, unless an exception is authorized by the District Director. For the purpose of determining whether exceptions are justified, the District Director will consider the nature of the assets, particularly whether they are assets upon which a borrower, such as a farmer, is currently dependent for a livelihood or which could be used to reduce or eliminate the need for interest credits. Elderly persons will be permitted to retain a reasonable reserve for necessary health and maintenance expenses.

(3) The loan is approved on or after August 1, 1968.

(4) The loan is to buy, build, or improve a dwelling and related facilities, including a building site, or to refinance debts as authorized in § 1822.6(c).

(5) The dwelling will be personally occupied by the borrower.

(6) The home is modest in size, design, and cost. A borrower with an income so low that he/she is unable to make the monthly or annual installments on an RH loan without interest credit assistance cannot afford a large or elaborate dwelling. Interest credit assistance is designed to help a borrower have a decent home, but it must not be used to finance housing in excess of the borrower's actual basic needs, nor housing which includes desirable but unnecessary features or amenities as described in § 1822.7(b)(1).

(7) The term of the loan is for 33 years, unless authorized otherwise by the State Director, based on complete documentation of the justifiable reasons on an individual case basis. Interest credits will not be granted on loans with a term of less than 25 years, except as provided in paragraph 6 of this Exhibit.

(8) The amount of interest credit exceeds $5 per month or $60 annually.

(b) *Transfers and credit sales.* An eligible borrower who buys an inventory dwelling or assumes an RH loan may receive interest credit assistance under the following conditions:

(1) All the eligibility requirements of paragraph 4(a) are met, and

(2) If the loan being assumed was initially approved before August 1, 1968, the assumption must be on new terms.

(c) *Subsequent loans.* Interest credits may be granted on subsequent loans which meet the requirements of paragraph 4(a) and in the following types of situations:

(1) Interest credits are presently being granted on the initial loan and the borrower's adjusted income does not exceed the moderate income limit for the State as shown in Exhibit D of this Subpart, and

(2) The sum of interest credits being granted on the initial and subsequent loans will exceed $5 per month or $60 annually.

5. *Interest Credits for Existing Loans*—(a) *Renewal during the review period.* Eligibility for interest credits will be determined biennially during the review period. Interest credit assistance will be continued provided the borrower and the dwelling meet the eligibility requirements as outlined in paragraph 4, except that:

(1) The amount of a borrower's net worth will not be considered unless the County Supervisor has knowledge that it has increased sufficiently to enable the borrower to graduate to another source of credit.

(2) For a borrower whose adjusted annual income exceeds the limits established for the States as indicated in Exhibit C of this Subpart, interest credit assistance will be continued provided:

(i) The amount of interest credit for which the borrower qualifies exceeds $15 monthly, or $180 annually; and

(ii) The borrower's adjusted annual income does not exceed the moderate-income limit established for the State as shown in Exhibit D of this Subpart.

(3) Interest credits will not be renewed if the County Supervisor has knowledge that the dwelling has been enlarged or related facilities added so that the housing substantially exceeds modest standards for size, design, or cost. Interest credits will not be denied, however, if improvements such as additional living or storage area, a fireplace, or a yard fence have been added and the housing is not excessive as compared to other housing in the locality for low and moderate income families.

(b) *Renewals not completed during the review period.* When the borrower's renewal Interest Credit Agreement is not completed during the review period, it will be processed in accordance with paragraph 7 (g)(5).

(c) *Borrower not now receiving interest credits.* The County Supervisor may grant interest credits at any time, provided the borrower and the dwelling are eligible for interest credit assistance in accordance with paragraph 4, and any of the following conditions exist:

(1) The borrower requests interest credit assistance, or the County Supervisor determines that interest credits are needed to enable the borrower to repay the loan.

(2) A borrower's spouse has abandoned the family and property and legal papers have been filed with the appropriate court to commence divorce or legal separation proceedings provided:

(i) The remaining spouse is occupying the dwelling, owns a legal interest in the property, is liable for the debt, and

(ii) For FmHA record keeping purposes, the loan account is put in the remaining spouse's name only.

(3) A borrower's spouse has abandoned the family and the property and papers have not been filed to commence divorce or legal separation proceedings provided:

(i) The spouse's location has been unknown for at least one year, and

(ii) The conditions of paragraphs 5 (c) (2) (i) and (ii) are met.

(d) *Substantial change in borrower's circumstances.* The County Supervisor is not responsible for monitoring whether a borrower's income, family size, real estate taxes, or insurance costs have changed after an Interest Credit Agreement is approved. If, however, it comes to his attention that the borrower's circumstances have changed so that the amount of interest credit assistance the borrower is eligible to receive has substantially increased or decreased, the County Supervisor will take one of the following actions:

(1) *Increased income or decreased expenses.*

(i) He will take no further action until the next review period if he determines that the borrower is still eligible to receive interest credits in accordance with paragraph 5(a).

(ii) He will cancel the borrower's Interest Credit Agreement effective as of the date he became aware of the change if the borrower is no longer eligible for interest credit assistance.

(2) *Decreased income or increased expenses.* (i) He may approve a change in interest credit assistance during the next review period if the borrower is experiencing difficulty in meeting payments due and requests that a change be made.

(ii) He may approve changes in interest credit assistance at any time, provided the amount of interest credit the borrower is eligible to receive is increased by at least $15 monthly or $180 annually, and he determines that the change is necessary to avoid liquidation of the loan.

(iii) Cases involving family separations must meet the requirements of paragraphs 5(c) (2) or (3), as appropriate.

6. *Interest credits on loans made to repair or rehabilitate a dwelling (Incentive Program).*—(a) *Incentive interest credits.* Interest credits may be granted to reduce the effective interest rate on Section 502 RH loans made to repair or rehabilitate a dwelling already owned by the applicant provided the following conditions are met:

(1) The loan is approved after April 29, 1974;

(2) The dwelling is, or will be, occupied by an eligible borrower after the loan is made;

(3) The amount of the loan may not exceed $7,000 or be amortized for more than 35 years;

(4) The applicant's adjusted annual income does not exceed $7,000;

(5) The repairs will be made to bring a substandard dwelling up to the standards outlined in § 1822.7(b) (3);

(6) The borrower's net worth, excluding the value of the dwelling site and dwelling being improved, cash on hand that will be used to reduce the amount of the loan, and household goods and debts against them, does not exceed $5,000, unless prior authorization is received from the District Director. In making such determinations, the District Director will consider the nature of assets such as a farm, business, etc., upon which the borrower is dependent for a livelihood.

(b) *Interest rate.* Interest credits granted and the effective interest rate charged on loans made under this paragraph will be based on the borrower's adjusted annual income as determined in accordance with § 1822.3(o). Interest credits will be granted to the borrower in an amount to achieve the following effective interest rates:

(1) For borrowers whose adjusted annual income is not more than $3,000, interest will be charged at a rate of 1 percent.

(2) For borrowers whose adjusted annual income is more than $3,000 but not more than $5,000, interest will be charged at the rate of 2 percent.

(3) For borrowers whose adjusted annual income is more than $5,000 but not more than $7,000, interest will be charged at the rate of 3 percent.

(c) *Limitations.* Borrowers qualifying for interest credit assistance under both paragraphs 4 and 6 will be granted only the one type of interest credit assistance that is most beneficial to them. Interest credits on initial and subsequent loans will always be the same type. There is no provision for switching from one type of interest to the other.

(d) *Renewal of incentive credits.* Interest credits granted under this paragraph 6. will be reviewed and the borrower's eligibility for continued interest credits determined during the same scheduled review period as regular interest credits granted under paragraph 4.

7. *Processing interest credits.*—(a) *General.*

(1) *Determination of income.* The County Supervisor is responsible for determining the borrower's annual and adjusted annual income as defined in § 1822.3 (n) and (o). A borrower interview will be conducted as outlined in § 1822.11(c) in all cases for granting initial interest credits, and for renewals if, in the County Supervisor's opinion, such an interview is needed to determine the borrowers annual income. Form FmHA 410-5, "Request for Verification of Employment," will be used to verify the earnings from employment of all persons whose income is included in "Annual Income."

(2) *Effective period.* Interest Credit Agreements on loans made to monthly payment borrowers will be effective for a two year period. For annual payment borrowers the agreement will be in effect until the second December 31 after the effective date. The effective date will be as indicated on the Forms Manual Insert (FMI).

(3) *Determination of interest credits.* The amount of interest credits the borrower receives will be the lesser of:

(i) The difference between 20 percent of the borrower's adjusted annual income and the annual installment due on the promissory note plus costs of real estate taxes and insurance, or

(ii) The difference between the annual installment due on the promissory note and the amount the borrower would pay if the loan were amortized at an interest rate of one percent.

(4) *Partial year interest credits.* For an annual payment borrower with an initial installment less than a regular installment, and who will receive less than a full year of interest credit assistance, the interest credits granted will be a pro rata portion calculated on the number of months left in the current calendar year, including the month in which the loan is closed.

(5) *Advance from the insurance fund.* The repayment schedule for advances made from the Rural Housing Insurance Fund will be computed at the interest rate shown on the promissory note. However, interest will accrue and payments will be applied on the amount advanced at the reduced interest rate in effect at the time of payment.

(6) *Preparation of the transaction record.* For borrowers receiving interest credits, the following changes will be shown on Form FmHA 451-26, "Transaction Record," when prepared by the Finance Office:

(i) Interest rate field. The interest rate field of the form will continue to show the interest rate on the note. The Finance Office will compute the effective interest rate charged the borrower based on the amount of interest credit granted. The computed rate, rounded to the nearest 1/8 of a percent, will be shown as a footnote on the form as "Interest Rate Reduced to __%." Subsequent transactions will be applied to the loan by the Finance Office at the reduced interest rate until such time as renewal, change, or cancellation occurs.

(ii) Daily interest accrual field. The daily interest accrual will be shown at the reduced interest rate and the interest will accrue at the same rate until such time as the interest credit is renewed, changed, or canceled.

(iii) Application of credit field. The initial transaction record form will not have an entry in the "Application of Credit" field. The Interest Credit Transaction Code for this method of processing interest credits will be 4 Z.

(iv) Payment status field. The payment status field will not reflect the dollar amount of the interest credits granted. No entry will be made for monthly payment borrowers.

(v) Minimum amount due by date shown field. For annual payment borrowers, the amount of the installment, reduced by the amount of interest credits granted, will be shown. For monthly payment borrowers the word "monthly" will be entered in the space provided.

(b) *Initial and subsequent loans.*—(1) *County Office action.* The County Supervisor will:

(i) Determine the borrower's adjusted annual income and document his calculations in the case file running record.

(ii) Enter on Form FmHA 440-1, "Request for Obligation of Funds," the adjusted annual income, the estimated real estate taxes that will be actually due and payable during the first and second years of the agreement, and the amount of annual property insurance premium for the dwelling.

(iii) Complete and submit a corrected Interest Credit Agreement to the Finance Office when the loan is closed or, when appropriate, at the amortization effective date, if the borrower's circumstances have changed so that the amount of interest credits would be increased or decreased by at least $5 monthly or $60 annually.

(2) *Finance Office actions.* The Finance Office will:

(i) Enter the information concerning adjusted annual income, the estimated real estate taxes, and the insurance premium on Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request."

(ii) Calculate the amount of interest credit to be granted to the borrower. The amount of interest credit will be determined from the information initially shown on Form FmHA 440-1.

(iii) Prepare and mail Form FmHA 444–A6 to the County Office when the final loan check is issued. Upon receipt, the form will be completed by the County Office and a copy returned to the Finance Office only when indicated on the form.

(iv) Prepare and issue payment cards to the County Office.

(c) *Credit sales and transfers.* Interest credits to a borrower who assumes an RH loan or purchases property from inventory will be calculated by the County Office on Form FmHA 444–6. A copy of the form will be forwarded to the Finance Office along with the copy of the promissory note or Assumption Agreement. The Finance Office will issue payment cards to the County Office.

(d) *Interest credits to borrowers not now receiving interest credits.* Interest credits granted in accordance with paragraph 5(c) can be processed at any time in the same manner as interest credits on initial loans, except that the County Office will complete the Form FmHA 444–6 and calculate the amount of interest credit assistance the borrower will receive. A copy of Form FmHA 444–6 will be used to send interest credit information to the Finance Office. The daily interest accrual will be reduced as of the effective date entered on the form or as of the date the last cash charge or credit was made to the account, whichever is later.

(e) *Changes in interest credit assistance.* When approving a change in interest credit assistance before the expiration of a current Interest Credit Agreement in accordance with paragraph 5(d), the County Supervisor will again determine the borrower's adjusted annual income and document his findings in the case file running record. A Form FmHA 444–6 will be completed in accordance with the FMI and a copy of the form will be forwarded to the Finance Office. The Finance Office will reduce the daily interest accrual as of the date entered on the form or as of the date of the last cash charge or credit made to the account, whichever is later.

(f) *Correction of interest credit agreements.* A corrected Interest Credit Agreement will be submitted to the Entrance Office when an improper Interest Credit Agreement is canceled if the borrower is still eligible to receive interest credits in accordance with paragraph 5(a), or the borrower appeals the amount of interest credits granted and it is determined that the appeal is valid. In such cases, a Form FmHA 444–6 showing the proper amount of interest credits which the borrower is entitled to receive will be submitted to the Finance Office to replace the incorrect agreement. The notation "Corrected in accordance with Exhibit E of Subpart A of Part 1822 of this Chapter," will be entered on the face of the form. The Finance Office will cancel the incorrect Interest Credit Agreement as of its effective date. Payments made under the previous agreement will be reversed and reapplied at the adjusted interest rate of the new Interest Credit Agreement.

(g) *Interest credit renewal.*—(1) *Initiation of renewal action.* At the beginning of the review period, the Finance Office will mail to the County Office a list of borrowers (see Exhibit E–1 available in any FmHA Office), whose Interest Credit Agreements are expiring, together with a package to be mailed by the County Supervisor to each borrower. The package will contain the following:

(i) A letter of explanation and the instructions for completing the Interest Credit Agreement (Exhibit E–2).

(ii) Form FmHA 444–A6 (3 parts with carbon interleaved).

(iii) Two Forms FmHA 410–45 (The County Office name and address will be preprinted in the space provided).

(iv) Three window envelopes (to be used by the borrower in mailing Interest Credit Agreements to the County Office and for the employer to mail the Verification of Employment forms to the County Office).

(2) *Borrower responsibility.* Upon receipt of the package, the borrower will give one copy of the verification of Employment form to the employer or employers of each member of the family who has income to be considered. A window envelope will be provided each employer to facilitate the mailing of the Verification of Employment form directly to the County Office. The borrower will also complete part 2 of the Interest Credit Agreement form (leaving carbon intact), sign the original form and mail the original and all copies to the County Office.

(3) *County office actions.* The County Supervisor will:

(i) Maintain the list of borrowers (See Exhibit E–1) as a record of Interest Credit Agreements processed and sent to the Finance Office.

(ii) Review the information on Forms FmHA 444A–6 and FmHA 410A–5 for completeness and accuracy. Interviews with borrowers should be scheduled if the borrower needs assistance in completing the form or provides incomplete or apparently inaccurate information.

(iii) Determine the adjusted annual income and document his calculations in the case file running record.

(iv) Complete the Interest Credit Agreement and send a copy of the Agreement to the Finance Office. If the borrower is not eligible for interest credits, enter "0" in the block(s) which indicate the amount the payment will be reduced.

(v) If the Form FmHA 444–A6 is mutilated or unusable, transfer all information preprinted on the form to a new Form FmHA 444–6 to be signed by the borrower and submit the completed form to the Finance Office.

(vi) Retain the original of the Interest Credit Agreement and return the other copy to the borrower.

(vii) Notify by letter borrowers not eligible for continued interest credits of the amount of their revised payments. The letter must notify the borrower of his right to appeal as outlined in paragraph 10 of this Exhibit. A new Form FmHA 440–9, "Supplementary Payment Agreement", will be obtained when needed.

(4) *Finance Office actions.* The Finance Office will:

(i) Upon receipt of Form FmHA 444–A6 from the County Office, send the borrower or the County Office a new set of payment cards.

(ii) Before the end of the review period, send the County Office a list of annual payment borrowers (Exhibit E–3 available in any FmHA Office) for whom a renewal Interest Credit Agreement has not been received. The County Office staff will place a checkmark in the appropriate column of the list to indicate those borrowers who are no longer eligible for interest credits or whose agreements will not be renewed. The original of the completed list will be retained in the County Office and a copy returned to the Finance Office.

(5) *Processing interest credit renewals not received during the review period.* The County Supervisor may approve interest credit renewals not completed during the review period. They will be handled as follows:

(i) The amount of interest credit assistance granted will be based on the borrower's planned annual income during the first year of the agreement. The effective date of the Interest Credit Agreement will be as indicated on the FMI.

(ii) Payments made by the borrower after the expiration date of the previous Interest Credit Agreement will be applied at the note interest rate until the Finance Office receives a new Form FmHA 444–6. Such payments processed before the effective date of the adjusted interest rate will not be reversed and reapplied.

(iii) Upon receipt of Form FmHA 444–6, the Finance Office will calculate the new adjusted interest rate the borrower will receive during the current interest credit period. The Finance Office will reduce the daily interest accrual as of the effective date entered on the form or as of the date of the last cash charge or credit made to the account, whichever is later.

8. *Improper interest credits.*—(a) *When to take action.* Servicing actions under this paragraph will be taken when incorrect information provided by a borrower or any other person or an error by the County Supervisor or any other FmHA employee results in the borrower receiving excessive interest credits of more than $5 per month or $60 annually.

(b) *Determining improper interest credits.* Whenever there is a reason to believe that a borrower has received more interest credits than he was entitled to receive because improper interest credits have been granted, the information on which the interest credits were based will be verified immediately. If the County Supervisor finds that a borrower received interest credits that he was not entitled to, a report on the case will be sent to the State Director. The State Director is responsible for taking the necessary corrective action in accordance with the following:

(1) If there is any indication of fraud or fiscal irregularity, he will refer the case to the Director of the Regional Office of Investigation for a determination as to whether it warrants an investigation. If the Regional Director determines that his office should investigate the case, FmHA personnel will assist in any way requested.

(2) If the Regional Director determines that his office should not handle the investigation, he will inform the State Director of this decision. The State Director will then have a detailed review made by a member of his staff. He will review the findings and determine whether fraud or fiscal irregularities have occurred. If he determines that there is evidence of fraud or fiscal irregularities, he will take the actions prescribed in § 1871.22 of this Chapter, as appropriate.

(3) If the improper interest credits were the result of an error by an FmHA employee, the case will be handled in accordance with paragraph 8(d) of this Exhibit.

(c) *Falsification or error by borrower.* When it is determined that excessive interest credits have been granted because the borrower intentionally or otherwise provided incorrect information, the following actions will be taken:

(1) The State Director will request the Finance Office to cancel the Interest Credit Agreement as of the effective date of the current Form FmHA 444–6 or earlier Form FmHA 444–6 involved in the period of review or investigation. The Finance Office will then reapply any payment to the account at the note rate of interest or at the rate of the corrected Interest Credit Agreement and will notify the County Supervisor and borrower of any adjustment made in the account.

(2) The State Director will inform the borrower by certified mail (return receipt requested) of his findings as provided in paragraph 10(b) of this Exhibit.

(3) Further handling of the case will be one of the following:

(i) If there is evidence of a criminal violation by the borrower, the case will be

handled in accordance with § 1871.22(c) of this Chapter.

(ii) If the borrower's action appears to have been deliberate and a major error occurred, liquidation may be warranted. For example, such actions may be taken if the information obtained indicates that the borrower was not eligible for an RH loan. Such a borrower would be asked to repay promptly the RH loan by refinancing or otherwise satisfy the account. In other cases, the borrower may already be in default and the fact that the borrower had not correctly reported income may justify liquidation of the loan. The State Director may authorize the account to be repaid under an acceleration agreement if the conditions of § 1872.17(g) of this Chapter are met.

(iii) When falsified information is provided to FmHA in order to qualify the borrower for interest credits, (For example, a packager who provides information for a borrower) but there is evidence that the borrower is not at fault or definitely did not intend to provide false information, the borrower will be requested to pay the loan in full, including any improper and excessive interest credits that may have been granted. If, however, the borrower is unable to satisfy the account and the State Director determines that the Government's financial interest would not be jeopardized by leaving the loan outstanding, and that it would be inequitable to call it, he may continue with the loan. Improper interest credits received by borrowers must be repaid in accordance with paragraph 8(c)(3)(iv) of this Exhibit.

(iv) In all other cases, if the borrower cannot or will not reimburse the FmHA for the improper advance and immediate liquidation action is not warranted, the State Director may decide to continue wtih the loan. In such a case, the amount of improper interest credit will be charged to the borrower's account and become immediately due and payable. The borrower must be advised by letter that he will be charged interest at the note rate on the amount until it is repaid.

(d) *Error by FmHA employee.* When the borrower presented correct information and an FmHA employee erroneously granted excessive interest credits, the following actions will be taken:

(1) The County Supervisor will request the Finance Office to cancel the Interest Credit Agreement as of the effective date of the current Form FmHA 444-6, or earlier Form FmHA 444-6 involved in the period of review or investigation. The Finance Office will then reapply any payments made on the account during the period in which incorrect interest credits were granted. Interest will be charged at the note rate or at the corrected interest credit rate as provided in paragraph 7(f) of this Exhibit. The County Supervisor and borrower will be notified of adjustments made in the account.

(2) The County Supervisor will inform the borrower by letter of the action taken as provided in paragraph 10(a) of this Exhibit.

(3) If the borrower does not appeal, or it is determined that the appeal is not valid, the County Supervisor will make a diligent effort to obtain a lump-sum restitution of the improperly advanced interest credit from the borrower. If this cannot be done, the County Supervisor will take one of the following courses of action:

(i) If the borrower can repay the improperly advanced interest credit over a reasonable period of time, the County Supervisor will use Form FmHA 451-37 "Additional Partial Payment Agreement," to establish a new repayment schedule. The borrower will be charged interest on the improperly advanced interest credits at the same rate charged on the principal indebtedness.

(ii) If the County Supervisor determines that the borrower is unable to repay the improperly granted interest credits, he should document his findings and forward the case to the State Director for review. If the State Director concurs with the findings of the County Supervisor, he will forward the case to the National Office with his recommendation that the improperly advanced interested credits be forgiven.

(4) If, for any reason, the FmHA cannot continue with the loan, liquidation action will be promptly taken.

9. *Cancellation of Existing Interest Credit Agreements.*—(a) *Reasons for cancellation.* An existing Interest Credit Agreement will be canceled whenever:

(1) The borrower has never occupied the dwelling and the FmHA will not continue with the loan.

(2) The borrower ceases to occupy the dwelling.

(3) The borrower sells or conveys title to the property.

(4) The borrower has a substantial increase in income and is clearly able to repay the loan without interest credits.

(b) *Effective date of cancellation.* The effective date of cancellation for paragraph 9(a)(1) will be date of loan closing. The effective date of cancellation for paragraph 9(a) (2), (3), and (4), will be the date on which the earliest action occurs which causes the cancellation. If the date cannot be determined, the date on which the County Supervisor became aware of the situation will be used. When foreclosure action is being taken against a borrower and none of the conditions outlined in paragraph 9(a) exist, the Interest Credit Agreement will remain in effect until the final foreclosure action is completed. However, if the existing agreement expires before foreclosure action is completed, further interest credits will not be granted.

(c) *Notification to the finance office.* The County Supervisor will determine the date of cancellation and notify the Finance Office on Form FmHA 444-15, "Interest Credit Agreement Cancellation (Section 502 RH Loans)." The Finance Office will process the cancellation and will accrue interest from the date of cancellation at the rate of interest shown in the promissory note. Prompt notification to the Finance Office, using Form FmHA 444-15, is extremely important as any transaction affecting the borrower's account subsequent to cancellation will be incorrect if cancellation action has not been completed by the Finance Office.

10. *Borrower appeals*—(a) *Borrower notice of right to appeal.* If an applicant or borrower requests interest credit assistance and interest credits are denied, or if interest credits are reduced, canceled or not renewed, the County Supervisor will inform the applicant or borrower by letter of the action taken. (For purposes of this paragraph 10, the term "borrower" shall include both "borrower" and "applicant."). The letter shall include the following statements:

(1) A statement of the action taken and the reason(s) for the decision.

(2) An invitation to call at the County Office to discuss the decision with the County Supervisor. If the borrower wishes to bring additional information or a representative to the meeting, he or she may do so.

(3) A statement that the borrower may appeal the decision directly to the State Director. The Statement should read as follows:

"You may appeal the action concerning your eligibility for interest credits by writing to the FmHA State Director within 30 days of the receipt of this letter, giving the reasons why you believe your case should be reviewed. His address is: _____."

(b) *Notice of improper interest credits.* When a borrower's interest credit agreement is canceled because improper interest credits have been granted, the State Director, except as provided in paragraph (8)(d) of this Exhibit will notify the borrower by certified mail (return receipt requested) of the cancellation action. The letter shall include the following elements:

(1) A statement of the reason the borrower's interest credits were canceled.

(2) A statement that the borrower has a right to request a meeting at which he will be given the opportunity to provide evidence refuting the finding that improper interest credits have been granted, provided the request is filed with the State Director within 30 days following receipt of the notice.

(3) A statement of any other actions being taken or planned.

(c) *State Office review.* When a borrower appeals a decision concerning his or her eligibility for interest credits, as provided in paragraph 10. (a) or (b) of this Exhibit, the request will be handled as follows:

(1) The State Director will have a member of his staff (usually the District Director) arrange for a meeting to be held within 30 days of the receipt of the borrower's request for a review. If the borrower is unable to meet with the staff member within the 30 day period, a meeting will be arranged at such other time and place as is mutually convenient for the borrower and the Agency. The meeting will be an informal proceeding at which the borrower will be given the opportunity to provide whatever additional information he or she believes should be considered in reaching a decision concerning the case. The borrower may have an attorney or any other person at the meeting if desired.

(2) The staff member will submit the additional information provided by the borrower to the State Director with his recommendations concerning the case within 10 days of the meeting.

(3) Within 10 days of receipt of the Staff member's report, the State Director will determine what action to take with regard to the borrower's appeal and:

(i) If the State Director determines that the borrower's appeal is valid, he will inform the borrower by letter of the amount of interest credits to be granted on the loan. He also will advise the County Supervisor of the action to be taken.

(ii) If the State Director determines that the appeal is not valid, he will inform the borrower by letter of his decision giving the reasons. He will send the County Supervisor a copy of the letter. The letter must contain the following statement:

"If you wish to have the decision on your eligibility for interest credits reviewed, you may write the Administrator of the Farmers Home Administration within 30 days explaining why you believe interest credits should be (granted, reinstated or increased). His address is: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250."

(d) *National office review.* Upon receipt of a request from a borrower that the decision of the State Director be reconsidered, the Administrator will obtain a comprehensive report on the matter from the State Office. He will consider that information together with any additional information that may be provided by the borrower; and

(1) If the Administrator determines that interest credits should be granted, reinstated or increased, he will inform the borrower by letter that his request will be approved, or may be approved, subject to certain conditions. He will advise the State Director of the action to be taken.

(2) If the Administrator determines that interest credits should not be granted, reinstated or increased, he will inform the

borrower by letter of his decision giving the reasons. He also will send the State Director a copy of the letter.

(3) If no decision is reached within 30 days of the receipt of a request for review by the Administrator, the borrower will be informed that his request is being considered and given a specific date by which a decision will be made.

11. *Submission to national office.* The State Director may submit to the National Office for determination by the Administrator or his delegate any proposed transaction in which the conditions prescribed in the foregoing paragraphs of this Exhibit cannot be met, and it is determined that interest credits are necessary to avoid extreme hardship to the family or prevent foreclosure action. This paragraph is primarily intended to be used for those cases in which the granting of interest credits would be necessary for the borrower to retain a dwelling for his family that otherwise could not be accomplished. The State Director will submit to the National Office the full facts and justification for his recommendation and the County Office files.

3. Exhibit E-2 of Subpart A is revised to read as follows:

EXHIBIT E-2—INTEREST CREDIT AGREEMENT RENEWAL

Dear FmHA Borrower: The Interest Credit Agreement you signed, reducing the effective interest rate on your Rural Housing loan, expires soon. To determine whether you are eligible to continue to receive a reduction in your housing loan payment, we will need information about:

1. Your income and the incomes of others who live or propose to live in the dwelling during the next 12 months. You should report all income to be received from employment, including overtime pay, bonuses, commissions, tips, etc. You should also include all income to be received from other sources such as unemployment benefits, workman's compensation, disability income, pensions, veteran's benefits, social security, child support, alimony, welfare payments, and any other source.

2. The ages and relationship to you of others who live or propose to live in your dwelling.

3. The amount of real estate taxes paid by you on your dwelling each year reduced by any tax exemptions available but not taken.

4. The amount you pay each year for fire or hazard insurance on your dwelling.

This information must be provided promptly to the Farmers Home Administration (FmHA) by completing the enclosed Interest Credit Agreement. When applicable, the enclosed Request for Verification of Employment should also be completed.

1. *Interest credit agreement.* This form must be completed correctly and fully. If you are self-employed or a farmer, contact the County Supervisor for an appointment so that he may assist you in providing the required information. Otherwise, provide complete information in section 2 of the agreement, sign the form in the space provided, and send all copies of the form to the FmHA County Office using one of the enclosed envelopes.

2. *Request for verification of employment.* If you are not self-employed or are not a farmer, you should have your employer complete this form. Furthermore, a form should be prepared for each person living in your household, who proposes to live there in the next 12 months who has reach the legal age of majority in the State and receives income from salary or wages. You and other employed members of your household should each complete items 1, 2 and 3 of a Request for Verification of Employment form, sign it in block 4, and send or give it, with one of the enclosed envelopes, to each employer with a request that the form be completed within 10 days and sent to the FmHA County Office. to ensure that the form is returned to the County Office, you should place a stamp on the envelope before giving it to the employer. If more than two members of your household are employed, additional copies of the form should be obtained from the FmHA County Supervisor.

After the County Supervisor has received all of the required information, he will return a copy of the Interest Credit Agreement form to you. The agreement will show the amount of interest credit, if any, that will be credited to your loan account.

Failure to provide complete and accurate information or to return the forms promptly to the FmHA may result in your not receiving additional interest credits, thus increasing the payments on your loan.

If you have any questions, contact the local County Supervisor immediately.

[FR Doc.77-330 Filed 1-4-77;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart J—Conditions of Participation; Hospitals Use of Section 1115 Utilization Review Demonstration Projects in Effect Under Title XIX for Title XVIII Utilization Review Requirements

The amendment to the regulations set forth below, as recommended by the Commissioner of Social Security, is adopted by the Secretary of Health, Education, and Welfare (HEW). The amendment, which does not have major program significance, revises the existing utilization review regulations for hospitals under title XVIII of the Social Security Act (the Medicare program).

Under section 1115 of the Social Security Act (42 U.S.C. 1315), the Secretary has authority to approve demonstration projects dealing with certain titles of the Social Security Act other than title XVIII (42 U.S.C. 1395 et seq.). (The program of Health Insurance for the Aged and Disabled ("Medicare") is established under the latter title.) This authority may be used, under certain circumstances, to approve demonstration projects which would impact on how hospitals would perform utilization review under the program of Grants to States for Medical Assistance Programs ("Medicaid") established by title XIX of the Social Security Act (42 U.S.C. 1396 et seq.). The Secretary has become aware of a potential problem, in that approval of a utilization review demonstration project under Medicaid could force facilities to maintain two different sets of utilization review procedures in the same institution, one for Medicaid under the section 1115 project, and another for Medicare under the Medicare conditions of participation. The Secretary believes that this situation could work an unintended hardship on facilities participating in both the Medicare and Medicaid programs. Thus, the Secretary is amending the Medicare regulations to provide that, where a facility is affected by a section 1115 demonstration project, performance of the procedures required under such project could satisfy the Medicare condition of participation for utilization review for the duration of such project under section 1115. However, if a facility chooses to maintain two different systems, it could continue to follow, for Medicare purposes, the usual Medicare procedures, rather than the procedures set forth in the section 1115 project.

Under the amendment to the regulations set forth below, whenever the Secretary approves a section 1115 utilization review demonstration project for Medicaid, he will determine whether it is practicable to give affected facilities also participating in Medicare an option to perform such demonstration procedures for Medicare, rather than the procedures ordinarily prescribed under Medicare conditions of participation. In no case will the Secretary approve such procedures for Medicare where the procedures called for by the demonstration project do not at least meet all the statutory requirements in section 1861(k) of the Act (42 U.S.C. 1395x(k)) and apply to at least a significant majority of the hospitals in an entire State. In determining whether to offer such an option, the Secretary will also take into account the likelihood of whether procedures under the section 1115 demonstration project might ever be instituted as the condition of participation governing utilization review for all Medicare facilities. Further, the Secretary would not offer such an option if the particular procedures being studied under the section 1115 demonstration project have already been studied or are currently being studied under another demonstration project sponsored by HEW. If the Secretary decides, in view of these factors, to give facilities such an option, he will publish a notice in the FEDERAL REGISTER informing affected facilities that they may elect to apply the section 1115 demonstration project procedures in satisfaction of the Medicare condition of participation for utilization review. Facilities must decide within 30 days after the publication of such notice whether they prefer to follow the procedures under the section 1115 project, or continue to follow the usual Medicare procedures. Where a facility does not notify the Secretary within 30 days after such notice, it will be presumed that the facility wishes to continue performing Medicare utilization review under the usual Medicare procedures. Where facilities elect to perform the section 1115 procedures, these procedures become in effect the Medicare utilization review requirements, and reimbursement to facilities for the cost of utilization review would be made pursuant to the normal Medicare rules. If the section 1115 project continues longer than one year, facilities will again be afforded an option either to initiate the section 1115 procedures (if not previously elected), or to discontinue applying the section 1115 procedures (if previously elected), and return to the usual Medicare procedures.

The objective of this amendment is to benefit hospitals by providing them with

this option. There are several reasons why it is in the best interest of the public to dispense with the Notice of Proposed Rule Making and public procedure, and to make this amendment effective as soon as possible. Without this amendment and the participation of some Medicare providers in the project, it would be more difficult to assess the potential application of the project procedures to the Medicare program. However, a provider of services participating in the Medicare program as a hospital will not be obliged to comply with the Section 1115 demonstration project procedures. Such compliance is required only if the provider voluntarily elects to be bound by the demonstration project procedures rather than the Medicare condition of participation. A section 1115 utilization review demonstration project has been approved for the State of Oklahoma, and this amendment has been requested by that State to relieve its facilities of any hardship involved in a dual set of utilization review procedures.

A delayed effective date, as called for under the Administrative Procedure Act, is also being dispensed with, because the amendment is a substantive rule which grants or recognizes an exemption or relieves a restriction. Thus, this amendment is being adopted, effective upon publication, because a delay in its implementation would be impractical, unnecessary, and contrary to the public interest (5 U.S.C. 553(b)(3)(B)).

Although Notice of Proposed Rulemaking is being dispensed with for the above reasons, consideration will be given for future changes, to any comments, suggestions, or objections to the amendment to the regulations which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21235, on or before February 22, 1977.

If there are any questions concerning this amendment to the regulations, you may contact Mr. Marinos Svolos, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-9315. Mr. Svolos will respond to questions, but will not accept comments on this amendment.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, S.W., Washington, D.C. 20201.

(Secs. 1102, 1861 (e)(6) and (k), and 1871 of the Social Security Act, as amended, 49 Stat. 647, as amended, 79 Stat. 322, as amended, 79 Stat. 331, 42 U.S.C. 1302, 1395x (e)(6) and (k) and 1395hh.)

Effective date. The amendment to the regulations shall be effective January 5, 1977.

(Catalog of Federal Domestic Assistance Programs No. 13.800, Health Insurance for the Aged and Disabled—Hospital Insurance.)

Note: The Social Security 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.

Dated: November 15, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: December 29, 1976.

DAVID MATTHEWS,
Secretary of Health, Education, and Welfare.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended by adding paragraph (l) to § 405.1035 to read as follows:

§ 405.1035 Condition of participation—utilization review plan.

* * * * *

(l) *Standard: Applicability under Title XVIII of utilization review procedures applicable for a Section 1115 utilization review demonstration project in effect under title XIX.* (1) *General.* (i) Notwithstanding the preceding paragraphs of this section, wherever there is in effect a demonstration project dealing with utilization review which is conducted under section 1115 of the Social Security Act (42 U.S.C. 1315), the Secretary may give hospitals participating in such project under title XIX of the Social Security Act (Medicaid), which are also participating as providers of services in the program under title XVIII of the Social Security Act (Medicare), an option to substitute the procedures required under such project for the procedures otherwise required by the preceding paragraphs of this section, for purposes of meeting the Medicare requirements for utilization review.

(ii) However, such option may not be given where the procedures required under such demonstration project:

(*a*) do not at least meet the statutory requirements contained in section 1861 (k) of the Act (42 U.S.C. 1395x(k)) and,

(*b*) are not applicable to at least a significant majority of the hospitals in an entire State.

(iii) Where the Secretary decides to offer such an option, he shall publish a notice in the FEDERAL REGISTER. Facilities shall have 30 days from the date of publication in the FEDERAL REGISTER to elect to perform under the procedures under the section 1115 demonstration project rather than the procedures prescribed in or pursuant to paragraphs (a)-(k) of this section.

(2) *Facility elects option.* (i) If the facility does notify the Secretary within such 30 days of its intention to apply the Section 1115 demonstration project procedures, the election is effective for patients admitted to the facility on the fifteenth day after the close of the 30-day period, or on the starting date of the project, whichever is later.

(ii) The option will remain in effect until the date on which the project ceases, unless the facility chooses to withdraw the election pursuant to paragraph (l)(2)(iii) of this section.

(iii) A facility originally electing to perform the section 1115 procedures for Medicare purposes may withdraw such election by notifying the Secretary in writing during the 30-day period preceding the anniversary of the effective date of the facility's election (see paragraph (l)(2)(i) of this section). The withdrawal is effective on the fifteenth day after the close of this 30-day period.

(3) *Facility does not elect option.* (i) In the event the facility does not notify the Secretary within such 30 days of its intention to apply the section 1115 demonstration project procedures for Medicare purposes, it must continue to apply the procedures required by paragraphs (a)-(k) of this section with respect to the Medicare program.

(ii)(*a*) The Secretary shall grant a subsequent 30-day period during which a facility may elect such section 1115 procedures in lieu of the title XVIII condition of participation if:

(*1*) The demonstration project is in effect for longer than a year;

(2) A facility failed to exercise its option during the original 30-day period established by the Federal Register notice; and

(3) The Secretary determines that a useful purpose will be served by granting such a subsequent 30-day period.

(*b*) Such subsequent 30-day period shall commence on the first anniversary of the effective date of the original 30-day period described in paragraph (l)(1)(iii) of the section.

(*c*) Such option, if elected during such subsequent 30-day period, shall be effective on the fifteenth day after the close of such subsequent 30-day period.

[FR Doc.77-367 Filed 1-4-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7455]

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

Temporary Regulations on Disclosures of Returns and Return Information in Connection with Procurement of Property and Services for Certain Tax Administration Purposes

This document contains temporary regulations on procedure and administration (26 CFR Part 404) under section 6103(n) of the Internal Revenue Code of 1954, as added by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1681), in order to provide rules governing disclosures of returns and return information (as defined by section 6103(b)) in connection with procurement of property and services for tax administra-

tion purposes authorized by section 6103 (n).

The temporary regulations describe the circumstances and conditions under which an officer or employee of the Internal Revenue Service is authorized to disclose returns and return information to a person for the purpose of procuring property and services necessary to Federal tax administration. The regulations provide general rules regarding the requirement of necessity for the disclosure and limiting the extent to which such disclosures are authorized. The regulations also provide that the person to whom disclosures are made for these purposes can in turn disclose the tax data only for purposes specified by section 6103(n) and must maintain, to the satisfaction of the Service, safeguards to protect the confidentiality of the returns and return information and ensure against unauthorized disclosures.

These temporary regulations are effective on January 1, 1977.

ADOPTION OF AMENDMENT TO THE REGULATIONS

In order to prescribe temporary regulations on procedure and administration relating to disclosures of returns and return information in connection with procurement of property and services for tax administration purposes authorized by section 6103(n) of the Internal Revenue Code of 1954, as added by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1681), the following temporary regulations are hereby adopted and added to Part 404 of Title 26 of the Code of Federal Regulations:

§ 404.6103(n)-1 Disclosure of returns and return information in connection with procurement of property and services for tax administration purposes.

(a) *General rule.* Pursuant to the provisions of section 6103(n) of the Internal Revenue Code of 1954 and subject to the requirements of paragraphs (b), (c), and (d) of this section, officers or employees of the Internal Revenue Service or office of the Chief Counsel therefor are authorized to disclose returns and return information (as defined in section 6103(b)) to any person (including any person described in section 7513 (a)), or to an officer or employee of such person, to the extent necessary in connection with contractual procurement by the Service or office of the Chief Counsel of—

(1) Equipment or other property, or

(2) Services relating to the processing, storage, transmission, or reproduction of such returns or return information or to the programming, maintenance, repair, or testing of equipment or other property,

for purposes of tax administration (as defined in section 6103(b)(4)). No person, or officer or employee of such person, to whom a return or return information is disclosed by an officer or employee of the Service or office of the Chief Counsel under the authority of this paragraph shall in turn disclose such return or return information for any purpose other than as described in this paragraph, and no such further disclosure for any such described purpose shall be made by such person, officer, or employee to anyone, other than another officer or employee of such person whose duties or responsibilities require such disclosure for a purpose described in this paragraph, without written approval by the Service.

(b) *Limitations.* For purposes of paragraph (a) of this section, disclosure of returns or return information in connection with contractual procurement of property or services described in such paragraph will be treated as necessary only if such procurement or the performance of such services cannot otherwise be reasonably, properly, or economically carried out or performed without such disclosure. Thus, for example, disclosures of returns or return information to employees of a contractor for purposes of programming, maintaining, repairing, or testing computer equipment used by the Internal Revenue Service should be made only if such services cannot be reasonably, properly, or economically performed by use of information or other data in a form which does not identify a particular taxpayer. If, however, disclosure of returns or return information is in fact necessary in order for such employees to reasonably, properly, or economically perform the computer related services, such disclosures should be restricted to returns or return information selected or appearing at random. Further, for purposes of paragraph (a) disclosure of returns or return information in connection with the contractual procurement of property or services described in such paragraph should be made only to the extent necessary to reasonably, properly, or economically conduct such procurement activity.

Thus, for example, if an activity described in paragraph (a) can be reasonably, properly, and economically conducted by disclosure of only parts or portions of a return or if deletion of taxpayer identity information (as defined in section 6103(b)(6)) reflected on a return would not seriously impair the ability of the contractor or his officers or employees to conduct the activity, then only such parts or portions of the return, or only the return with taxpayer identity information deleted, should be disclosed.

(c) *Notification requirements.* Each officer or employee of any person to whom returns or return information is or may be disclosed as authorized by paragraph (a) of this section shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized by paragraph (a) of this section and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized by such paragraph constitutes a felony, punishable upon conviction by a fine of as much as $5,000, or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also so notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than $1,000 with respect to each instance of unauthorized disclosure.

(d) *Safeguards.* Any person to whom a return or return information is disclosed as authorized by paragraph (a) of this section shall comply with all applicable conditions and requirements which may be prescribed by the Internal Revenue Service for the purposes of protecting the confidentiality of returns and return information and preventing disclosures of returns or return information in a manner unauthorized by paragraph (a). The terms of any contract between the Service and a person pursuant to which a return or return information is or may be disclosed by the Service for a purpose described in paragraph (a) shall provide, or shall be amended to provide, that such person, and officers and employees of such person, shall comply with all such applicable conditions and restrictions as may be prescribed by the Service by regulation, published rules or procedures, or written communication to such person. If the Service determines that any person, or an officer or employee of any such person, to whom returns or return information has been disclosed as provided in paragraph (a) has failed to, or does not, satisfy such prescribed conditions or requirements, the Service may take such actions as are deemed necessary to ensure that such conditions or requirements are or will be satisfied, including suspension or termination of any duty or obligation arising under a contract referred to in this paragraph or suspension of disclosures otherwise authorized by paragraph (a) of this section, until the Service determines that such conditions and requirements have been or will be satisfied.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (c) of that section.

(Secs. 6103(n) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1681, 68A Stat. 917, 26 U.S.C. 6103(n), 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 29, 1976.

WILLIAM M. GOLDSTEIN,
Deputy Assistant Secretary of the Treasury.

[FR Doc.76-38492 Filed 12-30-76;12:18 pm]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-200]

PART 101-25—GENERAL

Procedural and Administrative Changes

This amendment recognizes the cancellation of the GSA stock tire program

with regard to tire identification and registration requirements, changes a reporting procedure relating to the lease or purchase of telecommunications equipment, and provides administrative changes and corrections to update various sections of Part 101–25.

The table of contents for Part 101–25 is amended to include the following revised entries:

Sec.	
101–25.104	Acquisition of office furniture and office machines.
101–25.110–1	[Reserved]
101–25.503	Telecommunications equipment.

Subpart 101–25.1—General Policies

1. Section 101–25.104 is amended and its caption is changed as follows:

§ 101–25.104 Acquisition of office furniture and office machines.

Each executive agency shall make a determination as to whether the requirements of the agency can be met through the utilization of already owned items prior to the acquisition of new furniture or office machines. The acquisition of new items shall be limited to those requirements which are considered absolutely essential and shall not include upgrading to improve appearance, office decor, or status, or to satisfy the desire for the latest design or more expensive lines.

(a) Generally acquisition of additional furniture or office machines from any source will be authorized only under the following circumstances, limited to the least expensive lines which will meet the requirement (see § 101–26.408 of this chapter with respect to items such as typewriters under Federal Supply Schedule contracts), and the justification for the action shall be fully documented in the agency file:

* * * * *

(b) Each agency shall restrict replacement of furniture or office machines either to usable excess, rehabilitated, or the least expensive new lines available which will meet the requirement under the following circumstances, authority for which will meet the requirement under the following circumstances, authority for which shall be fully documented in the agency file:

* * * * *

2. Section 101–25.104–1 is revised as follows:

§ 101–25.104–1 Redistribution, repair, or rehabilitation.

Prior to the purchase of new office furniture and office machines, agencies shall fulfill needs insofar as practicable through redistribution, repair, or rehabilitation of already owned furniture and office machines. In furtherance of the use of rehabilitated furniture and office machines, agencies shall review inventories on a continuing basis to ascertain those items which can be economically rehabilitated and institute programs for their orderly repair and rehabilitation. All such items which are not required for immediate needs shall be reported as excess.

3. Section 101–25.107(d) is revised as follows:

§ 101–25.107 Guidelines for requisitioning and proper use of consumable or low cost items.

* * * * *

(d) The items listed below have from experience proven to be personally attractive and particularly susceptible to being used for other than official duties. Agencies should give special attention to these and any other consumable or low cost items when issues are excessive when compared with normal program needs.

Attache cases, Ball point pens and refills, Brief cases, Binders, Carbon paper, Dictionaries, Felt tip markers, Felt tip pens and refills, File folders, Letterex, Letter openers, Pads (paper), Paper clips, Pencils, Pencil sharpeners, Portfolios (leather, plastic, and writing pads), Rubber bands, Rulers, Scissors, Spray paint and lacquer, Staplers, Staples, Staple removers, Tape dispensers, Transparent tape, Typewriter ribbons.

§ 101–25.110–1 [Reserved]

4. Section 101–25.110–1 is deleted and reserved as follows:

Subpart 101–25.3—Use Standards

1. Section 101–25.302(a) is revised as follows:

§ 101–25.302 Office furniture, furnishings, and equipment.

(a) Each executive agency shall establish criteria for the use of office furniture, furnishings, and equipment. Such criteria shall be in consonance with the provisions of § 101–25.104 pertaining to office furniture and office machines and shall be limited to the minimum essential requirements as established by the agency head for authorized functions and programs which will, beyond a reasonable doubt, be in operation within the following 6 months.

* * * * *

2. Section 101–25.302–7 is revised as follows:

§ 101–25.302–7 Draperies.

Draperies are authorized for use where justified over other types of window coverings on the basis of cost, insulation, acoustical control, or maintenance of an environment commensurate with the purpose for which the space is allocated, as when executive or unitized office furniture is authorized in § 101–25.302–1. Determining whether the use of draperies is justified is a responsibility of the agency occupying the building or space involved after consultation with the agency operating or managing the building. Authorized draperies shall be of noncombustible or flame-retardant material, as required in § 101–20.109–7.

Subpart 101–25.4—Replacement Standards

1. Section 101–25.402 is revised as follows:

§ 101–25.402 Motor vehicles.

Replacement of motor vehicles shall be in accordance with the standards prescribed in Subpart 101–38.9.

2. Section 101–25.404–1 is revised as follows:

§ 101–25.404–1 Limitations.

Notwithstanding the provisions in § 101–25.404, agencies shall limit acquisition of new office furniture and office machines to essential requirements as provided in § 101–25.104. Replacement of correspondence filing cabinets will be governed by the provisions of § 101–26.308.

Subpart 101–25.5—Guidelines for Making Purchase or Lease Determinations

1. Section 101–25.502(b) is revised as follows:

§ 101–25.502 Methods of acquisition.

* * * * *

(b) Upon request, GSA will assist agencies in making appropriate determinations to lease or purchase equipment by providing the latest information on pending price adjustments to Federal Supply Schedule contracts and other factors such as recent or imminent technological developments, new techniques, and industry or market trends. Inquiries should be addressed to the General Services Administration (FP), Washington, D.C. 20406.

2. Section 101–25.503 is amended and its caption is changed as follows:

§ 101–25.503 Telecommunications equipment.

Before any telecommunications equipment, including facsimile, is selected, Federal agencies shall forward the information required by Subpart 101–35.2 to the General Services Administration (CPSR), Washington, D.C. 20405, or to the Regional Commissioner, Automated Data and Telecommunications Service, in the GSA region serving the reporting agency.

(a) In selecting telecommunications equipment (telewriting, facsimile, data, and message transmission equipment), agencies shall take full advantage of the purchase and lease options that may be available under the terms and conditions of the applicable Federal Supply Schedule contracts. When needed equipment is not available from a Federal Supply Schedule or if it is otherwise necessary for an agency to enter into a lease contract for its own requirements, an option to purchase should be provided in the contract.

* * * * *

3. Section 101–25.504(b) is revised as follows:

§ 101–25.504 Office copying machines.

* * * * *

(b) Selection of the appropriate and most economical equipment for the application intended is the responsibility of the ordering agency. The selection process should include a review of the functional and financial advantages of all

available copying processes (see § 101-26.408).

* * * * *

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

Effective date: This regulation is effective on January 5, 1977.

NOTE.—The General Services 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.

Dated: December 27, 1976.

WALLACE H. ROBINSON, Jr.,
Acting Administrator of General Services.

[FR Doc.77-387 Filed 1-4-77;8:45 am]

[FPMR Amdt. E-199]

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101-26.4—Purchase of Items From Federal Supply Schedule Contracts

GSA SELF-SERVICE STORES ITEMS

This regulation exempts GSA self-service stores from the requirement to justify procurement of items other than the lowest priced items available from a multiple-award Federal Supply Schedule.

Section 101-26.408-4 is amended as follows:

§ 101-26.408-4 Placement of orders against multiple-award schedules.

* * * * *

(c) GSA self-service stores are immediate sources of supply for Federal agencies and are responsible for providing administrative supplies and other selected items to meet official agency needs. In furtherance of this responsibility, these stores stock a variety of high demand items including a number which may be other than a lowest priced item available from a multiple-award Federal Supply Schedule. In such instances the GSA self-service stores are exempted from the requirements of this § 101-26.408-4 pertaining to the inclusion of justification of purchase in the delivery order file. When an agency makes a purchase of more than $500 per line item from a GSA self-service store and which is other than a similar lowest priced item available from a multiple-award schedule, GSA will assume that a justification has been prepared and made a part of the buying agency's purchase file. Availability of products, regardless of the total amount of the line item price, does not relieve an agency of the responsibility to select the lowest priced item commensurate with the needs of the agency.

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

Effective date: This regulation is effective on January 5, 1977.

NOTE.—The General Services 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.

Dated: December 27, 1976.

WALLACE H. ROBINSON, Jr.,
Acting Administrator of General Services.

[FR Doc.77-388 Filed 1-4-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT DEPARTMENT OF THE INTERIOR

SUBCHAPTER C—MINERALS MANAGEMENT

[Circular No. 2416]

PART 3100—OIL AND GAS LEASING

Fees and Rentals

On page 11314 of the FEDERAL REGISTER of March 18, 1976, there was published a notice and text of proposed amendments to Part 3100 of Title 43 of the Code of Federal Regulations. The primary purpose of these amendments is to increase the rental rate from $.50 to $1.00 per acre on non-competitive oil and gas leases, and to increase the fee paid at the time of filing of an application for approval of an instrument of transfer from $10 to $25. The proposed rulemaking was published pursuant to policies expressed in the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended and supplemented, and in Title V of the Independent Offices Act of 1952 (31 U.S.C. 483a).

Interested persons were given until April 19, 1976, to submit comments, suggestions, or objections to the proposed rulemaking. As a result of requests for an extension of time to comment, the period for submission of comments, suggestions, or objections was extended to May 4, 1976. We received in excess of 200 comments on the proposed rulemaking, all of which were given careful consideration in the final rulemaking process.

Most of the comments expressed general disagreement with the purpose of the proposed rulemaking, with several commentors favoring the action. One area of misunderstanding on the part of many of the commentors was the belief that the proposed rulemaking increased the filing fee required in connection with applications for non-competitive oil and gas leases from the present $10 to $25. The proposed rulemaking does not change the filing fee, even though there were suggestions made that the filing fee should be increased.

Several commentors pointed out the fact that there had been long delays in the issuance of leases in connection with applications they had filed and that they should not be penalized for the delay in such issuances on the part of the Bureau of Land Management. We are amending the regulations to change the effective date from July 1, 1976, to February 1, 1977, to give the various offices of the Bureau of Land Management additional time to see if necessary work can be completed on pending applications so that they can be issued prior to the new effective date.

Even though a large number of the commentors indicated that the $.50 per acre increase in the rental fee was not justified, we restate our belief that the increase is in line with the fee charged by private land owners and many States on land leased by them for oil and gas, and that the taxpayers are entitled to this more equitable return on the public domain when it is leased for oil and gas.

Among those commentors that understood that the fee increase called for by the proposed regulations was to be applied to applications for transfers of interest in oil and gas leases, most opposed the increase. Several of the comments strongly opposed the inclusion of the transfer of royalty interest in the fee increase since it was their contention that the Bureau did little, if any, work on those applications and the fee increase could not be justified on the basis of increased costs. As a result of these comments, we have concluded that the present $10 fee is sufficient to cover our administrative costs in connection with applications for transfer of a royalty interest on an oil and gas lease and we are making an exception from the fee increase for applications for transfer of a royalty interest. All of the other transfer applications do require sufficient administrative work on our part to justify the fee increase to $25.

We received several suggestions that the lease period for non-competitive oil and gas leases be reduced from its present ten year term. This change cannot be made as a part of a rule-making because the lease term is set by statute, but the suggestion will be given careful consideration and may be acted on in the future.

We also discovered that the proposed regulations should have included an amendment to § 3103.2, which covers fees charged in connection with non-competitive oil and gas leases. Paragraph (b) of § 3103.2 specifically covers fees required for the filing of applications for transfers of interest and should have been made a part of this proposed rulemaking. We are including § 3103.2(b) in this final rulemaking and it is being made consistent with changes that the proposed rulemaking made in § 3106.2-1.

Accordingly, 43 CFR Part 3100 is revised as set forth below.

Effective date: This regulation will become effective on February 1, 1977.

Signed at Washington, D.C. on December 30, 1976.

JACK O. HORTON,
Assistant Secretary of the Interior.

1. Section 3103.2-1 paragraph (b) is revised to read as follows:

§ 3103.2 Fees.

§ 3103.2-1 General statement.

* * * * *

(b) *Transfers.* An application for approval of any instrument of transfer of a lease or interest therein or a filing of any such instrument under § 3106.4 must be accompanied by a fee of $25, except that applications for transfer of a royalty

interest must be accompanied by a fee of $10, and an application not accompanied by payment of such a fee will not be accepted for filing by the authorizing officer. Such fee will not be returned even though the application later be withdrawn or rejected in whole or in part.

2. Section 3103.3–2 paragraph (a) is revised to read as follows:

§ 3103.3–2 Advance rental payments.

Rentals shall be payable in advance at the following rates:

(a) On noncompetitive leases issued on and after February 1, 1977, under section 17 of the act for lands which on the day on which the rental falls due lie wholly outside of the known geological structure of a producing oil or gas field, or on which on the day on which the rental falls due the thirty days' notice period under paragraph (b)(1) of this section has not yet expired, an annual rental of $1.00 per acre or fraction thereof for each lease each year.

* * * * *

3. Section 3106.2–1 is revised to read as follows:

§ 3106.2–1 Where filed and filing fee.

An application for approval of any instrument of transfer of a lease or interest therein or a filing of any such instrument under § 3106.4 must be filed in the proper office and accompanied by a fee of $25, except that applications for transfer of a royalty interest must be accompanied by a fee of $10. An application not accompanied by payment of such a fee will not be accepted for filing by the authorizing officer. Such fee will not be returned even though the application may later be withdrawn or rejected in whole or in part.

[FR Doc.76-38495 Filed 12-30-76;3:04 pm]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Great Swamp National Wildlife Refuge; N.J.

The following special regulations are issued and are effective during the period January 1, 1977 through December 31, 1977.

§ 26.34 Special regulations concerning public access, use, and recreation for individual wildlife refuges.

GREAT SWAMP NATIONAL WILDLIFE REFUGE

BASKING RIDGE, NEW JERSEY

The refuge is composed of two distinct units: The Management Area and the Great Swamp Wilderness Area.

The Management Area, with the exception of Pleasant Plains Road and the Wildlife Observation Center, is closed to public entry at all times. Pleasant Plains Road is open daily to through motor vehicle, bicycle, equestrian, and pedestrian traffic from 8 a.m. to dusk.

The Wildlife Observation Center is open daily to foot travel from dawn to dusk. No other means of transportation is permitted beyond the designated parking area and access road.

The Great Swamp Wilderness Area is open daily to entry on foot from dawn to dusk. All other means of travel are prohibited.

Possession or use of alcoholic beverages is not permitted. Fishing or the possession of fishing equipment is prohibited. Smoking is permitted only in designated parking areas. Pets on a leash not exceeding 10 feet in length shall be permitted only in designated parking areas.

All organized groups of more than ten persons requesting use of refuge facilities on weekdays must obtain reservations at refuge headquarters two weeks in advance. Conducted programs are limited to 50 persons. All buses using public parking areas must obtain a permit from refuge headquarters.

Maps designating refuge boundaries, public access routes and areas are available from the Refuge Manager, Great Swamp National Wildlife Refuge, RD 1, Box 148, Basking Ridge, New Jersey 07920, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations which govern public use on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through December 31, 1977.

DALE T. COGGESHALL,
Acting Regional Director,
Fish and Wildlife Service.

DECEMBER 27, 1976.

[FR Doc.77-309 Filed 1-4-77;8:45 am]

PART 26—PUBLIC ENTRY AND USE

Chincoteague National Wildlife Refuge; Va.

The following special regulations are issued and are effective during the period January 1, 1977 through December 31, 1977.

§ 26.34 Special regulation concerning public access, use, and recreation; for individual wildlife refuges.

VIRGINIA

CHINCOTEAGUE NATIONAL WILDLIFE REFUGE

Entry into the refuge is permitted between the hours of 4:00 a.m. to 10:00 p.m. daily for the purposes of sightseeing, nature study, wildlife observation, photography, hiking, beachcoming, sunbathing, and fishing, including clamming and crabbing, as posted. Swimming and surfing are permitted as posted on the ocean beach. Lifeguards are provided only on a protected beach operated by the National Park Service. Entry into the refuge by boat is permitted at the designated public use area at Tom's Cove Hook and the public use area operated by the Town of Chincoteague at Assateague Point. Flotation devices are permitted in designated water areas around Tom's Cove Hook.

Picnicking and contained fires are permitted at Tom's Cove Hook in designated areas operated by the National Park Service. Open fires by special permit only. All fires must be extinguished by water.

Operation of registered motor vehicles and bicycles is permitted on designated access roads, trails, and parking areas. Riding of horses and other saddle animals is permitted only along the shoulder of the access road to the Coast Guard crossover and thence along the beach southward from that point. Pets are not permitted on the refuge.

Off-road travel by overland vehicles is permitted only on designated routes within the public use areas at Tom's Cove Hook on the beach seaward of the primary dune line. Driving so as to cut circles or otherwise needlessly deface the sand dunes or vegetation is prohibited. Speed may not exceed 25 miles per hour. An annual permit at a fee of $5.00 is required for oversand vehicle use. Such permits are not transferable, shall be displayed as directed by the refuge manager, and shall be valid from April 15, 1977 to April 14, 1978.

All oversand vehicles must conform to applicable State laws having to do with licensing, registering, inspecting and insuring of such vehicles.

All oversand vehicles must carry at all times on the beach: shovel, jack, tow rope or chain, board or similar support for the jack and low pressure tire gauge.

No permit will be issued for a vehicle which does not meet the following standards:

On four-wheel-drive vehicles:

Maximum vehicle length——feet——	26
Maximum vehicle width——do——	8
Maximum ground clearance—inches——	7
Gross vehicle weight——pounds——	10,000
Maximum number of axles——	2
Maximum number of wheels per axle—	2
Minimum number of wheels——	4

On two-wheel drive vehicles in addition to the six items listed above:

Minimum width of tire contact on the sand, 8 in. each wheel.
Tires with regular mud/snow tread, not acceptable.

The refuge manager may issue a single trip permit for a vehicle of greater weight or length when such use is not inconsistent with the purposes of the regulations.

Twelve oversand vehicles are permitted per mile of beach. The refuge manager may temporarily close or limit access to the beach when this level is reached. Over-sand vehicle permits issued by the National Park Service for operation on the Assateague National Seashore will also be honored for operation on the designated over-sand vehicle routes within the public use areas at Tom's Cove Hook.

Special daily use fees at Tom's Cove Hook are as follows:

Specialized recreation site use, $1.00.
Youth group camping per site, $3.00.

Fishermen who hold special overnight beach-fishing permits issued jointly by the Superintendent, Assateague Island National Seashore, and the Refuge Manager, Chincoteague National Wildlife Refuge, may remain on the refuge be-

tween the hours of 10 p.m. and 4 a.m. on the dates for which such permit is issued.

Organized youth-group and backpack camping is permitted by advance reservation only in National Park Service operated campsites located on the refuge. Permits may be obtained from the Superintendent, Assateague Island National Seashore.

The refuge, comprising approximately 9,840 acres, is delineated on a map available from the Refuge Manager, Chincoteague National Wildlife Refuge, P.O. Box 62, Chincoteague, Virginia 23336, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations Part 26, and are effective through December 31, 1977.

DECEMBER 27, 1976.

DALE T COGGESHALL,
Acting Regional Director,
Fish and Wildlife Service.

[FR Doc.77-311 Filed 1-4-77;8:45 am]

PART 33—SPORT FISHING

Chincoteague National Wildlife Refuge; Va.

The following special regulations are issued and are effective during the period January 5, 1977 through December 31, 1977.

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

VIRGINIA

CHINCOTEAGUE NATIONAL WILDLIFE REFUGE

Public sport fishing, crabbing and clamming, in accordance with Virginia regulations, is permitted on the Chincoteague National Wildlife Refuge, VA subject to the following conditions: (1) Open areas: (a) Surf fishing—the entire beach including Tom's Cove is open as posted. (b) Fishing and crabbing—from the impoundment banks and salt water areas adjacent to the beach access road. (c) Clamming—the area between high and low tide marks in Tom's Cove, except as posted closed. (2) Permits: A permit is required for fishing from 10 p.m. to sunrise; no permit is required at other times.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuges generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

DALE T. COGGESHALL,
Acting Regional Director,
U.S. Fish and Wildlife Service.

DECEMBER 27, 1976.

[FR Doc.77-310 Filed 1-4-77;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Interim Regime for Taking of Marine Mammals Incidental to Commercial Fishing Operations

NOTICE TO AMERICAN TUNABOAT ASSOCIATION OF MODIFICATION TO ITS 1976 GENERAL PERMIT, CATEGORY 2: ENCIRCLING GEAR; YELLOWFIN TUNA PURSE SEINING

Proposed rules to amend 50 CFR 216.24 (d)(2), thus allowing fishing "on porpoise" from January 1, 1977 until final action on 1977 regulations is taken, were published in the FEDERAL REGISTER (41 FR 49859–49862) on November 11, 1976. This same notice also proposed modifications to the 1976 General Permit issued to the American Tunaboat Association under "Category 2: Encircling Gear; Yellowfin Tuna Purse Seining" to Section 104(e), 16 U.S.C. 1374(4). The proposed regulatory amendments would bring the existing 1976 regulations into compliance with the best scientific evidence available. Comments on the proposals were received from the American Tunaboat Association, the Committee for Humane Legislation, the Environmental Defense Fund, the Marine Mammal Commission, and the Pacific Legal Foundation.

The American Tunaboat Association (ATA) and the Pacific Legal Foundation, while endorsing the concept of interim regulations, criticized the proposals primarily on the grounds that the quotas proposed were too low and too restrictive. ATA in particular cited much of the testimony presented at the recent Marine Mammal Protection Act Hearings as evidence that the quotas proposed were (a) arrived at by a formula that was unnecessarily conservative and not called for by the Marine Mammal Protection Act (the Act); and (b) the result of inadequate and erroneous data. In addition, ATA asserted that the quotas would be counterproductive and harmful to the industry.

The Environmental Defense Fund concurred generally in the proposed action, while questioning the authority to carry it out. The National Marine Fisheries Service (NMFS), however, considers its authority to amend the current regulations is unimpaired as long as the stay issued by the Court of Appeals remains in effect, and therefore has determined that the proposed amendments are appropriate at this time.

Committee for Humane Legislation raised several issues in opposition to the proposals. These issues have recently been raised in a judicial forum, including the issue of humane taking.

The Director has determined, based on the best evidence available that, with respect to the proposed amendments, the incidental take permitted results in the least possible degree of pain and suffering practicable, and is a taking in a humane manner.

The Marine Mammal Commission, while noting that it had not completed its review of the evidence presented before Judge Vanderheyden, stated:

> Pending the completion of that review of the record evidence, the Commission concurs with the statements in the notice of the Interim Regime for the Taking of Marine Mammals Incidental to Commercial Fishing Operations (41 FR 49859–49862, November 11, 1976) concerning the scientific basis for the proposed Regime. We agree that the proposed limitations of take on each stock or species "ensure that the allowed take would not be to the disadvantage of any such species or stock"(41 FR 49859), and have been determined, on the basis of the best scientific evidence currently available, to allow the species and stocks to increase with virtual certainty and to grow toward or remain within their optimum sustainable population range (41 FR 49860).

Upon review of the comments received, the Director has therefore decided to extend the General Permit issued to the American Tunaboat Association. The number and kind of marine mammal species and stocks which may be killed in commercial fishing operations under this permit are specified in the permit. However, such killing will commence only on a date so designated by the Director. The order of the Court of Appeals for the District of Columbia Circuit of August 6, 1976, in *Committee for Humane Legislation* v. *Elliot L. Richardson* voided, as of January 1, 1977, both certain regulations concerning the incidental take of marine mammals in commercial fishing operations and the general permit issued to the American Tunaboat Association under those regulations. If this Court grants relief bevond January 1, 1977, the Director will provide notice together with such further restrictions as may be needed to comply with the nature and extent of the relief granted.

The Director also decided to promulgate the proposed amendments to the regulations pending further determinations based on recommendations of the Administrative Law Judge pursuant to MMPAH–No. 2–1976, except that the allowable take of porpoise will be pro-rated for the interim period to one-third of that originally proposed. This amendment will protect the integrity of the decision making procedure in MMPAH–No. 2–1976. The proposed modification to the General Permit is similarly changed.

As discussed in the November 11, 1976, FEDERAL REGISTER Notice, NMFS will endeavor to have these regulations in force from January 1, 1977, until permanent regulations resulting from the administrative hearing process, MMPAH–No. 2–1976, are effective or until April 30, 1977, whichever comes first.

A permit in effect at the time these permanent regulations are promulgated, would be modified so as to be consistent with and then subject to the terms of these permanent regulations.

Accordingly, the General Permit issued to the American Tunaboat Association on December 20, 1975, under Category 2: Encircling Gear; Yellowfin Tuna Purse Seining is hereby modified as of December 29, 1976, pursuant to Section 104(e), 16 U.S.C. 1374(4), in the following manner:

Change section 3 of the Permit to read:

From 0001 hours, January 1, 1976, to 2400 hours, April 30, 1977.

Furthermore, in order to make the General Permit consistent with the limited take set forth in the regulation amendments, delete the second sentence in section 5, and add the following subsections 5 (a) and (b):

5(a) The taking of marine mammal species and stocks in the course of commercial fishing operations under this permit between 0001 hours January 1, 1977, and 2400 hours April 30, 1977, may not commence until the Director designates that such taking can commence.

5(b) The number of marine mammal species or stocks which may be killed in the course of commercial fishing operations under this permit during the period mentioned in section 5(a) shall not exceed:

1. Spotted dolphin (coastal)[1]	0
2. Spotted dolphin (offshore)	7,267
3. Spinner dolphin (C. Rican)	0
4. Spinner dolphin (eastern)	0
5. Spinner dolphin (whitebelly)	0
6. Common dolphin (northern)[2]	133
7. Common dolphin (central)[2]	533
8. Common dolphin (southern)[2]	1,867
9. Striped dolphin (northern)	13
10. Striped dolphin (north-equatorial)[3]	133
11. Bottlenosed dolphin	20
12. Rough-toothed dolphin	1
13. Fraser's dolphin	2
14. Risso's dolphin	2
15. Short-finned pilot whale	1
16. Melon-headed whale	0
17. Pygmy killer whale	0
Total	9,972

[1] Including the tentatively identified southwestern stock.

[2] Including the tentatively identified equatorial-oceanic stock.

[3] Including the tentatively identified south-equatorial stock.

Dated: December 29, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

Accordingly, 50 CFR 216.24(d)(2)(i)(A) is amended, as of December 29, 1976, to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(d) * * *

(2) Encircling gear; yellowfin tuna purse seining (i) (A): A certificate holder may take marine mammals so long as such taking is an incidental occurrence in the course of normal commercial fishing operations. The number of all other stocks or species of marine mammals that may be killed by all certificate holders in the course of commercial fishing operations shall not exceed 78,000 during the period January 1, 1976 through December 31, 1976. During the period January 1, 1977 through April 30, 1977 no certificate holder shall encircle any marine mammals until the Director designates that such encircling may commence. This designation shall be published in the FEDERAL REGISTER. After such designation, no certificate holders shall: (1) Encircle mixed or pure schools of coastal spotted dolphin or spinner dolphin of any stock, or (2) encircle pure schools or any species of porpoise except offshore spotted dolphin and common dolphin, and (3) the number of all stocks or species which may be killed shall not exceed:

(i). Spotted dolphin (coastal)[1]	0
(ii). Spotted dolphin (offshore)	7,267
(iii). Spinner dolphin (C. Rican)	0
(iv). Spinner dolphin (eastern)	0
(v). Spinner dolphin (whitebelly)	0
(vi). Common dolphin (northern)[2]	133
(vii). Common dolphin (central)[2]	533
(viii). Common dolphin (southern)[2]	1,867
(ix). Striped dolphin (northern)	13
(x). Striped dolphin (north-equatorial)[3]	133
(xi). Bottlenosed dolphin	20
(xii). Rough-toothed dolphin	1
(xiii). Fraser's dolphin	2
(xiv). Risso's dolphin	2
(xv). Short-finned pilot whale	1
(xvi). Melon-headed whale	0
(xvii). Pygmy killer whale	0
Total	9,972

[1] Including the tentatively identified southwestern stock.

[2] Including the tentatively identified equatorial-oceanic stock.

[3] Including the tentatively identified south-equatorial stock.

All animals killed during the period January 1, 1977 through April 30, 1977 will be counted as a part of the total allowable kill for the period January 1, 1977 through December 31, 1977 which is established pursuant to administrative hearings and the Director's final decision.

The Director shall determine on the basis of all evidence available to him, the date upon which any individual stock or species quota will be reached or exceeded and shall prohibit thereafter the encircling of marine mammals of those stocks or species by purse seine in the course of commercial fishing operations. Notice of the Director's determination shall be published in the FEDERAL REGISTER not less than 7 days prior to the date upon which the prohibition is to become effective.

[FR Doc.76-38496 Filed 12-30-76;4:06 pm]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

[Ruling 1976-6]

FIRMS SUBJECT TO MANDATORY PETROLEUM AND PRICE ALLOCATION REGULATIONS

Record Keeping Requirements

Section 210.92 of the Federal Energy Administration ("FEA") General Allocation and Price Rules sets forth the record keeping requirements for firms which are, or have been, subject to the FEA Mandatory Petroleum Allocation Regulations or the FEA Mandatory Petroleum Price Regulations. It provides as follows:

(a) *General.* Each firm subject to this part shall keep such records as are sufficient to demonstrate tht the prices charged or the amounts sold by the firm are in compliance with the requirements of this part.

(b) *Inspection.* Records required to be kept under paragraph (a) shall be made available for inspection at any time upon the request of a reprsentative of the FEO.

(c) *Justification.* Upon the request of a representative of the FEO any firm which has filed a notice of a proposed price increase, increases a price pursuant to this subpart, or takes any action pursuant to the allocation provisions of this Chapter, shall:

(1) Specify the records that it is maintaining to comply with this paragraph; and

(2) Justify that proposed price increase, increased price, or action pursuant to the allocation provision of this Chapter.

(d) *Period for keeping records.* Each firm required to keep a record under this paragraph shall maintain and preserve that record for at least 4 years after the last day of the calendar year in which the transactions or other events recorded in that record occurred or the property was acquired by that firm whichever is later.

The purpose of this Ruling is to make clear that

* * * such records as are sufficient to demonstrate that the prices charged or the amounts sold by the firm are in compliance with the requirements of this part * * *,

necessarily include with respect to each regulated transaction whatever records are necessary to establish the historical prices or volumes which served as the **basis for determining the regulated** prices or volumes in such regulated transactions.

Thus, for example, a producer of domestic crude oil that makes a first sale of such crude oil during 1976 of "new crude oil" pursuant to the upper tier ceiling price rule of § 212.74 must, with respect to such 1976 transactions, keep records not only for the 1976 transactions, but also of the history of production and sale of crude oil from the property concerned, from which the "base production control level" of the property can be determined. This will generally require records of production and sale of crude oil for all months since January 1, 1972.

Pursuant to § 210.92(d), the producer "shall maintain and preserve that record [i.e., the record of 1976 transactions together with the records from which the property's base production control level can be established] for at least 4 years after the last day of the calendar year in which the transactions or other events recorded in that record occurred * * * [i.e., until December 31, 1980]." recorded in that record occurred * * * [i.e., until December 31, 1980]."

Similarly, for example, producers of domestic crude oil which make first sales of stripper well crude oil which are exempt from the provisions of Part 212 pursuant to § 212.54 must maintain and preserve with respect to such sales, the production records which establish that the property concerned has qualified as a stripper well property.

The same principles apply with respect to regulated transactions by all firms, including refiners, resellers and retailers,

and gas plant operators. Under the price rules generally, current maximum allowable prices are established by reference to prices and costs during or prior to May 1973. Accordingly the records which are required to be maintained and preserved through 1980 with respect to any transactions during 1976 that were subject to FEA price regulations include the records of May 1973 or earlier transactions pursuant to which maximum allowable prices during 1976 were established.

Finally, with respect generally to the Part 211 allocation regulations, records of transactions during the base period, typically 1972, must be maintained through 1980 with respect to all transactions during 1976 which were subject to the FEA allocation regulations.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

DECEMBER 30, 1976.

[FR Doc.76-38497 Filed 12-30-76;5:04 pm]

Emergency Amendment Adopting Special Rule No. 1 for Subpart F

The Federal Energy Administration ("FEA") hereby amends, on an emergency basis, the Mandatory Petroleum Price Regulations in Subpart F of Part 212 by the addition of Special Rule No. 1 as an Appendix to that part. Special Rule No. 1 provides for a change in the method of pricing allocated crude oil for deliveries for the months January through March 1977 pursuant to the Mandatory Crude Oil Allocation Program (the "buy/sell program") to take properly into account the price increases announced by the Organization of Petroleum Exporting Countries ("OPEC") effective January 1, 1977. This Special Rule is effective immediately because any delay in its effective date would result in sale prices for refiner-sellers that would be unrepresentatively low based on their current landed costs, and would also result in feedstock cost disparities among refiner-buyers, depending on their access to allocated crude oil.

An OPEC conference was held in Doha, Qatar, from December 15 to 17, 1976. The final press release issued by the participants announced that eleven countries had decided to increase the price of the marker crude from $11.51/BBL to $12.70/BBL as of January 1, 1977 and to $13.30 as of July 1, 1977. The price of all other crudes will be increased accordingly. Saudi Arabia and the United Arab Emirates, however, will raise their prices by 5 percent only.

Allocated crude oil is currently priced under 10 CFR 212.94 at the weighted average landed cost of imported crude oil to each refiner-seller (excluding crude oil imported from Canada) over a three-month period, the month of delivery and the two preceding months, with provision for a handling fee and location and quality adjustments. If no change were made in this rule, the lower prices prevailing in the months prior to January 1977 would result in a per barrel sale price for refiner-sellers that would be below the world market price for imported crude oil until April 1977, at which point only minimal volumes of lower priced crude oil would be included in their landed cost figures. This would result in higher prices on covered products for refiner-sellers and would have a potential for the creation of market distortions by placing certain refiner-buyers at a competitive disadvantage relative to other refiner-buyers that were able to purchase significant volumes of the lower-priced allocated crude oil. The discrepancy between the world market price of crude oil and the price of allocated crude oil would be contrary to FEA's intent in adopting the current pricing rule, which was meant to assure that sales were made at prices representative of crude oil prices in the world market. However, Special Rule No. 1 should not result in any disproportionate increase in the costs to refiner-buyers that would render these firms uncompetitive, because of the cost-equalizing effects of FEA's domestic crude oil allocation program.

Special Rule No. 1 provides that, for the months January through March 1977, each refiner-seller's sales of allocated crude oil will be priced at the weighted average cost of imported crude oil delivered to that refiner-seller in the month of delivery to the buyer, plus the handling fee and with the transportation and quality adjustments currently set out in § 212.94. Then, commencing with April 1977, all sales will again be made under the current provisions of § 212.94; that is, the sale price for allocated crude oil will be based on the weighted average landed cost of imported crude oil in the month of delivery and in the two preceding months.

FEA requests comments on the desirability of adopting Special Rule No. 1 as a permanent rule beyond the period for which it is effective as set forth herein because of the stated intent of OPEC to raise prices again in July, and the possibility of future price increases. In this regard, comments are requested as to whether the current provisions of § 212.94 do, in fact, avoid distortions in sales prices, or whether a permanent rule utilizing the seller's import costs in the month of delivery would serve this purpose as well.

Section 7(i)(1)(B) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275 (the "FEAA")) provides for waiver of the requirements of that section as to time of notice and opportunity to comment prior to promulgation of regulations where strict compliance with such requirements is found to cause serious harm or injury to the public health, safety, or welfare. The FEA has determined for the reasons outlined above that strict compliance with the requirements of section 7(i)(1)(B) of the FEAA would cause serious harm and injury to the public welfare. Accordingly, these requirements must be waived and the amendment adopted hereby is made effective immediately, prior to opportunity to comment thereon.

As required by section 7(c)(2) of the FEAA, a copy of this emergency amendment was submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of the proposal on the quality of the environment. The Administrator had no comments.

Because the amendment adopted hereby is being issued on an emergency basis, an opportunity for oral presentation of views will not be possible prior to its promulgation. A public hearing on the amendment, however, will be held beginning at 9:30 a.m. on January 19, 1977, in Room 2105, 2000 M Street N.W., Washington, D.C., to receive comments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., January 10, 1977. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through January 17, 1977. Each person selected to be heard will be so notified by the FEA before 5:30 p.m., January 11, 1977, and must submit 100 copies of his or her statement to the Office of Regulations Management, 2000 M Street, Washington, D.C., before 4:30 p.m., e.s.t., on January 18, 1977.

The FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements

were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., January 14, 1977. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the FEA Freedom of Information Office, Room 3116, Federal Building, 12th and Pennsylvania Avenue N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit data, views, or arguments with respect to the amendment to Box HP, Executive Communications, Room 3309, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to Executive Communications, FEA, with the designation "Special Rule No. 1". Fifteen copies should be submitted. All comments received by January 19, and all other relevant information will be considered by FEA in the evaluation of the amendments adopted hereby.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

This amendment has been reviewed in accordance with Executive Order 11821, issued November 27, 1974, and has been determined not to be of a nature that requires an evaluation of its inflationary impact pursuant to Executive Order 11821.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective January 1, 1977.

Issued in Washington, D.C., December 30, 1976.

MICHAEL F. BUTLER,
General Counsel.

Subpart F of Part 212 is amended by adding an Appendix with a Special Rule No. 1 to read as follows:

APPENDIX—SPECIAL RULE NO. 1

1. *Scope.* This Special Rule provides for an alteration in the method of allocated crude oil pricing under § 212.94 for the months January through March 1977.

2. *Special pricing rule for the months January through March 1977.* Notwithstanding the provisions of § 212.94(b)(1), the price at which crude oil shall be sold by a refiner-seller in January 1977, February 1977 and March 1977 for sales required under § 211.65 of Part 211 of this chapter shall not exceed the monthly weighted average per barrel landed cost (as defined in § 212.82, but utilizing the volumes of imported crude oil at the time of importation thereof into the United States) of all imported crude oil seller in January 1977, February 1977 and (other than crude oil imported from Canada) delivered to that refiner-seller in the month in which delivery is made to the refiner-buyer, plus the handling fee and reflecting the transportation, gravity, and sulphur content adjustments specified in § 212.94.

3. *Provisions of Subpart F.* The provisions of Subpart F of Part 212 shall remain in full force and effect except as expressly modified by the provisions of this Special Rule.

[FR Doc.76-38499 Filed 12-30-76;5:04 pm]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[ERL 667-1]

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Notice to Gasoline Refiners: December 31, 1976, and January 31, 1977, Lead Phase-Down Submittals

Notice is hereby given by the Environmental Protection Agency (EPA) to all large refiners (greater than 30,000 barrels per day (bbl/d) crude capacity) operating a small refinery (less than or equal to 30,000 bbl/d crude capacity), as of October 1, 1976, in regard to the January 31, 1977, and December 31, 1976, submittals under 40 CFR 80.20(a)(4) (ii) and (v) respectively:

Enforcement against any large refiner operating a small refinery for failure to comply with § 80.20(a)(4)(v) with respect to the small refinery will be suspended until March 31, 1977, by which time the information must be submitted. EPA will not enforce the 0.8 gpg January 1, 1978, standard with respect to a small refinery owned by a large refiner whose plant pursuant to §80.20(a)(4)(ii) with respect to such refinery is submitted after January 31, 1977, so long as the information is submitted by April 30, 1977, and all other suspension criteria are met.

Similar relief was granted small refiners in an earlier notice (41 FR 55646, December 21, 1976). This delay is accorded small refineries of larger refiners while the EPA completes its evaluation of separate treatment for the small refiner or small refinery.

All inquiries concerning this notice should be made to Mark S. Siegler, Chief, Fuels Section, Mobile Source Enforcement Division at (202) 755-2816.

NORMAN D. SHUTLER,
Acting Assistant Administrator for Enforcement (EN-329).

DECEMBER 30, 1976.

[FR Doc.77-398 Filed 1-4-77;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.

FEDERAL TRADE COMMISSION

[16 CFR Part 450]

ADVERTISING FOR OVER-THE-COUNTER DRUGS

Notice of Change of Date for Submission of Written Comments Concerning Proposed Trade Regulation Rule

On November 12, 1976, the Presiding Officer published in the FEDERAL REGISTER (41 FR 50697) a Change of Dates for Hearing and Related Requirements Concerning Proposed Trade Regulation Rule.

As published in such Notice the dates were set as follows:

The closing date for submission of all written comments: January 10, 1977;

The closing date for submission of witnesses' prepared statements (or comprehensive outlines) and exhibits for hearing: February 3, 1977;

The commencement date of the hearing: February 28, 1977.

The closing date for submission of all written comments is now January 21, 1977. All other dates set out in the Presiding Officer's Notice of Change of Dates published November 12, 1976, remain the same and the instructions set forth in that notice and the Presiding Officer's Final Notice of proposed rulemaking concerning Advertising for Over-the-Counter Drugs published September 16, 1976, (41 FR 39768) remain the same.

Issued: January 3, 1977.

ROGER J. FITZPATRICK,
Presiding Officer.

[FR Doc.77-484 Filed 1-4-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 301]

CLASSIFICATION OF ORGANIZATIONS FOR PURPOSES OF FEDERAL TAXATION

Proposed Rulemaking on Unincorporated Organizations

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by February 18, 1977. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rulemaking is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by February 18, 1977. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to certain provisions of the Regulations on Procedure and Administration (26 CFR Part 301) under section 7701 of the Internal Revenue Code of 1954, relating to the classification of organizations for purposes of Federal taxation. As recent court decisions such as Philip G. Larson, 66 T.C. 159 (1976), have pointed out, the statement of the classification critera in the existing regulations is inadequate and requires clarification.

The Internal Revenue Code establishes certain categories, or classes, of organizations for purposes of Federal taxation. According to its classification, an organization may be taxable as a corporation, a partnership, or some other entity. Included among the organizations which are taxable as corporations are joint stock companies, insurance companies, and associations.

In Morrissey v. Commissioner, 296 U.S. 344 (1935), the United States Supreme Court listed a number of characteristics to be taken into account in determining whether an organization bears a sufficiently close resemblance to a corporation to warrant its being classified as an association for purposes of the Code.

Existing § 301.7701-2 defines an association in terms of the *Morrissey* characteristics, but the provisions of that section have been found deficient in several respects. The description of the four characteristics that distinguish corporations from partnerships, i.e., continuity of life, centralized management, limited liability, and transferability of interests, are not well suited to the classification of organizations, such as limited partnerships, whose members have widely differing rights and responsibilities. Furthermore, an organization ordinarily may not be classified as an association under existing § 301.7701-2 unless it possesses at least three of the four characteristics that distinguish corporations from partnerships. This "preponderance" test has been criticized as deviating from the "resemblance" test of *Morrissey*.

Existing § 301.7701-2 also provides special rules with respect to professional service organizations. A number of court decisions declared these rules invalid in whole or in part, and in 1970 the Internal Revenue Service announced that it would no longer apply the rules in question. See Rev. Rule. 70-101, 1970-1 C.B. 278.

The proposed amendments will be applicable to both domestic and foreign organizations. See Rev. Rul. 73-254, 1973-1 C.B. 613. With respect to any organization created after January 5, 1977, these amendments are proposed to be effective beginning with the first taxable year of the organization which ends on or after the date of publication of a Treasury decision on this subject. With respect to organizations created on or before January 5, 1977, these amendments are proposed to be effective beginning with the fourth taxable year of the organization ending after the date of publication of a Treasury decision on this subject unless changes in the organization prior to that date are so extensive that the new rules must be applied earlier.

The rules for the classification of organizations that are neither profit-seeking organizations nor ordinary trusts will be published at a later time.

The proposed amendments provide that an unincorporated organization will be classified as an association if it more nearly resembles a corporation than a partnership of trust. Six corporate characteristics derived from the *Morrissey* opinion are enumerated: (i) associates, (ii) an objective to carry on business, (iii) continuity of life, (iv) centralization of management, (v) limited liability, and (vi) transferability of interests.

An organization will not be classified as an association unless it has associates and an objective to carry on business. An organization with only one beneficial owner may be considered to have associates if the circumstances indicate that it is analogous to a corporation with a single shareholder. A later notice of pro-

posed rule making will focus on the distinction between an ordinary trust and a business trust and will set forth the criteria for corporate resemblance with respect to business objective.

If an organization has associates and an objective to carry on business, its classification will depend upon its resemblance to a corporation with respect to the other four characteristics enumerated. The "preponderance" test of the existing regulations does not appear in the proposed amendment. The examples illustrate how classification is determined when an organization resembles a corporation with respect to two of the four characteristics but not with respect to the other two.

The proposed amendment finds corporate resemblance with respect to continuity of life in two sets of circumstances. An organization resembles a corporation with respect to continuity if members holding a majority interest (or a majority of one class of interests) have the power to prevent interruption of the business operations of the organization despite an event that causes a dissolution of the original entity under local law. This power exists where a majority group would be able to preclude liquidation of the organization under local law and the continuation of the business operations of the organization would not be significantly impaired by the loss of the maximum amount of capital that could be withdrawn despite a majority decision to continue. An organization also resembles a corporation with respect to continuity if its only general members are corporations controlled by limited members.

Corporate resemblance with respect to centralized management is present when the person or persons making the management decisions (i.e., the decisions that would be made by the directors if the organization were a corporation) are acting primarily in a representative capacity rather than on their own behalf. Those with management power are considered to be acting primarily in a representative capacity when they do not own a substantial interest in the organization or when they may be removed by other members.

An organization resembles a corporation with respect to limited liability when the percentage of the interests in the organization that do not entail personal liability for claims against the organization is substantially in excess of the percentage of interests that do entail personal liability. An interest does not entail personal liability when the member owning that interest is not subject to substantial risk of loss as to assets not invested in the organization. Organizations engaged in certain activities which are covered by insurance and principally financed through nonrecourse indebtedness resemble corporations with respect to limited liability since the members are protected as to their other assets.

Under the proposed amendment the characteristic of limited liability is disregarded in determining overall corporate resemblance in two situations. The nature of the business operation may preclude the possibility of any claim against the organization for an amount in excess of the capital invested; this situation is illustrated by an example describing an organization whose only activity is investing in mutual fund shares. Limited liability is also disregarded when no member of an organization has any substantial assets other than those invested in the organization.

An organization resembles a corporation with respect to the characteristic of transferability of interests when a substantial majority of the interests are transferable. Restrictions on transfer are disregarded when they do not materially affect the member's ability to convey to another the primary benefits attaching to ownership of the interests.

The proposed amendment provides that interests in an organization are ordinarily measured by reference to the members's shares in equity as that term is defined in the regulations. When the liabilities of an organization exceed 85 percent of the total of the adjusted basis of all the assets of the organization, however, interests are measured by the members' shares of the profits.

Under the proposed amendment organizations are to be classified on the basis of their characteristics for each taxable year. Material changes during a taxable year may lead to a reclassification of the organization. A change in the percentage of the entire interest in the organization owned by a class of members will not be considered material unless the percentage has changed by 10 percentage points or more since the initial classification of the organization or its most recent reclassification.

PROPOSED AMENDMENTS TO THE REGULATIONS

To clarify the classification of unincorporated organizations for purposes of Federal taxation, the Regulations on Procedure and Administration (26 CFR Part 301) under section 7701 of the Internal Revenue Code of 1954 are amended as follows:

Paragraph 1. Paragraphs (b) and (c) of § 301.7701–1 are amended to read as follows:

§ 301.7701–1 Classification of organizations for tax purposes.

* * * * *

(b) *Standards.* The Internal Revenue Code prescribes certain categories, or classes, into which various unincorporated organizations, whether domestic or foreign, fall for purposes of taxation. These categories, or classes, include associations (which are taxable as corporations), partnerships, and trusts. The tests, or standards, which are to be applied in determining the class in which an organization belongs (whether it is an association, a partnership, a trust or other taxable entity) are set forth in §§ 301.7701–1A to 301.7701–4. The provisions of §§ 301.7701–2 to 301.7701–4 apply to profit-seeking organizations and to organizations described in § 301.7701–4(a). The provisions of § 301.7701–1A apply to organizations not within the scope of §§ 301.7701–2 to 301.7701–4.

(c) *Effect of local law.* Although the Internal Revenue Code and §§ 301.7701–1A to 301.7701–4 establish the tests or standards to be applied in classifying an organization for purposes of Federal taxation, local law (in the case of a foreign organization, the local law of the foreign jurisdiction) governs in determining the existence of any legal rights and obligations that may be material in the application of those standards. Thus, it is local law which must be applied in determining such matters as the legal relationships of the members of the organization among themselves and with the public at large and the interests of the members of the organization in its assets. The terms used to designate organizations under local law, however, are in and of themselves of no importance in the classification of such organizations for the purposes of taxation under the Internal Revenue Code. Thus, a particular organization might be designated a partnership under the law of one State and another type of entity under the law of another State. However, for purposes of the Internal Revenue Code, this organization would be uniformly classified as a partnership, an association (and, therefore, taxable as a corporation), or some other entity, depending upon its nature under the classification standards of §§ 301.7701–1A to 301.7701–4. The term "corporation" is not limited to the artificial entity usually known as a corporation, but includes also an association, a joint-stock company, and an insurance company.

Par. 2. There is inserted immediately after § 301.7701–1 the following new section:

Sec.

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301.7701–1A Classification of nonprofit organizations. [Reserved]

Par 3. Section 301.7701–2 is amended to read as follows:

§ 301.7701–2 Associations.

(a) *Corporate resemblance in the case of profit-seeking organizations*—(1) *In general.* The term "association" refers to an unincorporated organization which is taxable as a corporation for purposes of the Internal Revenue Code because it more nearly resembles a corporation than a partnership or trust. The determination of whether an unincorporated organization is to be classified as an association depends on the overall resemblance of the organization to a corporation in purpose, structure, and method of operation. See *Morrissey* v. *Commissioner*, 296 U.S. 344 (1935). There are a number of major characteristics ordinarily found in a corporation organized for profit which, taken together, distinguish it from other organizations. These are (i) associates, (ii) an objective to carry on business, (iii) continuity of life, (iv) centralization of management, (v) liability for corporate debts limited to corporate

property, and (vi) transferability of interests. An organization will not be classified as an association within the meaning of this section unless it has associates (or is considered to have associates under paragraph (b) of this section) and has an objective to carry on business. In determining whether a particular organization which has or is considered to have these two essential characteristics will be classified as an association, the resemblance of the organization to a corporation with respect to each of the other four corporate characteristics is taken into account except insofar as the circumstances described in paragraph (f) (3) of this section require the characteristic of limited liability to be disregarded. Because the overall resemblance of an organization to a corporation is determinative for purposes of classification, an organization may be classified as an association when it resembles a corporation with respect to two or more of the four characteristics referred to in the preceding sentence.

(2) *Partnership compared.* A partnership has associates and an objective to carry on business, but it ordinarily does not resemble a corporation with respect to the other four characteristics enumerated in paragraph (a) (1) of this section. A partnership is usually characterized by the partners' personal identification with the partnership, their personal participation in its decision-making, and their personal responsibility for its obligations.

(3) *Trust compared.* In an ordinary trust legal title to, and control over, property are separated from beneficial ownership. Consequently, an ordinary trust may allow for continuity of life, centralized management, limited liability for the beneficiaries, and transferability of interests. Unlike a corporation, however, an ordinary trust is designed to protect or conserve property for the beneficiaries rather than serve as the medium for the conduct of a business enterprise. See § 301.7701–4.

(4) *Operating rule.* An organization shall be classified for each taxable year under the rules of this section on the basis of all the relevant facts and circumstances. The classification of an organization for a given taxable year may differ from its classification for the preceding taxable year whenever there is a sufficiently material change in the organization that affects the determination of its resemblance to a corporation with respect to one or more of the characteristics described in this section. Generally, the reclassification will be effective as of the first day of the taxable year in which the significant changes resulting in the reclassification occur. When the facts and circumstances warrant, the Internal Revenue Service may determine that the reclassification shall be effective on the first day of the taxable year following such taxable year. Changes in the type of activities conducted by the organization, for example, could affect the resemblance of the organization to a corporation with respect to limited liability. Similarly, a change in the management structure of an organization could be significant in determining whether the organization resembles a corporation with respect to centralized management. An organization may also be subject to reclassification if the percentage of the entire interest in the organization which is owned by a class of members changes materially in any subsequent taxable year as compared with the percentage owned by that class at the time of the initial classification of the organization or, if the organization has been reclassified, at the time of the most recent reclassification of the organization. Generally, the percentage of the entire interest owned by a class for any taxable year will be the percentage owned on the last day of that year, unless the circumstances indicate that the percentage owned on any other day more accurately reflects the ownership interest of the class for the entire year. See paragraph (a) (5) of this section for rules relating to the determination of a member's interest in an organization. The percentage of the entire interest in any organization owned by members of one class will not generally be considered to have changed materially if that percentage has changed by less than 10 percentage points since the time of the initial classification of the organization or, if the organization has been reclassified, since the most recent reclassification of the organization. For all purposes of this section, when a member of an organization owns interests of different classes, that member will be treated as a member of each class to the extent of the member's interest in each class. For rules applicable when an organization is reclassified, see section 331 (relating to gain or loss to shareholders in corporate liquidations), section 351 (relating to transfer to corporation controlled by transferror), section 721 (relating to nonrecognition of gain or loss on contribution to a partnership), section 731 (relating to extent of recognition of gain or loss on distribution by a partnership), and the regulations thereunder.

Example. In 1977 A, B, and C form an organization to raise and sell livestock. A and B, the general members of the organization, contribute $100,000 each and C contributes $100,000 in exchange for a limited interest in the organization. As of December 31, 1977, the last day of the organization's first taxable year, A and B own a 66⅔ percent interest in the organization, and C owns a 33⅓ percent interest. The organization is classified as a partnership for its first taxable year in accordance with the rules of this section. The business prospers, and in 1980 A and B decide to market additional limited interests in order to acquire capital for expansion. A and B contract with D to manage all the affairs of the organization related to the marketing of the interests. D becomes a general member of the organization in return for his services and a small contribution of capital. As of December 31, 1980, limited interests have been sold to 100 new members who, together with C, own 60 percent of the interests in the organization, while A, B, and D own the remaining 40 percent. There have been several changes in the organization since its original classification; the percentages of the entire interest that are owned by the limited members and the general members have changed materially, more than 100 new members have been introduced into the organization, the size of the enterprise has grown, and the management structure has become more complex as a result of the admission of D as a general member with special responsibility for marketing limited interests. Under these circumstances, the organization should re-examine its classification under this section for 1980.

(5) *Determination of interests.* The interest of a member in an organization is the equity of that member, except that when the aggregate equity of all members of an organization is less than 15 percent of the total of the adjusted basis of all the assets of the organization for any taxable year, the interest of a member for that taxable year is that member's profits interest in the organization and not the equity of that member. For purposes of this section, the equity of a member is the member's share of the excess of the adjusted basis of the assets of the organization over its liabilities. If the members have agreed that the equity shares of different classes of members shall vary upon the expiration of a stated period or for any other reason, the measure of equity that will be taken into account for any taxable year for purposes of this subparagraph is that measure which reflects the true equity shares of the different classes.

Example (1). A and B are the general members in an organization formed to construct and lease an office building. A and B each contribute $10,000 to the organization. Limited interests are sold to 50 members who contribute a total of $100,000. The agreement of the members provides that for the first five years the limited members will receive 80 percent of the organization's profits and are entitled to 50 percent of the net assets of the organization upon liquidation. The agreement further provides that upon the expiration of this period, the limited interests are entitled to 80 percent of the profits and 50 percent of the net assets upon liquidation. Under local law the organization will dissolve upon the death, bankruptcy or withdrawal for any reason of A or B, and the agreement of the members makes no provision for continuing the organization after such a dissolution. The organization obtains a $100,000 nonrecourse loan to finance the construction of the office building which has an adjusted basis of $200,000 at the end of the organization's first taxable year. The organization has no other obligations. The interests in this organization for its first taxable year are determined by reference to the members' equity because the aggregate equity exceeds 15 percent of the adjusted basis of the office building, the organization's only asset. The limited members have a 50 percent interest in the organization and the general members have a 50 percent interest in the organization for its first taxable year.

Example (2). Assume the same facts as in example (1) of this subparagraph, except that the agreement of the members provides that upon dissolution of the organization under local law as a result of the death, bankruptcy or withdrawal for any reason of A or B, the limited members by a majority vote may substitute a new general member. Under these circumstances the provision in the agreement that the limited members have only a 50 percent equity interest for the first five years of the organization will not

be taken into account because the limited members, and not the general members, determine whether the organization will be liquidated. It is presumed that the limited members, who contributed $100,000 of the total amount of $120,000 capital initially invested, will substitute new general members as necessary to prevent liquidation of the organization during the initial five-year period. A and B's stated 50 percent equity interest during this initial period is therefore not an accurate measure of their equity shares in the organization. As of the first taxable year of the organization the limited members are considered to have an 80 percent interest and the general members a 20 percent interest.

Example (3). Assume the same facts as in example (1) of this subparagraph, except that the organization during its second taxable year decides to increase the size of the building and obtains a further loan of $380,000. No new capital is invested, and the enlarged building has an adjusted basis of $1,000,000 at the end of the organization's second taxable year. Since the aggregate equity of the members, which is $20,000, is less than 15 percent of the adjusted basis of the organization's assets for that taxable year, the interests of the members are determined by reference to their shares in the organization's profits, rather than by reference to their equity. For the second taxable year of the organization the limited members have an 80 percent interest in the organization, and the general members a 20 percent interest.

(6) *Effective date.* This section applies to:

(i) Organizations created after January 5, 1977, beginning with the first taxable year of any such organization which ends on or after the date of publication of a Treasury decision on this subject, and

(ii) Organizations created on or before [the date of publication of this notice], beginning with the fourth taxable year of any such organization ending after the date of publication of a Treasury decision on this subject except as provided in the following sentence. If more than 50 percent of the interests in any such organization are created or transferred after January 5, 1977, or if the aggregate basis of the assets (other than cash) of any such organization acquired after January 5, 1977, exceeds the basis of assets (other than cash) owned on January 5, 1977 (reduced by the basis of any such assets disposed of since such date), the rules of this section shall apply to the first taxable year of the organization ending on or after the date of publication of a Treasury decision on this subject, by the end of which either of the stated conditions is satisfied. For rules that may be applicable when an organization is reclassified, see section 331 (relating to gain or loss to shareholders in corporate liquidations), section 351 (relating to transfer to corporation controlled by transferor), section 721 (relating to nonrecognition of gain or loss on contribution to a partnership), section 731 (relating to extent of recognition of gain or loss on distribution by a partnership), and the regulations thereunder.

The rules applicable to organizations created on or before January 5, 1977 for taxable years of such organization to which this section does not apply are contained in 26 CFR 301.7701-2 (Rev. as of April 1, 1976). For purposes of this subparagraph, an organization is considered created if any charter or certificate required to be filed by local law has been filed or, if no such filing is required, on the date of execution of its governing instrument, if simultaneous with, or later than, the date of the instrument.

(b) *Associates*—(1) *In general.* Although a corporation may have only one beneficial owner, the corporate form generally furnishes the opportunity for two or more persons to own a common enterprise.

(2) *Resemblance.* An unincorporated organization has associates if two or more persons own interests in it as a common enterprise whether those persons themselves establish the organization or receive their interests from others. An organization in which legal title to its assets and control over its operations have been separated from its beneficial ownership may be considered to have associates even if the organization has only one beneficial owner during all or part of its taxable year. In this respect, such an organization is analogous to a corporation with one shareholder.

(c) *Objective to carry on business*—(1) *In general.* Whether an unincorporated organization, like a corporation, is a medium by which the members conduct business is determined by reference to the circumstances of the creation of the organization, the terms of the creating instrument or the agreement of the members, and the actual operation of the organization itself.

(2) *Resemblance.* [Reserved].

(d) *Continuity of life*—(1) *In general.* Changes in the status or identity of its shareholders do not affect the continuation of the business operations of a corporation.

(2) *Resemblance.* An unincorporated organization resembles a corporation with respect to the characteristic of continuity of life when—

(i) The members holding a majority interest, or a majority of one class of interests, have the power to prevent interruption of the business operations of the organization despite a dissolution of the original entity under local law as a result of a change in the status or identity of one or more members. A majority group has such power only if it is able to take whatever action is required under local law to preclude liquidation of the organization and only if the withdrawal of capital by all of the members who would be able to withdraw their capital as a result of the dissolution event despite the group decision to continue would not significantly impair the continuation of the business. A right to withdraw capital other than as a result of a dissolution event will be disregarded. All relevant circumstances will be taken into account in determining whether the potential withdrawal of capital would significantly impair the continuation of the business.

The fact that the business of the organization may not be continued after the dissolution or bankruptcy of a particular member shall be disregarded if the withdrawal or removal of that member prior to its dissolution or an adjudication of its bankruptcy would make possible the continuation of the business. In determining whether the members have the power to continue the business, local law, the creating instrument, the customs and practices pertaining to the business activity of the organization, and any agreements among the members, including powers of attorney and other authorizations, or a prospectus or any other materials related to the offering of interests in the organization, or any other pertinent documents, will be taken into account; or

(ii) The only general members of the organization are corporations in which one or more of the limited members own, directly or indirectly, a controlling interest. For purposes of this subdivision (ii), the limited members own a controlling interest in a corporation if, in the aggregate, they own directly or indirectly 50 percent of the total combined voting power of all classes of stock entitled to vote. The limited members of an organization are also considered to own a controlling interest in a corporation if the facts and circumstances indicate that ten or fewer limited members directly or indirectly exercise a controlling influence over the management or policies of the corporation, or control in any manner the election of a majority of the directors of the corporation.

(e) *Centralization of management*—(1) *In general.* The directors of a corporation acting in a representative capacity ordinarily have continuing exclusive authority to make the management decisions necessary for the conduct of the business of the corporation.

(2) *Resemblance.* An unincorporated organization resembles a corporation with respect to the characteristic of centralized management when the person or persons making the management decisions that would be made by the directors if the organization were a corporation are acting primarily in a representative capacity rather than on their own behalf. Persons making management decisions are acting primarily in a representative capacity when they do not own a substantial interest in the organization or when they are subject to removal on the vote of members not participating in management (whether or not managing members participate in the vote).

(f) *Limited liability*—(1) *In general.* Shareholders may invest in a corporation without becoming personally liable for debts of, or claims against, the corporation. The creditors of a corporation may look only to corporate property for satisfaction of claims against the corporation.

(2) *Resemblance.* An unincorporated organization resembles a corporation with respect to the characteristic of limited liability when the percentage of the interests in the organization which

do not entail personal liability for claims against the organization is substantially in excess of the percentage of interests which do entail personal liability. An interest in an organization does not entail personal liability for claims against the organization when the member owning that interest is not subject to substantial risk of loss as to assets not invested in the organization. If the principal activity of an organization is the acquisition (or leasing or construction) and operation of property, if such activity is principally financed by indebtedness with respect to which none of the members of the organization is personally liable, and if the ordinary risks from such activity are insured or indemnified against, then no member shall be considered subject to substantial risk of loss as to assets not invested in the organization. For purposes of the preceding sentence, operation of property includes holding property for resale, holding property for rent, exploiting property protected by trademarks or copyrights, and exploring for, or exploiting, mineral resources.

(3) *Other considerations.* When the nature of the business operation of an organization as a practical matter precludes the possibility of any claim against the organization for an amount in excess of the capital invested, or when no member of the organization has any substantial assets other than those invested in the organization, the characteristic of limited liability will not be taken into account in determining the overall resemblance of the organization to a corporation.

(g) *Transferability of interest*—(1) *In general.* Shareholders of a corporation ordinarily have the power to transfer their shares and all the rights attendant upon ownership of such shares to other persons.

(2) *Resemblance.* An unincorporated organization resembles a corporation with respect to the characteristic of transferability of interests when the percentage of interests in the organization that are transferable is substantially in excess of the percentage of interests that are not transferable. In determining whether an interest is transferable, it is necessary to ascertain whether any restrictions on transfers set forth in the agreement of the members or in other relevant material, such as a prospectus, materially impair transferability.

An interest is considered transferable despite the inability of the holder to substitute another person as a member of the organization if the primary attributes of the interest, such as the rights to share in the profits and to a return of a contribution of capital, are assignable rights. Voting rights or other powers which are surrendered through proxies or other authorizations as a matter of course shall not be considered primary attributes of an interest. A requirement that a member must obtain the consent of one or more other members prior to transferring an interest does not impair tranferability if this consent may not be unreasonably withheld.

(h) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Corporation M forms an organization to explore for mineral resources. M contributes $200,000 to the organization and becomes its sole general member. The organization obtains an additional $800,000 by selling limited interests to 15 individuals none of whom is a stockholder of M. The organization obtains a lease for the mineral rights to 10,000 acres of undeveloped land. The business operations of the organization are to continue for 10 years unless earlier terminated by vote of the holders of 60 percent of the limited interests in the organization. The limited members agree upon purchase of their interests not to seek return of their investments prior to termination of business operations under the agreement notwithstanding any intervening dissolution of the organization. In the event that M dissolves, becomes bankrupt or withdraws from the organization prior to termination of business operations in accordance with the agreement, the limited members are empowered by the agreement to select a successor to M. They may thereby preclude a liquidation of the organization under local law. M has exclusive control over management of the business and is the only member personally liable for claims against the organization. The interest of M in the organization is not transferable, but limited members may substitute other persons as limited members with the consent of M, which may not be withheld unreasonably. This organization, in which M owns a 20 percent interest and the limited members own 80 percent, has associates and is engaged in business. Despite the fact that M can dissolve the organization at any time, the organization resembles a corporation with respect to continuity of life because the members of one class of interests in the organization have agreed to continue the business operations of the organization in spite of a premature withdrawal of M from the organization and they have the power to preclude a liquidation of the organization under local law since they may choose a successor to M. Even if M withdraws, the organization will still have 80 percent of its initial capital. Thus, the withdrawal of M's capital will not significantly impair the ability of the organization to continue business operations. The organization also resembles a corporation with respect to centralized management because the general member, owning only a 20 percent interest in the organization, does not have a substantial interest and is therefore considered to be acting primarily in a representative capacity. The percentage of interests in the organization which do not entail personal liability is substantially in excess of the percentage of interests which do entail such liability. The percentage of interests which are transferable is also substantially in excess of the percentage of interests which are not transferable. The organization therefore resembles a corporation with respect to the characteristics of continuity of life, centralized management, limited liability, and transferability of interests. The organization will be classified as an association for all purposes of the Internal Revenue Code.

Example (2). Assume the same facts as in example (1) of this paragraph, except that the agreement provides that the holders of a majority of the limited interests may vote to continue the business operations of the organization in the event of a dissolution of the organization under local law only if the dissolution is not caused by the dissolution or bankruptcy of M. This limitation in the agreement shall be disregarded since M may withdraw from the organization prior to being formally dissolved under state law or being adjudicated a bankrupt by a court of competent jurisdiction and thereby enable the limited members to vote to continue the organization by electing a successor general member. The agreement of the members further provides that limited members who wish to withdraw their capital prior to liquidation of the organization may do so only if the general member determines that the withdrawal will not jeopardize the status or the operations of the organization. Since a vote of the majority of the limited interests to continue the business in the event of a dissolution will prevent liquidation of the organization, the organization resembles a corporation with respect to continuity of life. The withdrawal of M's capital will not significantly impair the continuation of the business. The potential withdrawal of capital by limited members other than as a result of a dissolution event is disregarded. The organization is classified as an association for all purposes of the Internal Revenue Code because it resembles a corporation with respect to continuity of life, centralization of management, limited liability, and transferability of interests.

Example (3). Assume the same facts as in example (1) of this paragraph, except that the agreement provides that the holders of a majority of the limited interests may vote to continue the business operations of the organization if and when a dissolution of the organization occurs under local law but that limited members voting against continuation may withdraw their capital at the time of the vote. In this situation, almost 60 percent of the capital could be withdrawn from the organization despite the majority vote to continue: the 20 percent interest of M, and the minority interest of the limited members, which could be close to 40 percent. The withdrawal of almost 60 percent of the organization's capital would make it difficult for the organization to meet its obligations under the lease and would thereby significantly impair the continuation of the organization's mineral exploration business. The organization therefore does not resemble a corporation with respect to continuity of life. The organization does, however, resemble a corporation with respect to the characteristics of centralization of management, limited liability, and transferability of interests. The organization will be classified as a corporation for all purposes of the Internal Revenue Code.

Example (4). Assume the same facts as in example (1) of this paragraph, except that M owns a 40 percent interest in the organization and that the limited members own 60 percent of the interests. The continuation agreement among the limited members, although sufficient to preclude liquidation of the organization, does not establish corporate resemblance with respect to continuity of life because the withdrawal of 40 percent of the organization's capital by M would make it difficult for the organization to meet its obligations under the lease and would thereby significantly impair the continuation of the organization's mineral exploration business. M is not considered to be acting primarily in a representative capacity in making management decisions since M owns a substantial interest in the organization and the limited members have no power to remove M. Because the percentage of limited interests is substantially in excess of M's interest, the organization resembles a corporation with respect to the characteristics of limited liability and transferability of interests. Thus, the organization resembles a corporation with respect to two of the four characteristics which distinguish corporations from partnerships but not with respect to the other two such characteristics. Under these

circumstances it is necessary to examine more closely the findings with respect to each of the characteristics in order to evaluate their relative importance in determining the overall resemblance of the organization to a corporation. The conclusion that this organization resembles a corporation with respect to limited liability and transferability of interests is based upon the fact that the limited members' 60 percent interest is substantially in excess of the general member's 40 percent interest.

A small change in that ratio would preclude finding that the limited interests are substantially in excess of the general interests and thereby require a conclusion that the organization does not resemble a corporation with respect to these two characteristics. The finding that the organization does not resemble a corporation with respect to continuity of life is based on an assessment that the withdrawal of 40 percent of the organization's capital would significantly impair the continuation of the business of the organization. A small change in the amount of capital that could be withdrawn would probably not affect this assessment. Similarly, a small change in the size of M's interest in the organization would not affect the finding that the organization does not resemble a corporation with respect to centralized management because M would still have a substantial interest. In this case, therefore, the findings that are more susceptible to change are those that show corporate resemblance. Under these circumstances, the organization does not bear a greater overall resemblance to a corporation than to a parnership. Accordingly, it will be classified as a partnership for all purposes of the Internal Revenue Code.

Example (5). Corporation T, which has a net worth of $5,000,000, forms an organization to construct and sell residential condominium units. T contributes $675,000 to the organization and becomes its sole general member. The organization obtains an additional $825,000 by marketing limited interests in a private offering. The organization has a stated life of 25 years. Ten of the limited members are able to control the election of a majority of the directors of T. T has exclusive control over management of the business and is the only member personally liable for claims against the organization. The interest of T may not be transferred, but the limited interests are freely transferable. T can be removed and another general member substituted on the vote of a majority of the limited interests. This organization, in which T owns a 45 percent interest and the limited members owns the remaining 55 percent, has associates and is engaged in business. It resembles a corporation with respect to continuity of life because ten limited members own a controlling interest in Corporation T, the sole general member. Despite its substantial interest in the organization, T is considered to be acting primarily in a representative capacity because it can be removed by the holders of a majority of the limited interests. The organization therefore resembles a corporation with respect to centralized management.

The percentage of interests in the organization which do not entail personal liability and which are transferable is not substantially in excess of the percentage of the interests which do entail personal liability and which are not transferable. The organization therefore does not resemble a corporation with respect to the characteristics of limited liability and transferability of interests. Thus, the organization resembles a corporation with respect to two of the four characteristics which distinguish corporations from partnerships but not with respect to the other two such characteristics. Under these circumstances it is necessary to examine more closely the findings with respect to each of the characteristics in order to evaluate their relative importance in determining the overall resemblance of this organization to a corporation. A small change in the ratio of the limited interests to the general interest could lead to different findings with respect to limited liability and transferability. The findings with respect to continuity of life and centralized management, however, do not depend upon that ratio. It is more likely that the ratio of interests will change than that the limited members that control T would allow control to pass to outsiders or that the agreement of the members would be amended to preclude removal of T. In this case, therefore, the findings that are more susceptible to change are those that indicate lack of corporate resemblance. Under these circumstances, the organization bears a greater overall resemblance to a corporation than to a partnership, and it will be classified as an association for all purposes of the Internal Revenue Code.

Example (6). Corporation L, with a net worth of $2,000,000, forms an organization to invest in mutual funds and becomes its sole general member. L contributes $450,000 to the organization. The organization obtains an additional $550,000 by selling limited interests to sixty individuals none of whom is a stockholder in L. The business operations of the organization are to continue for 10 years unless earlier terminated by vote of the holders of 51 percent of the limited interests. The owners of a majority of the limited interests may vote to substitute another general member for L upon its withdrawal and may take all action necessary to preclude liquidation of the organization under local law. Limited members may not withdraw their investments prior to liquidation. L has exclusive control over management of the business and is the only member personally liable for claims against the organization. Under the terms of the agreement, limited members may not substitute other persons as limited members in the organization, but they may assign their right to receive a share in profits and the return of capital contributions. This organization, in which L owns a 45 percent interest and the limited members own 55 percent of the interests, has associates and is engaged in business. The organization is considered to resemble a corporation with respect to continuity of life because a majority of the limited members may take whatever action is necessary under local law to preclude the liquidation of the organization upon the withdrawal of L. The withdrawal by L of 45 percent of the organization's capital will not significantly impair the continuation of the business because, as an organization investing only in mutual fund companies that will redeem shares upon request, it will continue its operations substantially as before the withdrawal of L but on a reduced scale. Because L has a substantial interest in the organization and may not be removed by limited members, the organization does not resemble a corporation with respect to centralization of management. Since the percentage of interests in the organization which do not entail personal liability is not substantially in excess of the percentage of interests which do entail such liability, the organization does not resemble a corporation with respect to limited liability. As a practical matter, however, there is no possibility of any claim against the organization resulting from its passive investment activities for an amount in excess of the capital invested. Accordingly, the characteristic of limited liability is not taken into account in determining the overall resemblance of this organization to a corporation. The limited interests, the primary attributes of which are the right to income and return of capital invested, are considered transferable, but the limited interests do not constitute a substantially higher percentage of the entire interest in the organization than the general interest, which is not transferable. Therefore, the organization does not resemble a corporation with respect to the characteristic of transferability of interests.

The organization resembles a corporation with respect to only one of the three characteristics relevant under these facts and therefore will be classified as a partnership for all purposes of the Internal Revenue Code.

Example (7). Corporation M, which has assets of $1,005,000, forms an organization to produce a documentary film under contract from a television network. All production and editing is expected to be completed within two years, and the organization will terminate upon delivery of the film to the network. M, the sole general member of the organization, contributes $1,000,000 to the venture. The organization obtains $1,000,000 in additional contributions from limited investors who possess other substantial assets. Two of the limited investors own 60 percent of the only class of voting stock in M. M is to have exclusive control over the management of the organization and is the only member personally liable for claims against the organization. The interests of the limited members are freely transferable, but the interest of M may not be transferred. This organization, in which M owns a 50 percent interest and the limited members own a 50 percent interest, has associates and an objective to carry on business. The organization resembles a corporation with respect to continuity of life since two of the limited members own a controlling interest in M. The organization does not resemble a corporation with respect to centralization of management because M owns a substantial interest and is not subject to removal by the limited members. Since M, the only personally liable member, has no significant assets other than those invested in this organization, no member of the organization is subject to substantial risk of loss as to assets not invested in the organization. The other assets of the limited investors are protected from creditors of the organization, and consequently the organization resembles a corporation with respect to the characteristic of limited liability. The percentage of interests in the organization that are transferable is not substantially in excess of the percentage of interests that are not transferable. Accordingly, the organization does not resemble a corporation with respect to the characteristic of transferability of interests. The organization resembles a corporation with respect to two of the four characteristics which distinguish corporations from partnerships, but not with respect to the other two such characteristics. Under these circumstances it is necessary to examine more closely the findings with respect to each of the characteristics in order to evaluate their relative importance in determining the overall resemblance of this organization to a corporation. None of these findings is likely to differ as a result of any small change in the situation. The finding of corporate resemblance with respect to continuity of life, however, is not as important as the other findings because the anticipated life of this organization is less than two years. The organization will be classified as a partnership for all purposes of the Internal Revenue Code.

Example (8). Fifty individuals form an organization to purchase construction equipment and lease it to building contractors. Each individual has a two percent interest in the organization. The organization is to continue for ten years unless earlier terminated by vote of the holders of a majority interest. The members have agreed that no member

may withdraw capital from the organization until it is liquidated. Although any member may withdraw and cause a dissolution of the organization, the remaining members have the power under local law to reconstitute the organization and prevent liquidation. An executive committee of seven members make the management decisions for the organization. All members of the organization are personally liable for claims against the organization, but the organization finances its equipment purchases on a nonrecourse basis and always obtains insurance against the customary risks associated with equipment leasing. The organization has also borrowed $1,000,000 which is deposited in a long-term bank account and not used for business purposes. A member may not transfer an interest in the organization without the consent of all other members. This organization has associates and an objective to carry on business. The organization resembles a corporation with respect to continuity of life because in the event of a dissolution of the organization the remaining members have the power to reconstitute it and prevent liquidation. No member may withdraw capital from the organization prior to its liquidation. The organization resembles a corporation with respect to centralized management since the managing members own in the aggregate only a 14 percent interest in the organization and thus are acting primarily in a representative capacity. The organization also resembles a corporation with respect to limited liability since its principal activity is the acquisition and leasing of property, that activity is principally financed by loans with respect to which no member of the organization is personally liable, and the organization has obtained insurance against the customary risks associated with equipment leasing. The fact that the organization borrows further funds not used in ordinary business operations is not taken into account in determining whether any member is subject to any substantial risk of loss as to assets not invested in the organization. The organization does not resemble a corporation with respect to transferability of interests. The organization resembles a corporation with respect to three of the four characteristics that distinguish corporations from partnerships. The organization will be classified as an association for all purposes of the Internal Revenue Code.

Example (9). A group of one hundred accountants form an organization to furnish accounting services to the public for profit. Although the death, insanity, bankruptcy, withdrawal or expulsion of any member at any time may cause a dissolution of the organization, the members have agreed that in the event of any such dissolution the remaining members will immediately reconstitute the organization and thus avoid any interruption of its business. Under local law, the remaining members have the power to preclude liquidation of the organization. A managing committee of five members, who are subject to removal by vote of the other members, make all management decisions for the organization. All members of the organization are personally liable for claims against the organization. A member may not transfer an interest in the organization without the consent of all other members. This organization has associates and an objective to carry on business for profit. The organization resembles a corporation with respect to continuity of life because the members have agreed to reconstitute it whenever necessary, and the withdrawal of capital by members separating from the organization, the only members entitled to withdraw capital as a result of a dissolution event, will not significantly impair the continued operation of this accounting services organization. The organization resembles a corporation with respect to centralized management since those empowered to make management decisions are subject to removal on the vote of members not participating in management. The organization does not resemble a corporation with respect to the characteristics of limited liability and transferability of interests. The organization resembles a corporation with respect to two of the four characteristics which distinguish corporations from partnerships, but not with respect to the other two such characteristics. Under these circumstances it is necessary to examine more closely the findings with respect to each of the characteristics in order to evaluate their relative importance in determining the overall resemblance of the organization to a corporation. None of these findings is likely to be affected by any small change in the situation. Because of the risk of extremely high malpractice claims and the impracticability of attempting to insure fully against such claims, however, the lack of resemblance to a corporation with respect to limited liability is especially important in classifying this organization. The organization will be classified as a partnership for all purposes of the Internal Revenue Code.

§ 301.7701–3 [Amended]

PAR. 4. Paragraph (b) of § 301.7701–3 is amended by deleting the heading "(1) *In general.*" and by deleting paragraph (b) (2).

[FR Doc.76–38491 Filed 12–30–76;12:18 pm]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 85]

[FRL 666–2]

EMISSION CONTROL PRODUCTION WARRANTY

Extension of Comment Period

This notice extends the period for comments to the Advance Notice of Proposed Rulemaking, published Tuesday, November 16, 1976 (41 FR 50566), regarding the coverage of Section 207(a) of the Clean Air Act (the emission control production warranty) for light duty vehicles and light duty trucks.

Requests for extension of time have been submitted by Ford Motor Company, and the Automotive Parts and Accessories Association (APAA). Ford requested that the comment period be extended to February 16, 1977, due to the time required to obtain the extensive economic data requested by the Advance Notice. The APAA requested a 60 day extension due to the significance and complexity of the subject matter of the Advance Notice.

Although it is recogniztd that the Advance Notice raises several complex issues and, in some sections, requests detailed information, the Environmental Protection Agency believes that a 45 day extension should be adequate for most commentators. Accordingly, the comment period is hereby extended to March 3, 1977.

Dated: December 28, 1976.

NORMAN D. SHUTLER,
Acting Assistant Administrator for Enforcement (EN–329).

[FR Doc.77–295 Filed 1–4–77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

[40 CFR Part 1516]

PRIVACY ACT OF 1974

Proposed Implementation

The following proposed regulations, drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974, are hereby offered for public comment. Interested parties should submit comments on or before February 4, 1977. Comments should be addressed to the Office of the General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006.

Signed this 29th day of December 1976, by

DAVID W. TUNDERMAN,
Acting General Counsel.

It is proposed to add the following Part 1516 to Title 40 of the CFR:

PART 1516—PRIVACY ACT IMPLEMENTATION

Sec.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93–579.

§ 1516.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Council on Environmental Quality (hereafter known as the Council) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 1516.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" means maintain, collect, use or disseminate;

(c) The term "record" means any item or collection or grouping of information about an individual that is maintained by the Council (including, but not limited to, his or her employment history, payroll information, and financial transactions), and that contains his or her name, or an identifying number, symbol, or other identifying particular assigned to the individual such as a social security number;

(d) The term "system of records" means a group of any records under the control of the Council from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1516.3 Procedures for requests for access to individual records in a record system.

An individual shall submit a written request to the Administrative Officer of the Council to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a written request to the Administrative Officer of the Council which states the individual's desire to review his or her record. The Administrative Officer of the Council is available to answer questions regarding these regulations and to provide assistance in locating records in the Council's system of records.

§ 1516.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Administrative Officer of the Council pursuant to Section 1516.3 shall present the request at the Council's office, 722 Jackson Place, N.W., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5 p.m. and should be prepared to identify himself by signature. Requests will also be accepted in writing if mailed to the Council's offices and signed by the requester.

§ 1516.5 Access to requested information to the individual.

The individual may submit a request to the Administrative Officer of the Council which states the individual's desire to correct or to amend his or her record. This request must be made in accordance with the procedures of § 1516.4 and shall describe in detail the change which is requested.

§ 1516.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of a request to correct or to amend a record, the Administrative Officer of the Council will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or amend the record in accordance with the request, the reason for the refusal, and the procedure established by the Council for the individual to request a review of that refusal.

§ 1516.8 Appeal of the initial adverse agency determination on correction or amendment of the record.

An individual may appeal refusal by the Administrative Officer of the Council to correct or to amend his or her record by submitting a request for a review of such refusal to the General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006. The General Counsel shall, not later than thirty working days from the date on which the individual requests such a review, complete such review and make a final determination unless, for good cause shown, the General Counsel extends such thirty day period. If, after his or her review, the General Counsel also refuses to correct or to amend the record in accordance with the request, the individual may file with the Council a concise statement setting forth the reasons for his or her disagreement with the General Counsel's decision and may seek judicial relief under 5 U.S.C. 552a (g) (1) (A).

§ 1516.9 Disclosure of a record to a person other than the individual to whom the record pertains.

The Council will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure either has been listed as a "routine use" in the Council's notices of its systems of records or falls within the special conditions of disclosure set forth in Section 3 of the Privacy Act of 1974.

§ 1516.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for the record, in advance of receipt of the pages.

[FR Doc.77-265 Filed 1-4-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3800]

SURFACE MANAGEMENT OF PUBLIC LAND UNDER U.S. MINING LAWS

Proposed Procedures To Minimize Adverse Environmental Impacts; Extension of Time for Comments

In a proposed rulemaking notice published in the FEDERAL REGISTER on December 6, 1976 (41 FR 53428), the Department of the Interior published proposed regulations providing rules and procedures to minimize adverse environmental impacts on the surface resources of public domain and other lands from operations authorized by the United States mining laws (30 U.S.C. 22–54). In that notice, comments were requested by January 5, 1977. It has now been determined to extend the comment period by 30 days. Comments received on or before February 4, 1977, will be considered before final action is taken on the proposed regulations.

JACK O. HORTON,
Assistant Secretary of the Interior.

DECEMBER 30, 1976.

[FR Doc.77-343 Filed 1-4-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

[45 CFR Part 1480]

ORGANIZATIONAL PROCESSES IN EDUCATION

Proposed Research Grants Program

The Director of the National Institute of Education (NIE), with the approval of the Secretary of Health, Education, and Welfare, proposes to issue the following regulation governing a discretionary grant program for research on organizational processes in education. The authority for the regulation is section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

The legislation establishing the Institute declares it a policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, national origin, or social class. While the Congress recognizes that the direction of the education system towards this goal remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

NIE is charged by its enabling statute with the responsibility to improve American education through: helping to solve or alleviate the problems and achieve the objectives of American education; advancing the practice of education as an art, science, and profession; strengthening the scientific and technological foundations of eduaction; and building an effective educational research and development system. The NIE has carried out these mandates through contracts and grants to a wide variety of non-Federal groups and individuals, in support of education-related research and development.

The National Council on Educational Research, established by the Congress to develop general policy for the NIE, identified as one priority for the Institute the improvement of schools' and school districts' capacities for problem-solving. That is, development or discovery of better ways in which schools and school systems can define their own problems, conceive and implement solutions, and assess progress towards improved organizational performance. The purpose of the research grants program proposed in this notice is to support studies of how elementary and secondary schools and school districts carry out essential tasks

of any organization, such as setting goals, finding resources, assigning work, identifying and solving problems, monitoring performance, and adapting to changing times. How well these organizational activities are carried out may be very important in determining the quality of education received by young people in school. Considerable research has been done on organizational behavior in business firms, and in national, state, and local governments; less is known about how educational organizations work, and about the connection between organizational activities and educational results. The NIE therefore will establish, under these proposed rules, a continuing Program of Research Grants on Organizational Processes in Education, to support basic studies of this field. As knowledge of schools' and school districts' organizational behavior grows, policy-makers and professional educators will have better tools for analyzing the administration and management of elementary and secondary schools, and better ideas for their improvement.

The program of research grants described in this notice is the third to be established recently by NIE. The other two are in the areas of Basic Skills and Education and Work. Final rules for these were published in the FEDERAL REGISTER September 28, 1976, at 41 FR 42661 and 41 FR 42663 respectively. (These will be codified as 45 CFR Parts 1451 and 1470.) Research grant competitions were also held by the Institute in other fields in 1973 and 1974, under rules set out in 45 CFR 1450. The regulations for each of these prior efforts have been reviewed for their effectiveness in aiding the Institute to reach its research objectives, and have generally been followed in developing the following regulations.

The program of research grants to which this proposed regulation applies is the result of extensive new planning as well. The Institute's policy-making board, the National Council on Educational Research, has consistently endorsed allocation of substantial resources to basic research relevant to the Institute's five priority areas (Basic Skills; Finance, Productivity, and Management; Education Equity; Education and Work; and Dissemination). To implement this policy, NIE has consulted extensively with scholars, education professionals, parents, and others to build agendas of needed research. In the area of research on schools as organizations, and their capacities for problem-solving, over a period of a year NIE held seven meetings of scholars, educational leaders, teachers, and others in different regions of the country to discuss prepared papers and to solicit comments on possible areas for further research. Funds for a program of research in this field were requested in the agency's budget, and the plans were reviewed at that early stage by both the National Council and a special group of external, non-Federal advisers to the Director which reviewed the whole NIE program. Printed program plans have been circulated to a broad audience with an invitation to comment.

NIE staff have met with staff at the National Institute of Mental Health and the National Science Foundation, to gather ideas about research grant administration and ways of meeting current public concerns about research funding processes. A number of individual scholars and practitioners in the area of management and education have recently been asked to give comments on the specific proposed research grant competition, and on how it might be designed in order to attract the most qualified and talented persons to carry out the needed research. Thus the research grant program outlined in the proposed rules has been planned by drawing on the experience of the Institute, other parts of the Department, other Federal agencies, and by soliciting extensive public discussion and comment.

Public involvement with the program of research set forth in these rules will continue. The Director of NIE is authorized to employ consultants to advise on the merits of research proposals, and the NIE Director will exercise that option in the case of this program by appointing a chartered Federal Advisory Committee of members of the public to assist in reviewing proposals.

Under the proposed regulation, grants (other than small grants described below) will be awarded for research projects up to three years long. An applicant for a grant (other than a small grant) must first submit a preliminary proposal, and then submit a full proposal upon receipt of NIE comments on the preliminary proposal. The consideration of a preliminary proposal prior to submission of a full proposal is intended to enhance the acceptability of a full proposal and to discourage submission of a proposal having little chance of award.

A small grant opportunity is also proposed in these rules, for which the maximum award would be $7500 plus indirect costs (except in the case of a small grant to an individual unaffiliated with an institution, in which case the NIE will not award indirect costs but will reimburse reasonable general and administrative expenses associated with and directly related to the administration of the small grant). Small grants are for support of the same types of research activities and objectives as other grants in this program, and are not reviewed or administered in any way different from other grants except that (1) the application process involves a single proposal of limited length, and (2) project duration must be twelve months or less. The purpose of the small grant segment of the program is to offer easier access to modest research support.

Current estimates are that approximately $1.1 million will be available in Fiscal Year 1977 for projects selected for funding in this proposed program. However, only projects evaluated highly on the criteria listed in this regulation will be supported, whether or not the resources of the program are exhausted. Further, nothing in this notice, subsequent notices of closing dates, or program announcements should be construed as committing NIE to awarding any specified amount. The actual funds obligated for grants may change if, in the Director's judgment, otherwise qualified applications cannot be funded (1) because of the need to fund (or to reserve funds for) non-competing continuations, contract research, or in-house research, or (2) because of possible budget or staffing restrictions which may be imposed on the conduct of the Program of Research Grants on Organization Processes in Education.

It is currently anticipated that approximately $100,000 of the $1.1 million will be reserved for small grants. Based on past experience with field-initiated research in the NIE, it is projected that approximately 25-35 grants will be made in Fiscal Year 1977, including approximately 15 small grants. The total amount allocated to small grants may be increased or decreased by the Director, based on the merits of the small grant applications received.

Applications will be accepted throughout the fiscal year. It is expected that applications received by the Institute will be reviewed at periodic intervals during the fiscal year. Notices of closing dates by which applications must reach NIE to be included in each review will be published in the FEDERAL REGISTER. An application which is disapproved in a particular review will be returned to the applicant, which may, if it so chooses, refile the application for funding consideration in a succeeding review cycle. To implement these procedures, it is expected that a reasonable proportion of funds available for the program in a fiscal year will be tentatively allocated to each of these review cycles, but the amount of funds awarded in any particular review cycle may vary depending on the quality of applications received and the amount of funds requested by successful applications.

General regulations of the NIE for research and development grants are published as 45 CFR Part 1400. It is provided in 45 CFR 1400.2(b) that the general regulations will be supplemented by special substantive and procedural rules and policies for particular grant programs. This notice of proposed rulemaking is made in accordance with that provision. It is expected that this regulation will be amended from time to time to incorporate future priorities of the Program of Research Grants on Organizational Processes in Education.

Application forms and other information concerning the Program of Research Grants on Organizational Processes in Education will be available from the Research Staff, Group on School Capacity for Problem Solving, National Institute of Education, Mail Stop 4, 1200 19th St., N.W., Washington, D.C. 20208. Telephone 202-254-6090.

Interested parties are invited to submit comments, suggestions, objections, or inquiries regarding the proposed rule to Richard Werksman, Regulations Officer, Office of Administration and Management, National Institute of Education, Room 639-B, Mail Stop 33, 1200 19th

Street, N.W., Washington, D.C. 20208. Telephone 202–254–7924. The comment period will end February 22, 1977. Comments received in response to this notice will be available for public inspection in the above office on Monday through Friday between 8 a.m. and 4:30 p.m.

(Catalog of Federal Domestic Assistance Program No. 13.950, Education Research and Development.)

The National Institute of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order No. 11821 and OMB Circular A–107.

Dated: November 12, 1976.

HAROLD L. HODGKINSON,
Director, National Institute of Education.

Approved: December 29, 1976.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is proposed to be amended by adding to Subchapter B of Chapter XIV, a new Part 1480, reading as follows:

PART 1480—PROGRAM OF RESEARCH GRANTS ON ORGANIZATIONAL PROCESSES IN EDUCATION

Sec.

AUTHORITY: Section 405, General Education Provisions Act, as amended (20 U.S.C. 1221e).

§ 1480.1 Scope.

(a) This part establishes rules governing the submission and review of applications for funds under the Program of Research Grants on Organizational Processes in Education, conducted by the National Institute of Education with funds authorized by section 405 of the General Education Provisions Act.

(b) Recipients shall administer funds according to applicable provisions of Subchapter A of this chapter (General Provisions for NIE grants relating to fiscal, administrative, and other matters), except to the extent that such provisions are inconsistent with, or expressly made inapplicable by, the provisions in this part.

§ 1480.2 Purpose.

The purpose of the Program of Research Grants on Organizational Processes in Education is to support studies of how elementary and secondary schools and school districts carry out the essential tasks of any organization, such as setting goals, finding resources, assigning work, monitoring performance, identifying and solving problems, and adapting to changing times.

§ 1480.3 Definitions.

As used in this part:

"Research" includes any activity designed to increase or synthesize basic knowledge about one or more processes or conditions relevant to understanding elementary and secondary school organizations and their context.

§ 1480.4 Applicant eligibility.

(a) A college, university, state or local education agency, other public or private agency, organization, group, or individual is an eligible applicant.

(b) An application from a for-profit organization must be considered as an unsolicited proposal and, if successful, must be awarded a contract rather than a grant. An application from a for-profit organization must be submitted in accordance with criteria specified in this part and in HEW Procurement Regulations, Subpart 3–4.52 (41 CFR Part 3–4).

§ 1480.5 Eligible research projects.

(a) Research funded under this part must be designed to increase or synthesize basic knowledge about one or more organizational processes, or the barriers which impede or prevent these processes, within or related to elementary and secondary schools. Organizational processes include the means by which a school or larger administrative unit makes basic policy choices, sets goals, recruits and assigns personnel, chooses and implements courses of action, allocates resources, establishes organizational forms and structures, gathers and processes information on performance, and takes corrective action based on such evaluation. Interaction among personnel and among organizational units, and changes in processes and interactions within the organization over time, are included.

(b) Research funded under this part must be designed to advance knowledge of basic organizational processes, such as those examples given in paragraph (a) of this section, which appear especially important to understanding elementary and secondary schools. Studies supported under this program may have potential relevance to other kinds of organizations, but must aim to build a body of data and theory particularly useful in designing and managing educational organizations.

(c) Increased understanding of organizational processes related to elementary and secondary schools may require study of other organizations such as school districts, state or Federal agencies, and community groups. Studies supported under this program may include examination of other relevant organizations, to the extent necessary to carry out the main purpose of advancing knowledge about the elementary and secondary school.

(d) Because of the limited funds available, the program will not support large-scale research projects which require gathering of large amounts of new data. At this early stage of development of this program, the Director intends to fund a variety of limited-scale projects, including but not limited to projects which will clarify fundamental concepts, study organizational processes in detail in a few settings, or reanalyze existing data.

(e) A research project may be carried out using any research process or approach consistent with the provisions of § 1480.6.

§ 1480.6 Ineligible projects.

A project whose primary purpose is the operation, development, demonstration, or evaluation of specific programs or materials is not eligible for support under this part. Examples of ineligible projects include:

(a) Operation of an educational program in any elementary or secondary school, postsecondary institution, or other setting or agency.

(b) Improvement of an educational program through the implementation of a new or improved instructional, administrative, or managerial procedure, technique, material, training, or piece of equipment.

(c) Course development through the production of a new curriculum or the improvement of an existing curriculum, including the preparation of new instructional material or the modification of instructional material already in existence.

(d) Development or adaptation in an operational setting of any new or improved instructional, administrative, or managerial procedure, technique, material, training, or piece of equipment.

(e) A demonstration project which shows, exhibits, describes, or explains to others, either in person or through various other communication media, the procedure, technique and/or material which must be employed in the execution of a new or modified instructional task, educational program, or administrative or management process.

(f) Development of a new test or other instrument, either for research or use in educational practice.

(g) Evaluation of the effectiveness of a specific program, curriculum, practice, administrative or management activity, or piece of equipment.

§ 1480.7 Grants; small grants.

(a) *General.* Grants and small grants will be awarded under this part. The same topic areas for investigation, eligibility standards, and evaluation criteria apply to all awards under this part. A simplified application procedure is provided for an application for a small grant, as provided in § 1480.8, and the duration of a small grant award is limited to twelve months, as provided in § 1480.10.

(b) *Small grants.* (1) A small grant is for an amount not to exceed $7500 plus indirect costs (except in the case of an individual applicant not affiliated with any institution, in which case the NIE will not award indirect costs but will reimburse reasonable general and administrative expenses associated with and

directly related to the administration of the small grant). In order to achieve a wide distribution of funds available for small grants, the Director expects that most small grants will be for projects with direct costs of about $5000 or less.

(2) While no restriction exists as to type of project eligible for small grant support, the following are examples of possible projects within the general rules for the program: initial development and testing of a research concept, metaphor, or procedure before design of a larger or longer study; review and synthesis of research findings, methods, trends, or philosophies; summary or secondary analysis of a concluded program of research; projects by investigators who have not previously had any type of research support.

(c) *Grant (other than small grants).* A grant other than a small grant is for an amount in excess of $7500 of direct costs.

§ 1480.8 Application requirements.

(a) *General.* A grant under this part will be awarded only upon a grant application submitted to the Director. An eligible applicant must file an application specifically directed to either the grant or small grants segment of the Program of Research on Organizational Processes in Education.

(b) *Grants (other than small grants).* An applicant for a grant (other than small grant) shall comply with the requirements set forth in this paragraph.

(1) *Preliminary proposal.* An applicant shall submit a preliminary proposal for initial review.

(2) *Preliminary proposal format.* The preliminary proposal must include:

(i) A cover sheet executed by the principal investigator, and where required by the applicant institution, by an individual authorized to execute grant applications for the institution, indicating (A) that the preliminary proposal is submitted to the Program of Research Grants on Organizational Processes in Education, National Institute of Education; (B) the title of the study; (C) the name, department, institution, address, and telephone number of each principal investigator; (D) the estimated budget amount; and (E) the proposed starting date and duration of the project.

(ii) A statement preferably not exceeding five typewritten pages summarizing the proposed project, including:

(A) *Description and rationale.* A description of the proposed research, its relation to what is already known and to the problems of American education, and the importance of its expected addition to knowledge.

(B) *Procedures.* A description of the procedures to be followed in carrying out the research including where appropriate such concerns as sampling, data acquisition, instrumentation and data analyses.

(iii) A description of the facilities and arrangements available to the investigator for conducting the research, including access to suitable organizations for study purposes.

(iv) A vita for each principal investigator, including education, applicable experience, and a list of major publications.

(v) An estimated budget covering direct costs (e.g., salaries and benefits, travel, supplies and materials, communication, services, equipment) and indirect costs proposed to be charged against the grant.

(3) *Full proposal.* A full proposal may only be submitted by an applicant who has submitted a preliminary proposal in the required format, and whose preliminary proposal has been reviewed by NIE. Information concerning the strengths and weaknesses of the preliminary proposal, and its standing relative to others reviewed, will be returned to the applicant, and may be used in preparation of the full proposal.

(4) *Full proposal format.* Full proposals must include the following elements. Discussion of objectives and design, as described under paragraphs (b)(4)(iv) and (v) of this section may not exceed 40 pages.

(i) A cover sheet executed by the principal investigator and, where required by the applicant institution, by an individual authorized to execute grant applications for the institution, indicating (A) that the application is submitted to the Program of Research Grants on Organizational Processes in Education, National Institute of Education; (B) the title of the study; (C) the name, department, institution, address, and telephone number of each principal investigator; (D) the estimated budget amount; and (E) the proposed starting date and duration of the project.

(ii) An abstract of approximately 200–250 words stating clearly the objectives and plans of the proposed research.

(iii) A table of contents.

(iv) A statement of research objectives, including identification of the problem or issue the proposed research will contribute to solving, the anticipated contribution of the research to that solution, and specific questions the research will address.

(v) A research design, clearly linked to the questions the study will try to answer. The scientific or technical work of the project and methods for its accomplishment must be stated clearly. A discussion of related research with appropriate citations must be included to show that investigators are thoroughly familiar with current and prior research in pertinent fields. Data to be obtained and analytic methods to be used upon that data must be explained.

(vi) An organization and management plan, presenting (A) the arrangements intended for direction, coordination, and control of the project; (B) the roles, responsibilities, and project time-commitments of proposed staff; (C) a schedule for major portions of multi-year projects; (D) explanation of any subcontract arrangement.

(vii) A description of facilities and arrangements available for the research. If new data are proposed to be collected, the proposal must give evidence of access to suitable organizations for study purposes. Letters of agreement to participate must be included, showing that relevant authorities in school or school-related organizations have reviewed the research plans and agree to take part willingly. A lengthy and complex study which could place special burdens on parts of the education community may require joint planning and management of the entire project. A proposal for such a study must give detailed information to allow reviewers to judge the adequacy of the arrangement.

(viii) A plan for the dissemination of the research findings, including methods for reaching researchers, theorists, and practicing educators.

(ix) A vita and bibliography for each professional staff person, including professional background and employment as well as education, a chronological list of publications, and a listing of prior and current research support for each individual including requests now being considered regardless of source.

(x) An estimate of expenses proposed to be charged against the grant, including direct costs (e.g., salaries and benefits, travel, supplies and materials, communication, services, equipment) and indirect costs. The proposed budget shall include all other details and explanations, and shall be arranged in such a form, as the Director may request, to allow the cost analyses and other reviews called for by Departmental grant administration policies.

(c) *Small grant applications.* An applicant for a small grant shall submit a proposal including all the elements listed in paragraph (b)(4) of this section. Discussion of objectives and design, as described in paragraphs (b)(4)(iv) and (b)(4)(v) of this section, may not exceed eight pages.

(d) *Submission of applications.* All types of applications for support under this part (preliminary and full grant proposals, and small grant proposals) must be submitted in twelve copies, to the address and at the times the Director shall prescribe.

§ 1480.9 Review procedures and evaluation criteria.

(a) *Review cycle.* Applications will be accepted throughout the fiscal year. Applications will be reviewed at periodic intervals during the fiscal year. Notices of closing dates by which applications must reach NIE to be included in each review will be published in the FEDERAL REGISTER. An application for a grant (other than a small grant) which has been disapproved for funding in one review may be revised and submitted for consideration in any later cycle, without submission of another preliminary proposal. Funds available to the program in a fiscal year will be tentatively allocated to each review cycle. But the amount of funds awarded in any particular review cycle may vary depending on the quality of applications received and the amount of funds requested by the most meritorious applications.

(b) *Review procedures.* The Director will evaluate each application through officers and employees of the Institute and, when considered advisable by the Director, by experts or consultants the Director determines are specially qualified in the areas of research involved in

the project. In deciding whether or not to fund an application, the Director may take into account not only the rating of the application's contents by officers or employees of the Institute and by experts or consultants, but also any other information and views within the Institute or provided to the Institute by other Federal, state, or local officials or the public which bear upon the evaluation criteria described in paragraph (d) or which are expressly required or permitted to be taken into account by statute, executive order, or other applicable regulation. Only the Director, or a designee who shall be directly responsible to the Director, shall take final action on an application.

(c) *Review of preliminary proposals.* The Director will review each preliminary proposal using the criteria listed in paragraph (d) of this section. The Director will notify each applicant of the approximate ranking of the preliminary proposal among those reviewed, and any strength or weakness found during the review. An applicant whose preliminary proposal addresses a topic outside the area of this program, as described in § 1480.5, or involves an ineligible research procedure as described in § 1480.6, will be notified after the initial review, and may submit a full proposal with corrections. Information provided from the first stage of review is intended to assist in preparation of a full research proposal, which must be reviewed on its own merits in the second stage. Furnishing of comments from the initial review shall not constitute a commitment by the Director to award funds to a project even if each indicated weakness is addressed.

(d) *Evaluation criteria.* The Director shall use the following criteria to evaluate each preliminary, full, and small grant proposal:

(1) Significance of the proposed research for American education, including (i) importance of the research topic from the standpoint of basic knowledge or problems of American education; (ii) likely magnitude of the addition that will be made to knowledge if the project is successful, including the generalizability of the results.

(2) Quality of the proposed research project, including (i) adequacy of the design, methodology, and instrumentation where appropriate; (ii) likelihood of success of the project; and (iii) extent to which the application exhibits thorough knowledge of pertinent previous work and relates the proposed work to it.

(3) Qualifications of the proposed principal investigator and other professional personnel as evidenced by: (i) experience and previous research productivity; and (ii) quality of the discussion and analysis in the application.

(4) Adequacy of the facilities and arrangements available to the investigator to conduct the proposed study, including evidence of access to necessary organizations, groups, and individuals for study purposes and the willingness of study populations to participate in the proposed research.

(5) Reasonableness of the budget for the work to be done and for the anticipated results.

(6) Whether funding the proposed project would contribute to (i) a diversity of projects under the overall program which collectively address a variety of research needs in the area of organizational processes in education; (ii) other research efforts of NIE; or (iii) the educational needs and interests of other Federal agencies.

(e) *Inapplicable criteria.* General criteria in § 1403.10 of this chapter do not apply to applications submitted under this part.

(f) *Disposition of applications.* Following the review of an application, the Director shall either (1) approve the application in whole or in part, for the amount of funds and subject to the conditions the Director finds appropriate for the completion of the approved project; (2) disapprove the application; or (3) defer action on the application.

§ 1480.10 Project duration and budget.

(a) A project supported by a grant under this part (other than a small grant) may be up to three years in duration.

(b) A project supported by a small grant under this part may be up to twelve months in duration.

(c) An application for a grant (other than a small grant) which proposes a multi-year project shall be accompanied by an explanation of the need for multi-year support, an overview of the objectives and activities proposed, and the budget estimates necessary to attain these objectives in any proposed subsequent years.

(d) If the application for a grant (other than a small grant) demonstrates to the Director's satisfaction that multi-year support is needed to carry out the proposed project, the Director may in the initial notification of award for the project (which may be for up to a twelve month period) indicate an intention to assist the project on an appropriate multi-year basis through continuation awards.

(e) A continuation award may be made to a project described in paragraph (d) of this section, subject to the availability of funds.

(f) An application for a continuation award is reviewed on a non-competitive basis to determine:

(1) If the award recipient has complied with award terms and conditions, the General Education Provisions Act, and any applicable regulation; and

(2) The project's effectiveness to date, and any constructive changes proposed as a result of project evaluation.

[FR Doc.77-364 Filed 1-4-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 216]

TAKING AND IMPORTING OF MARINE MAMMALS

Ex Parte Communications List for Hearing

On October 1, 1976, regulations entitled Appendix-Taking of Marine Mammals Incidental to Commercial Fishing Operations; Expedited Procedures for Consideration of Proposed Regulations for Calendar Year 1977 were published in the FEDERAL REGISTER (41 FR 43550). Section 10 of those regulations prohibit ex parte communications to persons who may participate in the decisional process. On October 14, 1976 (41 FR 45015), the National Marine Fisheries Service provided a list of persons who may participate in the decisional process. That list included Dr. Harvey M. Hutchings, Acting Assistant Director for Fisheries Management, NMFS. This position is now held by Mr. Robert J. Ayers. Accordingly, Dr. Hutchings name is removed from and Mr. Ayers name is added to the list of persons who may not receive ex parte communications.

Dated: December 29, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.77-372 Filed 1-4-77;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 AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Michigan Grain Inspection Point

Statement of considerations. The Detroit Board of Trade, Detroit, Michigan, has requested that its designation under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official agency at Detroit, Michigan, be transferred to the Detroit Grain Inspection Service because the Detroit Board of Trade is being disbanded.

The Detroit Grain Inspection Service has applied for designation (in accordance with § 26.96 of the regulations (7 CFR 26.96) under the U.S. Grain Standards Act) to operate as an official agency at Detroit, Michigan. This application does not preclude other interested persons from making similar applications.

Other interested persons are hereby given opportunity to make application for designation to operate as an official agency at Detroit, Michigan, pursuant to the requirements set forth in § 26.96 of the regulations (7 CFR 26.96) under the U.S. Grain Standards Act.

NOTE: Section 7(f) of the Act (7 U.S.C. 79 (f)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Any interested persons who wish to submit views and comments are requested to include the name of the person or agency which they recommend to be designated to operate as an official agency at Detroit, Michigan.

All such views and comments should be submitted in writing to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All materials submitted should be in duplicate and mailed to the Hearing Clerk not later than February 4, 1977. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C. on: December 30, 1976.

DONALD E. WILKINSON,
Interim Administrator.

[FR Doc.77-373 Filed 1-4-77;8:45 am]

Forest Service

TIAK UNIT

Availability of Draft Environmental Statement; Correction

In FR Doc. 76-37656 appearing at page 55915 in the FEDERAL REGISTER of December 23, 1976, in the first paragraph the Forest Service report number "USDA-FS-R8-DES (Adm.)-77-01" is corrected to read "USDA-FS-R8-DES (Adm.)-77-05."

Dated: December 28, 1976.

B. J. HENDERSON,
Acting Forest Supervisor.

[FR Doc.77-287 Filed 1-4-77;8:45 am]

WHITE MOUNTAIN NATIONAL FOREST ADVISORY COMMITTEE

Notice of Meeting

The White Mountain National Forest Advisory Committee will meet the evening of January 27 and all day January 28, 1977 at the Dana Place Inn in Jackson, New Hampshire.

The purpose of this meeting is to discuss dispersed recreation and the Waterville Unit Plan for the White Mountain National Forest.

The meeting will be open to the public. Persons who wish to attend should notify Ned Therrien, U.S. Forest Service, Laconia, New Hampshire 03246. Telephone number 603-524-6450.

PAUL D. WEINGART,
Forest Supervisor.

DECEMBER 27, 1976.

[FR Doc.77-286 Filed 1-4-77;8:45 am]

Office of the Secretary

PARITY INDEX

Procedure for Calculating Parity Index

Pursuant to the authority contained in Section 301(a) of the Agricultural Adjustment Act of 1938, as amended, the Secretary of Agriculture determines the data, prices, and indices used for computation of Parity Prices. In accordance with Section 301(a)(1)(C), the Statistical Reporting Service (SRS) calculates, at the end of each month, the ratio of (1) the general level of Prices Paid by Farmers for Commodities and Services, Interest, Taxes, and Farm Wage Rates for the month to (2) the general level of such prices, wages, rates and taxes during the period January 1910 to December 1914, inclusive (the "parity index"). The parity index is published in "Agricultural Prices".

Under the Act, the Parity Index is made up of four major components—prices for articles and services that farmers buy, interest charges on farm mortgages, farm real estate taxes, and wage rates paid to hired farm labor. The prices for articles and services that farmers buy has, in turn, been divided by SRS into prices for commodities used in farm production and prices paid for commodities used in family living. Near the end of each month, SRS computes and publishes an index for each of these components, using data obtained about the middle of the month and other available data and information. These indices are then combined, using appropriate weights, into the parity index.

Notice is hereby given that, beginning in January 1977, SRS will compute the parity index each month using the last available Bureau of Labor Statistics (BLS) Consumer Price Index (CPI) in place of the family living index presently calculated by SRS. The CPI to be used will be the CPI issued by BLS at approximately the middle of the month, which is based primarily on data collected the preceding month. The parity index will be chained with January 1977 as the link month, thus compensating for the relative levels of the two series. Collection and publication of price data for family living items will be discontinued following the January 1977 surveys and publication.

This substitution is desirable because prices being paid by farmers each month for family living items are not significantly different from those paid by other consumers. Accordingly, SRS's index of family living is essentially a duplication of the CPI. Substitution of the CPI will have little or no effect on parity prices, but SRS costs and the reporting burden on the public will be reduced substantially.

It is administratively desirable to put this change into effect on January 1, 1977, in order to have a complete calendar year under the new system. Therefore, it is not practicable to give prior notice and opportunity to comment. Nevertheless, interested persons are invited to submit recommendations, views, and comments in writing on this change to the Director, Estimates Division, Statistical Reporting Service, USDA, Washington, D.C. 20250. Such views and comments will be considered and changes made if determined appropriate.

Until such time as further changes may be made this procedure shall remain in effect.

Done at Washington, D.C. this 29th day of December, 1976.

RICHARD L. FELTNER,
Acting Secretary.

[FR Doc.77-329 Filed 1-4-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

COLORADO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and end at 12:00 noon on January 22, 1977, at the Executive Tower Inn, Room 1706, 1405 Curtis Street, Denver, Colorado 80202.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Executive Tower Inn, 1405 Curtis Street, Suite 1700, Denver, Colorado 80202.

The purpose of this meeting is to review the project on domestic violence and plan activities for the coming year.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 27, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77-443 Filed 1-4-77;8:45 am]

KANSAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U. S. Commission on Civil Rights, that a planning meeting of the Kansas Advisory Committee (SAC) of the Commission will convene at 4:00 pm. and at 10:30 pm. on January 27, 1977, at the Holiday Inn West, 605 Fairlawn, Room 105, Topeka, Kansas.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Bldg., Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to continue planning followup activities related to the Kansas report—Inmates Rights in the State Prisons.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 3, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77-445 Filed 1-4-77;8:45 am]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 12:00 noon and end at 6:00 p.m. on January 20, 1977, at 27 School Street, Boston, Massachusetts 02108.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss status of subcommittees and elect committee officials.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 3, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77-447 Filed 1-4-77;8:45 am]

NORTH CAROLINA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Carolina Advisory Committee (SAC) of the Commission will convene at 2:00 pm. and end at 5:00 pm. on January 27, 1977, at the Velvet Cloak, 1505 Hillsborough Street, Queen Victoria Room, Raleigh, North Carolina 27605.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Bldg., Room 362, 75 Piedmont Ave., N.E., Atlanta, Georgia 30303.

The purpose of this meeting is to continue plans for the migrant study: scheduling trips to camps, identifying appropriate agencies, organizations, and scheduling interviews with same. Receiving reports from subcommittee chairpersons.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 3, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77-444 Filed 1-4-77;8:45 am]

OHIO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 10:00 am. and end at 4:00 pm. on January 22, 1977, at the Cleveland Sheraton, Public Square and Superior, NW., Cleveland, Ohio.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting will be to select subcommittee to implement comprehensive study of Cleveland; set goals and timetables for study and priorities phases of study.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 3, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc. 77-446 Filed 1-4-77; 8:45 am]

VERMONT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7:30 pm. and end at 10:00 pm. on January 24, 1977, at the Tavern Motor Inn, Montpelier, Vermont.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss the priorities of the subcommittees.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 27, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77-455 Filed 1-4-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee will hold a closed meeting on January 26–27, 1977, at the Pentagon, Washington, D.C. The sessions will commence at 8:30 a.m. and terminate at 5:30 p.m. daily.

The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense, including intelligence briefings on Soviet strategic and general purpose forces, recent military operations, U.S. Navy strategic planning and future combat systems. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

DECEMBER 29, 1976.

[FR Doc.77-333 Filed 1-4-77;8:45 am]

Office of the Secretary

ACADEMIC ADVISORY BOARD TO THE SUPERINTENDENT, UNITED STATES NAVAL ACADEMY

Establishment

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Academic Advisory Board to the Superintendent, United States Naval Academy has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its establishment.

The nature and purpose of the Academic Advisory Board to the Superintendent, United States Naval Academy is to advise and assist the Superintendent, United States Naval Academy concerning the education of midshipmen. The Board examines academic policies and practices at the Naval Academy and submits proposals to the Superintendent to aid him in improving educational standards and in solving academic problems.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-94 Filed 1-4-77;8:45 am]

AIR FORCE ACADEMY BOARD OF VISITORS

Establishment

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Air Force Academy Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law.

The nature and purpose of the Air Force Academy Board of Visitors is specified in section 9355, U.S.C. 10. The statute requires the Board to inquire at least annually into the morale, discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the President of its action, and of its views and recommendations pertaining to the Academy. Membership on the Board is also specified by law as nine members of Congress and six Presidential appointees.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-59 Filed 1-4-77;8:45 am]

AIR FORCE HISTORICAL PROGRAM ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Advisory Committee on the Air Force Historical Program has been found to be in the public interest in connection with the performance of duties imposed by law on the Department of Defense. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

This Committee is purely advisory, and any actions to be taken as a result of its work will be made by responsible Government officials, including the Chief, Office of Air Force History. The purpose of the Committee is to assess the global Air Force Historical Program and to make recommendations concerning the mission, scope, progress, and productivity of the current program; conformity of the work and methods of the Office of Air Force History with professional standards; priorities of historical publications and such other aspects of the program as the membership may deem of interest. The Committee consists of two military members (Superintendent, U.S. Air Force Academy; and the Commander, Air University), a member of the Air Force General Counsel, and six civilian members representing the historical profession of the United States. The civilian member approvals made by the Secretary of Defense will be for one year and are renewable at the pleasure of the Secretary of the Air Force. The Air Force General Counsel member serves as the designated Federal representative. The Committee reports to the Secretary of the Air Force and the Chief of Staff, USAF.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-49 Filed 1-4-77;8:45 am]

AIR FORCE ROTC ADVISORY PANEL

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Air Force ROTC Advisory Panel has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Air Force ROTC Advisory Panel is to consider, evaluate and recommend policies and procedures jointly with Air Force representatives to guide the evolution of the Air Force ROTC program and its adaptation to changing conditions as well as to identify and recommend solutions for ROTC problems of concern to the Air Force, to the institutions participating in the Air Force ROTC program, or to both. Members on the Air Force ROTC Advisory Panel are approved by letter from the Secretary of Defense.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-63 Filed 1-4-77;8:45 am]

AIR UNIVERSITY BOARD OF VISITORS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Air University Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Air University Board of Visitors is to consider and advise the Secretary of the Air Force, through the Commander, AU, on matters pertaining to the educational, doctrinal, and research policies and activities of Air University. The function of the board is solely advisory, and any determination of action to be taken on matters upon which the board advises or recommends shall be made solely by full-time salaried officers or employees of the Air Force.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-48 Filed 1-4-77;8:45 am]

ARMED FORCES EPIDEMIOLOGICAL BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Armed Forces Epidemiological Board has been found to be in the public interest in connection with the performance

of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Armed Forces Epidemiological Board is to serve as a continuing scientific advisory body to the Surgeons General of the military departments providing them with timely scientific and professional advice and guidance in matters pertaining to operational programs, policy development and research needs for the prevention of disease and injury and promotion of better health by application of new technological and epidemiological principles to the control of acute and chronic diseases, the protection of the environment, the improvement of occupational health programs and the design of new systems of health maintenance.

December 22, 1976.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

[FR Doc.77-52 Filed 1-4-77;8:45 am]

ARMY ADVISORY PANEL ON ROTC AFFAIRS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Army Advisory Panel on ROTC Affairs has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Army Advisory Panel on ROTC Affairs is to provide for a continuous exchange of views between the Department of the Army and educational institutions to improve the Army Senior ROTC program. Scope of activities is constituted primarily in addressing the current and future status of the Senior ROTC program. The deliberations include a continuous evaluation of recruiting, procurement, and training policies; and the problems related to maintaining an effective interface between the Army's ROTC program and the academic community. The specific intent of the Panel is to provide recommendations to the Department of the Army regarding the Senior ROTC program.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-43 Filed 1-4-77;8:45 am]

ARMY SCIENTIFIC ADVISORY PANEL

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Army Scientific Advisory Panel (ASAP) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the ASAP is to advise the Secretary of the Army, the Chief of Staff, the Assistant Secretary of the Army (Research and Development), and the Deputy Chief of Staff for Research, Development, and Acquisition on the scientific and technological matters of interest to the Department of the Army.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-50 Filed 1-4-77;8:45 am]

BALLISTIC MISSILE DEFENSE TECHNOLOGY ADVISORY PANEL

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Ballistic Missile Defense Technology Advisory Panel has been found to be in the public interest in connections with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Ballistic Missile Defense Technology Advisory Panel (BMDTAP) is to function as an advisory committee and an independent sounding board for the on-going and future advanced ballistic missile defense technology programs. Specifically, the BMDTAP reviews U.S. Army Ballistic Missile Defense Technology programs and verifies the soundness of the technological approaches being employed or recommends changes as applicable.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-51 Filed 1-4-77;8:45 am]

BOARD OF ADVISORS TO PRESIDENT, NAVAL WAR COLLEGE

Establishment

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Advisors to the President, Naval War College has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its establishment.

The nature and purpose of the Board of Advisors to the President, Naval War College is to advise and assist the President, Naval War College in educational and support areas. To accomplish this objective, the Board will examine educational, doctrinal and research policies and programs at the Naval War College and submit to the President, Naval War College opinions and recommendations which will aid him in accomplishing his mission more effectively.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-67 Filed 1-4-77;8:45 am]

BOARD OF ADVISORS TO SUPERINTENDENT, NAVAL POSTGRADUATE SCHOOL

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Board of Advisors to the Superintendent, Naval Postgraduate School is to advise and assist the Superintendent, Naval Postgraduate School concerning the Naval Postgraduate Education Program. The Board examines the effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end, the Board inquires into the curricula; instruction; physical equipment; administration; state of morale of student body, faculty and staff; fiscal affairs; and such other matters relating to the operation of the Naval Postgraduate Education Program as the Board considers pertinent.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-68 Filed 1-4-77;8:45 am]

BOARD OF VISITORS, DEFENSE INTELLIGENCE SCHOOL

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Visitors of the Defense Intelligence School has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Board of Visitors of the Defense Intelligence School is to provide the Commandant and, through him, the Director of the Defense Intelligence Agency with advice, views and recommendations on matters relating to the successful accomplishment of the assigned School mission. Special attention is to be given to new scientific and other developments pertinent to current and projected educational programs conducted by the School.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-65 Filed 1-4-77;8:45 am]

BOARD OF VISITORS, JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Visitors, The Judge Advocate General's School, U.S. Army, has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Board of Visitors, The Judge Advocate General's School, U.S. Army, is investigative and advisory. At the direction of the Commandant, the Board investigates matters pertaining to the program of instruction of the School. Subsequently, the Board reports its findings and makes its recommendations to the Commandant.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-55 Filed 1-4-77;8:45 am]

BOARD OF VISITORS, UNITED STATES MILITARY ACADEMY

Establishment

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Visitors, United States Military Academy has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law.

The Board of Visitors is an advisory committee, the composition of which is prescribed by 10 USC 4355 as 9 members of the Congress and 6 persons appointed by the President.

Its purpose is to visit the Academy annually, inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and oher matters relating to the Academy that the Board decides to consider; and to report in writing to the President of its actions, its views and recommendations pertaining to the Academy.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-47 Filed 1-4-77;8:45 am]

CHIEF OF ENGINEERS ENVIRONMENTAL ADVISORY BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Environmental Advisory Board, Chief of Engineers, has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Chief of Engineers Environmental Advisory Board is to provide the Chief of Engineers with a panel of experts representing a broad range of environmental interests whose views and recommendations serve as a basis for developing environmental policy and procedural matters for the Corps of Engineers Civil Works Program. The Board consists of 5-7 members selected by the Chief of Engineers and approved by the Secretary of the Army and Office of the Secretary of Defense. Members are appointed to a two year term and are representative of various environmental disciplines and geographical areas. Meetings are held semi-annually or at the call of the Chief of Engineers, are published in advance in the FEDERAL REGISTER, and are open for public observation and/or participation.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-91 Filed 1-4-77;8:45 am]

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Renewal

In accordance with the provisions of P.L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Chief of Naval Operations Executive Panel Advisory Committee are as follows: The Chief of Naval Operations Executive Panel Advisory Committee has been established to provide an avenue of communications by which members of the civilian and military, scientific, academic, engineering and political communities may advise the CNO on questions related to national seapower. In connection therewith, sub-committees composed of committee members may be formed according to specific areas of interest to the CNO. Three sub-committees established for this purpose are the Technology, Strategic, and Political-Military subpanels. The functions of the Committee are purely advisory in nature. The Committee reports to the CNO, who determines material to be brought before the Committee or its sub-panels.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-74 Filed 1-4-77;8:45 am]

CNO COMMAND AND CONTROL AND COMMUNICATIONS (C^3) ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the CNO Command and Control and Communications (C^3) Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the CNO Command and Control and Communications (C^3) Advisory Committee is to act as an independent advisory group, composed of the highest technical competence which includes experts from the military, industrial and scientific community, to the Chief of Naval Operations. The advice of this Committee is essential to ensure that Navy telecommunications developments are initiated in an effective manner and that Navy C^3 requirements are fulfilled with systems that possess a service life fully adequate to amortize the expense of today's complicated systems. The Navy benefits from both the Committee's endorsement or confirmation of their problem solving methodology and their recommended redirection of effort. The Committee also contributes a balanced view and fresh insights from sectors of government and industry.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-62 Filed 1-4-77;8:45 am]

COMMAND AND GENERAL STAFF COLLEGE ADVISORY COMMITTEE

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Command and General Staff College Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Command and General Staff College Advisory Committee is to advise the Commandant and Faculty of the Command and General Staff College on ways to improve the CCSC educational program, especially its fully accredited Master of Military Art and Science (MMAS) degree program. The committee satisfies the accreditation prerequisite that there be established a civilian body which includes representation reflecting the public interest.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-44 Filed 1-4-77;8:45 am]

COMMANDANT'S ADVISORY COMMITTEE ON MARINE CORPS HISTORY

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Commandant's Advisory Committee on Marine Corps History has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Commandant's Advisory Committee on Marine Corps History is to advise the Commandant on the scope, content, and direction of the Marine Corps Historical Program; and recommend priority of accomplishment of major historical projects and means for encouraging the study and exploitation of Marine Corps historical assets within and outside the Marine Corps, as well as to foster a program for the acquisition of items having sentimental or historical significance to the Marine Corps, including private papers of individuals important in Marine Corps history.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-95 Filed 1-4-77;8:45 am]

COMMUNITY COLLEGE OF THE AIR FORCE (CCAF) ADVISORY COMMITTEE

Establishment

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Community College of the Air Force (CCAF) Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this Advisory Committee and concurs in its establishment.

The nature and purpose of the Community College of the Air Force Advisory Committee is to review the programs and objectives of the Community College of the Air Force and recommend policies through the Commander/Air Training Command, to the Secretary of the Air Force. The Committee provides an external source of expertise which insures continued reflection on CCAF operations and policies.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-60 Filed 1-4-77;8:45 am]

DEFENSE/INDUSTRY ADVISORY GROUP—EUROPE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense/Industry Advisory Group—Europe has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense/Industry Advisory Group—Europe is to provide U.S. Government defense representatives and U.S. defense industry representatives in Europe a forum for the exchange of information pertinent to NATO and European regional organizations. This forum permits direct and candid discussion of the competitive environment with European industry vis-a-vis U.S. Government policies and practices. It also provides government representatives with a better understanding and appreciation of the problems encountered by the U.S. defense industry in Europe. The information and recommendations received from the Defense/Industry Advisory Group—Europe provide a background for USNATO coordination with Washington and assist in the implementation of DOD policy on cooperation and standardization in armaments research, development and procurement through the NATO Conference of National Armaments Directors and subordinate bodies.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-72 Filed 1-4-77;8:45 am]

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Intelligence Agency Scientific Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense Intelligence Agency Scientific Advisory Committee is to provide the Director, Defense Intelligence Agency with primarily scientific and technical advice and assistance in those areas and disciplines of major importance to the Agency. It also provides a valuable link between the Agency and the scientific and industrial communities of the nation. Its function is solely advisory.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-53 Filed 1-4-77;8:45 am]

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Notice of Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows:

Monday, 31 January 1977, Pomponio Plaza, Rosslyn, Va.

The entire meeting commencing at 0845 hours is devoted to the discussion of classified information as defined in section 552(b)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Panel will receive briefings and participate in discussions relative to the Defense Intelligence Agency's assessments of foregn military equipment, operations, and capabilites.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Secretary of Defense (Comptroller).

DECEMBER 30, 1976.

[FR Doc.77-334 Filed 1-4-77;8:45 am]

DEFENSE SCIENCE BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Science Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense Science Board is to serve as an advisory committee to the Secretary of Defense, reporting through the Director of Defense Research and Engineering, on scientific, technical and related management matters of particular interest to the Department of Defense. Comprised of a balanced membership of senior appointees representing the industrial, academic and scientific communities, the Board undertakes to analyze and recommend concerning specific issues and problems tasked to it by the Secretary of Defense or the Director of Defense Research and Engineering, or other senior officials of the Department of Defense. Additionally, it examines and provides guidance concerning other important subject areas on an ad hoc basis as such matters are surfaced during the normal course of conduct of the Board's proceedings.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-78 Filed 1-4-77;8:45 am]

DEFENSE SYSTEMS MANAGEMENT COLLEGE BOARD OF VISITORS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Systems Management College Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense Systems Management College Board of Visitors is to serve as an advisory committee to the Defense Systems Management College Policy Guidance Council, reporting through the Commandant, Defense Systems Management College, on organization, management, curricula, methods of instruction, facilities and related management matters of particular interest to the Department of Defense. Comprised of a balanced membership of senior appointees representing the academic, general business and defense industry communities, the Board undertakes to analyze and recommend actions on specific issues and problems presented to it by the Policy Guidance Council and/or the Commandant. Additionally, the Board examines and provides guidance concerning other important subject areas on an ad hoc basis as such matters are surfaced during the normal course of conduct of the Board's proceedings. The results of its semi-annual examination bearing on the accomplishments of the Defense Systems Management College mission are set forth in its reports.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-66 Filed 1-4-77;8:45 am]

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Department of Defense Wage Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the DOD Wage Committee is to make recommendations regarding wage surveys and wage schedules for blue collar employees to the Department of Defense Wage Fixing Authority to discharge the responsibilities assigned by Pub. L. 92-392 to the Civil Service Commission, as set forth in Federal Personnel Manual Supplements 532-1 and -2, "Federal Wage System." The Department of Defense has "lead agency" responsibility for setting wage rates in approximately 300 of the approximately 340 wage areas established under the Federal Wage System.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-83 Filed 1-4-77;8:45 am]

DESIGN AND CONSTRUCTION OF SHELTERS ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Advisory Committee on the Design and Construction of Shelters has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Advisory Committee on the Design and Construction of Shelters is to advise the Director, Defense Civil Preparedness Agency, in the following matters:

(1) Technical problems related to shelter design and construction, including Federal programs to overcome shelter deficits.

(2) Communications relating to shelter design and construction between the Defense Civil Preparedness Agency and the staffs and memberships of the professional organizations.

(3) Methods of stimulating shelter design and construction among architects, engineers, planners, contractors, and building owners.

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

DECEMBER 22, 1976.

[FR Doc.77-86 Filed 1-4-77;8:45 am]

DOD EDUCATION PROGRAM ADVISORY PANEL

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the advisory Panel on DOD Education Programs has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Advisory Panel on DOD Education Programs are to provide the Assistant Secretary of Defense (Manpower and Reserve Affairs) with advice concerning the quality, standards, methods, organization and other features of DOD education programs. Provide means of improving communications with the educational community at the national and state level. Ensure that DOD education policy is consistent with national/state education system policies. Provide recommendations for new policies to permit a more efficient interface with the public and private education systems so as to ensure the cost effective expenditure of DOD funds in support of needed military education programs.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-46 Filed 1-4-77;8:45 am]

DOD ELECTRON DEVICES ADVISORY GROUP

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the DOD Advisory Group on Electron Devices has been found to be in the pub-

lic interest in connection with the performances of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the DOD Advisory Group on Electron Devices is to provide technical advice which will assist the Director, Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency, and the Military Departments in planning and directing adequate and economical research and development programs in the area of electron devices.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller)

DECEMBER 22, 1976.

[FR Doc.77-76 Filed 1-4-77;8:45 am]

HIGH ENERGY LASER REVIEW GROUP

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the High Energy Laser Review Group has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the High Energy Laser Review Group is to advise the Director of Defense Research and Engineering, on a continuing basis, regarding economical and effective research, development, test and evaluation efforts in the field of high-energy laser weapon systems that are conducted within the DoD and to relate them to other national laser research programs.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-80 Filed 1-4-77;8:45 am]

HISTORICAL ADVISORY COMMITTEE

Renewal

In accordance with the provisions of P.L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Department of the Army Historical Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Department of the Army Historical Advisory Committee (DAHAC) is to provide the Secretary of the Army and the Chief of Military History with advice and counsel regarding: (1) The conformity of the Army's historical work and methods with professional standards, (2) effective cooperation between the historical and military professions in advancing the purpose of the Army Historical Program and (3) the mission of the U.S. Army Center of Military History to further the study of and interest in military history in both civilian and military schools.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-71 Filed 1-4-77;8:45 am]

JOINT STRATEGIC TARGET PLANNING STAFF (JSTPS) SCIENTIFIC ADVISORY GROUP (SAG)

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the JSTPS Scientific Advisory Group has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the JSTPS SAG is that of a continuing advisory committee which provides scientific and technical advice to the Director of Strategic Target Planning (DSTP) to enhance JSTPS planning in such areas as:

1. Developing procedures and techniques to reduce the vulnerability of U.S. weapon systems within the scope of JSTPS responsibilities in this area.
2. Assessing the use of nuclear weapons effects to improve the effectiveness of the offense.
3. Developing procedures and techniques to improve penetration of the enemy defenses.
4. Identifying technical areas in which additional research and test could lead to knowledge having a direct bearing upon the development of the Single Integrated Operational Plan (SIOP).

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-73 Filed 1-4-77;8:45 am]

MILITARY AIRLIFT COMMITTEE OF THE NATIONAL DEFENSE TRANSPORTATION ASSOCIATION

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Military Airlift Committee of the National Defense Transportation Association has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Military Airlift Committee of the National Defense Transportation Association (NDTA) is to assist the Military Airlift Command (MAC) in sustaining an effective management program. The Commander, MAC, obtains the advise, views, and recommendations from members of the industrial, educational, and transportation communities on matters involving the performance of the Command mission. The Committee advises the Commander, MAC, on broad management problems pertaining to military airlift, including the augmentation of military resources by civilian industry. In order to obtain experience and talents not otherwise available to the Air Force, the Commander, MAC, uses the Military Airlift Committee of the NDTA as an advisory committee.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-93 Filed 1-4-77;8:45 am]

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

Establishment

In acccordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the National Board for the Promotion of Rifle Practice has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law.

The nature and purpose of the National Board for the Promotion of Rifle Practice is to promote marksmanship training with rifled arms among able-bodied citizens of the U.S. and provide the means whereby they may become proficient in the use of such arms. The Secretary of the Army fulfills these requirements through the Civilian Marksmanship Program based upon the recommendations of the National Board for the Promotion of Rifle Practice.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-58 Filed 1-4-77;8:45 am]

NATIONAL DEFENSE UNIVERSITY BOARD OF VISITORS

Establishment

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Visitors, National Defense University has been found to be in the public interest in connection with the

performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its establishment.

The nature and purpose of the Board of Visitors, National Defense University, is to provide the President of the University and the Commandants, Industrial College of the Armed Forces and The National War College advice on matters relating to faculty, students, curricula, educational methodology, research, and administration for both resident and nonresident programs.

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

DECEMBER 22, 1976.

[FR Doc. 77-85 Filed 1-4-77;8:45 am]

NATIONAL SECURITY AGENCY SCIENTIFIC ADVISORY BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the National Security Agency Scientific Advisory Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the National Security Agency Scientific Advisory Board is to provide the Director, NSA/Chief, CSS with advice and consultation on matters involving science and technology related to the mission of the NSA/CSS.

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

DECEMBER 22, 1976.

[FR Doc.77-81 Filed 1-4-77;8:45 am]

NAVAL RESEARCH ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Naval Research Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Naval Research Advisory Committee is to know problems of the Navy and the Marine Corps, to keep abreast of the research and development which is being carried on in relation to the problems, and to offer a judgment to the Navy and Marine Corps as to whether the efforts are adequate. The activities of the Committee are limited to serving solely in an advisory capacity to the Secretary of the Navy and other high-ranking personnel of the Navy and Marine Corps. The Committee is the senior scientific advisory group to the Secretary of the Navy, the Chief of Naval Operations, the Chief of Naval Research, the Commandant of the Marine Corps, the Chief of Naval Development, and the Director of Navy Laboratories.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc. 77-64 Filed 1-4-77;8:45 am]

NAVAL WEAPONS CENTER ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Naval Weapons Center Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Naval Weapons Center Advisory Committee is to advise the Naval Weapons Center management concerning technical program content and emphasis, instrumentation, equipment and facilities; relationships with university and industrial laboratories; and other matters essential to optimum Center performance.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-89 Filed 1-4-77;8:45 am]

NAVY RESALE SYSTEM ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Navy Resale System Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Navy Resale System Advisory Committee is to examine the policies, operations and organization of components of the Navy Resale System, and submit recommendations relative thereto to the Secretary of the Navy.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-56 Filed 1-4-77;8:45 am]

SCIENTIFIC ADVISORY COMMITTEE OF THE BALLISTIC RESEARCH LABORATORIES

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Scientific Advisory Committee of the Ballistic Research Laboratories has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with the renewal.

The nature and purpose of the Scientific Advisory Committee of the Ballistic Research Laboratories is to review critically the scientific and technical programs of this organization and to advise the directing staff on the broad aspects of the work in the highly specialized military science of ballistics as applied to current and future needs of the national defense.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-45 Filed 1-4-77;8:45 am]

SCIENTIFIC ADVISORY GROUP

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Communications Agency Scientific Advisory Group has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense Communications Agency Scientific Advisory Group is to provide objective advice on major Defense Communications Agency programs and provide technical expertise on major problems in the areas of telecommunications, command and control systems, and ADP systems, to include all DCA programs.

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

DECEMBER 22, 1976.

[FR Doc.77-75 Filed 1-4-77;8:45 am]

SCIENTIFIC ADVISORY GROUP ON EFFECTS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Scientific Advisory Group on Effects has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Scientific Advisory Group on Effects are to review and evaluate both long-range plans and current programs for the development of nuclear weapons effects data and to provide advice to the Director, Defense Nuclear Agency, on the adequacy of such plans and programs. The Group recommends new scientific approaches and techniques for determining nuclear weapons effects data.

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

DECEMBER 22, 1976.

[FR Doc.77-82 Filed 1-4-77;8:45 am]

SECRETARY OF DEFENSE NATURAL RESOURCES CONSERVATION ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Secretary of Defense Natural Resources Conservation Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Secretary of Defense Natural Resources Conservation Advisory Committee with its membership of outstanding civilian and other Federal natural resource conservation leaders is to advise the Department of Defense on the quality of its conservation trusteeship under 16 USC 670 for the 26,000,000 acres of land and water resources it controls. Through the vehicle of an annual awards program, installations and individual efforts are reviewed on-site and achievements or deficiencies are noted. Improvements in policy, techniques and compliance with Federal and State laws are recommended where necessary. The Committee approach has the advantage of providing OSD with a broad range of expertise it does not have in-house nor is able to provide under present circumstances on a full-time basis.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-79 Filed 1-4-77;8:45 am]

SECRETARY OF THE NAVY OCEANOGRAPHIC ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Secretary of the Navy Oceanographic Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Secretary of the Navy Oceanographic Advisory Committee is an advisory body to the Secretary of the Navy and the Assistant Secretary of the Navy (Research and Development). The Committee, composed of individuals of nationally recognized competence in ocean science and ocean engineering, provides advice of vital importance and contributes significantly to the formulation of recommendations for the overall advancement of the Naval Oceanographic Program. The Committee works to improve coordination between governmental and nongovernmental interests.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-96 Filed 1-4-77;8:45 am]

SECRETARY OF THE NAVY'S ADVISORY BOARD ON EDUCATION AND TRAINING

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Secretary of the Navy's Advisory Board on Education and Training is to advise the Secretary of the Navy on policy concerning all facets of education and training for Navy and Marine Corps personnel, officer and enlisted, active and inactive. The Board shall review Navy and Marine Corps education and training policy and programs as designated by the Secretary of the Navy or service representatives to the Board, and shall make appropriate recommendations to the Secretary of the Navy regarding Navy and Marine Corps education and training, and assist the Secretary in formulating policy on new and projected programs of education and training.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-54 Filed 1-4-77;8:45 am]

SECRETARY OF THE NAVY'S ADVISORY COMMITTEE ON NAVAL HISTORY

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Secretary of the Navy's Advisory Committee on Naval History has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Secretary of the Navy's Advisory Committee on Naval History is to advise the Secretary of the Navy on naval historical programs, including archival, library, and curatorial activities, and to maintain liaison between the Navy's historical programs and the historical profession as a whole.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-70 Filed 1-4-77;8:45 am]

TANK AUTOMOTIVE RESEARCH AND DEVELOPMENT COMMAND SCIENTIFIC ADVISORY GROUP

Committee Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Tank Automotive Research and Development Command (TARADCOM) Scientific Advisory Group has been found to be in the pubic interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for

this advisory committee and concurs with its renewal.

The nature and purpose of the TARADCOM Scientific Advisory Group is to bring together members from automotive related industry and the academic research and development community to advise the Commander, US Army Tank Automotive Research and Development Command on scientific and technological matters relevant to the mission of TARADCOM and on other matters of broad scope when requested by the Commander.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-41 Filed 1-4-77;8:45 am]

UNDERWATER SOUND ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Underwater Sound Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Underwater Sound Advisory Committee is to make available to the Chief of Naval Research, the Chief of Naval Development and other interested Naval activities technical guidance in scientific areas relating to underwater acoustics and developing improved means of exchange of information among scientific establishments.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-69 Filed 1-4-77;8:45 am]

US ARMY COASTAL ENGINEERING RESEARCH BOARD

Establishment

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the US Army Coastal Engineering Research Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law.

The nature and purpose of the US Army Coastal Engineering Research Board (established by Pub. L. 88-172) is to advise the Chief of Engineers on the conduct of the coastal engineering research program of the Corps. To assist the Chief of Engineers, the CERB provides broad policy guidance and reviews plans and fund requirements for the Corps' coastal engineering research program; the CERB also recommends priorities for the accomplishment of research projects in consonance with the needs of Corps of Engineers field offices.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 2, 1976.

[FR Doc.77-88 Filed 1-4-77;8:45 am]

US ARMY MEDICAL RESEARCH AND DEVELOPMENT ADVISORY PANEL

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the US Army Medical Research and Development Advisory Panel has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the US Army Medical Research and Development Advisory Panel is to advise the Commander, US Army Medical Research and Development Command (USAMRDC) on scientific and technological aspects of the US Army medical research and development program.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-87 Filed 1-4-77;8:45 am]

U.S. ARMY MILITARY HISTORY RESEARCH COLLECTION ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the U.S. Army Military History Research Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the U.S. Army Military History Research Collection Advisory Committee is to review and evaluate the scholarly aspects of the activities of the United States Army Military History Research Collection and to recommend policies to the Secretary of the Army to be pursued in the continuing development and utilization of the Collection. The committee includes representatives from a wide variety of military and civilian activities including historians, curators and archivists.

December 22, 1976.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OSAD (Comptroller).

[FR Doc. 77-57 Filed 1-4-77;8:45 am]

US ARMY MISSILE COMMAND SCIENTIFIC ADVISORY GROUP

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Scientific Advisory Group of the U.S. Army Missile Command has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Scientific Advisory Group of the U.S. Army Missile Command is to advise the Commander, U.S. Army Missile Command, on scientific and technological matters pertaining to both existing and planned re-research and development activities within the framework of the mission of the U.S. Army Missile Command. This Advisory Group also advises the Commander of the U.S. Army Missile Command, as requested, on matters relating to organizational aspects of the research and development activities of the U.S. Army Missile Command.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-90 Filed 1-4-77;8:45 am]

U.S. NAVAL ACADEMY BOARD OF VISITORS

Establishment

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Visitors to the United States Naval Academy has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law.

The nature and purpose of the Board of Visitors to the United States Naval Academy is to advise the President of the United States concerning the state of morale and discipline of the midshipmen, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to

the Naval Academy that the Board decides to consider.

DECEMBER 22, 1976.

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

[FR Doc.77-61 Filed 1-4-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the USAF Scientific Advisory Board has found to be in the public interest in conbeen found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the USAF Scientific Advisory Board is to provide a link between the Air Force and the Nation's scientific community by serving as a means of communicating the most recent scientific information as it applies to the Air Force. The Board was created to strengthen but not duplicate the work of the Air Force Systems Command, and all other Air Force activities that deal with science and technology. The Board reviews and evaluates long range plans for research and development and provides advice on the adequacy of the Air Force program, recommends unusually promising scientific developments for selective Air Force emphasis and new scientific discoveries or techniques for practical application to weapon or support systems, makes a variety of studies designed to improve the Air Force research and development program and serves as a pool of expert advisers to various Air Force activities.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-92 Filed 1-4-77;8:45 am]

UTILIZATION OF GRAVIMETRIC DATA ADVISORY GROUP

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the DoD Advisory Group on Utilization of Gravimetric Data has been found to be in the public interest in connection with the performance of duties imposed on the Departmet of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The mission of the DoD Advisory Group on Utilization of Gravimetric Data is to provide the Director, Defense Research and Engineering, both technical advice and planning on the effective use of gravity data to support strategic operations. Specifically, the Advisory Group will:

a. Determine the contribution of altimeter data to definition of the geoid and the gravitational force field of the earth.

b. Assess the impact of current and future satellite radar altimeter developments to DoD activities.

c. Define the proper balance between oceanic survey and satellite derived gravimetric data for planned operations.

DECEMBER 22, 1976.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

[FR Doc.77-77 Filed 1-4-77;8:45 am]

WINTER NAVIGATION BOARD

Renewal

In accordance with the provisions of P.L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Winter Navigation Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Winter Navigation Board is the management, coordination and reporting of the Winter Navigation Demonstration Program which was established to demonstrate the practicability of extending the shipping season on the Great Lakes St., Lawrence Seaway. This program was authorized by section 107(b) of the 1970 Rivers and Harbors Act (Pub. L. 91-611), as amended.

December 22, 1976.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

[FR Doc.77-42 Filed 1-4-77;8:45 am]

WOMEN IN THE SERVICES DEFENSE ADVISORY COMMITTEE

Renewal

A notice is hereby given that the Defense Advisory Committee on Women in the Services (DACOWITS) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense Advisory Committee on Women in the Services is to provide the Department of Defense, through the Assistant Secretary of Defense (Manpower and Reserve Affairs), with assistance and advice on matters relating to women in the services, to interpret to the public the need for and the role of women in the services and to encourage the acceptance of military service as a career opportunity for qualified women.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

DECEMBER 22, 1976.

[FR Doc.77-84 Filed 1-4-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON THE ASIAN AND PACIFIC AMERICANS POPULATION FOR THE 1980 CENSUS

Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I (Supp. V. 1975)), notice is hereby given that the Census Advisory Committee on the Asian and Pacific Americans Population for the 1980 Census will convene on January 27 and 28, 1977 at 9:30 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

This Committee was established in June 1976 to advise the Director, Bureau of the Census, during the planning of the 1980 Census of Population and Housing on such elements as improving the accuracy of the population count, developing definitions and terminology for improved identification and classification of the Asian and Pacific Americans population, suggesting areas of research, recommending subject content and tabulations of particular use to the Asian and Pacific Americans population, and expanding the dissemination of census results among present and potential users of census data in the Asian and Pacific Americans community.

The Committee is composed of 21 members appointed by the Secretary of Commerce, and constitutes a broad spectrum of community leaders, scholars, and other appropriate persons.

The agenda for the January 27 session is: (1) Current status of 1980 census plans; (2) Federal statistical system planning process; (3) plans for the Oakland, California, pretest census; (4) race, ethnic origin, and language questions; (5) community services program; and (6) mobility of the Asian and Pacific Americans population.

The January 28 meeting, which will end at 12:30 p.m., will consist of: (1) Reports by Committee members on observations of the Camden, New Jersey, pretest census; (2) discussion of the Current Population Survey; and (3) Committee review and recommendations.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions at the January 28 meeting. Extensive questions or statements must be submitted in writ-

ing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Control Officer, Mr. Clifton S. Jordan, Deputy Chief, Demographic Census Staff, Bureau of the Census, Room 3779, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, D.C. 20233) Telephone: (301) 763-5169.

Dated: December 30, 1976.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

[FR Doc. 77-331 Filed 1-4-77; 8:45 am]

CENSUS ADVISORY COMMITTEE ON HOUSING FOR THE 1980 CENSUS

Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I, (Supp. V, 1975)), notice is hereby given that the Census Advisory Committee on Housing for the 1980 Census will convene on January 24, 1977 at 9:30 a.m. The Committee will meet in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Housing for the 1980 Census was established in March 1976 to provide technical advice and guidance in planning the forthcoming decennial Census of Housing to ensure that the major statistical requirements of decisionmakers are provided by the 1980 Census of Housing program.

The Committee is composed of 18 members including a representative from each of nine organizations and nine members appointed by the Secretary of Commerce.

The agenda for the meeting is: (1) Committee comments on housing census content regarding priorities, (2) past measures of housing quality including foreign census inquiries, (3) findings of the five-city housing study and indicators of housing quality from the annual housing survey, (4) report of the Housing Quality Subcommittee of the Federal Agency Council, and (5) Committee discussion of housing quality.

The meeting will be open to the public and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact Mr. Arthur F. Young, Chief, Housing Division, Bureau of the Census, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone: (301) 763-2863.

Dated: December 29, 1976.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

[FR Doc. 77-332 Filed 1-4-77; 8:45 am]

Domestic and International Business Administration

[File Nos. 23(73)-2 and 23(73)-5]

CHRISTOPH BRAND

Order Denying Export Privileges

In the Matter of Christoph Brand, 65 Nordend Strasse, D-6000 Frankfurt 1, Federal Republic of Germany, Respondent.

A charging letter was duly served on Christoph Brand in accordance with 15 CFR 388.3. Three charges were made to the effect that respondent had, "exported or caused to be exported," controlled electronic commodities on separate occasions and a fourth charge that respondent has violated an order entered on June 4, 1970, 35 FR 8704, denying all export privileges to Caramant GmbH, by acting for or in behalf of such denied person.

A hearing was held on August 30, 1976. Based on the assembled record, the Hearing Commissioner reported that although respondent was employed and acted as agent for a denied person the evidence was insufficient to find that he had "exported or caused to be exported," controlled commodities without the requisite validated export license. He reported that respondent admitted violating the 1970 order by acting for and in behalf of his employer in the participation of the transactions involving commodities exported or to be exported from the United States. The Commissioner recommended dismissal of the three charges wherein respondent was charged with illegally exporting or causing to be exported commodities from the United States. He reported that respondent's involvement as an employee and agent of denied party was serious and recommended sanctions as detailed below.

I concur in the recommendations of the Hearing Commissioner. Charges I, II and III are dismissed. Charge IV, that respondent is a related party to a denied person and acted for and in behalf of such denied person, is sustained. Commensurate with the seriousness of the violation detailed in the report of the Commissioner and pursuant to the authority delegated to me in virtue of the Export Administration Regulations, 15 CFR 388, it

ORDERED

1. For the period ending May 31, 1979, the respondent, his successors or assigns, partners, representatives, agents, and employees are hereby denied all privileges of participating directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported in whole or in part, from the United States.

2. Effective June 1, 1979, respondent will be conditionally restored to U.S. export privileges for all general license commodities, i.e., commodities which may be shipped G-DEST to the Federal Republic of Germany and no United States citizen and no other person, firm, corporation, partnership or other business organization in the United States shall export to the respondent or participate in any way in making or effecting an export of any commodity requiring a validated export license.

3. Effective June 1, 1981, respondent will be restored to all export privileges subject to probation. Probation will terminate on June 1, 1986, conditioned on respondent's continued compliance with the Export Administration Regulations.

4. During the period of conditional restoration and probation respondent must maintain a complete record showing receipt and disposition of U.S. commodities. Such record shall be retained for a period of not less than five years and must be available for inspection during reasonable business hours to an authorized agent of the United States Government.

Respondent must comply with all the above conditions and must fully comply with all the Export Administration Regulations and the licenses and orders issued thereunder.

This order shall extend to the respondent, his partners, representatives, agents employees and assigns and to any party with whom respondent now or hereafter may be related by affiliation, ownership, control or other connection in the conduct of trade or other services connected therewith. Upon request of the Office of Export Administration or an authorized representative of the United States, respondent must promptly and fully disclose the details of participation in any and all transactions involving U.S.-origin commodities or technical data, including information to the disposition or intended disposition of such commodity or technical data and shall, upon request, furnish all records and documents relating to such matters. Further, on request the respondent shall promptly disclose the names and addresses of partners, agents, representatives, employees, and other persons associated with him in trade or commerce.

Upon a finding by the Director, Office of Export Administration, or other authorized office that the respondent has failed to comply with any of the conditions of probation, the Director, with or without prior notice to the respondent may revoke the probation and deny all export privileges for such a period as is deemed appropriate. If a supplemental order should be issued because of breach of the terms and conditions herein, it will contain the proscriptions of 15 CFR 387.10 and 388.1. Objection to a supplemental order, a petition that it be set aside or an appeal will not stay the denial of export privileges, but the order of denial will remain in effect until it expires or is modified or cancelled. 15 CFR 388.15.

Dated: December 20, 1976.

RAUER H. MEYER,
Director, Office of
Export Administration.

[FR Doc.77-285 Filed 1-4-77;8:45 am]

National Oceanic and Atmospheric Administration

COASTAL MARINE LABORATORY

Receipt of Endangered Species Permit Application for Scientific Purposes

On August 12, 1976, notice was published in the FEDERAL REGISTER (40 FR 33850), that a Permit had been issued to the Coastal Marine Laboratory, University of California, Santa Cruz, California, by the National Marine Fisheries Service, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407).

The Permit authorizes the Holder to take, by tagging, 330 Pacific white sided dolphins (*Lagenorhynchus obliquidens*), 130 Pacific bottlenosed dolphins (*Tursiops gilli*), 330 Dall porpoises (*Phocoenoides dalli*), 330 common dolphins (*Delphinus delphis*), 130 Northern right whale dolphins (*Lissodelphis borealis*), 110 Pilot whales (*Globicephala sp*), 30 sei whales (*Balaenoptera borealis*), 50 minke whales (*Balaenoptera acutorostrata*), 30 finback whales (*Balaenoptera physalus*), 30 blue whales (*Balaenoptera musculus*), 200 gray whales (*Eschrichtius robustus*), 100 Risso's dolphins (*Grampus griseus*), and 100 Stenelline dolphins (*Stenella sp.*), in the area of the California Bight as described in the application.

The activities to be conducted included attaching 1,740 color coded spaghetti tags on various numbers of the above mentioned species and to capture and tag 150 dolphins and 10 pilot whales in order to attach plastic roto tags through the dorsal fin and place freeze branded codes on the dorsal surface as a control for tag retention and as a possible method or aerial recognition. Of this latter number, 16 animals will be selected to have radio tracking devices attached by means of a formed saddle around the dorsal fin.

The Applicant has been informed that a permit under the Endangered Species Act of 1973 must be obtained before the proposed research can be conducted with the following endanger species: Blue whales (*Balaenoptera musculus*); fin whales (*Balaenoptera physalus*); sei whales (*Balaenoptera borealis*); and gray whales (*Eschrichtius robustus*).

Accordingly, notice is hereby given that the Coastal Marine Laboratory has applied in due form for a Scientific Purposes Permit, as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543). The requested permit would provide the necessary concurrent authority under the Endangered Species Act to engage in the above described research with the endangered species identified above.

The aim of this research is to describe the size, distribution, structure, and movements of populations of cetaceans within this area as part of a contract from the Bureau of Land Management. These baseline studies of the populations will be utilized to assist in evaluating the environmental impact of oil exploration and extraction in this biologically important and sensitive area and contribute to planning for the area's resources.

Documents submitted in connection with this application are available in the following Office:

Director, National Marine Fisheries Service, Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235 on or before February 4, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries based upon information supplied by the Applicant and, therefore, do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: December 23, 1976.

HARVEY M. HUTCHINGS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-370 Filed 1-4-77;8:45 am]

FISHERY CONSERVATION AND MANAGEMENT

Draft Environmental Impact Statements Concerning Silver and Red Hake, Herring, Mackerel, Long and Short-Finned Squid and Other Finfish

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190); and Section 10 (a)(2) of the Federal Advisory Committee Act; notice is hereby given of an additional public meeting to be held by the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration of the Department of Commerce, to receive further public views and comments on Draft Environmental Impact Statements (DEIS) containing, as an integral part of each, preliminary plans for the management of the following fishery management units:

(a) Silver and Red Hake
(b) Herring
(c) Mackerel
(d) Long and short-finned squid
(e) Other finfish

These are fisheries for which foreign nations may be expected to apply for permits to fish, and for which the newly established Regional Fishery Management Councils may not be able to prepare and implement fishery management plans before March 1, 1977.

The meeting will be held at the following location, date and time:

North Westport, MA; Thursday, 7–10 p.m., January 6, 1977; Whites Restaurant, off I–195 East near Junction of Routes 24 and I–195.

This meeting is being held as follow-up to the December 21 meeting held at the same above location, in response to the concerned public for more information and time to review the Draft Environmental Impact Statesments/Preliminary Fishery Management Plans.

Limited numbers of the DEIS/PFMP's are available from the Regional Director, Northeast Regional Office, National Marine Fisheries Service, Federal Building–14 Elm Street, Gloucester, MA 01930. Please specify which fishery management units are desired. Written comments on the DEIS/PFMP's from interested members of the public may be submitted to the above address.

Dated: December 30, 1976.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-375 Filed 1-4-77;8:45 am]

ROGER WILLIAMS PARK ZOO

Issuance of Permit To Take Marine Mammals

On November 3, 1976, notice was published in the FEDERAL REGISTER (41 FR 48391), that an application had been filed with the National Marine Fisheries Service by Roger Williams Park Zoo, Providence, Rhode Island 02905, for a permit to take two (2) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on December 29, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking to Roger Williams Park Zoo subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street Gloucester Massachusetts 01930; and
Regional Director National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 29, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.77-371 Filed 1-4-77;8:45 am]

SEA-ARAMA, INC.

Issuance of Permit To Take Marine Mammals

On September 17, 1976, notice was published in the FEDERAL REGISTER (41 FR 40204) that an application had been filed with the National Marine Fisheries Service by Sea-Arama, Inc., Seawall Boulevard, 91st Street, P.O. Box 3068, Galveston, Texas 77550, to take two (2)

false killer whales (*Pseudorca crassidens*) for public display.

Notice is hereby given that on December 28, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Sea-Arama, Inc., subject to certain conditions set forth therein. The permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 28, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.77-369 Filed 1-4-77;8:45 am]

Office of the Secretary

[Dept. Org. Order 10-4; Amdt. 3]

ASSISTANT SECRETARY ECONOMIC DEVELOPMENT

Delegation of Authority

This order effective December 6, 1976 further amends the material appearing at 40 FR 56702 of December 4, 1975, 40 FR 58878 of December 19, 1975 and 41 FR 37829 of September 8, 1976 Department Organization Order 10-4 of September 30, 1975, is hereby amended as shown below. The purpose of this amendment is to delegate the authority of the Secretary under P.L. 94-427, 90 Stat. 1336-1339, to administer the Olympic Winter Games Authorization Act of 1976, to the Assistant Secretary for Economic Development (subparagraphs 4.01h. and 5.p.).

1. *Section 4. Delegation of Authority.* A new subparagraph .01h. is added to read as follows:

"h. Public Law 94-427, 90 Stat. 1336-1339, relating to the XIII international Olympic winter games."

2. *Section 5. General Functions.* a. A new subparagraph p. is added to read as follows:

"p. Assure the adequate and effective administration of Public Law 94-427, 90 Stat. 1336-1339, relating to the XIII international Olympic winter games."

b. In pen and ink reletter the current subparagraph p. as q. respectively.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.77-301 Filed 1-4-77;8:45 am]

[Dept. Org. Order 35-1B; Amdt. 1]

BUREAU OF ECONOMIC ANALYSIS

Organization and Function

This order effective December 2, 1976 amends the material appearing at 40 FR 58878 of December 19, 1975 Department Organization Order 35-1B, dated October 24, 1975, is hereby amended as shown below. The purpose of this amendment is to: (1) transfer certain research functions and the planning and editing associated with the *Survey of Current Business* into the Current Business Analysis Division (paragraph 5.02), and (2) transfer to the newly formed Information Services Division functions related to public information, processing of staff papers, publications and references services (paragraph 8.03).

1. *Section 5. Associate Director for National Analysis and Projections.* Paragraph .02 is revised to read as follows:

".02 The *Current Business Analysis Division* shall prepare and publish monthly in the *Survey of Current Business* interpretations of the current business situation; shall conduct on a continuing basis analyses of short-term, cyclical, and long-term developments in business activity for publication in the *Survey of Current Business;* shall participate in the planning, edit and review of all materials to be published in the *Survey of Current Business*; and shall conduct research required for publishing in the *Survey of Current Business* and its *Business Statistics Supplement* a detailed and comprehensive set of data produced by the Bureau and other organizations and used to evaluate the business situation."

2. *Section 8. Support Divisions.* A new paragraph .03 is added to read as follows:

".03 The *Information Service Division* shall carry out all public information activities, including the preparation and pre-clearance review of press releases and other technical material, and the preparation of nontechnical educational material explaining the substance of the Bureau's work to the public; shall monitor and review staff papers and similar materials published by the Bureau; shall provide publication services, including conduct of research, in cooperation with Departmental offices, in the technologies of preparing manuscripts and data for publication; shall provide reference services, including the maintenance of the Bureau's library and provision of research services to the Bureau's staff; and shall direct, coordinate, and control the Bureau's functions relating to the Freedom of Information Act."

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc. 77-302 Filed 1-4-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180104; PRL 666-3]

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Issuance of Specific Exemption To Use Sodium Chlorate as a Harvest Aid to Desiccate Barley

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 (a) et seq.), notice is given that the Environmental Protection Agency (EPA) has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use a sodium chlorate formulation as a harvest aid to desiccate 2,000 acres of barley in Siskiyou and Modoc Counties. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for the use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW, Room E-315, Washington DC 20460.

According to the Applicant, the moisture content of the barley crop this year is unusually high, due to heavy rains in California. The Applicant stated that seasonal rains normally start during the latter half of October, and it was essential that harvest be completed before the rains began. The wet grain has prevented the proper operation of the harvest machinery; therefore, desiccation is necessary. There appeared to be no registered pesticide or alternative method of control available to resolve this problem. Without the use of a desiccant chemical to facilitate harvesting, heavy losses were likely to occur. The entire crop, valued by the Applicant at $250,000, was in jeopardy.

The Applicant proposed to apply by aircraft two to three gallons of a 18.5 percent sodium chlorate formulation per acre of barley as soon as possible. Approximately 2,000 acres in Siskiyou and Modoc Counties, California, were involved.

There is neither an established tolerance, nor an exemption from the requirement of a tolerance for sodium chlorate on barley. However, sodium chlorate is exempted from the requirement of a tolerance for residues in or on cottonseed, chili peppers, rice, and sorghum grain. The maximum rate of application proposed by the Applicant was equivalent to six (6) pounds of sodium chlorate per acre, which is the same rate as that granted by EPA for the use of this pesticide on sorghum and rice; furthermore, the use pattern is essentially the same. It should be noted that the exemptions granted above required a 14-day preharvest interval; however, the Applicant informed EPA that there would be serious risk to the barley crop if a 14-day pre-harvest interval was observed, due to the probability of seasonal rains during this period. Therefore, EPA determined that the growers could harvest the barley crop four (4) days after application of sodium chlorate, but they would have to allow 14 days for the residues to reduce to chlorides before the barley or barley products could be utilized as food or feed. The Food and Drug Administration of the U.S. Department of Health, Educa-

tion, and Welfare has been advised of this action.

The Fish and Wildlife Service of the U.S. Department of the Interior reported that no adverse effects on fish and wildlife populations will occur from the sodium chlorate application to barley.

After reviewing the application and other available information, EPA has determined that (a) there is no pesticide presently registered and available for use to desiccate the barley in California; (b) there are no alternative means of control, taking into account the efficacy and hazard; (c) significant economic problems may result if the situation is not controlled; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 22, 1976, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The dosage rate shall not exceed three (3) gallons of 18.5 percent sodium chlorate per acre;

2. Total sodium chlorate applied shall not exceed 6,000 gallons of 18.5 percent formulation;

3. The treated area shall not exceed 2,000 acres located in the two counties mentioned;

4. Barley may not be harvested within four (4) days after application of the pesticide, and a fourteen (14) day pre-utilization interval (the interval of time from harvest to processing of barley or products as food or feed) will be enforced;

5. Personnel applying sodium chlorate will be instructed in the proper application procedures by trained personnel of the California Department of Food Agriculture; and

6. The Applicant must supervise aerial application to avoid or minimize drift to non-target areas.

Dated: December 28, 1976.

E. L. J. GRANDPIERRE,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-297 Filed 1-4-77;8:45 am]

CALIFORNIA STATE STANDARDS

[FRL 666-1]

Motor Vehicle Pollution Control; Public Hearing

Section 209(a) of the Clean Air Act, as amended, 42 U.S.C. 1857f-6a(a), provides: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part * * * [or] * * * shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b) of the Act directs the Administrator of the Environmental Protection Agency, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209 to any State which had adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Clean Air Act.

By letter dated November 12, 1976, the California Air Resources Board (CARB) notified the Administrator that the Board had taken a number of actions to revise California's motor vehicle emissions control program. The CARB requested that waivers be granted for those items in the revisions which in the judgment of the Administrator require such waivers, and that a public hearing be convened by the Administrator if necessary.

The Environmental Protection Agency (EPA) has informed the CARB that the actions indicated in its November 12, 1976, letter to the Administrator will require a waiver before they can be effectuated by California. These actions are the adoption of exhaust emission standards and test procedures for 1979, 1980–1982, and 1983 and subsequent model year heavy duty gasoline-powered and diesel-powered vehicles and engines.

Therefore, I hereby give notice that:

(i) California has requested a waiver from the prohibitions of section 209(a) with respect to the actions noted in its November 12, 1976, letter, for which no waiver has heretofore been granted, and

(ii) a public hearing on this waiver request will be convened in the auditorium of the Department of Water and Power Building, 111 North Hope Street, Los Angeles, California, on January 27 and 28, commencing at 10:00 a.m. (No parking facilities will be available on the building grounds.)

Any person desiring to make a statement at the hearing or to submit material for the record of the hearing should file a notice of such intention and ten copies of his or her proposed statement (and other relevant material) by January 14, 1976, with the Director, Mobile Source Enforcement Division (EN-340), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. In addition, fifteen copies of such statement or material for the record of the hearing should be submitted to the Presiding Officer at the time of the public hearing.

The pertinent California standards and test procedures can be found in:

(i) Section 1956.5, Title 13, California Administrative Code, adopted October 5, 1976, and "California Exhaust Emission Standards and Test Procedures for 1979 and Subsequent Model-Year Heavy-Duty Engines and Vehicles," adopted October 5, 1976.[1]

A copy of the above-described material is available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. Copies of the California standards and test procedures are available upon request from the California Air Resources Board, 1102 Q Street, Sacramento, California 95814.

Procedures. Since the public hearing is designed to give interested persons an opportunity to participate in this proceeding by the presentation of data, views, arguments, or other pertinent information concerning the Administrator's proposed action, there are no adversary parties as such. Statements by the participants will not be made under oath and the participants will not be subject to cross-examination.

Presentation by the participants should be limited to the following considerations:

(i) whether the California standards (including test procedures) mentioned above are more stringent than applicable Federal standards,

(ii) whether compelling and extraordinary conditions continue to exist in California, and

(iii) whether such standards and accompanying enforcement procedures are consistent with section 202(a) of the Act, in particular with respect to their technological feasibility in the lead time remaining.

In order to assure full opportunity for the presentation of data, views, and arguments by participants, the Presiding Officer will, upon request of the participants, allow a reasonable time after the close of the hearing for the submission of written data, views, arguments, or other pertinent information to be included as part of the record of the hearing.

A verbatim record of the proceeding will be made and a copy of the transcript will be made available on request at the expense of the person so requesting.

The determination of the Administrator regarding the action to be taken with respect to the waiver of the prohibition of section 209(a) for the State of California is not required to be made solely on the record of the public hearing. Other scientific, engineering, and related pertinent information, not presented at the public hearing, may also be considered. This information will be available for public inspection prior to the Ad-

[1] In conjunction with the adoption of heavy duty standards and test procedures for 1979 and subsequent model years, technical amendments were made to sections 1956(d) and 1957(d) of Title 13, California Administrative Code.

ministrator's determination on this matter.

Dated: December 28, 1976.

NORMAN D. SHUTLER,
Acting Assistant Administrator for Enforcement (EN-339).

[FR Doc.77-296 Filed 1-4-77;8:45 am]

[FRL 667-4]

CHLOROFLUOROCARBONS

Notice of Public Meeting; Solicitation of Comments

For the purpose of obtaining additional information from interested persons, the Agency will hold a second public meeting on nonessential aerosol use of chlorofluorocarbons. The meeting will be held on January 18, 1977, at the Environmental Protection Agency, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, Room 2117, from 10 a.m. to 4:30 p.m.

Participants are encouraged to focus discussion on the following issues:

1. Which chlorofluorocarbon compounds should be regulated? The Agency has under consideration the following compounds: the fully halogenated chlorofluoroalkanes, the fully halogenated bromofluoroalkanes and the fully halogenated bromochlorofluoroalkanes.

2. What is the definition of an aerosol product? The Agency has under consideration the following definition: A product whose use depends on the power of a liquefied or a compressed gas to expel gas, liquid or solid contents from a container. Initial regulation would postpone the control of the following use: Containers using fully halogenated chlorofluoroalkanes, bromofluoroalkanes and bromochlorofluoroalkanes to fill or refill air conditioning or refrigeration systems.

3. What are the criteria for essentiality? The Agency has under consideration the following:

a. Nonavailability of alternative products;

b. Economic significance of the products including the economic effects of removing the product from the market;

c. Environmental/health significance of the product; and

d. Effects on the "Quality of Life" resulting from no longer having the product available or using an alternative product.

4. What is the economic impact of possible regulation?

5. When should the regulation become effective?

Persons who wish to respond to these issues or make a presentation at the meeting should call Perry W. Brunner at 202-426-9000. Persons are also invited to submit written data, opinion, or arguments. Communication on these or any other aspects of this program should be submitted to: The Enviromnental Protection Agency, Office of Toxic Substances (WH-557), 401 M Street, S.W., Washington, D.C. 20460, Attention: Mr. George F. Wirth.

Dated: January 3, 1977.

KENNETH L. JOHNSON,
Acting Assistant Administrator for Toxic Substances.

[FR Doc.77-506 Filed 1-4-77;8:45 am]

[ERL 665-8]

MINNESOTA MARINE SANITATION DEVICE STANDARD

Receipt of Petition

Notice is hereby given that a petition has been received from the State of Minnesota for a determination pursuant to section 312(f)(3) of Pub. L. 92-500, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for certain waters, specified below, within the State of Minnesota.

The petition requests that the abovementioned determination be made for the waters of the Mississippi River from Lock and Dam #2 at Hastings, Minnesota, to the Coon Rapids Dam and for the waters of the Minnesota River from its mouth to the end of the commercial channel near Shakopee, Minnesota. The distance of the Mississippi River addressed by the petition is approximately 54 miles, whereas the distance addressed by the petition for the Minnesota River is approximately 22 miles. The State certifies that the combination of stationary pump-out facilities for recreational and commercial vessels and septic tank pumpers for commercial vessels available within a short distance of docks and marinas will exclude no vessels because of insufficient water depth and are capable of accommodating all commercial and recreational vessel traffic. The Twin City Barge and Towing facility has service available 24 hours a day for the entire shipping season and is capable of accommodating all commercial and recreational craft. There are four statutory pump-out facilities that accommodate only recreational craft. The Hastings Marina is open the entire season from 8:00 a.m. until 6:00 p.m. on weekdays or until 10:00 p.m. on weekends; the King's Cove operates from June through September from noon to dusk on weekdays and 9:00 a.m. until 9:00 p.m. on weekends; the Jolly Roger Marina operates from April through October from 8:00 a.m. to 1:00 a.m. on weekdays and weekends; and the Hidden Harbor Marina operates from June through September from 8:00 a.m. until 11:00 p.m. on weekdays and weekends. In addition, the petition specifies 18 septic tank pumping establishments that are located within 10 miles of docks and marinas in the metropolitan areas and within 20 miles of such facilities at out-State areas, which can be utilized in the removal of sewage from commercial vessel holding tanks when required. The State of Minnesota certifies that all wastes from vessels removed at stationary pump-out facilities and by septic tank pumpers are required to be disposed of at a National Pollutant Discharge Elimination System's permitted facility or applied onto land in conformance with applicable Federal, State, or local requirements.

The petition addresses the waters of the St. Croix River from the Wisconsin border to Taylor Falls. The State of Minnesota certifies that this reach of the St. Croix River is not capable of navigation by interstate vessel traffic with onboard marine sanitation devices.

The petition addresses, further, all other waters of the State except the waters of Lake Superior (together with Superior and St. Louis Bays), and the lower Mississippi and lower St. Croix Rivers, which will be addressed in a petition filed in conjunction with a similar petition for those waters from the State of Wisconsin. The State of Minnesota certifies that all other freshwater lakes, reservoirs or impoundments are such as to prevent the ingress or egress by vessels which have marine sanitation devices, and that all other rivers, creeks and streams are not capable of navigation by interstate vessel traffic, which have installed marine sanitation devices. There are four exceptions within the remaining waters of the State and these are: Lake of the Woods, Rainy Lake, Kabetogama Lake, and Manakan Lake. There are no stationary pump-out facilities on Lake of the Woods; there is one septic tank pumping establishment in Roseau, Minnesota. The State of Minnesota has no data on private commercial operations which may have their own pump-out facilities, and the State believes that some of the commercial operations may be in that category. There are two pump-out facilities on Rainy Lake: one at Thunderbird Lodge, which operates from 8:00 a.m. to 8:00 p.m. and one at the Northernaire Floating Lodges, which operates from 10:00 a.m. to 11:00 p.m.

In addition, there are two septic tank pump operators in Ranier, Minnesota. Most of Rainy Lake is located within Voyageurs National Park and, to the best knowledge of State officials, there are no permanent vessel moorings in that portion of the Lake. Access to the Lake by road and the permanent vessel moorings are on the western end of the Lake near Ranier and International Falls, Minnesota. There are no pump-out facilities on either Lakes Kabetogaman or Namakan. The nearest facilities would be the stationary facilities on Rainy Lake (about 40 miles from the easternmost edge of Lake Namakan) or the two septic tank pumping operators in Ranier, Minnesota.

The State of Minnesota certifies that all wastes from vessels removed at stationary pump-out facilities and by septic tank pump operators are required to be disposed of at a National Pollutant Discharge Elimination System's permitted facility or applied onto land in conformance with applicable Federal, State or local requirements. The State certifies

further that the septic tank pump operators are able to reach all docks.

Comments and views regarding this request for action may be filed within 45 days of the date of publication of this notice. Such communication, or request for a copy of the applicant's petition, should be addressed to the Director, Criteria & Standards Division (WH-585), Office of Water Planning & Standards, OWHM, U.S. Environmental Protection Agency, Washington, D.C. 20460.

Dated: December 27, 1976.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-299 Filed 1-4-77;8:45 am]

[FRL 666-4]

POLYCHLORINATED BIPHENYLS (PCBs)

Rescheduling of Public Meeting

The public meeting on the implementation of section 6(e) of the Toxic Substances Control Act (TSCA), Pub. L. 94-469 has been rescheduled to the new date of January 24, 1977, at 10:00 a.m. in Room 2117, Waterside Mall, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460. The meeting had been announced previously for January 11, 1977, in the December 8, 1976, FEDERAL REGISTER, 41 FR 53692.

This change will enable the Agency to present tentative regulatory alternatives for the control of PCBs under section 6(e) of TSCA at the public meeting and thereby encourage a more effective expression of views.

The Agency invites comments on the implementation of 6(e) and regulatory alternatives. Anyone wishing to make oral statements on this subject at the January 24, 1977, meeting should contact George F. Wirth at the address given below.

All persons who wish to submit written data, views, or comments concerning section 6(e)(1) for the development of proposed regulations are requested to present them to the Agency. All comments received will be made available to the public. Copies will be available for inspection and copying during normal working hours at the U.S. Environmental Agency's Public Information Reference Unit in Room 2922 at the address given below.

All communications or correspondence (in triplicate) should be addressed to: U. S. Environmental Protection Agency, Office of Toxic Substances (WH-557), 401 M Street, SW., Washington, D.C., 20460, Attention: Mr. George F. Wirth.

Dated: December 27, 1976.

KENNETH L. JOHNSON,
Acting Assistant Administrator for Toxic Substances.

[FR Doc.77-298 Filed 1-4-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

FUEL ECONOMY OF MOTOR VEHICLES

Notice of Availability of 1977 Gas Mileage Guide

The Federal Energy Administration (FEA) hereby gives notice of the availability of the 1977 Gas Mileage Guide. On November 2, 1976 the Environmental Protection Agency (EPA) issued regulations on Fuel Economy, Testing, Labeling and Information Disclosure Procedures and Requirements (41 FR 49752, November 10, 1976) which, among other things, contains requirements for dealers of 1977 and later model year automobiles and light trucks to have copies of a booklet, The Gas Mileage Guide, available in their showrooms. In this booklet prospective purchasers will be able to find the fuel economies of the various models of those vehicles offered for sale in a given model year. FEA is required by section 506(b)(1) of the Energy Policy and Conservation Act (89 Stat. 871 et seq.) to publish and distribute such booklet. Section 600.405-77 of the EPA regulations states that dealers will be expected to make such booklets available as soon as they are received by them, but in no case later than 15 working days after notification is given of booklet availability. The publication today of this notice constitutes such notification.

The 1977 Gas Mileage Guide is available for display and distribution by dealers in their showrooms. Any dealer who has not already received Guides from FEA or requires additional copies should request copies by writing to the following address, specifying the quantity desired of the 49-State and/or the California version:

Fuel Economy, Federal Energy Administration, DPM Room 6500, Washington, D.C. 20461.

Issued in Washington, D.C., December 30, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.76-38498 Filed 12-30-76;5:04 pm]

FEDERAL HOME LOAN BANK BOARD

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF BELOIT

[No. AC-24]

Notice of Approval of Conversion; Final Action

DECEMBER 30, 1976.

Notice is hereby given that on December 22, 1976, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 76-982 approved the application of First Federal Savings and Loan Association of Beloit, Beloit, Kansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street, NW., Washington, D.C. 20552 and the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, Federal Home Loan Bank Building, Seventh and Harrision Streets, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 77-355 Filed 1-4-77;8:45 am]

[No. AC-23]

VALLEY FEDERAL SAVINGS AND LOAN ASSN. OF HUTCHINSON

Notice of Approval of Conversion; Final Action

Date: December 30, 1976.

Notice is hereby given that on December 22, 1976, the Federal Home Loan

Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 76-983 approved the application of Valley Federal Savings and Loan Association of Hutchinson, Hutchinson, Kansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street, N.W., Washington, D.C. 20552 and the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, Federal Home Loan Bank Building, Seventh and Harrison Streets, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-356 Filed 1-4-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. ER77-5, ER77-6, ER77-7 and E-9544]

OTTER TAIL POWER CO.

Order Accepting for Filing and Suspending Certain Proposed Rate Schedule Filings, Establishing Procedures, Consolidating Proceedings and Granting Interventions

DECEMBER 28, 1976.

On October 4, 1976, Otter Tail Power Company (Otter Tail) tendered for filing an intial rate schedule providing, primarily, for transmission service by Otter Tail to municipal customers to replace transmission service provided to the United States Bureau of Reclamation (Bureau) for the benefit of the municipalities (Docket No. ER77-5). Otter Tail was advised by letter dated October 28, 1976, that its submittal was deficient. The filing was completed with the submittal of the required information on November 15, 1976, the official filing date. Additionally, on October 4, 1976, Otter Tail filed a Notice of Termination of Rate Schedule No. 84, an interconnection agreement between Otter Tail and the Bureau which provides for, among other services, the aforementioned transmission of preference power to municipal customers (Docket No. ER 77-6); and Notice of Termination of Special Municipal Electric Service Agreements with the municipal customers (Docket No. ER77-7).

Otter Tail's proposed rates will result in additional charges to municipal customers of $944,731 (286%) for the twelve month period ending December 31, 1977 (individual increases range from 183% to 332%). The proposed rates provide for a firm transmission charge of $21.05/kw/year (approximately 4.2 mill/kwh). Otter Tail will supply power and energy in excess of the amount allotted to it through its arrangements with the Bureau, at a rate of $60.56/kw/year and $1.0836¢/kwh. Otter Tail requests that the instant agreement become effective January 1, 1977.

The Notice of Termination which Otter Tail has submitted for its FPC Rate Schedule No. 84 (ER77-6) would terminate an agreement that provides a myriad of services between the parties in addition to the transmission of preference power for the Bureau. The agreement provides for sales of secondary and dump energy to Otter Tail, interchange of emergency, supplies, and standby services, and wheeling for the account of each other. The parties are interconnected at no less than seventeen points in three states pursuant to the agreement. The 115 kv and 230 kv lines form an essential part of an extensive regional transmission system. The termination of Rate Schedule No. 84 will impact significantly on the electric systems in this area.

On October 4, 1976, Otter Tail submitted for filing Notices of Termination of Special Municipal Electric Service Agreements (Special Agreements) between 17 municipal customers and itself. The Special Agreements provide for firming transmission service, supplemental power and energy, reserve capacity service, economy and maintenance energy, and emergency service. Three of these agreements do not expire pursuant to their own terms until later this decade.[1]

DOCKET NO. E-9544

On November 28, 1975, the Cities of Alexandria, Barnesville, Benson, Detroit Lakes, Henning, Tyler, and Warren, Minnesota (Cities) filed a complaint against Otter Tail pursuant to Section 205(c) of the Federal Power Act and § 1.6 of the Commission's Rules of Practice and Procedure, alleging that Otter Tail had failed to comply with § 35.15 of the Commission's Regulations (Docket No. E-9544). The Cities' Special Agreements ostensibly terminated by their own terms as follows:

City	FPC rate schedule No.	Expiration date of agreement
Alexandria, Minn.	125	Oct. 28, 1973
Barnesville, Minn.	135	Nov. 30, 1975
Benson, Minn.	133	Do.
Detroit Lakes, Minn.	139	Do.
Henning, Minn.	134	Do.
Tyler, Minn.	116	Mar. 22, 1972
Warren, Minn.	140	Nov. 30, 1975

The Cities state that Alexandria and Tyler requested Otter Tail to continue to furnish service under the Special Agreements beyond the expiration date of their contracts. They assert that Alexandria and Tyler terminated the service by letters dated February 12, 1975 and February 18, 1976,[2] and ceased receiving and paying for services after the date of their respective termination letters. Additionally, the Cities maintain that Barnesville, Benson, Detroit Lakes, Henning, and Warren have confirmed the expiration of their Special Agreements with Otter Tail and notified it that they no longer desired to receive firming transmission service after the expiration of the Special Agreements.[3] The Cities allege that Alexandria and Tyler did not receive a response from Otter Tail to their letters of termination and that Barnesville, Benson, Detroit Lakes, Henning and Warren received responses from Otter Tail indicating that Otter Tail intended to continue to provide services under the Special Agreements after the expiration of the Agreements and the Cities' refusal to accept such services.

Section 35.15 of the Commission's regulations, Notices of Cancellation or Termination, provides that when a rate schedule required to be filed with the Commission is proposed to be cancelled or is to terminate by its own terms and no new schedule is to be filed in its place, the party required to file the schedule shall notify the Commission of the cancellation or termination. The Cities, in their complaint, request that the Commission confirm termination of Alexandria's and Tyler's Special Agreements in accordance with their proffered notices and compel Otter Tail to file appropriate Notices of Termination for Barnesville, Benson, Detroit Lakes, Henning, and Warren, Minnesota, or, in the alternative, confirm such terminations in accordance with the terms of the Special Agreements.

PUBLIC NOTICE

Docket No. ER77-5—Notice was issued October 14, 1976, with petitions to intervene or protests due on November 19, 1976. On that date nine of the affected municipalities [4] jointly filed a petition to intervene contending that:

(1) The submittal must be treated as a rate change under § 35.13 of the regulations;

(2) The supplemental service rate is discriminatory in that it contains different rates than the Elbow Lake agreements;

(3) The cost-of-service data is not responsive to the Regulations; and

(4) The filed transmission rate is higher than Otter Tail's own cost-of-service determination.

They maintain that the filing will have a significant impact on the individual Cities and request that the filing be rejected because of its deficiencies, or, in the alternative, be suspended for five months.

On November 16, 1976, the City of Breckenridge, Minnesota requested that the Commission reject Otter Tail's filing. The City contends that:

(1) The depreciation for plant and equipment appears unjustifiably high;

(2) The allocation of cost on a peak demand basis is not reasonable; and

(3) Its costs will double.

[1] Table of agreement provisions filed as part of the original document.

[2] Cities complaint, Exhibits A and B respectively.

[3] Complaint, Exhibits C, D, E, F, G.

[4] The Cities of Alexandria, Barnesville, Benson, Detroit Lakes, Henning, Lake Park, Ortonville, and Warren, Minnesota, and Big Stone City, South Dakota.

On November 22, 1976, the Department of the Interior (Interior), on behalf of the Bureau, filed an untimely petition to intervene. Interior states that during renegotiation of the present Bureau-Otter Tail Agreement, Otter Tail stated that it would wheel power to the municipalities under independent Agreements but would not wheel Bureau power to the municipalities under a Bureau-Otter Tail Agreement. Interior's grounds for intervention are: (1) its concern over the rates Otter Tail will charge to wheel Bureau power and (2) a desire to offer its customers the benefit of its engineering expertise.

DOCKET NO. ER77-6

Notice of Termination of the Bureau-Otter Tail Agreement was issued on November 10, 1976, with protests or petitions to intervene due on or before November 24, 1976. On November 26, 1976, a joint petition to intervene was filed by the Cities of Alexandria (Minnesota), et al.[1] The Cities contend that the proposed termination of the Bureau-Otter Tail Agreement may lead to transmission rates which may be unjust, unreasonable, and unduly discriminatory. The Cities request that the proposed termination be suspended until the issues in Docket No. ER77-5 are adjudicated.

DOCKET NO. ER77-7

Notice of Termination of the Special Agreements was issued on November 10, 1976, with protests or petitions to intervene due on or before November 24, 1976. On November 26, 1976, the Cities of Alexandria, Minnesota, et al.,[2] filed a joint petition to intervene. The Cities maintain that allowing the Special Agreements to terminate on December 31, 1976, would lend credence to Otter Tail's position that they are tied to the Bureau-Otter Tail Agreement. They contend that under the Special Agreements between Otter Tail and the Cities of Lake Park and Ortonville, Minnesota, Otter Tail supplies transformers that step down the power and energy from 41.6 kv to 4.16 kv; and that acceptance of the termination for these Cities will leave them without electric service. The proposed rate schedule in Docket No. ER77-5 contains no provision for transformation, and the Cities do not own such equipment.

Review of Otter Tail's proposed transmission rate schedule submitted for filing as an initial rate schedule in Docket No. ER77-5 indicates that it should be treated as a change in rates which is properly filed under § 35.13 of the Regulations. Although Otter Tail is currently transmitting power for Bureau pursuant to the terms of Rate Schedule No. 84, the beneficiaries of the transmission are the municipal customers. The Bureau pays Otter Tail 1.0 mill/kwh and the Bureau recovers that cost in its power rates from the municipal customers. Otter Tail's filing will in effect increase the rates that the municipalities will have to pay for the transmission of Bureau power.

Otter Tail's proposed rates rendered for filing in Docket No. ER77-5 have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory.

The Cities of Barnesville, Benson, Detroit Lakes, Henning, and Warren notified Otter Tail by letters that, after the expiration dates of their respective Special Agreements with Otter Tail, November 30, 1975, they would no longer require the services provided thereunder. The Commission will treat November 30, 1975, as the effective termination date of the Cities of Barnesville, Benson, Detroit Lakes, Henning, and Warren's Special Agreements.

The Commission orders that the Notice of Termination of the Special Agreements in Docket No. ER77-7 be consolidated for purposes of a hearing and a decision with Docket No. ER77-6. An expedited investigation will be instituted to determine the impact such terminations will have on the continuation of service in the area.

The issues in Docket Nos. ER77-5 and E-9544 deal with common questions of law and fact. We will therefore consolidate these two proceedings for the purposes of hearing and decision.

The Commission finds. (1) Good cause exists to accept for filing Otter Tail's proposed transmission rates tendered on October 4, 1976, and to suspend those rates for five months, beyond the requested effective date of January 1, 1977, until June 1, 1977, when they will be permitted to become effective, subject to refund, pending the outcome of a hearing and decision thereon.

(2) The participation of the Cities of Alexandria, Barnesville, Benson, Detroit Lakes, Henning, Lake Park, Ortonville, and Warren, Minnesota, and Big Stone City, South Dakota, and the Department of the Interior, in Docket No. ER77-5, may be in the public interest.

(3) It is in the public interest to consolidate Docket Nos. ER77-6 and ER77-7 and to institute an investigation to determine the impact such terminations will have on the continuation of service in the area.

The Cities of Barnesville, Benson, Detroit Lakes, Henning, and Warren notified Otter Tail by letters that, after the expiration dates of their respective Special Agreements with Otter Tail, November 30, 1975, they would no longer require the services provided thereunder. The Commission will treat November 30, 1975, as the effective termination date of the Cities of Barnesville, Benson, Detroit Lakes, Henning, and Warren's Special Agreements.

The Commission orders that the Notice of Termination of the Special Agreements in Docket No. ER77-7 be consolidated for purposes of a hearing and a decision with Docket No. ER77-6. An expedited investigation will be instituted to determine the impact such termination will have on the continuation of service in the area.

The issues in Docket Nos. ER77-5 and E-9544 deal with common questions of law and fact. We will therefore consolidate these two proceedings for the purposes of hearing and decision.

The Commission finds. (1) Good cause exists to accept for filing Otter Tail's proposed transmission rates tendered on October 4, 1976, and to suspend those rates for five months, beyond the requested effective date of January 1, 1977, until June 1, 1977, when they will be permitted to become effective, subject to refund, pending the outcome of a hearing and decision thereon.

(2) The participation of the Cities of Alexandria, Barnesville, Benson, Detroit Lakes, Henning, Lake Park, Ortonville, and Warren, Minnesota, and Big Stone City, South Dakota, and the Department of the Interior, in Docket No. ER77-5, may be in the public interest.

(3) It is in the public interest to consolidate Docket Nos. ER77-6 and ER77-7 and to institute an investigation to determine the impact such terminations will have on the continuation of service in the area.

(4) The participation of the Cities of Alexandria, Barnesville, Benson, Detroit Lakes, Henning, Lake Park, Ortonville, and Warren, Minnesota, and Big Stone City, South Dakota, in Docket Nos. ER77-6 and ER77-7 may be in the public interest.

(5) Good cause exists to consolidate the proceedings in Docket Nos. E-9544 and ER77-5 for the purposes of hearing and decision.

The Commission orders. (A) Pending a hearing and decision thereon, Otter Tail's proposed transmission rates in Docket No. ER77-5 are hereby accepted for filing and suspended for five months, until June 1, 1977, when they will be permitted to become effective, subject to refund.

(B) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a hearing shall be held concerning the justness and reasonableness of Otter Tail's proposed transmission rates.

(C) Commission Staff shall prepare and serve top sheets on all parties on or before May 1, 1977 (See Administrative Order No. 157).

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exception of petitions to intervene,

[1] These are the same Cities that filed a joint petition to intervene in Docket No. ER77-5.

[2] These are the same Cities that filed a joint petition to intervene in Docket No. ER77-5.

motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) Otter Tail shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by § 35.19(a) of the Commission's Regulations, 18 CFR 35.19(a).

(F) The Notice of Termination of the Bureau-Otter Tail Agreement and the Notices of Termination of the Special Agreements for the Cities of Badger, Big Stone City, and Estelline, South Dakota, and Breckenridge, Lake Park, New Folden, Nielsville, Ortonville, Shelly, and Stephen, Minnesota, are hereby suspended for five months.

(G) Docket Nos. ER77-6 and ER77-7 are hereby consolidated for purposes of a hearing and decision.

(H) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose, shall conduct an expedited hearing in consolidated Docket Nos. ER77-6 and ER77-7 to determine if the proposed determinations are in the public interest. The Presiding Judge shall prescribe necessary procedures not provided for in this order, and shall otherwise conduct the hearing in accordance with the Commission's Rules and Regulations.

(I) The Cities of Alexandria, Barnesville, Benson, Detroit Lakes, Henning, Lake Park, Ortonville, and Warren, Minnesota, and Big Stone City, South Dakota, are hereby permitted to intervene in Docket Nos. ER77-5, ER77-6, and ER77-7. The Department of Interior is hereby permitted to intervene in Docket No. ER77-5. The above interventions are subject to the Commission's Rules and Regulations. Participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene. The admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in these proceedings.

(J) The effective termination date of Alexandria, Minnesota's Special Agreement is March 20, 1975. The effective termination date of Tyler, Minnesota's Special Agreement is February 18, 1975. The effective termination date of the Cities of Barnesville, Benson, Detroit Lakes, Henning, and Warren, Minnesota's Special Agreements is November 30, 1975.

(K) The proceedings in Docket Nos. E-9544 and ER77-5 are hereby consolidated for purposes of hearing and decision.

(L) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-288 Filed 1-4-77;8:45 am]

FEDERAL RESERVE SYSTEM

CITIZENS BANK AND TRUST CO.

Statement Regarding Board's Approval of Application To Become Member of the Federal Reserve System

Citizens Bank and Trust Company, Alabaster, Alabama ("Applicant"), a new bank chartered under the laws of the State of Alabama, applied, pursuant to section 9 of the Federal Reserve Act (12 U.S.C. 321-338) and the Board's Regulation H (12 CFR Part 208), to become a member of the Federal Reserve System. On November 10, 1976, the Board notified Applicant that the application was approved and that the Board would issue a statement regarding the approval action.

Applicant, which has not yet opened for business, was organized in 1975 for the purpose of obtaining a State bank charter and engaging in a commercial banking business. It filed a charter application in August 1975, which was approved by the State Banking Department of Alabama by letter dated November 18, 1975. Approximately one year earlier, in December 1974, a charter application filed on behalf of Applicant by substantially the same organizers was denied by the State Banking Department of Alabama. Approval of Applicant's charter in November 1975 was conditioned in part upon Applicant obtaining insurance coverage for its deposits from the Federal Deposit Insurance Corporation ("FDIC"). In anticipation of this requirement, Applicant had filed an application for insurance in August 1975, pursuant to section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815). That applicant was withdrawn by Applicant in March 1976, after a formal hearing was held at the request of persons protesting the application. Consequently, the FDIC ended its consideration of the matter without making a final determination.

Under section 9 of the Federal Reserve Act, the Board, in acting upon an application to become a member of the Federal Reserve System, is required to consider the financial condition of the applying bank, the general character of its management, and whether or not the corporate powers of the institution are consistent with the purposes of the Federal Reserve Act. In addition, under section 4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814), the admission to membership in the Federal Reserve System of an uninsured State bank automatically confers deposit insurance upon the bank from the time the Board certifies to the FDIC that the bank is a member of the Federal Reserve System. The Board's certificate to the FDIC is required to state that the Board has given consideration to the factors enumerated in section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816), namely, the financial history and condition of the bank; the adequacy of the capital structure; the bank's future earnings prospects; the general character of its management; the convenience and needs of the community to be served by the bank; and whether or not the bank's corporate powers are consistent with the purposes of the Federal Deposit Insurance Act.

The Board has considered the subject application and all comments received with respect thereto, including those submitted in opposition to the application by First Bank of Alabaster, Alabaster, Alabama, First Shelby National Bank and Shelby State Bank, both of Pelham, Alabama, and Merchants and Planters Bank, Montevallo, Alabama (hereinafter referred to as "Protestants").

Alabaster is located in central Alabama, in Shelby County (population 38,037 as of the 1970 census). Applicant's proposed service area is approximated by the northern portion of Shelby County, including Alabaster and the towns of Helena and Pelham. During the past several years, Shelby County has experienced significant population growth and a transition from an agricultural economy to a more diversified economy. The population of Shelby County has grown from 32,132 in 1960 to 38,037 in 1970, and to an estimated 50,000 in 1974. Alabaster itself presently has a population of about 5,200 and a trade area population (not including Helena and Pelham) of approximately 14,000. The trade area of Pelham, Helena and Alabaster represents approximately 50 percent of Shelby County's population and generally reflects the migration into the county from neighboring Jefferson County and the city of Birmingham, which is approximately 25 miles directly north of Alabaster.

Another indication of the area's growth is the increase in housing starts in Alabaster from 60 in 1972 to 137 in 1975. Also, Alabaster has fourteen businesses and industries with employment of nearly 1,800 and a combined annual payroll of approximately $12 million. In addition, information from the Alabama Power Company indicates that presently the northern half of Shelby County is adding approximately 100 customers per month, a 10 percent per annum increase. The record indicates that Route I-65, to the east of and parallel to the site of Applicant's proposed office on Highway 31, is due for completion by 1981. With the completion of Route I-65, the areas in the northern half of Shelby County to be served by Applicant can be expected to experience further development, both residential and industrial.

Presently, Protestants operate six banking offices in Shelby County. Despite the fact that most of the services that would be provided by Applicant are currently being offered by Protestants, the record reflects a desire on the part of a significant number of local residents for a locally owned bank such as Applicant. On the other hand, Protestants have indicated that there is no present need for another bank in Shelby County, particularly in view of the fact that First Shelby National Bank, Pelham, Ala-

bama, opened for business in February 1976, in temporary quarters approximately 3½ miles north of Applicant's proposed location. However, it appears that First Shelby National Bank has experienced reasonable growth, with deposits of $2.4 million as of June 30, 1976, and that the addition of Applicant as another banking alternative would not significantly affect First Shelby National Bank's future growth prospects. In addition, Applicant has committed to delay opening for business until its permanent quarters have been constructed. Based on the local economic conditions and the apparent local support the Applicant would enjoy, the Board concludes that considerations with regard to the convenience and needs of the community to be served by Applicant are consistent with approval of the subject application.

Applicant has no operating history, and its future earnings prospects are, of course, related to the amount of deposits it will be able to attract. As mentioned above, there are indications in the record of strong community support for a new bank in Alabaster. The initial stock offering of $1,250,000 by Applicant was fully subscribed, with each subscriber limited to purchasing four percent of the offering. From the list of 85 subscribers submitted by Applicant, it appears that many of the subscribers are owners or presidents of businesses or professionals or other self-employed individuals who will be able to provide Applicant with an initial nucleus of customers to serve. In the Board's judgment, such expressions of local support are a positive factor not only with respect to the convenience and needs of the community but also with respect to the future earnings prospects of Applicant.

In assessing the future earnings prospects of Applicant, the Board also considered the views of the State Banking Department,[1] the Federal Reserve Bank of Atlanta and the Board's staff, all of which project that Applicant will achieve profitability by the end of its third year of operation.[2] The Protestants have indicated that Applicant would not achieve profitability in that period due primarily to lower deposit projections than were used by the above organizations and to the fact that a new bank, First Shelby National Bank, recently opened in the Alabaster area and the opening of another bank would heave an adverse effect on First Shelby National Bank. In the Board's opinion, Protestants, projections with respect to deposits of Applicant are low and Protestants' concerns about the adverse impact that Applicant's opening would have on First Shelby National Bank are overly pessimistic, particularly in view of First Shelby National Bank's deposit figures mentioned above and the generally optimistic economic outlook for the Alabaster area. Thus, the Board concluded that Applicant's future earnings prospects are consistent with approval of the subject application.

While Applicant has no operating or financial history, it appears that it would open with adequate capital structure. The general character of Applicant's management also appears satisfactory, and the corporate powers of Applicant are consistent with the Federal Reserve Act and the Federal Deposit Insurance Act.

For the foregoing reasons, the Board approved Applicant's application to become a member bank in the Federal Reserve System.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-354 Filed 1-4-77;8:45 am]

[1] Under applicable State law, the Superintendent of the State Banking Department, before granting a certificate, is required to satisfy himself that there is sufficient business to support the proposed bank in the community. Code of Alabama, Tit. 5 § 88. Approval of Applicant's charter application therefore reflects a favorable determination by State authorities with regard to the future earnings prospects of Applicant.

[2] Comments on the Applicant were requested of the FDIC regional office in Atlanta, and the response from the FDIC to the Federal Reserve Bank of Atlanta indicated merely that upon Applicant's withdrawal of its earlier insurance application, the FDIC's files were closed.

FEDERAL OPEN MARKET COMMITTEE

Authorizations and Directive

In accordance with § 271.3 of its rules regarding availability of information, there are set forth below the following authorizations and directive of the Committee: (1) authorization for foreign currency operations, (2) foreign currency directive and (3) special authorization under paragraph 1(D) of Authorization for Foreign Currency Operations.

1. AUTHORIZATION FOR FOREIGN CURRENCY OPERATIONS

1. The Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York, for System Open Market Account, to the extent necessary to carry out the Committee's foreign currency directive and express authorizations by the Committee pursuant thereto, and in conformity with such procedural instructions as the Committee may issue from time to time:

A. To purchase and sell the following foreign currencies in the form of cable transfers through spot or forward transactions on the open market at home and abroad, including transactions with the U.S. Exchange Stabilization Fund established by Section 10 of the Gold Reserve Act of 1934, with foreign monetary authorities, with the Bank for International Settlements, and with other international financial institutions:

Austrian schillings	Italian lire
Belgian francs	Japanese yen
Canadian dollars	Mexican pesos
Danish kroner	Netherlands guilders
Pounds sterling	Norwegian kroner
French francs	Swedish kronor
German marks	Swiss francs

B. To hold balances of, and to have outstanding forward contracts to receive or to deliver, the foreign currencies listed in paragraph A above.

C. To draw foreign currencies and to permit foreign banks to draw dollars under the reciprocal currency arrangements listed in paragraph 2 below, provided that drawings by either party to any such arrangement shall be fully liquidated within 12 months after any amount outstanding at that time was first drawn, unless the Committee, because of exceptional circumstances, specifically authorizes a delay.

D. To maintain an overall open position in all foreign currencies not exceeding $1.0 billion, unless a larger position is expressly authorized by the Committee. For this purpose, the overall open position in all foreign currencies is defined as the sum (disregarding signs) of open positions in each currency. The open position in a single foreign currency is defined as holdings of balances in that currency, plus outstanding contracts for future receipt, minus outstanding contracts for future delivery of that currency, i.e., as the sum of these elements with due regard to sign.

2. The Federal Open Market Committee directs the Federal Reserve Bank of New York to maintain reciprocal currency arrangements ("swap" arrangements) for the System Open Market Account for periods up to a maximum of 12 months with the following foreign banks, which are among those designated by the Board of Governors of the Federal Reserve System under § 214.5 of Regulation N, Relations with Foreign Banks and Bankers, and with the approval of the Committee to renew such arrangements on maturity:

Foreign bank	*Amount of arrangement (millions of dollars equivalent)*
Austrian National Bank	250
National Bank of Belgium	1,000
Bank of Canada	2,000
National Bank of Denmark	250
Bank of England	3,000
Bank of France	2,000
German Federal Bank	2,000
Bank of Italy	3,000
Bank of Japan	2,000
Bank of Mexico	360
Netherlands Bank	500
Bank of Norway	250
Bank of Sweden	300
Swiss National Bank	1,400
Bank for International Settlements:	
Dollars against Swiss francs	600
Dollars against authorized European currencies other than Swiss francs	1,250

Any changes in the terms of existing swap arrangements, and the proposed terms of any new arrangements that may be authorized, shall be referred for review and approval to the Committee.

3. Currencies to be used for liquidation of System swap commitments may be purchased from the foreign central bank drawn on, at the same exchange rate as that employed in the drawing to be liquidated. Apart from any such purchases at the rate of the drawing, all transactions in foreign currencies undertaken under paragraph 1(A) above shall, unless otherwise expressly authorized by the Committee, be at prevailing market rates.

4. It shall be the normal practice to arrange with foreign central banks for the coordination of foreign currency transactions. In making operating arrangements with foreign central banks on System holdings of foreign currencies, the Federal Reserve Bank of New York shall not commit itself to maintain any specific balance, unless authorized by the Federal Open Market Committee. Any agreements or understandings concerning the administration of the accounts maintained by the Federal Reserve Bank of New York with the foreign banks designated by the Board of Governors under § 214.5 of Regulation N shall be referred for review and approval to the Committee.

5. Foreign currency holdings shall be invested insofar as practicable, considering needs for minimum working balances. Such investments shall be in accordance with section 14(e) of the Federal Reserve Act.

6. All operations undertaken pursuant to the preceding paragraphs shall be reported daily to the Foreign Currency Subcommittee. The Foreign Currency Subcommittee consists of the Chairman and Vice Chairman of the Committee, the Vice Chairman of the Board of Governors, and such other member of the Board as the Chairman may designate (or in the absence of members of the Board serving on the Subcommittee, other Board Members designated by the Chairman as alternates, and in the absence of the Vice Chairman of the Committee, his alternate). Meetings of the Subcommittee shall be called at the request of any member, or at the request of the Manager, for the purposes of reviewing recent or contemplated operations and of consulting with the Manager on other matters relating to his responsibilities. At the request of any member of the Subcommittee, questions arising from such reviews and consultations shall be referred for determination to the Federal Open Market Committee.

7. The Chairman is authorized:

A. With the approval of the Committee, to enter into any needed agreement or understanding with the Secretary of the Treasury about the division of responsibility for foreign currency operations between the System and the Treasury;

B. To keep the Secretary of the Treasury fully advised concerning System foreign currency operations, and to consult with the Secretary on policy matters relating to foreign currency operations.

C. From time to time, to transmit appropriate reports and information to the National Advisory Council on International Monetary and Financial Policies.

8. Staff officers of the Committee are authorized to transmit pertinent information on System foreign currency operations to appropriate officials of the Treasury Department.

9. All Federal Reserve Banks shall participate in the foreign currency operations for System Account in accordance with paragraph 3 G(1) of the Board of Governors' Statement of Procedure with Respect to Foreign Relationships of Federal Reserve Banks dated January 1, 1944.

2. Foreign Currency Directive

1. System operations in foreign currencies shall generally be directed at countering disorderly market conditions, provided that market exchange rates for the U.S. dollar reflect actions and behavior consistent with the proposed IMF Article IV, Section 1.

2. To achieve this end the System shall:

A. Undertake spot and forward purchases and sales of foreign exchange.

B. Maintain reciprocal currency ("swap") arrangements with selected foreign central banks and with the Bank for International Settlements.

C. Cooperate in other respects with central banks of other countries and with international monetary institutions.

3. Transactions may also be undertaken:

A. To adjust System balances in light of probable future needs for currencies.

B. To provide means for meeting System and Treasury commitments in particular currencies, and to facilitate operations of the Exchange Stabilization Fund.

C. For such other purposes as may be expressly authorized by the Committee.

4. System foreign currency operations shall be conducted:

A. In close and continuous consultation and cooperation with the United States Treasury;

B. In cooperation, as appropriate, with foreign monetary authorities; and

C. In a manner consistent with the obligations of the United States in the International Monetary Fund regarding exchange arrangements under the proposed IMF Article IV.

3. Special Authorization Under Paragraph 1(D) of Authorization for Foreign Currency Operations

The Federal Open Market Committee authorizes the Federal Reserve Bank of New York to maintain an overall open position in foreign currencies exceeding the figure of $1 billion specified in paragraph 1(D) of the Authorization for Foreign Currency Operations by an amount equal to the remaining forward commitment associated with the System's outstanding 1971 swap drawings in Swiss francs.

All changes in this document are effective December 28, 1976.

By order of the Federal Open Market Committee, December 29, 1976.

Murray Altmann,
Deputy Secretary.

[FR Doc.77-353; Filed 1-4-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Extension of Time To File Comments

The deadline for filing comments on the proposed Federal Energy Administration Form C607-S-O entitled "Major Fuel Burning Installations—Early Planning Process Report," Schedule A-3 is hereby extended to January 12, 1977. This notice amends the General Accounting Office notice of December 17, 1976, (41 FR 55239).

Norman F. Heyl,
Regulatory Reports, Review Officer.

[FR Doc.77-385 Filed 1-4-77;8:45 am]

REGULATORY REPORTS REVIEW

Receipt of Revised Justification for Report Proposal

On November 11, 1976, the Regulatory Reports Review Staff, GAO, received and accepted a request for clearance of a proposed report intended for use in collecting information from the public. (See 44 U.S.C. 3512 (c) and (d).) GAO caused to have published a notice in the Federal Register on November 18, 1976, at 41 FR 50869, announcing that a form had been received and accepted. The purpose of publishing this notice is to inform the public that GAO has suspended its current review of an FEA form because on December 29, 1976, GAO received an expanded supporting statement and, therefore, desires to solicit further comments on two aspects of the report.

The FEA has requested clearance of FEA-P124-M-1 entitled "Domestic Crude Oil Purchasers Report." In its original justification materials, FEA emphasized that this form would permit FEA to monitor the weighted average first sale price of domestic crude petroleum. GAO received comments on this form from 30 potential respondents, most of whom stated that too much information was being requested to satisfy this one specifically stated purpose. In addition, most respondents stated that information required by the report is not currently available in the format requested.

After analyzing the report and reviewing the comments, GAO met with FEA representatives to discuss the specific purposes for this information and other issues related to the report. GAO requested that FEA explain fully in writing why each schedule of information is being required. FEA did provide this written explanation on December 29, 1976, in the form of an expanded justification statement which follows this announcement.

GAO is now asking respondents to reconsider the report and its schedules in the light of this new justification statement. Since only two issues cannot be resolved without further information from the potential respondents, GAO asks specifically that respondents limit their comments to two issues: (1) Whether the information requested is appropriate and adequate to satisfy the purposes stated in the expanded justification; and (2) what respondents must do to their accounting systems in order to provide the information requested in the format FEA has proposed. GAO wants to assure respondents that comments which have already been received have been

considered and will remain part of the record of our review.

Written comments are invited from all interested persons, organizations, public interest groups, and affected businesses. Because respondents already have reviewed and commented on the original package and this solicitation of comments is limited to two issues, the deadline for filing comments on the revised justification for proposed form FEA-P124-M-1 will be January 20, 1977. Comments (in triplicate) must be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy Stuart of the Regulatory Reports Review Staff, (202) 376-5425.

FEDERAL ENERGY ADMINISTRATION REVISED SUPPORTING STATEMENT

The P124-M-1 is a result of significant redesign with the emphasis on reducing the burden on the Petroleum Industry. The first data source considered by the Federal Energy Administration to acquire adequate data was producers of crude oil. Producers of crude oil are for the most part small business and, with the exception of a few large producers, do not have any computerized accounting or reporting system. To require these firms to report would impose an extreme burden on thousands of small businesses.

The P124-M-1 is a drastically reduced version of the P124-M-0 because of industries comments as to the burden to report 300,000 to 450,000 domestic crude oil leases. The FEA has minimized its data requirements needs in order to put the least burden on the fewest number of firms but still continue to obtain the information needed by the Agency.

The PEA plans to use the data gathered from the P124-M-1 for various purposes to include:

a. Monitor the first sale price of domestic crude oil.

b. Provide statistics necessary for a complete and comprehensive compliance effort in the Domestic Crude Oil Program.

The Conference report on EPCA (Pub. L. 94-163) stated that

> * * * the conference fully intend that the measure of actual weighted average first-sale prices of domestic crude oil which is adopted for purposes of this act shall be valid, reliable, and completely defensible whether based on a continuation and expansion of the existing FEA data system or its replacement by a new and more comprehensive one. Finally, the conferees intend that the current FEA audit of crude oil price and production data be continued or replaced by a new system which results in a more complete and comprehensive auditing of actual domestic oil pricing practices.

c. Monitor and obtain compliance with crude regulations as they apply to wholesalers and retailers.

d. Provide necessary statistics for analysis of the complete structure and performance of the petroleum industry.

e. Provide statistical data necessary for policy decisions relating to domestic crude oil. For example, this detailed data will allow the FEA to better understand how domestic crude production is declining on a geographic basis.

The proposed P124-M-1 is made up of six (6) schedules; A—Administrative Information; B—Summary of Transactions; C—First Purchases by State of Production; D—Other Purchases; E—Producer Report; F—Producer/Operator Identification. Each of these schedules was developed as part of the total comprehensive data collection effort in order to address specific requirements of various uses of the data; i.e., Policy and Planning functions, Compliance and Statistical data needs. A schedule-by-schedule analysis follows:

Schedule A. Schedule A provides information about each reporting entity necessary for the administration of the reporting system to include; company name, company location, company contact person, company point, company IRS Employers Identification Number (EIN), and company certification of the data in the other five (5) schedules.

Schedule B. Schedule B collects summary data from each reporting firm on beginning inventory, inventory additions and reductions and ending inventory. This summary information lends itself to rapid automated data processing (and, if required, manual processing) and reporting that will enable FEA to monitor the weighted average price on a real time basis as well as provide a cross reference foot check to the detailed data provided in schedules C, D, and E. By the use of a data summary form, the degree of reliability that can be placed in computer comparison of the data is greatly enhanced. In particular, the validity of the transcription of the detail from the form to the computer can be verified by cross checking the totals provided by the companies with the totals generated by FEA from the detail.

Schedule C. Schedule C provides monthly statistics on state-by-state crude production. This monthly information will be used to measure decline rates, price variances between states, as well as other statistical purposes. The state information will also be used as an input to the Compliance targeting system. Schedule C was generated to get needed state statistics on a timely basis and have detailed producer data reported quarterly on Schedule E. In addition, it provides a validity check on the detail provided on Schedule E.

State level statistics have numerous uses to include supportive evidence for exception and appeal cases, special production incentives studies and assisting state regulatory agencies in monitoring state crude oil production. The state level statistics would also assist the FEA in addressing numerous Congressional, industrial, and public requests for data on domestic crude oil production and prices by tier within various states.

Schedule D. Schedule D provides information to the Compliance reseller program and will enable the targeting of firms that may be in violation of various regulations including cost pass throughs, the changing of the crude oil mix to enable the charging of higher prices, false certifications and other violations. In addition, FEA has explicit requirements for the detailed crude oil sales, purchases, and exchange data that would be collected on Schedule D. This data will be used for FEA's analysis of the competitive structure conduct, and performance of the petroleum industry.

Specifically, Schedule D would yield detailed information on the sales, purchases, and exchanges of products between specific companies. From this data, FEA could analyze the patterns of crude oil transactions between majors, independent refiners, and independent marketers. FEA could determine how much crude oil is handled in open market transactions, and whether there is evidence of discrimination (refusals to deal with independents) in the majors exchange agreements.

Schedule E. Schedule E provides the data necessary to adequately target crude oil producers for audit based upon targeting criteria applied to the detailed information gathered. The U.S. General Accounting Office stated in its October 2, 1976, report on FEA's Efforts to Audit Domestic Crude Oil Producers that FEA needs a more systematic method for selecting independent producers for audit so that audit efforts can be concentrated on those producers most likely to be in violation of pricing regulations. GAO went on to state that "We believe FEA must strengthen and improve its audits of crude producers in order to provide adequate assurances that producers are in substantial compliance with crude pricing regulations."

This proposed schedule will provide that data necessary to concentrate the resources available to FEA for audit purposes in those firms that are most likely to be in violation of pricing regulations. In addition, this schedule will also be used to analyze the patterns of first sale crude oil transactions between majors, independent refiners, and independent marketers to determine the market conditions for crude oil between producers and refiners.

Schedule F. Schedule F provides the name and address information necessary to assign auditors to producers selected by the crude producer targeting system.

The burden of reporting can be most easily reduced if each firm would agree to forward schedules D, E, and F to FEA on computer tape accompanied by a certified printout of the contents of the tape. Detailed instructions on the technical characteristics of the tape and specifications of the record layouts will be agreed upon with each firm that elects this option.

The implementation of the Domestic Crude Oil Purchaser System has been a phased process. The Phase I implementation involved gathering by the P124-M-O summary first-sale information and purchaser/reseller identification for other

than first purchases. The Phase II implementation of the P124 system will be to: (a) Require that each purchaser continue to file the information previously submitted on the P124–M–O (i.e., require schedules A and B 45 days after approval of the form); (b) require that schedules E and F be filed 60 days after approval of the form; and (c) require that schedules C and D be filed 90 days after approval of the P124.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-386 Filed 1-4-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice No. 13]

ALABAMA PUBLIC SERVICE COMMISSION AND ALABAMA POWER CO.

Proposed Intervention In Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Alabama Public Service Commission concerning the application of the Alabama Power Company for an increase in its annual revenues. The GSA represents the interests of the executive agencies of the United States Government, as users of electric utility services.

The Alabama Power Company has filed a request for revised electric rates to increase revenues by $173.9 million annually. The estimated impact on the Federal executive agencies is in excess of $1 million annually.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, DC, 20405, telephone (202) 566–0750, on or before February 4, 1977 and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)))

Dated: December 13, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.77-303 Filed 1-4-77;8:45 am]

[Intervention Notice No. 14]

ARKANSAS PUBLIC SERVICE COMMISSION AND ARKANSAS POWER AND LIGHT CO.

Proposed Intervention In Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Arkansas Public Service Commission concerning the petition of the Arkansas Power and Light Company for increased electric rates. The GSA represents the interests of the executive agencies of the United States Government, as users of electric utility services.

The Arkansas Power and Light Company has filed a petition which includes a Cost of Service Index clause, which would allow automatic adjustment of electric rates without hearings. The increase would impact Federal agencies by $324,000 annually; however, the precedential impact of the Cost of Service Index clause is more significant than this initial impact.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW, Washington, DC, 20405, telephone (202) 566–0750, on or before February 4, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, (40 U.S.C. 481(a)(4)))

Dated: December 13, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.77-304 Filed 1-4-77;8:45 am]

[Intervention Notice No. 15]

[Docket No. 7610-1021]

NEW JERSEY BOARD OF PUBLIC UTILITY COMMISSIONERS AND JERSEY CENTRAL POWER AND LIGHT CO.

Proposed Intervention In Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the New Jersey Board of Public Utility Commissioners concerning the application of the Jersey Power and Light Company for an increase in annual revenues. The GSA represents the interests of the executive agencies of the United States Government, as users of electric utility services.

The Jersey Central Power and Light Company has filed a request for approval of an increase to its current revenues of $107 million, or 21 percent. The estimated impact to Federal executive agencies is in excess of $1 million annually.

Persons desiring to make inquires concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Serviles Administration, 18th & F Streets, NW., Washington, D.C., 20405, telephone (202) 566–0750, on or before February 4, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)))

Dated: December 13, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.77-305 Filed 1-4-77;8:45 am]

[Intervention Notice No. 16]

OHIO PUBLIC UTILITIES COMMISSION AND DAYTON POWER AND LIGHT CO.

Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Ohio Public Utilities Commission concerning the application of the Dayton Power and Light Company for an increase its annual revenues. The GSA represents the interests of the executive agencies of the United States Government, as users of electric utility services.

The Dayton Power and Light Company has filed a request for revision and modification of its electric rates by $30 million, or 10.5 percent overall. The proposed rate increase would have an impact in excess of $1 million annually on the Federal executive agencies.

Persons desiring to make inquires concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, NW, Washington, DC, 20405, telephone (202) 566–0750, on or before February 4, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4).)

Dated: December 13, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.77-306 Filed 1-4-77;8:45 am]

[Docket No. 7]

[Intervention Notice No. 17]

PENNSYLVANIA PUBLIC UTILITY COMMISSION AND BELL TELEPHONE CO. OF PENNSYLVANIA

Proposed Intervention in Telephone Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Pennsylvania Public Utility Commission concerning the application of the Bell Telephone Company of Pennsylvania for an increase in annual revenues. The GSA represents the interests of the executive agencies of the United States Government as users of telecommunications services.

Bell Telephone Company of Pennsylvania filed proposed tariff changes which changes which would increase their annual revenues by $139 million. It is estimated that these rate changes would impact the Federal Government by over $1.1 million annually.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW, Washington, DC, 20405, telephone (202) 566-0750, on or before February 4, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4) Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4).)

Dated: December 14, 1976.

JACK ECKERD,
Administrator of General Services.

RESOURCE ALLOCATION

1. Case: Bell Telephone of Pennsylvania.
2. Impact: Estimated $1.1 million on $6 million in gross billings.
3. Estimate of travel:

17 days per diem at $33 equal	$561
2 trips to Pittsburgh at $72 equal	144
Miscellaneous (GOV to Harrisburg) equal	200
Total	$905

4. Transcripts: 95¢ per page, average 170 pages per day ×15 hearing days-$2,450. (Based on bill average from PPL case and Philadelphia Electric case.)

[FR Doc.77-307 Filed 1-4-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

ADVISORY COMMITTEE

Notice of 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 meet during the month of February 1977:

Name: Maternal and Child Health Research Grants Review Committee.
Date and Time: February 2-3, 1977, 9:00 a.m.
Place: Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Open February 2, 9:00 a.m.-10:00 a.m. Closed for remainder of meeting.
Purpose: The Committee is charged with the review of all research grant applications in the program areas of maternal and child health administered by the Bureau of Community Health Services.
Agenda: The Committee will be performing the review of grant applications for Federal assistance. This meeting will be open to the public from 9:00 to 10:00 a.m. on February 2 for the Opening Remarks. The remainder of the meeting will be closed to the public for the review of grant applications, 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 Services Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of the members, minutes of meeting, or other relevant information should contact Gerald D. LaVeck, M.D., Room 7-36, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2190.

Agenda items are subject to change as priorities dictate.

Date: December 29, 1976.

WILLIAM H. ASPDEN, Jr.,
Associate Administrator for Management.

[FR Doc.77-318 Filed 1-4-77;8:45 am]

Office of Assistant Secretary for Education

EDUCATIONAL AGENCIES AND INSTITUTIONS

Comments on Collection of Information and Data Acquisition Activity

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics and the National Institute of Education have proposed collections of information and data acquisition activities, which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to afford each educational agency or institution subject to a request under the proposed collection of information and data acquisition activites and their representative organizations an opportunity, during a 30-day period before transmittal to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collections of information and data acquisition activities.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activity are invited. Comments must be received on or before February 4, 1977 and should be addressed to Administrator, National Center for Education Statistics, Attn: Manager, Information Acquisition, Plannnig, and Utilization, Room 3001, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Further information may obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: December 29, 1976.

MARJORIE O. CHANDLER,
Acting Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Agency/bureau/office—National Center for Education Statistics.
2. Agency form number—NCES 2397.
3. Title of proposed activity—Survey of teachers' language skills. (A survey to determine the number of currently employed elementary and secondary public school teachers in the 50 States and the District of Columbia having qualifications likely to enable them to provide bilingual education with little or no retraining.)
4. Legislative authority for this activity—"* * * The Commissioner * * * shall submit to the Congress and the President a report on the condition of bilingual education in the Nation * * *. Such report shall include— * * * a * * * plan for the training of the necessary teachers * * * (and) * * * an assessment of the number of teachers * * * needed to carry out programs of bilingual education * * *" (Pub. L. 93-380, Sec. 105; Section 731 of the Elementary and Secondary Education Act, Title VII (Bilingual Education Act) as amended; 20 U.S.C. 880b-10).

"* * * The (National) Center (for Education Statistics) shall— * * * collect, collate, and, from time to time, report full and complete statistics on the condition of education in the United States * * *" (Pub. L. 93-380, Sec. 501(a); Sec. 406(b)(1) of the General Education Provisions Act as amended; 20 U.S.C. 1221e-1).

"* * * The Center shall— * * * conduct a * * * survey * * * to determine the demand for, and the availability of, qualified teachers * * * in critical areas within education * * *" (Pub. L. 94-482, Sec. 401(a); Sec. 406.(b)(5) of the General Education Provisions Act as amended; 20 U.S.C. 1221e-1).

5. Voluntary/obligatory nature of response—Voluntary.
6. How information to be collected will be used—The findings will be included in the report to the Congress and the President which the Commissioner of Education is required to make. It is anticipated that this information will be used by the Congress in the deliberations concerning the extension or revision of the Bilingual Education Act. It is necessary to ascertain where the necessary number of teachers may come from—preservice training, inservice training, or other sources, in order that the Congress may make decisions concerning the need for programs and their projected funding levels. This survey is designed to provide an estimate of the number of currently employed elementary and secondary school teachers in the United States with basic qualifications such that with little or no retraining they can become qualified teachers of these children.

In addition to information required by the Commissioner's report, some of the requested information will be used by the National Center for Education Statistics in reporting on the demand for and availability of qualified teachers in critical areas within education. This survey will help to indicate (along with other surveys) to what extent qualified teachers are presently available.

The lists of teachers' names to be submitted by principals or other administrative personnel will be used for drawing a sample of the teacher respondents.

7. Data acquisition plan—a. Method of collection: Mail.
b. Time of collection: Spring, 1977.
c. Frequency: Single time.
8. Respondents—a. Type: Local education agencies or principals (school).
b. Number: Sample: approximately 3,000.
c. Estimated average man-hours per respondent: 15 minutes.
a. Type: Teachers, elementary/secondary.
b. Number: Sample: 12,000.
c. Estimated average man-hours per respondent: 10 minutes.

9. Information to be collected—a. From principals or other agents of the public education establishment:

A list of names of all full-time elementary and secondary teachers in designated schools.

b. From teachers: Demographic characteristics; Highest degree earned; Whether teaching during school year 1975–76; Other work status during 1975–76; and Grade level and subject area of current teaching assignment.

Teacher self-rating of: Ability to speak a non-English language; Ability to teach in a non-English language; Fluency in English; and Ability to teach various subjects in English.

Description of the situation in which: English was learned; and Non-English language was learned.

Teacher's formal training in bilingual education: College or university courses relating to bilingual education; Areas of study represented by these courses; Number of courses taken; Were courses language-specific? and Which languages were involved?

Other relevant training: Type and duration of training; Was training language-specific? and Which languages were involved?

Teacher's experience in non-English language teaching: Grades and subjects taught; Languages used; Percent of time spent daily teaching in a non-English language; Experience in teaching English as a second language (ESL); Percent of time spent daily in teaching ESL; and What other provisions are made for students with limited English-speaking ability?

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Agency/bureau/office—National Institute of Education.

2. Agency form number—NIE 174.

3. Title of proposed activity—Registry of Research Organizations in Education (A Survey of Organizations which Perform Education RDDE—Research, Development, Dissemination, Evaluation and Policy Studies).

4. Legislative authority for this activity—"The National Institute (of Education) shall * * * seek to improve education * * * through * * * building an effective educational research and development system." (Section 405(b)(2)(D) of the General Education Provisions Act (GEPA); 20 USC 1221 e.)

"The (National) Council (on Education Research) shall * * * prepare an annual report to the Assistant Secretary on the current status and needs of educational research in the United States." (Section 405(c)(3), (E)(F) of GEPA; 20 USC 1221e.)

"There is established within the Institute a Federal Council on Educational Research and Development * * * The Federal Council shall * * * make an annual report to the Congress and the President on the status of educational research and development in the United States." (Section 405(g) of GEPA; 20 USC 1221e.)

5. Voluntary/obligatory nature of response—Voluntary.

6. How information collected will be used—*Congressional mandates:* The information will enable the National Institute of Education, the National Council on Educational Research, and the Federal Council on Educational Research and Development, to meet the specified Congressional mandates. Data will be used to draft the required annual reports.

Institute policy planning: Survey information will be used in Institute policy planning and development regarding agency-field relations, regionalism, and other research, development, disseminations, evaluation and policy (RDDE) issues. An analytical report will address questions of current interest to NIE and to other governmental and private policy makers. Such issues include: the extent to which education RDDE is concentrated in a few organizations; the proportion of RDDE carried out in organizations whose primary mission is education; the extent to which organizations specialize in particular RDDE functions; the types of education and education levels to which funds are applied; and the educational level of the professional RDDE workforce.

Research: As a listing of organizations in the education RDDE universe and their activities and resources, the survey will provide presently unavailable sampling frames, to be used by NIE and others for subsequent more detailed sample studies.

Education RDDE community: A final and very important use of the data is to serve and strengthen the respondents themselves, i.e. the education RDDE community. Survey data will be used to create a Registry of Research Organizations in Education, to be employed by NIE providing information, services, and support to the education RDDE community. A printed Directory, the most comprehensive listing of its kind, will be made available to all participants in education RDDE for their own purposes of intercommunication and information. The Directory will provide information about education research resources in every area of the country.

7. Data acquisition plan—a. Method of collection: Mail and Personal (Telephone) Interview.

b. Time of collection: Spring, 1977.

c. Frequency: Single Time.

8. Respondents—a. Type: State Education Agencies.

b. Number: Universe.

c. Estimated man-hours per respondent: .5.

a. Type: Local Education Agencies.

b. Number: Sample (1,500).

c. Estimated man-hours per respondent: .5.

a. Type: Colleges and Universities.

b. Number: Sample (700).

c. Estimated man-hours per respondent: .5.

a. Type: Nonprofit organizations.

b. Number: Sample (300).

c. Estimated man-hours per respondent: .5.

a. Type: Intermediate service agencies.

b. Number: Universe.

c. Estimated man-hours per respondent: .5.

a. Type: For profit organizations.

b. Number: Sample (250).

c. Estimated man-hours per respondent: .5.

9. Information to be collected—The study will seek to collect information about the educational research, development, dissemination, evaluation and policy study activities of respondent organizations. Information will be sought about the organizations' (1) general purposes; (2) fields in which RDDE is performed; (3) financing of education RDDE; (4) size and specialties of RDDE staff; (5) typical number, size and duration of ongoing activities; (6) media used to disseminate the results of work performed.

The data will be comparable for all respondent types. Questions obviously unsuited for particular respondent types will be omitted from the respective instrument version.

[FR Doc.77-349 Filed 1-4-77;8:45 am]

Office of Education

ADVISORY COUNCIL ON FINANCIAL AID TO STUDENTS

Notice of Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Advisory Council on Financial Aid to Students will be held on January 27 and 28, 1977, from 9:00 a.m. to 5 p.m. at the Ramada-Scottsdale Inn, Scottsdale, Arizona.

The Advisory Council on Financial Aid to Students is established under section 499(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1089). The Committee shall advise the Commissioner on matters of general policy arising in the administration by the Commissioner of programs relating to financial assistance to students and on the evaluation of the effectiveness of these programs.

The meeting of the Committee shall be open to the public .The proposed agenda includes:

1. Discussion of work papers to be prepared by the Council members on selected topics related to student financial aid. These papers will serve as basis for deliberation during the following meetings of the Council, preparatory to publishing its Third Annual Report to the Commissioner and to Congress.

Records shall be kept of all Committee Proceedings and shall be available for public inspection at the Council's Office located in Room 4931, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C. 20202.

Signed in Washington, D.C. on December 21, 1976.

WARREN T. TROUTMAN,
OE Delegate.

[FR Doc.77-328 Filed 1-4-77;8:45 am]

CONSUMERS' EDUCATION PROGRAM

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Section 811 of the Elementary and Secondary Education Act of 1965, as enacted by section 505 of the Education Amendments of 1972, Pub. L. 93-380, 20 U.S.C. 887d, applications are being accepted from institutions of higher education, local education agencies, State education agencies and other public and private non-profit organizations and institutions (including libraries) for the support of research, demonstration, and pilot projects designed to provide consumers' education to the public.

Applications must be received by the U.S. Office of Education Application Control Center on or before March 10, 1977.

A. Applications sent by mail: An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202; Attention 13.564. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than March 7, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper

or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before March 10, 1977 by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. Hand delivered applications: An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal Holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. Application instructions and forms: Information and application forms may be obtained from the Office of Consumers' Education, Bureau of Occupational and Adult Education, Office of Education, ROB-3, Room 5624, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

D. *Program information:* (1) The amount of funds available under this program is $3,135,000, with approximately $3 million going for grant awards and approximately $135,000 for procurement contracts.

(2) It is estimated that a total of approximately 65 new grants will be awarded during Fiscal Year 1977. There will be no continuation awards in Fiscal Year 1977.

(3) The average grant is expected to be about $45,000 though no minimum or maximum amounts have been predetermined.

E. *Applicable regulations:* Awards made pursuant to this notice will be subject to (1) The Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) published in the FEDERAL REGISTER on November 6, 1973 and, (2) the regulation for the Consumers' Education Program published in the FEDERAL REGISTER on May 24, 1976 (41 FR 21191-21199).

(20 U.S.C. 887d.)

(Catalog of Federal Domestic Assistance No. 13.564; Consumers' Education.)

Dated: December 30, 1976.

JOHN W. EVANS,
Acting U.S. Commissioner of Education.

[FR Doc. 77-350 Filed 1-4-77;8:45 am]

COLLEGE LIBRARY RESOURCES

Closing Date for Receipt of Applications for Fiscal Year 1977; Correction

In the FEDERAL REGISTER document 76-37581 published on December 22, 1976 on page 55748, dates should be as follows:

Applications must be received by the U.S. Office of Education Application Control Center on or before February 28, 1977, and under A.(1). The application was sent by registered or certified mail not later than February 23, 1977 as evidenced by the U.S. Postal Service postmark * * *"

(Catalog of Federal Domestic Assistance Program No. 13.406, College Library.)

Dated: December 29, 1976.

JOHN W. EVANS,
Acting U.S. Commissioner of Education.

[FR Doc.77-351 Filed 1-4-77;8:45 am]

Office of the Secretary

ASSISTANT SECRETARY FOR HEALTH ET AL.

Delegations of Authority

Notice is hereby given that the following delegations with authority for redelegation, have been made under section 222(a) of the Social Security Amendments of 1972, sections 402 (a) and (b) of the Social Security Amendments of 1967, as amended, and sections 245 (a), (b), and (c) of the Social Security Amendments of 1972, providing for experiments and demonstration projects with respect to prospective reimbursement, other alternative methods of reimbursement, payment for incidental services, state rate setting, combined rates of reimbursement for teaching and patient care, intermediate care facilities and homemaker services alternatives to post hospital benefits under Title XVIII of the Social Security Act, fixed price and performance contracting, reimbursement for physician assistant services, reimbursement for day care services under Titles XVIII and XIX of the Social Security Act, reimbursement for clinical psychologist services under Titles XVIII and XIX of the Social Security Act, and durable medical equipment under Title XVIII of the Social Security Act:

1. Delegation from the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health, effective on the date of publication, of the authority vested in the Secretary under:

(a) Section 222(a) of Public Law 92-603, excluding the authority to issue regulations; the authority to submit any report to Congress or to a Congressional committee; and the authority under section 222(a)(3) to waive compliance with the requirements of Titles XVIII and XIX of the Social Security Act in the case of any experiment or demonstration project under section 222(a)(1), insofar as such requirements relate to methods of payment for services provided;

(b) Section 402(a) of the Social Security Amendments of 1967, as amended by section 222(b)(1) of Public Law 92-603, excluding the authority to issue regulations;

(c) Section 402(b) of the Social Security Amendments of 1967, as amended by section 222(b)(2) of Public Law 92-603, excluding the authority to waive compliance with the requirements of Titles XVIII and XIX of the Social Security Act, in the case of any experiment or demonstration project under section 402(a) of the Social Security Amendments of 1967, as amended, insofar as such requirements relate to reimbursement or payment on the basis of reasonable cost, or (in the case of physicians) on the basis of reasonable charge, or to reimbursement or payment only for such services or items as may be specified in the experiment; and

(d) Section 245 (a), (b), and (c) of Public Law 92-603, excluding the authority to issue regulations and the authority to waive the 20 percent coinsurance amount applicable under section 1833 of the Social Security Act.

2. I hereby delegate to the Commissioner of Social Security with authority to redelegate, the authority vested in the Secretary of Health, Education, and Welfare under:

(a) Section 222(a)(3) of Public Law 92-603 for the waiver of compliance with requirements of Title XVIII of the Social Security Act with respect to experiments and demonstration projects under section 222(a)(1) of Public Law 92-603;

(b) Section 402(b) of the Social Security Amendments of 1967, as amended by section 222(b)(2) of Public Law 92-603 for the waiver of compliance with requirements of Title XVIII of the Social Security Act with respect to experiments and demonstration projects under section 402(a) of the Social Security Amendments of 1967 as amended by Section 222(b)(1) of Public Law and 92-603; and

(c) Section 245(b) of Public Law 92-603 for the waiver of compliance with requirements of Title XVIII of the Social Security Act with respect to experiments and demonstration projects under section 245(a) of Public Law 92-603.

3. I hereby delegate to the Administrator, Social and Rehabilitation Service, with authority to redelegate, the authority vested in the Secretary of Health, Education, and Welfare under:

(a) Section 222(a)(3) of Public Law 92-603 for the waiver of compliance with requirements of Title XIX of the Social Security Act with respect to experiments and demonstration projects under section 222(a)(1) of Public Law 92-603; and

(b) Section 402(b) of the Social Security Amendments of 1967, as amended by section 222(b)(2) of Public Law 92-603 for the waiver of compliance with requirements of Title XIX of the Social Security Act with respect to experiments and demonstration projects under section 402(a) of the Social Security Amendments of 1967, as amended by section 222(b)(1) of Public Law 92-603.

This delegation supersedes previous delegations of authority by the Secretary of Health, Education, and Welfare under sections 402(a) and (b) of the Social Security Amendments of 1967 and Sections 222 and 245(a), (b), and (c) of the Social Security Amendments of 1972. Delegations and redelegations made pursuant to previous delegations by the Secretary of Health, Education, and

Welfare of such authority which are in effect on the date of approval of this delegation shall continue in effect until new redelegations are approved.

This delegation is effective on the date of my signature.

Dated: December 20, 1976.

DAVID MATHEWS,
Secretary.

[FR Doc.77-363 Filed 1-4-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[Docket No. 76-690]

NATIONAL INSURANCE DEVELOPMENT ADVISORY BOARD

Public Meeting

The purpose of this notice is to announce that the Acting Federal Insurance Administrator, U.S. Department of Housing and Urban Development, Washington, D.C. 20410, will hold the quarterly Public Meeting of the National Insurance Development Advisory Board in Room 10233 of the Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. on Wednesday, January 26, 1977, commencing at 10 a.m.

The National Insurance Development Advisory Board, established under the authority of Section 1202 of the National Housing Act, enacted by the Urban Property Protection and Reinsurance Act of 1968, as amended by the National Insurance Development Act of 1975 (Pub. L. 94-13, April 8, 1975), advises the Secretary of existing or potential problems of unavailability of essential property insurance, and other matters related to FAIR (Fair Access to Insurance Requirements) Plan operations and riot reinsurance rates and coverage.

The effectiveness of the private sector to provide essential property insurance on reasonable terms and conditions at reasonable rates is a matter of deep concern.

The Federal Insurance Administration is charged with the responsibility to assure that the programs authorized under the Urban Property Protection and Reinsurance Act of 1968, as amended, aid the insurance purchasing consumer.

The Chairman and Acting Federal Insurance Administrator, J. Robert Hunter, announces that the quarterly Public Meeting of the Advisory Board will be held on January 26, 1977 to consider the following:

(a) Review of the minutes from September 22, 1976 meeting;

(b) Continue discussion of the extension of the Urban Property Protection Act of 1968, as Amended;

(c) "Redlining"—

1. Review of Justice Department's suit and complaints against insurers in New York, New York; Detroit, Michigan; St. Louis, Missouri; Gary, Indiana;

2. Review of *Franklin-Quincy Corporation v. Public Service Mutual Insurance Company*" suit as it relates to Title VIII of the Civil Rights Act of 1968;

3. Homeowners Insurance in Detroit: A Study of Redlining Practices and Discriminatory Rates;

(d) FAIR Plan growth through third quarter of 1976;

(e) Review of the Final Report by Battelle Laboratories entitled, "Arson; America's Malignant Crime";

(f) New states where crime insurance is now available;

(g) Other matters.

The meeting is open to the public. Public attendance may be limited depending on available space. Any member of the public may file a written statement before, during or after the meeting. To the extent that time permits, interested persons will be allowed public presentation of oral statements at the meeting.

All communications concerning this meeting should be addressed to Acting Federal Insurance Administrator, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Issued in Washington, D.C., on December 27, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-551 Filed 1-4-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-12817]

IDAHO

Notice of Application

DECEMBER 28, 1976.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), as amended by the Act of October 21, 1976 (90 Stat. 2743), Agricultural Flite Services, Inc., P.O. Box 72, Nampa, Idaho 83651, has applied for an airport lease for the following land:

BOISE MERIDIAN, IDAHO

T. 2 N., R. 3 W., Sec. 28, NE¼, N½SE¼.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send tlieir name and address to the District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702.

WILLIAM E. IRELAND,
Acting Chief,
Branch of L&M Operations.

[FR Doc.77-335 Filed 1-4-77;8:45 am]

[NM 29448, 29449 and 29463]

NEW MEXICO

Notice of Applications

DECEMBER 28, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 6 W.,
Sec. 30, S½NW¼ and NW¼SW¼.
T. 29 N., R. 7 W.,
Sec. 25, NE¼SE¼.
T. 29 N., R. 8 W.,
Sec. 14, W½SW¼.
T. 32 N., R. 11 W.,
Sec. 15, W½SW¼.

These pipelines will convey natural gas across .633 of a mile of national resource lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-389 Filed 1-4-77;8:45 am]

WESTERN SLOPE GAS CO.

Notice of Pipeline Application

[Colorado 24661]

DECEMBER 27, 1976.

In FR Doc. 76-36146 appearing at page 53855 in the FEDERAL REGISTER of Thursday, December 9, 1976, the legal description is corrected to read:

T. 2 S., R. 101 W., 6th P.M.:
Sections 21, 22, 28, 32, and 33
T. 3 S., R. 101 W., 6th P.M.:
Section 5.

MERRILL G. ANDERSON,
Acting Chief,
Branch of Land Operations.

[FR Doc.77-308 Filed 1-4-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-49]

BENTLEY & DERRY COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Bentley & Derry Coal Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 5 Mine, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls.

The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5)(i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that having canopies installed on its equipment is creating a hazard to the operators. Petitioner has attempted to use the canopies.

2. Petitioner's equipment consists of: two 14Bu7AE Joy loaders; one 11RU Joy cutting machine; one Long-Airdox LRB–15A roof bolt machine; and two Porter Industries end dump shuttle cars.

3. The No. 5 Mine is in the Peach Orchard seam which ranges from 44 to 48 inches in height. In this seam Petitioner is using crossbars to pin hill seams and to collar where needed. Petitioner has been running into dips and rolls in the bottom. By installing canopies on this equipment Petitioner is limiting the vision of the equipment operators, creating a safety hazard for them and their fellow workers. With canopies installed on the equipment, it cannot enter some sections of the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 4, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FRISHBERG,
Acting Director, Office of Hearings and Appeals.

DECEMBER 28, 1976.

[FR Doc.77-336 Filed 1-4-77;8:45 am]

[Docket No. M 77-51]

BLUE DIAMOND COALS OF RISNER, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Blue Diamond Coals of Risner, Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 6 Mine, located in Floyd County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5)(i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner cannot utilize its deep mine equipment with the canopy attached due to the irregularity of the coal seam. The coal seam, in which the equipment has been used until recently, runs between 36 and 42 inches. The roof and bottom roll and dip to such a great extent the equipment could not be operated except at intervals with the canopies. In other words, where the coal seam pinches off to 36 inches due to the rolls and bottoms, this equipment cannot be operated. The canopy strikes the roof, preventing operation of Petitioner's equipment.

2. The equipment runs approximately 30 inches and Petitioner uses header blocks occasionally.

3. Petitioner requests that the regulation be modified to permit it to use equipment without canopies, otherwise, it will be necessary that Petitioner shut down its mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 4, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FRISHBERG,
Acting Director, Office of Hearings and Appeals.

DECEMBER 27, 1976.

[FR Doc.77-337 Filed 1-4-77;8:45 am]

[Docket No. M 77-60]

BORGMAN COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Borgman Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Borgman No. 10 Mine, located in Preston County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5)(i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches;

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner believes that due to the variations in the heights of its mine, which is 38 to 50 inches, and the height of its machines, the loading machine being 32 inches high and the cutting machine being 32 inches high, petitioner can not safely comply with 30 CFR 75.1710. The top in petitioner's mine is mostly sandstone and tends to roll periodically. This makes it hard for petitioner to get its machines in these places, much less a machine equipped with a canopy attached.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 4, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

DECEMBER 27, 1976.

[FR Doc.77-338 Filed 1-4-77;8:45 am]

[Docket No. M 77-58]

C & S COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), C & S Coal Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine, located in Honaker, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710-1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches;

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

* * *

The substance of Petitioner's statement is as follows:

1. Petitioner's equipment consists of one S & S scoop, model 480 which is 28 inches in height with a length of 25 feet, and a width of 10 feet, and one Epling tractor, model 100 which is 24 inches in height, 14 feet long and 6 feet 6 inches wide.

2. Petitioner's mine is 1 month old and has a projected life of 3 years. Petitioner's mine is located in the Widow Kennedy coal seam. The thickness of the coal seam is 31 inches. The average height of the coal seam in those locations where equipment, which is subject to cabs and canopy regulations, is being used is 31 inches. The danger in utilizing cabs and canopies on equipment at each working section stems from the fact that the height of the mine is too low.

3. The coal height at Petitioner's mine varies at times from 31 inches to 48 inches in height. Petitioner plans to use the equipment subject to this petition indefinitely and the present height of the coal will not permit canopies to be installed. Petitioner has considered and investigated the potential problems related to usage of cabs and canopies at its mine.

4. An approved roof control plan issued by federal and state inspectors is utilized at Petitioner's mine. Forty-eight inch roof bolts, collars and timbers are utilized at the mine for roof fall prevention. Petitioner will train employees regarding the modified systems.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 4, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FRISHBERG,
Acting Director,
Office of Hearings and Appeals.

DECEMBER 27, 1976.

[FR Doc.77-339 Filed 1-4-77;8:45 am]

[Docket No. M 77-63]

GATEWAY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Gateway Coal Company has filed a petition of 30 CFR 75.1700 to its Gateway Mine, located in Greene County, Pennsylvania.

30 CFR 75.1700 provides:

Each operator of a coal mine shall take reasonable measures to locate oil and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than 300 feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.

The substance of Petitioner's statement is as follows:

1. Petitioner's Gateway Mine has a gas well, Number 1306, which was abandoned when gas in a commercial quantity was not found. The borehole of the well penetrates the Pittsburgh Coal Seam in the 10 Butt, 2 Face Section where Petitioner intends to mine.

2. The barrier around the well, required by 30 CFR 75.1700, interferes with Petitioner's (1) maintenance of effective roof control, and (2) improvement of mining safety and conservation by requiring a barrier of coal when more efficient and secure methods to prevent well gas leaks are available.

3. Extensive research conducted by the United States Bureau of Mines and Energy Research and Development Administration (ERDA) has developed feasible and safe methods to plug abandoned gas wells and eliminate the need for coal barriers around such wells. This research has disclosed that certain plugging methods can effectively prevent explosive well gases from entering the mine during regular mining operations and allow additional safety and operational benefits that are not possible under 30 CFR 75.1700.

4. Pursuant to a cooperative agreement between Petitioner and ERDA, in cooperation with the Mining Enforcement and Safety Administration, Well No. 1306 was cleaned out, plugged and sealed in the presence of and under the direct supervision of ERDA personnel. A tracer unit of sulfur hexafluoride was placed in the well and since sealing operations were completed, representatives of MESA have monitored the mine atmosphere and have detected no traces of sulfur hexafluoride.

5. In lieu of leaving the barrier pillar required by 30 CFR 75.1700, Petitioner

proposes to mine through the barrier pillar in the course of the normal mining cycle and in accordance with mining projections approved by the MESA District Manager and with procedures and safeguards as may be determined by the parties to be appropriate in the circumstances.

6. The proposed alternative method described herein at all times will guarantee no less than the same measure of protection afforded the miners at the Gateway Mine as that afforded by 30 CFR 75.1700.

7. The Pennsylvania Department of Environmental Resources, through its Office of Deep Mine Safety, has indicated its approval of mining through the barrier pillar surrounding Well No. 1306.

8. Based on current mining projections of Petitioner, it is anticipated that the barrier pillar surrounding Well No. 1306 will be reached on or about February 1, 1977, and safe mining practices require that the normal mining cycle not be interrupted or delayed. Due to the fact that Petitioner undertook the well plugging operations described herein as a demonstration project, in cooperation with ERDA, MESA and the Pennsylvania Office of Deep Mine Safety, Petitioner did not realize until December 10, 1976, that a modification of the application of 30 CFR 75.1700 was required before Petitioner could mine through Well No. 1306. Petitioner states that it has contacted representatives of MESA and has reason to believe that MESA approves its proposed plan of mining through the barrier pillar. In addition, Petitioner believes that the representative of the miners employed in the Gateway Mine will not oppose the granting of the Petition.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 4, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FRISHBERG,
Acting Director,
Office of Hearings and Appeals.

DECEMBER 28, 1976.

[FR Doc.77-340 Filed 1-4-77;8:45 am]

[Docket No. M 77-57]

POND CREEK COAL

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pond Creek Coal has filed a petition to modify the application of 30 CFR 75.1710 to its No. 3 Mine, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less tha 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. The coal height in Petitioner's mine is 50 inches and there is 47 inches of clearance where collars have to be installed. As such, the canopies have to be placed on the equipment at a height which results in a hazard for the operator. The operator cannot see properly from his position under the canopy, and it is extremely uncomfortable due to lack of space under the canopy. The operators are constantly hitting their heads on the canopy, which knocks their safety hats from their heads. Operators also receive bruises from banging their arms and legs against the canopies.

2. The canopies, in some cases, have caught on crossbars and roof bolts. This has either loosened the roof supports or damaged the canopy. Therefore, I and my employees feel that the canopies constitute more of a danger than a safeguard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 4, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FRISHBERG,
Acting Director,
Office of Hearings and Appeals.

DECEMBER 27, 1976.

[FR Doc.77-341 Filed 1-4-77;8:45 am]

[Docket No. M 77-59]

STURGILL MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Sturgill Mining Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Mine, located in Harlan County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. The projected life of Petitioner's No. 1 Mine is greater than 1 year. The mine is operated by three partners and employs no employees.

2. The mine is located in the No. 3 Upper Mason Seam. The average coal height is 38 inches. The height of the present working section is 38 inches. The physical limitatons of the coalbed in the mine consist of an undulating bottom and a varying seam height.

3. The equipment in the mine consists of an Elkhorn AR–4 scoop. This equipment had been reconditioned less than 12 months ago and meets all regulations and is equipped with the latest safety features.

4. The entries are normally driven on 70 foot centers with an entry width of 20 feet. The roof control plan consists of timbers which are installed on 4-foot centers leaving a 14-foot roadway. The roof and rib condition is good. This mine has been in operation for 3 months and has no injuries due to roof or rib falls.

5. A request was made by all partners of the mine to evaluate the cabs and canopies and to determine if they could be used safely. The findings of Petitioner's partners and management are as follows:

A. The vision of the equipment operator is seriously impaired and could cause serious injury to fellow workmen or to the operator himself. Some of the hazards are as follows:

a. The ventilation personnel, timbering personnel, and general labor are endangered with the movement of the face equipment.

b. The operator of the equipment cannot effectively evaluate the roof height due to the obstruction of the cab or canopy.

c. The operator places a portion of his body out of the deck or operating position in order to see.

d. The present roof control plan used at the mine would be seriously weakened by dislodgement of timbers due to the impaired vision of the operator.

e. The cramped position of the operator makes it virtually impossible for him to operate the equipment safely.

f. The impaired vision of the operator creates a hazard for other workmen and other operators of equipment.

6. The plans and devices, listed as follows, are in Petitioner's opinion as adequate to maintain high safety factors as would be an installation of cabs and canopies.

A. The use of effective roof and rib control measures to prevent roof falls.

B. A training program to inform the underground personnel of proper roof control requirements.

7. In the opinion of all personnel at Petitioner's mine, the installation of cabs and canopies would seriously distract from safety and place the workmen in a hazardous condition. Petitioner feels this mine does not warrant the use of cabs or canopies because of the known condition of the roof of the coalbed. Petitioner feels the technology used in the installation and design of the cabs and canopies is inadequate for this coalbed.

8. Petitioner's first concern is a safe working environment for its personnel and as such Petitioner asks for this request for modification.

9. This petition will be posted at the mine site.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 4, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Director, Office of Hearings and Appeals.

DECEMBER 27, 1976.

[FR Doc.77-342 Filed 1-4-77;8:45 am]

Office of the Secretary

CALIFORNIA

Availability of Draft Environmental Statement Regarding Proposed Crude Oil Transportation System: Valdez, Alaska, to Midland, Texas

The Deputy Assistant Secretary of the Interior announced in the FEDERAL REGISTER of November 24, 1976 (41 FR 51886), the availability of the draft environmental statement for the proposed crude oil transportation system from Valdez, Alaska, to Midland, Texas. A 45-day period ending January 10, 1977, was made available for public comment on the draft statement. Written responses and comments received as of this date indicate that additional time will be required in order to obtain adequate public input into the environmental statement process. Therefore, an additional review period of 15 days, commencing January 11, 1977, and ending January 25, 1977, is hereby granted.

DENNIS N. SACHS,
Deputy Assistant Secretary of the Interior.

DECEMBER 30, 1976.

[FR Doc.77-368 Filed 1-4-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[USITC SE–76–6C]

MEETING

Additional Agenda Item

At its meeting of December 30, 1976, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 in conformity with proposed 19 C.F.R. 201.38, voted to add the following item to its agenda for the meeting of December 30, 1976:

7. Supplemental budget request to transfer funds from personnel to travel.

Commissioners Minchew, Parker, Leonard, Moore, and Ablondi voted by unanimous consent, that Commission business requires the change in subject matter by addition of the agenda item, affirmed that no earlier announcement of the addition to this agenda was possible, and directed the issuance of this notice at the earliest practicable time. (Commissioner Bedell was not present for the vote.)

By order of the Commission.

Issued: December 30, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.77-394 Filed 1-4-77;8:45 am]

[USITC SE–76–6B]

MEETING

Additional Agenda Item

At its meeting of December 30, 1976, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 in conformity with proposed 19 CFR 201.38, voted to add the following item to its agenda for the meeting of December 30, 1976:

6. Meeting to say farewell to retirees.

Commissioners Minchew, Parker, Leonard and Ablondi voted by unanimous consent, that Commission business requires the change in subject matter by addition of this agenda item, affirmed that no earlier announcement of the addition to this agenda was possible, and directed the issuance of this notice at the earlier practicable time. (Commissioners Moore and Bedell were not present for the vote.)

By order of the Commission.

Issued: December 30, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.77-366 Filed 1-4-77;8:45 am]

PRIVACY ACT OF 1974

Additional Routine Uses

On November 30, 1976, the United States International Trade Commission proposed to establish additional "routine uses" on the system of records it maintains on identifiable individuals in accordance with 5 U.S.C. 552a((e)(11), as added by section 3 of the Privacy Act of 1974 (Public Law 93–579). Notice of this proposal was published in the FEDERAL REGISTER (41 FR 52921) on December 2, 1976.

The FEDERAL REGISTER notice invited public comment on the additional routine uses. Such comments were to have been submitted to the United States International Trade Commission on or before December 15, 1976. No comments have been received. Accordingly, the Commission adopts the additional routine uses as set forth below:

I. Employment and Financial Disclosure Records:

II. Budgetary and Payroll-related Records; and

III. Time and Attendance Records. Notice of adoption of the proposed systems notices was published in the FEDERAL REGISTER (40 FR 47978) on October 10, 1975.

All other systems of records on identifiable individuals maintained by the United States International Trade Commission are covered by the notices for government-wide systems of records published by the Civil Service Commission.

With the addition of the proposed routine uses, the Budgetary and Payroll-Related Records system is revised to read as follows:

System name:

Budgetary and Payroll-Related Records—U.S.I.T.C.

System location:

1. For all budgetary and payroll-related records:
Office of Financial Management, United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436.

2. For activity accounting sheets only:
Office of Automatic Data Processing (Same address as above).

Categories of individuals covered by the system:

1. Current U.S.I.T.C. employees (e.g. three-year budget cards).

2. Former U.S.I.T.C. employees (e.g. lump-sum leave payments records).

Categories of records in the system:

This system of records consists of 16 identifiable sub-systems: (1) action cards (of step increases and personnel actions); (2) three-year budget cards; (3) lump-sum leave payments; (4) reassignment and reclassification records; (5) overtime records; (7) financial statements; (8) leave without pay records; (9) records of separations; (10) records of new appointments; (11) the comprehensive payroll; (12) bond listing; (13) the master list of employees; (14) activity accounting sheets; (15) financial aid applications for non-government training; (16) travel vouchers and travel authorization records.

(1) Action cards contain information as to the dates and amounts of step increases, salary adjustments and promotions.

(2) Three-year budget cards give an employee's basic salary for the preceding year, grade for the current year, dates and amounts of step increases, basic salary at the end of the current year, basic salary in the interim, the activity, division and grade number.

(3) Lump sum leave payments record the amount paid, the number of days involved and are indexed by name and date.

(4) Reassignment and reclassification records are indexed by name and include information on the date of increase, the annual rate, the accumulated increase, the added cost per pay period, the estimated cost, the accumulated cost and the division.

(5) Overtime records are indexed by division and by name and contain information as to an employee's social security number, grade and salary, and the number of hours overtime.

(6) Cost of intermittent employees and consultants records list the hours the individual worked and the amount paid.

(7) Financial statements contain information by division by name which is used in computing the budget.

(8) Leave without pay records list the cumulative amount by pay period and by names.

(9) Records of separations list the date, division, grade, annual salary, accumulated annual salary, rate per pay period, number of pay periods, fiscal year cost, accumulated fiscal year cost, and appointment action.

(10) Records of new appointments contain the same types of information as records of separations.

(11) The Comprehensive payroll lists an employee's gross pay, deductions, federal and state taxes, insurance, bonds, overtime, leave used and accumulated.

(12) The bond listing shows what an employee spent on bonds, the purchase price, denomination, the previous balance, the amount deducted each pay period.

(13) The master list of employees contains an employee's grade, current address, all deductions to pay, and the number of hours worked.

(14) Activity accounting sheets contain the employee's name, project number and title.

(15) Financial aid applications for non-government training contain the employee's name, course number, institution, course description, reimbursable costs, tuition, and a listing of all government-sponsored training at non-government facilities which the employee has taken for the past ten years.

(16) Travel vouchers and travel authorizations list expenses which an employee has incurred while traveling on U.S.I.T.C. business, dates, destinations and names.

Authority for maintenance of the system:

31 U.S.C. 1 et seq. O.M.B. Circular A-11, June, 1975.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records are used only for the purpose of computing the budget and keeping a record of certain employees' expenses. Certain of these records are also routinely kept by G.S.A. Disclosure of such records to C.S.C. auditors occurs periodically.

Routine uses of records maintained in this system shall include providing a copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or in the absence thereof, pursuant to 5 U.S.C. 5516, 5517, or 5520, or in the absence thereof in response to a written request from an appropriate official of the taxing jurisdiction to the Chief of Financial Management, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Chief of Financial Management, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

In the absence of a withholding agreement, the social security number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the social security number, in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

These records are maintained on index cards or in file folders as the case may be. Activity accounting records are maintained in two locations within the agency: The Office of Financial Management and the Office of Automatic Data Processing. A.D.P. punches this information and feeds it, via the U.S.I.T.C. terminal, into the computer for the District of Columbia government. U.S.I.T.C. records in the custody of the D.C. government are maintained on tape in lockable cabinets.

Retrievability:

These records are indexed by the names of the individuals on whom they are maintained. In certain instances the social security number and certain dates (e.g. date of step increase) are also used as identifiers.

Safeguards:

These records are all kept in lockable metal filing cabinets or secured rooms. Only authorized employees are permitted access to them.

Retention and disposals:

These records are maintained for as long as necessary to fulfill their purpose. For instance, activity accounting records are only useful in computing costs of activities for a particular fiscal year, hence, these records are disposed of, or, in the case of tapes, erased at the end of each year. Where a general records retention

and disposal schedule or the records control schedules of the U.S.I.T.C. are applicable, such records are retained in accordance with the periods specified therein and are disposed of in accordance therewith.

System manager(s) and address:

Chief, Office of Financial Management, United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436.

Notification procedures:

Director, Office of Personnel and Management Systems (Same address as above).

Record access procedures:

Director, Office of Personnel and Management Systems (Same address as above).

Record source categories:

Information in this system largely comes from personnel forms completed by the individual and from the original comprehensive payroll, maintained by G.S.A.

The following appendix of "routine uses" for all the systems of records maintained on individuals is added:

APPENDIX

In the event that a system of records maintained by this agency to carry out its functions indicates a violation of 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.

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 pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of any employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

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.

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 of 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.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

By order of the Commission.

Issued: December 28, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.77-362 Filed 1-4-77;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

JANUARY 3, 1977.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp V, 1975), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a two-day meeting on Monday and Tuesday, January 24–25, 1977. The sessions will be open to the public and will be held in Room 4830 of the U.S. Department of Commerce Building, 14th Street between Constitution Avenue and E Street, NW. Washington, D.C. beginning at 9:00 a.m. on both days.

The Committee, consisting of 25 non-Federal members appointed by the President from State and local governments, industry, science and other appropriate areas, was established by Congress by Pub. L. 92–125, on August 16, 1971, as amended. Its duties are to (1) undertake a continuing review of national ocean policy, coastal zone management and the progress of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before 30 June of each year, and (3) advise the Secretary of Commerce with respect to the carrying out of the purpose of the National Oceanic and Atmospheric Administration.

The general agenda includes the following topics:

JANUARY 24, 1977

MORNING

Begins at 9:00 a.m. in Room 4830 of the U.S. Department of Commerce Building, Washington, D.C. Adjournment at approximately 12:30.

Project Seafarer Briefings—U.S. Navy Speakers.

Staff Report on the New Congress.

Staff Report on the Ford Budget.

Staff Report on Climate Program Plans and Legislation.

Discussion of NACOA Work Schedule and Future Plans.

AFTERNOON—1330–1700

Work Sessions for NACOA Panels.
Goals and Objectives Panel.
Marine Education Panel.
Atmospheric Panel.

JANUARY 25, 1977

MORNING

Briefings on Marine Transportation Issues—Industry and Labor Viewpoints.
Reports from NACOA Panel Chairmen.
Plans for the Future.

Adjournment at approximately 1300.

The public is welcome at these sessions and will be admitted to the extent of the seating available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone number is 377–3343.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc.77-409 Filed 1-4-77;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

PRIVACY ACT OF 1974

Routine Use of Systems of Records: Payroll Records

The National Credit Union Administration's "system of records," as that term is defined by the Privacy Act of 1974 (5 U.S.C. 552a), were most recently published beginning at page 44982 of the October 13, 1976, edition of the FEDERAL REGISTER.

System NCUA–9, as set forth in that publication, describes the system of records maintained in connection with the National Credit Union Administration's payroll functions. One of the routine uses of information contained in System NCUA–9 is described as follows in the October 13, 1976, publication: "[I]nformation in this system is used to make reporting to state and local taxing authorities."

Since the publication of that language, questions have arisen as to the exact nature of the information provided to state and local taxing authorities and the specific identity of the recipients, or guidelines pursuant to which authorized recipients are identified. In the interest of an-

swering these questions, the sentence in which the above quoted language appears is hereby deleted from the "routine uses" portion of System NCUA–9, and the self explanatory language set forth below is inserted in lieu thereof.

This publication does not involve the proposal of a new or intended routine use, but rather sets forth a clarification of an existing and previously published routine use, and thus is not considered to be technically subject to the prior publication requirement of Section 3(e)(11) of the Privacy Act (5 U.S.C. 552a(e)(11)). In the interest of the fullest possible compliance with the spirit of the Privacy Act, however, written data, views and arguments concerning this publication will be entertained if received in the Office of the Administrator, National Credit Union Administration, 2025 M Street, NW, Washington, DC 20456, on or before January 1, 1977.

C. AUSTIN MONTGOMERY,
Administrator.

DECEMBER 13, 1976.

AUTHORITY: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).

NCUA–9

System name:

Payroll Records System, NCUA.

System location:

Office of Fiscal Affairs; National Credit Union Administration, 2025 M Street, NW., Washington, DC 20456; General Services Administration, Region VI, Kansas City, Missouri.

Categories of individuals covered by the system:

Employees of NCUA.

Categories of records in the system:

Salary and related payroll data, including time and attendance information.

Authority for maintenance of the system:

5 U.S.C. 301, 44 U.S.C. 3301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To make all necessary and appropriate financial reporting analysis and planning involving disclosures both intraagency and to the General Services Administration, and generally to insure proper compensation to all NCUA employees. Also, to document time worked and provide a record of attendance to support payment of salaries, use of annual and sick leave and nonpayed leave. Record of attendance is also maintained for information of superviser in supervising the employee. Users of the time and attendance information include the office's timekeeper, the supervisor, the payroll officer and the GSA Payroll Processing Branch in Kansas City, Missouri. Routine uses of records maintained in this system shall include providing a copy of an employee's Department of Treasury Form W–2, Wage and Tax Statement, to the state, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the state, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the system manager. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both. Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the system manager. In the absence of a withholding agreement, the social security number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the social security number, in accordance with Section 7 of the Privacy Act, Public Law 93–579. Finally, disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage—computer tape, paper hard copy, microfilm. Retrievability—by name or social security number. Safeguards—maintained in secured offices, access by written authorization only. Retention and disposal—in accordance with GSA policy.

System manager(s) and address:

Primary: Payroll Officer, National Credit Union Administration, 2025 M Street, NW., Washington, DC 20456; Secondary: Timekeepers, National Credit Union Administration, Central Office and Regional Offices.

Notification procedure:

Same as above.

Record access procedures:

Same as above.

Contesting record procedures:

Same as above.

Record source categories:

Individual whom the record concerns, Civil Service Commission, General Services Administration. Also, time and attendance information is prepared by the timekeeper in a given employee's office.

[FR Doc.77–139 Filed 1–4–77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

INTERGOVERNMENTAL SCIENCE, ENGINEERING AND TECHNOLOGY ADVISORY PANEL

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science Engineering and Technology Advisory Panel, Steering Committee.

Date: January 21, 1977.

Time: 9:30–11:00 a.m.

Place: New Executive Office Building, 726 Jackson Place, N.W., Room 3104, Washington, D.C.

Type of meeting: Open.

Contact person: Mr. Louis H. Blair, Office of Science and Technology Policy, Executive Office of the President, telephone (202) 395–4931. Anyone who plans to attend should contact Mr. Blair by January 17, 1977.

Purpose of the Panel: The Intergovernmental Science Engineering and Technology Advisory Panel was established on November 4, 1976. The Panel is to identify state, regional and local government problems which research and technology may assist in resolving or ameliorating and to help develop policies to transfer research and development findings.

TENTATIVE AGENDA

Agenda setting for full meeting of the Panel in late March. Review of on-going activity related to the Panel's charter. Discussion of future Panel activities.

WILLIAM J. MONTGOMERY,
Executive Officer, Office of Science and Technology Policy.

DECEMBER 30, 1976.

[FR Doc.77–376 Filed 1–4–77;8:45 am]

INTERGOVERNMENTAL SCIENCE, ENGINEERING AND TECHNOLOGY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 94–463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering and Technology Advisory Panel, Processes Task Force.

Date: January 14, 1977.

Time: 9:30 a.m.–4:00 p.m.

Place: Denver Museum of Art, Denver, Colorado.

Type of Meeting: Open.

Contact Person: Mr. Louis H. Blair, Office of Science and Technology Policy, Executive Office of the President. Telephone: (202) 395–4931. Anyone who plans to attend should contract Mr. Blair by January 13, 1977.

Purpose of the Panel: The Panel is to identify state, regional and local government problems which research and technology may assist in resolving or ameliorating and to help develop policies to transfer research and development findings. The Processes Task Force

is to make recommendations to the Panel on mechanisms for improving the transfer of research and development findings.

TENTATIVE AGENDA

Organization of the Task Force.
Discussion of future Task Force activities.
Reason for late notice: The Panel has to meet to develop a report for the Steering Committee. The date of January 21 for the Steering Committee meeting was set on December 30, 1976. January 14, 1977 was the only feasible meeting date for Task Force members.

WILLIAM J. MONTGOMERY,
Executive Officer, Office of Science and Technology Policy.

JANUARY 3, 1977.

[FR Doc.77-549 Filed 1-4-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-1316; File No. SR-MSRB-76-12]

MUNICIPAL SECURITIES RULEMAKING BOARD

Proposed Rule Changes; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-19, 16 (June 4, 1975), notice is hereby given that on December 20, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follow:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The proposed rule changes filed by the Municipal Securities Rulemaking Board (the "Board") would codify uniform industry practices for the processing, clearance and settlement of transactions in municipal securities and related matters. The text of the proposed rule changes appears below.

The Board is of the view that rules governing industry practices in the areas referred to above are necessary and appropriate to facilitate transactions in municipal securities, to render the operation of the municipal markets more efficient, and thereby to benefit public investors in municipal securities, issuers of municipal securities, and municipal market professionals.

The proposed rule changes cover the following matters:

(1) Establishment of uniform settlement dates for transactions in municipal securities;

(2) Exchange and comparison of dealer confirmations;

(3) Procedures for resolving discrepancies in confirmations which result in unrecognized transactions;

(4) Establishment of uniform requirements for good delivery of municipal securities;

(5) Procedures for rejection and reclamation of municipal securities;

(6) Close-out procedures for transactions in municipal securities; and

(7) The time periods within which good faith deposits must be returned and syndicate accounts settled.

With the exception of the provisions relating to dealer confirmations, the return of good faith deposits, and the settlement of syndicate accounts, the requirements of proposed rule G-12 may be altered by agreement between the parties. The proposed rule changes provide for a 60-day delay in effectiveness following approval by the Securities and Exchange Commission (the "Commission").

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

The purpose of the proposed rule changes is to establish uniform industry practices concerning the processing, clearance and settlement of transactions in municipal securities. The proposed rule changes are designed to expedite such transactions and thus are, in the Board's view, necessary and appropriate in the public interest and in furtherance of the purposes of the Securities Exchange Act of 1934, as amended (the "Act").

At present, there exists no uniform code of practice recognized by all participants in the municipal securities industry. The Uniform Practice Code of the National Association of Securities Dealers, Inc. (the "NASD") governs industry practice with respect to corporate securities traded over-the-counter. The national securities exchanges prescribe rules for use of their trading facilities. These regulations do not apply to transactions in municipal securities or to the activites of bank dealers.

Proposed rule G-12 would, if approved by the Commission, establish uniform practices for all professionals with respect to transactions in municipal securities in a manner which the Board believes appropriate for the municipal markets. At the same time, the Board has sought in proposed rule G-12 to avoid conflict with existing systems for the processing and clearance of securities transactions, to the extent consistent with the goal of developing a body of regulation appropriate for the municipal securities industry.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted proposed rule G-12 pursuant to the general provisions of section 15B(b)(2) of the Act, which authorize and direct the Board to propose and adopt rules governing transactions in municipal securities effected by brokers, dealers and municipal securities dealers, and pursuant to section 15B(b)(2)(C) of the Act, which authorizes and directs the Board to adopt rules which are:

Designed * * * to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

The Board also notes the statement contained in the Senate Report on the Securities Acts Amendments of 1975, with respect to the Board's role in the regulation of processing, clearance and settlement of transactions in municipal securities:

In particular, it should be noted that although Section 15(c)(6) [of the Act], pertaining to the Commission's rulemaking powers over, among other things, the time and method of, and documents used in connection with, making settlements, payments, transfers, and deliveries of securities, specifically excludes municipal securities from the Commission's direct rulemaking power, comprehensive authority over these matters with respect to municipal securities is vested in the Board, subject to the Commission's oversight powers. Sen. Rep. 94-75, 94th Cong., 1st Sess., at 48.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

On April 22, 1976 the Board issued an exposure draft of proposed rule G-12. In response to its solicitation of public comment on such draft, the Board received 45 letters of comment, from the following persons:

American Bankers Association Committee on Corporate Trust Activities.
American Stock Exchange, Inc.
Baer & McGoldrick (representing the National Municipal Securities Dealers Association, Inc.).
Bankers Trust Company.
Alex. Brown & Sons.
Carter, Ledyard & Milburn (representing United States Trust Company of New York) (two letters).
Carty & Company, Inc.
Coughlin & Co., Inc.
Dealer Bank Association.
The Depositor Trust Company, (two letters).
Gerwin and Company.
Goldman, Sachs & Co.
Halpert, Oberst & Company.
Hanifen Imhoff Samford, Inc.
Hendrix, Mohr & Yardley.
Charles A. Hinsch & Company, Inc.
Irving Trust Company.
Lebanthal & Co., Inc.
Lex Jolley & Co., Inc.
Liberty National Bank and Trust Company.
Mercantile Trust Company N.A.
Merrill Lynch, Pierce, Fenner & Smith, Inc.
Midwest Securities Trust Company.
Municipal Advisory Council of Texas.
National Association of Securities Dealers, Inc.
National Municipal Securities Dealers Association, Inc.
John Nuveen & Co. Incorporated.
Omaha National Bank.
O'Neill Feldman Inc.
Pacific Clearing Corporation.
Samuel A. Ramirez & Co., Inc.
Schaffer, Necker & Co.
Seasongood & Mayer.
Securities Industry Association, Subcommittee on Operations of the Municipal Securities Committee (the "SIA Subcommittee").
Shearson Hayden Stone, Inc.
Smith Barney, Harris Upham & Co., Inc.
Standard & Poor's Corporation.
Stock Clearing Corporation of Philadelphia.
Stoever Glass & Co.
Summers & Company, Inc.
Sweney Cartwright & Co.
Wauterlek & Brown, Inc.
Wells Fargo Bank, N.A.

Copies of the above letters of comment are on file at the offices of the Commis-

sion and of the Board. Various letters of comment received in response to the Board's exposure draft on proposed rule G-15 relating to customer confirmations are also relevant to proposed rule G-12 insofar as the content of dealer confirmations is concerned. Copies of letters of comment on proposed rule G-15 have been filed with the Commission as Exhibit 2 to File No. SR-MSRB-76-9.

As a result of the observations and suggestions of public commentators on the Board's exposure draft, the Board made a number of changes in the proposed rule as reflected in this filing. In view of the substantial number of comment letters received on the draft rule and the broad range of technical suggestions contained in such letters, this discussion is limited to a summary of the major categories of comment on the draft rule.

A number of commentators recommended that the provisions for notice in the draft rule be clarified. In response to these suggestions, the Board inserted a new paragraph (a)(iii) in the proposed rule relating to "immediate notice" and has attempted to clarify throughout the proposed rule the various circumstances under which immediate notice, written notice return receipt requested, and other forms of notice must be given.

With regard to settlement dates for "when, as and if issued" transactions, several commentators expressed concern that permitting acceleration of settlement dates by each seller would result in confusion. To address this concern, the Board has provided that the manager of a syndicate or similar account must immediately notify members of the syndicate or account upon determination of an accelerated settlement date, and acceleration of settlement dates by persons other than the manager may occur only upon, and to the same extent as, acceleration by the manager.

A number of letters were received by the Board concerning the Board's original proposal to require the inclusion of CUSIP numbers in dealers confirmations. While many commentators favored mandating the use of CUSIP for identification of securities, representatives of sole municipal firms urged that such a requirement would, at the present time, impose unwarranted and burdensome costs on such firms and not result in increased efficiencies for such firms. The Board has decided not to mandate the use of CUSIP numbers at this time. However, as stated in the Board's notice dated July 28, 1976 concerning its recordkeeping proposals, the Board intends to review this question in the future.

Several comments were received relating to the exchange and comparison of written confirmations of municipal securities transactions. Among these, it was suggested that the provision as drafted would permit transactions to be cancelled on the basis of minor discrepancies. In the proposed rule changes the Board has limited cancellation of transactions based on discrepancies in confirmations to situations in which "material discrepancies and differences, basic to the transaction" cannot be resolved.

The SIA Subcommittee recommended that the Board adopt, with certain modifications, the NASD procedure for resolving unrecognized transactions. The procedures set forth in proposed rule G-12 are substantially consistent with those of the NASD except in two respects. First, under the NASD procedure, a party receiving a confirmation which it does not recognize is not required to alert the confirming party. Under proposed rule G-12, a party receiving a confirmation which it does not recognize is under an obligation to seek to ascertain whether a trade did, in fact, occur and to notify the confirming party if its records indicate that no trade occurred. The Board believes that this relatively simple requirement will promote earlier resolution of disagreements between parties concerning transactions in municipal securities and thus facilitate the processing and clearance of such transactions. Second, the NASD procedure requires use of a uniform "don't know" notice. The Board believes that it would be unduly burdensome to sole municipal firms and others not previously subject to the uniform form requirements of the NASD Uniform Practice Code to mandate use of such forms. At the same time, the informational requirements of the Board's proposed procedures on unrecognized transactions could be met by use of the "don't know" notice required for transactions in corporate securities by the NASD Code.

Several comments addressed the subject of partial deliveries, with certain commentators expressing concern that a purchaser might reject delivery of securities relating to one trade because they were not accompanied by securities relating to another trade which had been combined on one confirmation or which were considered by the purchaser to be part of one transaction. The proposed rule changes would not permit rejection under these circumstances. However, a purchaser would not be required to accept partial delivery with respect to a single trade.

A number of comments concerned the denominations of securities for delivery. One commentator suggested that denominations of notes always be specified on confirmations, while others suggested modification in the amounts which would constitute normal units. The proposed rule changes require specification of note denominations in all cases but other provisions relating to denominations remain unchanged since the Board believes the denominations prescribed are appropriate. In any event, the units of delivery may be changed by agreement of the parties to the transaction.

Several commentators stated that a guarantee by a commercial bank should not be considered sufficient to render a mutilated certificate acceptable for delivery pursuant to paragraph (e)(vi) of proposed rule G-12. Reference to a commercial bank guarantee has, accordingly, been omitted in this filing.

Several commentators suggested that bank checks or drafts issued by the seller should be deemed acceptable delivery in lieu of missing coupons, rather than requiring certified or cashier's checks. Similar comments were received on the provisions relating to payment of interest and registered securities traded "flat." The Board is of the view, however, that firms should not be required to accept a check backed only by the financial standing of a dealer with whom they may not be familiar and has accordingly retained the requirement for a certified or cashier's check in the proposed rule changes.

Paragraph (e)(xv) relating to maximum permissible money differences at time of delivery elicited several comments, both as to the amount of permissible differences and whether the calculations of the seller or buyer are to be utilized. The proposed rule changes provide that the seller's calculations are to govern. The Board also concluded, upon consideration of the matter, that the money differences specified in proposed rule G-12 are reasonable.

With respect to section (g) of proposed rule G-12, relating to rejections and reclamations, a number of commentators suggested shortening the time periods provided for reclamation. The proposed rule changes reflect the Board's conclusion that certain of the time periods should be reduced.

Section (h) relating to close-out procedures also elicited a number of comments. The purpose of this section is to promote efficient clearance procedures in the municipal securities industry and to provide definite time limits to a party's exposure with respect to a transaction which has not settled. The section permits close-out of transactions under specified circumstances and pursuant to specified procedures. Comments received on this aspect of proposed rule G-12 represented a rage of views, with some commentators expressing approval of the proposal, others opposition to it, and still others suggesting a need for further study. Two commentators recommended that the Board consider a "mark-to-market" procedure to augment the buy-in provisions of the rule, but the Board believes that this proposal would be impracticable at the present time.

Several comments concerning details of the close-out procedures were received. These suggestions have been incorporated in the proposed rule changes to the extent the Board deemed appropriate. The Board also concluded that it may be appropriate to include in the section on close-out procedures a specific reference to arbitration as an additional means of resolving disputes concerning transactions in municipal securities.

With respect to section (i), relating to the return of good faith deposits, one commentator suggested that the section address the situation in which a syndicate is unsuccessful in bidding for an issue. This suggestion has been incorporated in the proposed rule.

It was recommended that section (j), which requires settlement of syndicate or similar accounts within 60 days, be made applicable to settlement of secondary joint trading accounts and this recommendation has been incorporated in the proposed rule.

A number of other comments were received by the Board on proposed rule G–12 which were of a technical nature or suggested minor modifications of language not affecting the substance of the proposed rule. These drafting suggestions have been incorporated in the proposed rule changes to the extent the Board deemed appropriate.

Certain commentators recommended that the Board adopt the NASD Uniform Practice Code, modified as necessary, as the Board's proposed rule on industry practices. On the other hand, the NASD recommended to the Board adoption of a code of procedures similar to the Uniform Practice Code, but having application to transactions in municipal securities. At an early stage, the NASD submitted to the Board a proposed code for the municipal securities industry, which has been largely incorporated in proposed rule G–12, modified to the extent the Board believed appropriate. The Board has also had the benefit of study of the Standard Practice Manual for Municipal Operations Units published in September 1975 by the Securities Industry Association. The Board has incorporated in proposed rule G–12 many of the ideas set forth in the Manual. Burden on Competition.

The Board is of the opinion that the proposed rule changes will not impose any burden on competition among brokers, dealers or municipal securities dealers inasmuch as the proposed rule changes will apply uniformly to all brokers, dealers and municipal securities dealers who effect transactions in municipal securities. In many respects, the Board expects that the operation of proposed rule G–12 will result in lowered operating costs to the industry generally by promoting efficiencies in the processing, clearance and setttlement of transactions in municipal securities.

On or before February 8, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

The Board has consented to an extension of the time periods specified in section 19(b)(2) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 18, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 28, 1976.

Rule G–12. Uniform Practice. (a) *Scope and notice.* (i) All transactions in municipal securities between any broker, dealer or municipal securities dealer and any other broker, dealer or municipal securities dealer shall be subject to the provisions of this rule.

(ii) Failure to deliver securities sold or to pay for securities as delivered, on or after the settlement date, does not effect a cancellation of a transaction which is subject to the provisions of this rule, unless otherwise provided in this rule or agreed upon by the parties.

(iii) Unless otherwise specifically indicated, any notice required by this rule to be given "immediately" may be given by telephone, telegraph or any other means of communication having same day receipt capability and confirmed in writing within one business day.

(b) *Settlement dates.* (i) Definitions. For purposes of this rule, the following terms shall have the following meanings:

(A) Settlement Date. The term "settlement date" shall mean the day used in price and interest computations, which shall also be the day delivery is due unless otherwise agreed by the parties.

(B) Business Day. The term "business day" shall mean a day recognized by the National Association of Securities Dealers, Inc. as a day on which securities transactions may be settled.

(ii) Settlement Dates. Settlement dates shall be as follows:

(A) For "cash" transactions, the trade date;

(B) For "regular way" transactions, the fifth business day following the trade date;

(C) For "when, as and if issued" transactions, a date agreed upon by both parties, which date shall not be earlier than the fifth business day following the date the confirmation indicating the final settlement date is sent, or, with respect to transactions between the manager and members of a syndicate or account formed to purchase securities from an issuer, a date not earlier than the sixth business day following the date the confirmation indicating the final settlement date is sent; provided, however, that if the issuer gives notice of pending delivery within less than six business days before delivery, the settlement date for transactions between the manager and members of the syndicate or account with respect to such issue of securities may be accelerated as determined by the manager, and, in such event, all other "when, as and if issued" transactions with respect to such issue of securities may be similarly accelerated by each seller; and

(D) For all other transactions, a date agreed upon by both parties.

(iii) Notice of Accelerated Delivery. In the event the issuer gives notice of pending delivery of securities within less than six business days before delivery, the manager of a syndicate or account formed to purchase the securities from the issuer shall, immediately upon determination of the accelerated delivery date pursuant to subparagraph (b)(ii)(C) hereof, give notice to the members of the syndicate or account of the settlement date for transactions between the manager and the members.

(c) *Dealer confirmations.* (i) Except as otherwise indicated in this section (c), each party to a transaction shall send a confirmation of the transaction to the other party within two business days following the trade date.

(ii) Confirmations of cash transactions shall be exchanged on the trade date, which may be accomplished by telephone with written confirmations sent within one business day following the trade date.

(iii) For transactions effected on a "when, as and if issued" basis, initial confirmations shall be sent within two business days following the trade date. Confirmations from a syndicate or account manager to the members of the syndicate or account may be in the form of a letter, covering all maturities of the issue, setting forth the information hereafter specified in this section (c). Confirmations indicating the final settlement date shall be sent by the seller at least five business days prior to the settlement date or, with respect to transactions between the manager and members of a syndicate or account formed to purchase securities from an issuer, at least six business days prior to the settlement date; provided, however, that if the settlement date is accelerated pursuant to subparagraph (b)(ii)(C) above, final confirmations shall be sent by each seller immediately upon determination by it of the settlement date.

(iv) Each confirmation shall contain the following information:

(A) Confirming party's name, address and telephone number;

(B) "Contra party" identification;

(C) Designation of purchase from or sale to;

(D) Par value of the securities;

(E) Description of the securities, including at a minimum the name of the issuer, interest rate, maturity date, and if the securities are limited tax, subject to redemption prior to maturity (callable), or revenue bonds, an indication to such effect, including in the case of revenue bonds the type of revenue, if necessary for a materially complete description of the securities, and in the case of any securities, if necessary for a materially complete description of the securities, the name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to debt service or, if there is more than one such obligor, the statement "multiple obligors" may be shown;

(F) Trade date;

(G) Settlement date;

(H) Yield to maturity[1] and resulting dollar price, except in the case of securities

[1] In cases which securities are priced to call, this must be stated; where a transaction is effected on a yield basis, the calculation of dollar price shall be to the lower of price to call or price to maturity.

which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown;

(I) Amount of concession, if any, per $1,000 par value unless stated to be an aggregate figure;

(J) Amount of accrued interest;

(K) Extended principal amount;

(L) Total dollar amount of transaction; and

(M) Instructions, if available, regarding receipt or delivery of securities, and form of payment if other than as usual and customary between the parties.

The initial confirmation for a "when, as and if issued" transaction shall not be required to contain the information specified in subparagraphs (G), (J), (K), and (L) of this paragraph or the resulting dollar price as specified in subparagraph (H).

(v) In addition to the information required by paragraph (iv) above, each confirmation shall contain the following information, if applicable:

(A) Dated date if it affects the price or interest calculation, and first interest payment date, if other than semi-annual;

(B) If the securities are "fully registered" or "registered as to principal only," a designation to such effect;

(C) If the securities are "called" or "prerefunded," a designation to such effect, the date of maturity which has been fixed by the call notice, and the amount of call price;

(D) Denominations of notes and, if other than those specified in paragraph (c)(iv) hereof, denominations of bonds;

(E) Any special instructions or qualifications, or factors affecting payment of principal or interest, such as (A) "ex legal," or (B) if the securities are traded without interest, "flat," or (C) if the securities are in default as to the payment of interest or principal, "in default"; and

(F) Such other information as may be necessary to ensure that the parties agree to the details of the transaction.

(d) *Comparison and verification of confirmations; unrecognized transactions.*

(i) Promptly upon receipt of a confirmation, each party to a transaction shall compare and verify such confirmation to ascertain whether any discrepancies exist. If any discrepancies exist in the information as set forth in the confirmation, the party discovering such discrepancies shall promptly communicate such discrepancies to the contra party and both parties shall promptly attempt to resolve the discrepancies. In the event the parties are able to resolve the discrepancies, the party in error shall promptly send to the contra party a corrected confirmation. Such confirmation shall indicate that it is a correction and the date of the correction.

(ii) In the event a party receives a confirmation for a transaction which it does not recognize, it shall promptly seek to ascertain whether a trade occurred and the terms of the trade. In the event it determines that a trade occurred and the confirmation it received was correct, such party shall immediately notify the contra party by telephone and promptly thereafter send to the contra party a written confirmation of the transaction. In the event the trade cannot be confirmed, the party which does not recognize the trade shall immediately notify the contra party by telephone and promptly thereafter send, return receipt requested, a written notice to the contra party indicating nonrecognition of the transaction and the contra party shall, promptly upon receipt of such notice, vertify its records and, if it agrees with the party sending the notice indicating nonrecognition of the transaction, send, return receipt requested, a notice of cancellation of the transaction.

(iii) In the event a party has sent a confirmation of a transaction but fails to receive a confirmation from the contra party or a notice indicating nonrecognition of the transaction within four business days of the trade date, the confirming party shall promptly seek to ascertain whether a trade occurred. If, after such vertification, such party believes that a trade occurred, it shall immediately notify the contra party by telephone to such effect and send within one business day, return receipt requested, a written notice indicating failure to confirm. Promptly following receipt of telephone notice from the confirming party, the contra party shall seek to ascertain whether a trade occurred and the terms of the trade. In the event the contra party determines that a trade occurred, it shall immediately notify the confirming party by telephone to such effect and promptly thereafter send a written confirmation of the transaction. In the event the trade cannot be confirmed, the contra party shall promptly send, return receipt requested, a written notice indicating nonrecognition to the confirming party.

(iv) In the event any material discrepancies or differences, basic to the transaction, remain unresolved by the close of the business day following receipt of a written notice indicating nonrecognition or by the close of the business day following the date the confirming party gave telephone notice of the transaction to the contra party pursuant to paragraph (iii) above, whichever first occurs, the transaction may be cancelled by the confirming party or, in the event there exists disagreement concerning the terms of the transaction, by either confirming party. Nothing herein contained shall be construed to affect whatever rights the confirming party or parties may otherwise have with respect to a transaction which is cancelled pursuant to this paragraph.

(v) Nothing herein contained shall be construed to prevent the settlement of a transaction prior to completion of the procedures prescribed in this section (d): *provided* That each party to the transaction shall be responsible for sending to the other party, within one business day of such settlement, a confirmation evidencing the terms of the transaction.

(vi) The notices referred to in this section indicating nonrecognition of a transaction or failure to confirm a transaction shall contain sufficient information to identify the confirmation to which the notice relates including, at a minimum, the information set forth in subparagraphs (D) through (G) of paragraph (c)(iv), as well as the confirmation number. In addition, such notice shall identify the firm and person providing such notice and the date thereof. The requirements of this paragraph may be satisfied by providing a copy of the confirmation of an unrecognized transaction, marked "don't know," together with the name of the firm and person providing such notice and the date thereof.

(e) *Delivery of Securities.* The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities:

(i) Place and Time of Delivery. Delivery shall be made at the office of the purchaser, or its designated agent, between the hours established by rule or practice in the community in which such office is located.

(ii) Delivery Ticket. A delivery ticket shall accompany the delivery of securities. Such ticket shall contain the information set forth in subparagraphs (A) through (G), (L) and (M) of paragraph (c)(iv) and, to the extent applicable, the information set forth in subparagraphs (A), (B), (D), (E) and (F) of paragraph (c)(v) and shall have attached to it an extra copy of the ticket which may be used to acknowledge receipt of the securities.

(iii) Partial Delivery. The purchaser shall not be required to accept a partial delivery with respect to a single trade.

(iv) Units of Delivery. Delivery of bonds shall be made in the following denominations:

(A) For bearer bonds, in denominations of $1,000 or $5,000 par value; and

(B) For registered bonds, in denominations which are multiples of $1,000 par value, up to $100,000 par value.

Delivery of notes shall be made in the denominations specified on the confirmation as required pursuant to paragraph (c)(v) of this rule.

(v) Bearer and Registered Form. Delivery of securities which are issuable in both bearer and registered form shall be in bearer form.

(vi) Mutilated Certificates. Delivery of a certificate which is damaged to the extent that any of the following is not ascertainable:

(A) Name of issuer;

(B) Par value;

(C) Signature;

(D) Coupon rate;

(E) Maturity date;

(F) Seal of the issuer; or

(G) Bond or note number shall not constitute good delivery unless validated by the trustee, registrar, transfer agent, paying agent or issuer of the securities or by an authorized agent or official of the issuer.

(vii) Coupon Securities.

(A) Coupon securities shall have securely attached to the certificate in the correct sequence all appropriate coupons, including supplemental coupons if specified at the time of trade, which in the case of securities upon which interest is in default shall include all unpaid coupons. All coupons attached to the certificate must have the same serial number as the certificate.

(B) Anything herein to the contrary notwithstanding, if securities are traded "and interest" and the settlement date is on or after the interest payment date, such securities shall be delivered without the coupon payable on such interest payment date.

(C) If delivery of securities is due within 30 calendar days prior to an interest payment date, the seller may deliver to the purchaser a cashier's or certified check, payable on the date delivery is made, in an amount equal to the interest due, in lieu of the coupon.

(viii) Mutilated or Cancelled Coupons. Delivery of a certificate which bears a coupon which is damaged to the extent that any one of the following cannot be ascertain from the coupon:

(A) Title of the issuer;

(B) Bond or note number;

(C) coupon number or payment date; [2] or

(D) the fact that there is a signature; or which coupon has been cancelled, shall not constitute good delivery unless the coupon is endorsed or guaranteed. In the case of damaged coupons, such endorsement or guarantee must be by the issuer or by a commercial bank. In the case of cancelled coupons, such endorsement or guarantee must be by the issuer or an authorized agent or official of the issuer, or by the trustee or paying agent.

(ix) Delivery of Certificates Called for Redemption. A certificate for which a notice of call has been published prior to the trade date shall not constitute good delivery unless the securities are identified as "called" at the time of trade. If a notice of called is published on or after the trade date, the transaction shall be deemed cancelled.

(x) Delivery Without Legal Opinions or Other Documents. Delivery of certificates

[2] If either the coupon number of the payment date is ascertainable from the coupon, the coupon will not be mutilated.

without legal opinions or other documents legally required to accompany the certificates shall not constitute good delivery unless identified as "ex legal" at the time of trade.

(xi) Insured Securities. Delivery of certificates for securities traded as insured securities traded as insured securities shall be accompanied by evidence of such insurance, either on the face of the certificate or in a document attached to the certificate.

(xii) Endorsements for Banking or Insurance Requirements. A security bearing an endorsement indicating that it was deposited in accordance with legal requirements applicable to banking institutions or insurance companies shall not constitute good delivery unless it bears a release acknowledged before an officer authorized to take such acknowledgments and was designated as a released endorsed security at the time of trade.

(xiii) Delivery of Registered Securities.

(A) Assignments. Delivery of a certificate in registered form must be accompanied by an assignment on the certificate or on a separate bond power for such certificate, containing a signature which corresponds in every particular with the name written upon the certificate, except that the following shall be interchangeable: "and" or "&"; "Company" or "Co."; "Incorporated" or "Inc."; and "Limited" or "Ltd."

(B) Detached Assignment Requirements. A detached assignment shall provide for the irrevocable appointment of an attorney, with power of substitution, a full description of the security, including the name of the issuer, the maturity date and interest rate, the bond or note number, and the par value (expressed in words and numerals).

(C) Power of Substitution. When the name of an individual or firm has been inserted in an assignment as attorney, a power of substitution shall be executed in blank by such individual or firm. When the name of an individual or firm has been inserted in a power of substitution as a substitute attorney, a new power of substitution shall be executed in blank by such substitute attorney.

(D) Guarantee. Each assignment, endorsement, alteration and erasure shall bear a guarantee acceptable to the transfer agent or registrar.

(E) Certificate in Name of a Party Other Than a Natural Person. A certificate registered in the name of a party other than a natural person, or in a name with official designation, shall constitute good delivery only if the statement "Proper papers for transfer filed by assignor" is placed on the assignment and signed by the transfer agent.

(F) Certificate in Name of Deceased Person, Trustee, Etc.

(1) A certificate shall not constitute good delivery if executed with a qualification, restriction or special designation or if delivered in the name of, or with an assignment or power of substitution executed by a person since deceased; a minor; a receiver in bankruptcy; an agent; an attorney; or, except as provided in subparagraph (2) below, a trustee or trustees (except for trustees acting in the capacity of a board of directors of a corporation or association in which case the requirements of subparagraph (E) above shall apply), a guardian, an executor, or an administrator.

(2) A certificate shall constitute good delivery with an assignment or a power of substitution executed by an individual executor or administrator; an individual trustee under an inter vivos or testamentary trust; a guardian (including committees, conservators and curators); or a custodian acting pursuant to the provisions of the Uniform Gifts to Minors Act.

(G) Payment of Interest. If a registered security is traded "and interest" and transfer of record ownership cannot be accomplished on or before the record date for the determination of registered holders for the payment of interest, delivery shall be accompanied by a cashier's or certified check, payable on the date delivery is made, for the amount of the interest.

(H) Registered Securities Traded "Flat". If a registered security is traded "flat" (*i.e.* is in default in the payment of interest) and transfer of record ownership cannot be accomplished on or before the record date for the determination of registered holders for the payment of interest, an interest payment date having been established on or after the trade date, delivery shall be accompanied by a cashier's or certified check, payable on the date delivery is made, for the amount of the payment to be made by the issuer, unless the security is traded "ex-interest."

(xiv) Expenses of Shipment. Expenses of shipment of securities, including insurance, postage, draft, and collection charges, shall be paid by the seller.

(xv) Money Differences. The following money differences shall not be sufficient to cause rejection of delivery:

Par value	*Maximum differences per transaction*
$1,000 to $24,999	$10
$25,000 to $99,999	25
$100,000 to $249,999	60
$250,000 to $999,999	250
$1,000,000 and over	500

The calculations of the seller shall be utilized in determining the maximum permissible differences and amount of payment to be made upon delivery. Any such money differences must be reconciled by the parties within ten business days following settlement.

(f) *Payment.* (i) Calculation of Interest. Unless otherwise agreed by the parties, in the settlement of transactions in interest-paying securities there shall be added to the dollar price interest at the rate specified in the security, which shall be computed up to but not including the settlement date.

(ii) Calculation of Price. Calculations to determine the price and yield to maturity of municipal securities shall be made in accordance with applicable rules of the Board, if any.

(g) *Rejections and Reclamations.* (i) Definitions. For purposes of this section, the terms "rejection" and "reclamation" shall have the following meanings:

(A) "Rejection" shall mean refusal to accept securities which have been presented for delivery.

"(B) "Reclamation" shall mean return by the receiving party of securities previously accepted for delivery or a demand by the delivering party for return of securities which have been delivered.

(ii) Basis for Rejection. Securities presented for delivery may be rejected if the contra party fails to make a good delivery.

(iii) Basis for Reclamation and Time Limits. A reclamation may be made by either the receiving party or the delivering party if, subsequent to delivery, information is discovered which, if known at the time of the delivery, would have caused the delivery not to constitute good delivery, provided such reclamation is made within the following time limits:

(A) Reclamation by reason of the following shall be made within 18 months following the date of delivery:

(1) Irregularity in delivery, including, but not limited to, delivery of the wrong issue (*i.e.*, issuer, coupon rate or maturity date), duplicate delivery, delivery to the wrong party or location, or over delivery; or

(2) Refusal to transfer or deregister by the transfer agent.

(B) Reclamation by reason of the following shall be made within one business day following the date of delivery:

(1) Not good delivery because a coupon or an interest check in lieu thereof, required by this rule to accompany delivery was missing; or

(2) Not good delivery because a certificate or coupon was mutilated in a manner inconsistent with the provisions of paragraphs (e) (vi) or (viii) hereof.

(C) Reclamation because an interest check accompanying delivery was not honored shall be made within three business days following the date of delivery.

(D) Reclamation by reason of the following may be made without any time limitation:

(1) The security delivered is reported missing, stolen, fraudulent or counterfeit; or

(2) Not good delivery because notice of call for the certificate was published prior to the trade date and this was not specified at the time of trade.

The running of any of the time periods specified in this paragraph shall not be deemed to foreclose a party's right to pursue its claim via other means, including arbitration.

(iv) Procedure for Rejection or Reclamation. If a party elects to reject or reclaim securities, rejection or reclamation shall be effected by sending a written notice which contains sufficient information to identify the delivery to which the notice relates, including a copy of the original delivery ticket or other proof of delivery and to the extent not set forth on such document, the following:

(A) The name of the party delivering the securities;

(B) The name of the party receiving the securities;

(C) A description of the securities;

(D) The date the securities were delivered;

(E) The date of rejection or reclamation;

(F) The par value of the securities which are being rejected or reclaimed;

(G) In the case of a reclamation, the amount of money the securities are reclaimed for;

(H) The reason for rejection or reclamation; and

(I) The name and telephone number of the person to contact concerning the rejection or reclamation.

(v) Acceptance or Delivery of Securities. Upon rejection or reclamation properly made pursuant to this rule, the securities rejected or reclaimed shall be accepted or delivered as required by the notice of rejection or reclamation and the exchange of correct monies or securities shall be made.

(vi) Effect of Rejection or Reclamation. Rejection or reclamation of securities shall not constitute a cancellation of the transaction.

(h) Close-Out. Transactions which have been confirmed or otherwise agreed upon by both parties but which have not been completed may be closed out in accordance with this section, or as otherwise agreed by the parties.

(i) Close-Out by Purchaser. With respect to a transaction which has not been completed by the seller according to its terms and the requirements of this rule, the purchaser may close out the transaction in accordance with the following procedures:

(A) Notice of Close-Out. If the purchaser elects to close out a transaction in accordance with this paragraph (i), the purchaser shall, not earlier than the fifth business day following the settlement date, notify the seller by telephone of the purchaser's inten-

tion to close out the transaction and immediately thereafter send, return receipt requested, a written notice of close-out to the seller. Such notice shall be accompanied by a copy of the seller's confirmation of the transaction to be closed out or other written evidence of the contract between the parties. The notice shall state that unless the transaction is completed by a specified date and time, which shall not be earlier than the close of the fifth business day following the date the telephonic notice is given, or as provided in subparagraph (C) below, the transaction may be closed out in accordance with this section.

(B) Response. The seller shall respond to the notice of close-out in writing, or by telephone call promptly confirmed in writing, return receipt requested, within one business day following the date the telephonic notice required by subparagraph (A) is given, stating the seller's reasons for failing to complete the transaction. The seller may retransmit the notice of close-out to another party from whom the securities are due, *Provided* That the retransmitted notice must be received by such other party not later than one business day preceding the specified date for closeout. Any party receiving a retransmitted notice of closeout shall respond to the party retransmitting the notice within the time periods and according to the procedures provided herein for the seller's response.

(C) Time Periods. If by the close of the fifth business day following the date the close-out notice was given, the purchaser has received no response or has received a response which fails to provide an adequate explanation, as described below, for the seller's failure to complete the transaction, the purchaser may close out the transaction in accordance with the terms of the close-out notice. If the purchaser has received an adequate explanation of the seller's failure to complete the transaction, the purchaser may not close out the transaction before the close of the fifteenth business day following the date the close-out notice was given. For purposes of this subparagraph, a seller shall be deemed to have provided an adequate explanation for its failure to complete the transaction if it is taking steps necessary to effect good delivery of the securities and so states or if it has an offsetting fail to receive outstanding of the same security and so states.

(D) Purchaser's options. To close out a transaction as provided herein the purchaser may, at its option:

(1) Purchase ("buy-in") at the current market all or any part of the securities necessary to complete the transaction, for the account and liability of the seller;

(2) Cancel the transaction as to all or any part of the securities necessary to complete the transaction;

(3) Accept from the seller in satisfaction of the seller's obligation under the original contract (which shall be concurrently cancelled) the delivery of municipal securities which are comparable to those originally bought in quantity, quality, yield or price, and maturity, with any additional expenses or any additional cost of acquiring such substituted securities being borne by the seller; or

(4) Require the seller to repurchase the securities on terms which provide that the seller pay an amount equal to accrued interest and bear the burden of any change in market price or yield.

A close-out will operate to close out all transactions covered under retransmitted notices. A buy-in may be executed from a long position in customers' accounts maintained with the party executing the buy-in or, with the agreement of the seller, from the purchaser's contra party. In all cases, the purchaser must be prepared to defend the price at which the close-out is executed relative to market conditions at the time of the execution.

(E) Close-out not completed. A close-out procedure instituted pursuant to this rule (including any action by the purchaser pursuant to subparagraph (D) of this paragraph) must be completed not later than the thirtieth business day following the settlement date. If a close-out pursuant to a notice of close-out is not completed in accordance with the terms of the notice and the provisions of this rule, the notice shall expire and no further close-out notices for the same transaction may be issued.

(F) "Cash" transactions. The purchaser may close out transactions made for "cash" or made for or amended to include guaranteed delivery during normal trading hours on the business day following the day delivery is due, *Provided*, That the purchaser shall give the seller at least one business day's notice of the close-out by telephone or telegraph, immediately confirmed in writing.

(ii) Close-out by seller. If a seller makes good delivery according to the terms of the transaction and the requirements of this rule and the purchaser rejects delivery, the seller may close out the transaction in accordance with the following procedures:

(A) Notice of close-out. If the seller elects to close out a transaction in accordance with this paragraph (ii), the seller shall, not earlier than one business day following the date of delivery, notify the purchaser by telephone of the seller's intention to close out the transaction and immediately thereafter send, return receipt requested, a written notice of close-out to the purchaser. Such notice shall be accompanied by a copy of the purchaser's confirmation of the transaction to be closed out or other written evidence of the contract between the parties. The notice shall state that unless the transaction is completed by a specified date and time, which shall not be earlier than the close of the third business day following the date the telephonic notice is given, the transaction may be closed out in accordance with this section.

(B) Execution of close-out. Not earlier than the close of the third business day following the date telephonic notice of close-out is given to the purchaser, the seller may sell out the transaction at the current market for the account and liability of the purchaser.

(iii) Notice of executed close-out. The party executing a close-out shall, immediately upon execution, notify via hand delivery or other written media having same-day receipt capabilities, the party for whose account and liability the transaction was closed-out, stating the means of closing out utilized and forwarding a copy of the confirmation of the executed transaction, if any.

(iv) Close-out under special rulings. Nothing herein contained shall be construed to prevent brokers, dealers or municipal securities dealers from closing out transactions as directed by a ruling of a national securities exchange, a registered securities association or an appropriate regulatory agency issued in connection with the liquidation of a broker, dealer or municipal securities dealer.

(v) Procedures optional. Nothing herein contained shall be construed to require the parties to follow the close-out procedures herein specified if they otherwise agree.

(i) Good faith deposits. Good faith deposits shall be returned by the manager of a syndicate or similar account formed for the purchase of securities from an issuer, to the members of the syndicate or account within two business days following the date of settlement with the issuer, or, in the event the syndicate or account is not successful in purchasing the issue, within two business days following the return of the deposit from the issuer.

(j) Settlement of syndicate or similar account. Final settlement of a syndicate or similar account formed for the purchase of securities shall be made within 60 days following the date all securities have been delivered by the syndicate or account manager to the syndicate or account members.

(k) Effective date. The requirements of this rule shall become effective on _____ (60 days following the date of approval of the rule by the Securities and Exchange Commission).

[FR Doc.77-357 Filed 1-4-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/14]

ADVISORY COMMITTEE ON INTERNATIONAL INTELLECTUAL PROPERTY

Notice of Meeting

The International Copyright Panel of the Department of State's Advisory Committee on International Intellectual Property will meet in open session on February 2, 1977, at the Department of State in Conference Room 1107 from 9:30 A.M. to 12:30 P.M. The purpose of this open meeting will be to discuss the following topics:

a. the new U.S. copyright law and its international implications

b. the Protocol to the Florence Agreement

c. the UNESCO/WIPO double taxation meeting

d. the UNESCO/WIPO/ILO meetings on video-cassettes and audio-visual discs, and cable transmission

e. U.S.-U.S.S.R. copyright relations

The public attending may, as time permits and subject to the instruction of the Chairman, participate in the discussions or may submit written views to the Chairman prior to or at the meeting for later consideration by the Committee.

Members of the general public who plan to attend the meeting will be admitted up to the limits of the capacity of the meeting room. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to February 1, 1977, members of the general public who plan to attend the meeting inform their name and affiliation and address to Mr. Steven R. Pruett, Office of Business Practices, Department of State; the telephone number is area code 202, 632-0307. All non-Government attendees

at the meeting should use the C Street entrance to the building.

December 28, 1975.

HARVEY J. WINTER,
Executive Secretary.

[FR Doc.77-313 Filed 1-4-77;8:45 am]

SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Notice of Meeting

The working group on standards of training and watchkeeping of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, January 26, 1977, in Room 8334 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting will be to

develop the U.S. position for the "general remarks" paper which was disseminated at the 9th Session of the Subcommittee on Standards of Training and Watchkeeping of the Intergovernmental Maritime Consultative Organization (IMCO), which was held in London December 13–17, 1977

review the report (if available) of the 9th Session of the Subcommittee on Standards of Training and Watchkeeping

The Secretariat has requested that comments on the "general remarks" paper should be received in IMCO on or before March 1, 1977.

Requests for further information on the meeting should be directed to Captain N. G. Emory, United States Coast Guard. He may be reached by telephone on (area code 202) 426–2251.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

DECEMBER 22, 1976.

[FR Doc.77-312 Filed 1-4-77;8:45 am]

[Public Notice CM-7/15]

SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Notice of Meetings

The working group on subdivision and stability of the Subcommitee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold two open meetings on Wednesday, January 26 and Thursday, January 27, 1977. The January 26 meeting will commence at 10:00 a.m. in room 8236 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. The January 27 meeting will commence at 9:30 a.m. in Room 8236 of the Department of Transportation.

The January 26 meeting will be the first meeting of a panel on bulk cargoes of the working group. The purpose of the meeting will be to organize the work, and to consider matters for the 18th Session of the Subcommittee on Containers and Cargoes of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to be held in London, July 11–15, 1977. The particular item for discussion will be questions relating to the carriage of ore concentrate cargoes in bulk.

The purpose of the January 27 meeting will be to consider items of the agenda for the 20th Session of the Subcommittee on Subdivision, Stability and Load Lines of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to be held in London, February 7–11, 1977. The items for discussion will be based on any documents received from IMCO which originated in other countries. In addition, the working group will consider the outcome of work from the first meeting of the panel on bulk cargoes to be conducted January 26, 1977.

Requests for further information on the meetings should be directed to Mr. Edward H. Middleton, United States Coast Guard (tel: 202/426-2170) or Mr. Ralph Johnson, United States Coast Guard (tel: 202/426-2187).

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

DECEMBER 28, 1976.

[FR Doc.77-314 Filed 1-4-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

[CGD 76-231]

Coast Guard

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Notic of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee's Subcommittee on Chemical Vessels to be held January 12, 1977, 9 a.m., Room 8334, NASSIF Building, 400 7th Street, SW, Washington, D.C. 20590. The agenda for this meeting is as follows: (1) To begin revision of the rules for bulk hazardous chemicals shipped in barges, 46 CFR Part 151. (2) To draft recommendations for the Coast Guard in developing a position paper on bulk hazardous chemical charges for presentation to the Inter-Governmental Maritime Consultative Organization's Subcommittee on Bulk Chemicals.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Capt. C. E. Mathieu, Commandant (G-MHM), U.S. Coast Guard, Washington, D.C. 20590, 202-426-2296. Any member of the public may present a written statement to the Committee at any time. Special notice: The lateness of this notice is due to administrative oversight.

Issued in Washington, D.C. on December 16, 1976.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.

[FR Doc.77-584 Filed 1-4-77;11:51 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Administrative Ruling 76-6]

ANTIRECESSION FISCAL ASSISTANCE

Change in Procedure

Section 52.23(c) of the interim regulations (31 CFR 52.23(c); 41 FR 44842) promulgated pursuant to Title II of the Public Works Employment Act of 1976 (Pub. L. 94-369), provides that a recipient government may file a request with the Office of Revenue Sharing for verification of the data used to make payments under the Act on the grounds that a processing error, such as typographical or computer programming mistake, was made in such data. The section provides that requests for data verification may be filed with the Director of the Office of Revenue Sharing within 21 days from the date of payment to a recipient government for the calendar quarter to which the data is applicable.

When the interim regulations were filed on October 8, 1976, it was the intention of the Office of Revenue Sharing to provide the data used to compute the allocations to recipient governments at the same time that payments were made. Due to technical operational considerations, however, data will not be provided to recipient governments at that time.

Accordingly, requests for verification of the data for antirecession fiscal assistance payments will be considered timely pursuant to § 52.23(c) of the interim regulations if received by the Director of the Office of Revenue Sharing within 21 days from the date that such data will be mailed to the recipient government by the Office of Revenue Sharing. The permanent antirecession fiscal assistance regulations will reflect this change in procedure.

Dated: December 30, 1976.

JEANNA D. TULLY,
Director,
Office of Revenue Sharing.

Filed for public inspection immediately upon receipt.

[FR Doc.77-466 Filed 1-3-77;2:23 pm]

TAX REFORM ACT OF 1976

Guidelines

The Acting Secretary of the Treasury issued today additional guidelines relating to certain provisions of the Tax Reform Act of 1976 which deny certain tax benefits for participation in or co-

operation with international boycotts. An earlier set of guidelines, consisting of questions and answers, was issued on November 4, 1976 (Treasury News Release WS-1156) and was published in the FEDERAL REGISTER of November 1, 1976 (41 FR 49023). These guidelines relate only to parts A through G of the earlier guideline and add a new part N, relating to the computation of the foreign tax credit. These guidelines do not deal with those provisions of the Tax Reform Act of 1976 which define what constitutes participation in or cooperation with an international boycott. Some of the guidelines issued today are new while others are revisions of earlier questions and answers. The same numbering system is used, and the same introductory material is applicable.

A. BOYCOTT REPORTS

A-1. Q: Who must report as required by section 999(a)?

A. Generally, any United States person (within the meaning of section 7701(a)(30)), or any other person (within the meaning of section 7701(a)(1)) that either claims the benefit of the foreign tax credit under section 901, or owns stock of a DISC, is required to report under section 999(a) if it—

1. has operations; or

2. is a member of a controlled group, a member of which has operations; or

3. is a United States shareholder (within the meaning of section 951(b)) of a foreign corporation that has operations; or

4. is a partner in a partnership that has operations; or

5. is treated under section 671 as the owner of a trust that has operations

in or related to a boycotting country (or with the government, a company, or a national of a boycotting country). Additionally, if a person controls a corporation (within the meaning of section 304(c)) and either that person or the controlled corporation is required to report under section 999(a), then under section 999(e) that person must report whether the corporation had reportable operations and whether the corporation participated in or cooperated with the boycott. The controlled corporation must make the same reports with respect to the operations of the person controlling it.

A boycotting country is

(i) any country that is on the list maintained by the Secretary under section 999(a)(3), or

(ii) any country not on the list maintained by the Secretary under section 999(a)(3), in which the person required to file the report (or a member of the controlled group which includes that person) has operations, and which that person knows or has reason to know requires any person to participate in or cooperate with an international boycott that is not excepted by section 999(b)(4)(A), (B), or (C). Thus, even if the boycott participation required of the person reporting the operation is excepted by section 999(b)(4)(A), (B), or (C), if that person knows or has reason to know that boycott participation not excepted by section 999b(4)(A), (B), or (C) is required of any other person, the country is a boycotting country.

If the person required to file the report (or a member of the controlled group which includes that person) has operations related to a country, but not operations in that country, that country is not a boycotting country unless it is on the list maintained by the Secretary under section 999(a)(3). (For the definition of operations in or related to a country, see the questions and answers under part B.)

A-11. Q: If Company A sells goods or services to Company B (or does other business with Company B) and Company B and Company A are unrelated, and Company A knows or has reason to know that Company B in turn will sell these goods or services for use in a boycotting country, and further, Company B participates in or cooperates with such boycott, is Company A required to report with respect to such operations?

A: Although such operations are related to a boycotting country (see the answer to Question B-1), the reporting requirements are waived for Company A, provided that Company A does not receive a request to participate in or cooperate with an international boycott under section 999(a)(2), Company A does not participate in or cooperate with an international boycott under section 999(b)(3), and Company A's relationship with Company B is not established to facilitate participation in or cooperation with an international boycott.

A-13. Q: In the case of a controlled group, what period of time is the international boycott report to cover, and when is the "International Boycott Report Form," Form 5713, to be filed?

A: For purposes of reporting, all persons described in the answer to Question A-1 are to report all reportable operations by all members of the controlled group (or by any foreign corporation with a United States shareholder who is a member of the controlled group) for the taxable years of such members which end with or within the taxable year of the controlled group's common parent. The international boycott factor is computed on the basis of the operations of all members of the controlled group for the taxable years of such members which end with or within the taxable year of the controlled group's common parent. In the event no common parent exists, the members of the controlled group are to elect the tax year of one of the members to serve as the common tax year for the group. It is contemplated that procedures for making an election will be specified in the instructions of the "International Boycott Report Form," Form 5713. The taxable year election is a binding election to be made once, with subsequent elections for alternative tax years granted only with the approval of the Secretary of the Treasury or his delegate.

Individual members of the controlled group will continue to use their normal tax years for all other purposes, including adjustments required under sections 908, 952(a), and 995(b)(1). When the international boycott factor is used, the controlled group boycott factor, for that year, will be applied to the normal tax year of each taxpayer for determining adjustments under sections 908, 952(a) and 995(b)(1).

The income tax year of a taxpayer may differ from the reporting period covered by the "International Boycott Report Form." Therefore, the Form 5713 which is attached to, and filed with, the income tax return of the taxpayer will be the Form 5713 for the reporting year ending with or within the tax year of the taxpayer.

A-14. Q: Is a United States subsidiary of a foreign corporation or a United States sister corporation of a foreign corporation required under section 999 to report the operations of the foreign parent or sister corporation?

A: Generally, under section 999 a United States person must report the operations of all members of the controlled group of which it is a member. However, if the foreign parent or sister corporation is not otherwise required to report, the requirement that the United States subsidiary or sister corporation report the operations of the foreign parent or sister corporation will be waived for any United States subsidiary or sister corporation which—

1. is entitled to no benefits of deferral, DISC, or the foreign tax credit, or

2. applies the international boycott factor, and forfeits all the benefits of deferral, DISC and the foreign tax credit to which it is entitled (i.e., applies an international boycott factor of one under sections 908(a), 952(a)(3), and 995(b)(1)), or

3. identifies specifically attributable taxes and income, and forfeits all the benefits of deferral, DISC, and the foreign tax credit in respect of which it is unable to demonstrate that the foreign taxes paid and the income earned are attributable to specific operations in which there was no participation in or cooperation with an international boycott.

A-15. Q: Company A receives from Country X an unsolicited invitation to tender for a contract for the construction of an industrial plant in Country X. The tender documents contain a provision stating that Country X will not enter into the contract unless the successful tenderer agrees that it will do no business in connection with the project with any blacklisted United States company. Company A does not respond to the unsolicited invitation. Is Company A required to report the invitation under section 999(a)(2) as a request to participate in or cooperate with an international boycott?

A: No. The section 999(a)(2) reporting requirement will be waived provided that Company A neither solicited the invitation to tender nor responded to the invitation.

A-16. Q: Company A receives requests to comply with boycotts prior to the

issuance of Form 5713. Company A preserves the requests which were evidenced in writing and preserves the notations it makes concerning the details of oral requests. When Form 5713 is issued, it requires more details concerning the requests made of Company A than were preserved, and many of those details can no longer be ascertained. Will Company A's report under section 999(a)(2) be deemed deficient?

A: On October 4, 1976, Company A was put on notice that it would be required to document boycott requests received after November 3, 1977. Form 5713 will not require any details that would not have been preserved by a prudent person having such notice. In addition, under the answer to Question A–15, the reporting requirements of section 999(a)(2) have been waived for certain unsolicited boycott requests. Therefore, if Company A does not supply the required information with respect to the remaining requests that were either solicited or responded to, its report will be deficient.

A–17. Q: A United States partnership consisting of 100 United States partners has operations in a boycotting country. Is each partner required to file Form 5713?

A: Generally, if a partnership has operations in a boycotting country, each partner is required to file Form 5713. However, if the partnership files Form 5713 with its information return and has no operations for the taxable year that constitute participation in or cooperation with an international boycott, then the requirement that each partner file Form 5713 will be waived for each partner that satisfies the following conditions:

1. The partner has no operations in or related to a boycotting country, or with the government, a company, or a national of a boycotting country other than operations that are reported on the Form 5713 filed by the partnership; and

2. The partner attaches to his individual return a certificate signed by a person authorized to sign the partnership return certifying that the partnership filed the Form 5713 and that the partnership has no operations that constituted participation in or cooperation with an international boycott.

A–18. Q: Company A owns 10 percent or more of the outstanding stock of Company C, a foreign corporation that has operations in Country X, but Company A does not have effective control over Company C. Company C participates in or cooperates with an international boycott. Company A requests information from Company C in order to meet its reporting obligations under section 999(a). Company C refuses to provide (or is prohibited by local law, regulation, or practice from providing) that information. Will Company A be subject to the section 999(f) penalties for willful failure to report the activities of Company C?

A: Company A must report on the basis of that information that is reasonably available to it. For example, in most cases Company A will be aware that Company C has operations in Country X, even though Company A is not aware of the operational details. Company A must report on Form 5713 that Company C has operations in Country X. Company A should also describe in a statement attached to Form 5713 the good faith efforts that it has made to obtain all the information required under section 999(a). Although each case must be resolved on the basis of the particular facts and circumstances, Company A will not be subject to the section 999(f) penalties for willful failure to provide information if it can demonstrate that it made good faith efforts to obtain the information but was denied the information by Company C. The answer to this question would be the same if Company C were a domestic corporation.

A–19. Q: The facts are the same as in A–18 above except that Company A owns less than 50 percent of the stock of Company C. What are the tax sanctions to which Company A will be subject?

A: Since Company C is neither a DISC nor a controlled foreign corporation, the sanctions of section 952(a)(3) and 995(b)(1) are not relevant. However, Company A will be subject to the sanctions of section 908(a). Thus, if Company A applies an international boycott factor, that factor is applied to Company A's foreign tax credit in accordance with the answers to Questions F–5, N–1 and N–2. If Company A identifies specifically attributable taxes and income under section 999(c)(2), Company A will lose its section 902 indirect foreign tax credit for the taxes paid by Company C which Company A cannot demonstrate are attributable to specific operations in which there was no boycott participation or cooperation. (To determine whether Company A will lose its section 901 direct foreign credit for income tax withheld by Country X on dividends paid by Company C to Company A, see the answer to Question N–3.)

A–20. Q: Individual G is a national of Country X, which is on the list maintained by the Secretary. G engages in an operation with Company A. For example, if Company A were a bank, the operation might involve a deposit by G, or, if Company A were an automobile dealer, the operation might involve the purchase of a car, or, if Company A were a stockbroker, the operation might involve the purchase or sale of a security, or if Company A were a hotel, the operation might involve the letting of a room. Irrespective of the specific nature of the operation, the agreement under which the operation is consummated is the same agreement which Company A requires of all other customers. Company A is aware of G's nationality, but participation in or cooperation with an international boycott is neither contemplated nor required as a condition of G's willingness to enter into the operation with Company A. Under section 999, what are the reporting obligations of Company A with respect to these operations?

A: Company A is not obligated to report these operations with G under section 999(a). In many business operations, there will be incidental contacts between the nationals or business enterprises of boycotting countries and U.S. persons or businesses in which they have an interest. Such contacts need not be reported under section 999 provided that they satisfy the following criteria:

1. The nationality of the individual or enterprise is merely incidental to the operations,

2. the location of an operation contemplated by the parties is outside any boycotting country,

3. any goods or services to be furnished or obtained in the operation are not produced in a boycotting country and are not intended to be used, consumed, disposed of or performed in a boycotting country,

4. the operation does not contemplate any agreement which would constitute participation in or cooperation with an international boycott,

5. no request for such an agreement is actually made or received by any party to the operation, and

6. there is no such agreement in connection with the operation.

The types of operations described above satisfy these criteria and accordingly need not be reported under section 999. The answer to the question would be the same if Company A were an individual, or if G were a corporation.

B. Definition of "Operations"

B–2. Q: Individual G is a U.S. citizen living in Country X. G is retired. G receives social security payments and a pension, but has no business activities. Does G have "operations" in, or related to, Country X?

A: No. G is not engaged in any business or commercial activities.

B–3. Q: Individual H is a U.S. citizen living in Country X and working there as an employee. H earns a salary and has passive investment income, but has no business income. Does H have "operations" in, or related to, Country X?

A: No. The performance of personal services as an employee does not constitute an "operation."

E. Effective Date Provisions

E–9. Q: Company A entered into a binding contract prior to September 2, 1976 to manufacture and deliver equipment to a customer located in Country X. The contract requires Company A to use no components which are manufactured by blacklisted United States companies. The contract also requires that the vessel on which the equipment is shipped not be blacklisted. On January 15, 1977, Company A is able to have the contract amended to eliminate the requirement regarding components, but is unable to secure any change regarding vessels. Will the amendment regarding components remove the binding contract protection otherwise afforded until December 31, 1977 that Company A has regarding vessels?

A: No. Since Company A could have waited to abrogate or renegotiate its contract until the end of 1977 and since it

is in accord with the legislative purpose for Company A to accelerate elimination of the provision regarding components, it will remain protected until December 31, 1977 from the consequences of its continuing to refrain from shipping the goods on blacklisted vessels.

E-10. Q: If before December 31, 1977 a person carries out several different operations in boycotting countries and the only operation of that person that constitutes participation in or cooperation with an international boycott is carried out in accordance with the terms of a binding contract entered into before September 2, 1976, will the existence of that one boycotting operation trigger the section 999(b)(1) presumption that the other operations of that person in boycotting countries are also operations in connection with which boycott participation or cooperation occurred?

A: No. Operations carried out before December 31, 1977, in accordance with the terms of a binding contract entered into before September 2, 1976, will not trigger the section 999(b)(1) presumption.

E-11. Q: Are operations of a person that constitute participation in or cooperation with an international boycott reflected in the numerator of the person's international boycott factor before December 31, 1977 if those operations are carried out in accordance with the terms of a binding contract entered into before September 2, 1976?

A: No. Boycotting operations carried out before December 31, 1977 in accordance with the terms of a binding contract entered into before September 2, 1976 are not reflected in the numerator of the international boycott factor. They are reflected in the denominator, however.

F. International Boycott Factor and Specifically Attributable Taxes and Income

F-5. Q: In the case of a controlled group (within the meaning of section 993(a)(3)), may one member use the international boycott factor under section 999(c)(1) and another member identify specifically attributable taxes and income under section 999(c)(2)?

A: Yes. Each member may independently choose either to apply the international boycott factor under section 999(c)(1) or to identify specifically attributable taxes and income under section 999(c)(2). The method chosen by each member for determining the loss of tax benefits must be applied consistently to determine all loss of tax benefits of that member. For example, if a member chooses to use the international boycott factor, then it must apply the international boycott factor to determine its loss of the section 902 indirect foreign tax credit in respect of a dividend paid to it by another member of the controlled group, even if that other member determines its loss of tax benefits by identifying specifically attributable taxes and income. In addition, if an affiliated group of corporations files a consolidated return, then the affiliated group must determine its loss of tax benefits either by applying the international boycott factor to the consolidated return, or by having each member determine its loss of tax benefits by identifying specifically attributable taxes and income.

F-6. Q: If Company A chooses to determine its loss of tax benefits by applying the specifically attributable taxes and income method set forth in section 999(c)(2), may it demonstrate the amount of foreign taxes paid and income earned attributable to the specific operations by applying an overall effective rate of foreign taxes and an overall profit margin to each operation?

A: No. Company A must clearly demonstrate foreign taxes paid and income earned attributable to specific operations by performing an in-depth analysis of the profit and loss data of each separate and identifiable operation.

F-7. Q: A United States partnership has operations in a boycotting country. Is the international boycott factor computed at the partnership level?

A: No. The international boycott factor is computed separately by each partner based on information submitted by the partnership and on other activities of that partner. Of course, if the partner can meet the conditions of section 999(c)(2) of the Code, he need not use the international boycott factor.

F-8. Q: Company A desires to determine its loss of tax benefits by applying the specifically attributable taxes and income methods set forth in section 999(c)(2). However, Company A is able to identify specifically attributable taxes and income only with respect to a portion of its operations. Because Company A is unable to determine specifically attributable taxes and income with respect to all its operations, will Company A be required to determine its loss of tax benefits by applying the international boycott factor?

A: No. Company A may compute its loss of tax benefits by applying the specifically attributable taxes and income method if, in addition to the tax benefits that Company A determines are to be lost with respect to the portion of its operations for which it can determine specifically attributable taxes and income, Company A forfeits all the benefits of deferral, DISC, and the foreign tax credit with respect to the remaining portion of its operations for which it cannot identify specifically attributable taxes and income.

N. Reduction of Foreign Tax Credit

N-1. Q: How is the reduction of the foreign tax credit for participation in or cooperation with an international boycott computed under section 908?

A: The method of computation of the reduction of the foreign tax credit under section 908 differs depending on whether the person applying section 908 applies the international boycott factor or identifies specifically attributable taxes and income under section 999(c)(2).

If the person chooses to identify specifically attributable taxes and income, the person reduces the amount of foreign taxes paid before the determination of the section 904 limitation, by the sum of the foreign taxes paid that the person has not clearly demonstrated are attributable to specific operations in which there has been no participation in or cooperation with an international boycott.

If the person applies the international boycott factor, the reduction of the foreign tax credit under section 908 is computed by first determining the foreign tax credit that would be allowed under section 901 for the taxable year if section 908 had not been enacted. The amount of credit allowed under 901 would, of course, reflect the credits allowable under sections 902 and 960, and would also reflect the limitations of both sections 904 and 907. The credit allowed under section 901 would then be reduced by the product of the section 901 credit (before the application of the section 908 reduction) multiplied by the international boycott factor.

N-2. Q: After the reduction of credit has been determined in accordance with the process described in the answer to Question N-1, the taxes denied creditability may be deductible. If the taxes are deducted, is a new section 904 limitation, a new section 901 amount and a new section 908 reduction of credit computed based on the income reduced by the taxes deducted?

A: No. The process described in the answer to Question N-1 is applied only once and the reduction of credit is determined as a result of that single application. If the taxes denied creditability are deducted, no further adjustment is made under section 904, 901 or 908 as a result of the deduction.

N-3. Q: Company A owns 20 percent of the stock of Company C, a corporation organized under the laws of Country X. Company C participates in an international boycott in connection with all its operations. Company C pays a dividend to Company A and Country X withholds income tax on the dividend paid to Company A. Company A computes its loss of tax benefits by identifying specifically attributable taxes and income under section 999(c)(2). Will Company A be denied its section 901 direct foreign tax credit in respect of the income tax withheld by Country X on the dividend paid by Company C?

A: If Company A can demonstrate that its investment in Company C is a clearly separate and identifiable operation in which Company A did not participate in or cooperate with an international boycott, Company A will not be denied its section 901 direct foreign tax credit in respect of the withholding tax on the dividend paid by Company C. On the other hand, even if Company C does not participate in an international boycott, if Company A agreed to participate in or cooperate with an international boycott in connection with its investment in Company C, Company A will lose its foreign tax credit in respect of the withholding tax on the dividend. Thus, whether Company C participates in an international boycott is not relevant to

the determination of Company A's loss of foreign tax credit under the facts of this question. (To determine the denial of the section 902 indirect foreign tax credit for foreign income taxes paid by Company C, see the answer to Question A–19.)

Dated: December 30, 1976.

GEORGE H. DIXON,
Acting Secretary.

[FR Doc.77-352 Filed 1-4-77;8:45 am]

[Supplement to Department Circular; Public Debt Series No. 34–76]

TREASURY NOTES OF SERIES D–1982

Interest Rate

DECEMBER 29, 1976.

The Secretary of the Treasury announced on December 28, 1976, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 34–76, dated December 17, 1976, will be 6⅛ percent per annum. Accordingly, the notes are hereby redesignated 6⅛ percent Treasury Notes of Series D–1982. Interest on the notes will be payable at the rate of 6⅛ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-322 Filed 1-4-77;8:45 am]

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

ADVISORY COMMITTEE

Renewal

Notice is hereby given in accordance with paragraph 7(a) of Office of Management and Budget Circular No. A–63 (Rev'd, March 27, 1974), as amended by Transmittal Memorandum No. 1 (July 19, 1974), that the General Advisory Committee has been renewed effective January 5, 1977.

Dated: December 30, 1976.

FRED C. IKLE,
Director, U.S. Arms Control and Disarmament Agency.

[FR Doc.77-377 Filed 1-4-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 227]

ASSIGNMENT OF HEARINGS

DECEMBER 30, 1976.

Cases assigned for hearing, postponement, cancellation of 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 appfopriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC–C–8917, Dignan Trucking, Inc., et al. V. Southern Maryland Transportation Company, Inc., now assigned January 25, 1977, at Washington, D.C. is postponed to January 27, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C. MC 107487 (Sub-No. 6), Columbia Freight Lines, Inc., now assigned February 1, 1977, at Indianapolis, Ind., is canceled and application dismissed.

MC 114737 Sub 7, O & A Tex-Pack Express, Inc., now being assigned March 22, 1977 (9 Days), at El Paso, Texas, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-382 Filed 1-4-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 30, 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 on or before January 21, 1977.

FSA No. 43291—*Joint Water-Rail Container Rates—Black Sea Shipping Company.* Filed by Black Sea Shipping Company, (No. 102), for itself and interested rail carriers. Rates on general commodities, between rail and water carrier terminals on the U.S. Pacific Coast Seaboard, on the one hand, and, on the other, ports and terminals in Europe.

Grounds for relief—Water competition.

FSA No. 43292—*Joint Rail-Water Container Rates—American Export Lines, Inc.* Filed by American Export Lines, Inc., (No. 9), for itself and interested rail carriers. Rates on general commodities, from rail carrier terminals on the U.S. Gulf Seaboard, to ports in the United Kingdom and Continental Europe.

Grounds for relief—Water competition.

Tariff—American Export Lines, Inc., tariff No. 1, I.C.C. No. 7. Rates are published to become effective on January 26, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-379 Filed 1-4-77;8:45 am]

[Notice No. 99]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JANUARY 5, 1977.

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 January 25, 1977. 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 petitioners must be specified in their petitions with particularity.

No. MC–FC–76152. By order entered December 21, 1976 the Motor Carrier Board approved the transfer to Trecho Transport, Inc., York, N.Y., of the operating rights set forth in Certificate No. MC 138217 (Sub-No. 2), issued November 21, 1975, to Betaways Cargo Carriers, Inc., Buffalo, N.Y., authorizing the transportation of frozen foods, in vehicles equipped with mechanical refrigeration, from Buffalo, N.Y., to points in Erie, Mercer, Blair, Allegheny, Westmoreland, and Cambria Counties, Pa. S. Michael Richards, 44 North Ave., Webster, N.Y. 14580, practitioner for applicants.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-383 Filed 1-4-77;8:45 am]

[Notice No. 173]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

IMPORTANT NOTICE

DECEMBER 28, 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 35628 (Sub-No. 388TA), filed December 17, 1976. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Ave., S.W., Grand Rapids, Mich. 49502. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and foodstuffs, from the plantsite and/or warehouse facility utilized by Geo. A. Hormel & Co., at or near Fremont, Nebr., to points in Kansas and Missouri, for 180 days. Supporting shipper Geo. A. Hormel & Company, Box 800, Austin, Minn. 55912. Send protests to C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 41951 (Sub-No. 30TA), filed December 17, 1976. Applicant WHEATLEY TRUCKING, INC., P.O. Box 458, 125 Brohawn Ave., Cambridge, Md. 21613. Applicant's representative: James H. Sweeney, P.O. Box 684, Woodbury, N.J. 08096. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Hallwood, Va., to points in Ohio, Indiana, Michigan, Illinois, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper John W. Taylor Packing Co., Inc., Hallwood, Va. 23359. Send protests to: Interstate Commerce Commission, 12th & Constitution Ave., N.W., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 49368 (Sub-No. 99TA), filed December 15, 1976. Applicant: COMPLETE AUTO TRANSIT, INC., East 4111 Andover Road, Bloomfield Hills, Mich. 48013. Applicant's representative: Eugene C. Ewald, 100 W. Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authodity sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, in initial movements, in truckaway service; (1) from the plantsites of General Motors Corporation, located at Atlanta and Doraville, Ga., to points in Iowa and Kansas; and (2) from the plantsite of General Motors Corporation, at St. Louis, Mo., to points in Florida, Georgia, North Carolina and South Carolina, under a continuing contract with General Motors Corporation, for 180 days. Supporting shipper: General Motors Corporation, Director, Transportation Economics, E. R. Wiseman, G. M. Logistics Operations, 30007 Van Dyke Ave., Warren, Mich. 48090. Send protests to: James A. Augustyn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 51146 (Sub-No. 489TA) (Correction), filed November 22, 1976, published in the FEDERAL REGISTER issue of December 3, 1976, and republished as corrected this issue. Applicant: SCHNEIDER TRANSPORT, INC., 2661 S. Broadway, P.O. Box 2298, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Such merchandise* as is dealt in by department stores (except foodstuffs, furniture, and commodities in bulk), and (2) *Foodstuffs* (except frozen foods and commodities in bulk), *and furniture*, moving in mixed loads with the commodities described in (1) above, from Secaucus and Jersey City, N.J., and Charlotte, N.C., to Cleveland, Ohio, for 180 days. Supporting shipper: The May Company, 158218 Euclid Ave., Cleveland, Ohio 44114. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., & Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 103066 (Sub-No. 50TA), filed December 14, 1976. Applicant: STONE TRUCKING CO., 4927 S. Tacoma, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: C. L. Phillips, Room 248-Classen Blvd., 1411 N. Classen, Oklahoma City, Okla. 73106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, including dairy* products, in vehicles equipped with mechanical refrigeration, from the plantsites and/or storage facilities of Borden Foods, Division of Borden, Inc., at or near Plymouth, Wis., to points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Borden Foods, Division of Borden, Inc., 180 E. Broad St., Columbus, Ohio 43215. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 115904 (Sub-No. 68TA), filed December 16, 1976. Applicant: GROVER TRUCKING CO., 1710 W. Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Bldg., Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum;* and (2) *Gypsum wallboard paper;* (1) from the facilities of American Gypsum, at or near Albuquerque, N. Mex., to points in Arizona and Colorado; and (2) from Denver, Colo., and points in the commercial zone thereof to the plantsite of American Gypsum, at or near Albuquerque, N. Mex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Gypsum Company, P.O. Box 6345, Albuquerque, N. Mex. 87107. Send protests to: Interstate Commerce Commission, Barney L. Hardin, District Supervisor, 550 W. Fort St., P.O. Box 07, Boise, Idaho 83724.

No. MC 116077 (Sub-No. 375 TA), filed December 16, 1976. Applicant: ROBERTSON TANK LINES, INC., 2000 W. Loop South, Suite 1800, Houston, Tex. 77027. Applicant's representative: J. C. Browder, P.O. Box 1505, Houston, Tex. 77001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nodular pulp*, in bulk, in tank vehicles, from Evadale, Tex., to Ashdown, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Eastex Division Temple-Eastex Incorporated, P.O. Box 816 Silsbee, Tex. 77656. Send protests to: John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Ave., Houston, Tex. 77002.

No. MC 119880 (Sub-No. 94 TA), filed December 15, 1976. Applicant: DRUM TRANSPORT INC., 617 Chicago St., P.O. Box 2056, East Peoria, Ill. 61611. Applicant's representative: B. N. Drum (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain neutral spirits; alcohol and alcoholic liquors*, in bulk, in tank vehicles, from Peoria, and Delavan, Ill., to points in Kentucky, for 180 days. Supporting shipper: Hiram Walker & Sons, Inc., D. J. Anderson, General Traffic Manager, Foot of Edmund St., Peoria, Ill. 61601. 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 119934 (Sub-No. 209 TA), filed December 16, 1976. Applicant: ECOFF TRUCKING, INC., 625 E. Broadway, Fortville, Ind. 46040. Aplicant's representative: Robert W. Loser, II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses*, edible, in bulk, in tank vehicles, from Edgard, La., to Oakland, Calif.; Sayreville, Woodbridge, and Port Reading, N.J.; Philadelphia, Pa.; Cincinnati, Ohio; Collegedale, Tenn.; Atlanta, Ga.;

St. Louis, Mo.; Houston, Tex., and Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Caire & Gaugnard, P.O. Box 7, Edgard, La. 70049. Send protests to: Fran Sterling, Transportation Assistant, Interstate Commerce Commission, Federal Bldg. & U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 129034 (Sub-No. 13 TA), filed December 17, 1976. Applicant: LOOMIS COURIER SERVICE, INC., 55 Battery St., Seattle, Wash. 98121. Applicant's representative: George H. Hart, 1100 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cash letters*, between Seattle, Wash., and the Port of Entry on the United States-Canada border at or near Blaine, Wash., restricted to traffic originating or terminating at Vancouver, British Columbia, Canada, under a continuing contract or contracts with banks or banking institutions, for 180 days. Supporting shippers: There are approximately 7 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: Claud W. Reeves, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 129086 (Sub-No. 22 TA), filed December 17, 1976. Applicant: SPENCER TRUCKING CORPORATION, Rt. 2, Box 254A, Keyser, W. Va. 26726. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, from the plantsite and shipping facilities of FMC, at or near South Heights, Pa., to Keyser, W. Va., and its commercial zone, 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: Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Bldg., Wheeling, W. Va. 26003.

No. MC 129537 (Sub-No. 18 TA), filed December 14, 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 Mississippi, for 180 days. Supporting shippers: There are approximately 70 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: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 134477 (Sub-No. 129 TA), filed December 16, 1976. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hide and commodities in bulk), from Huron, S. Dak., to Chicago, Ill.; Plainwell, Mich.; Newark, N.J.; New York, N.Y.; St. Mary's and Bellefontaine, Ohio; and New London and Eau Claire, Wis., for 180 days. Supporting shipper: Huron Dressed Beef, Inc., P.O. Box 924, Huron, S. Dak. 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 134755 (Sub-No. 84 TA) (Correction), filed November 23, 1976, published in the FEDERAL REGISTER issue of December 7, 1976, and republished as corrected this issue. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St., P.O. Box 3772, Springfield, Mo. 65804. 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: *Meats, meat products, meat by-products and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Farmland Foods, Inc., at or near Crete Nebr., and Denison, Carroll and Iowa Falls, Iowa, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Tennessee, Alabama, Mississippi, Louisiana, Virginia, West Virginia, North Carolina, South Carolina, Kentucky, Georgia and Florida, for 180 days. Supporting shipper: Farmland Foods, Inc., P.O. Box 403, Denison, Iowa 51442. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 134922 (Sub-No. 211 TA), filed December 16, 1976. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber articles*, from Tyler, Tex., to Petaluma, Calif., for 180 days. Supporting shipper: Triple S Tire Center, 412 Madison St., Petaluma, Calif. 94952. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 135236 (Sub-No. 13 TA), filed December 15, 1976. Applicant: LOGAN TRUCKING, INC., 801 Erie Ave., Logansport, Ind. 46947. Applicant's representative: Donald W. Smith, One Indiana Square, Suite 2465, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shortening, lard, tallow, cooking oil and margarine* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Swift Edible Oil Co., at or near Bradley, Ill., to points in New Jersey, New York, Maryland, Pennsylvania, Massachusetts and the District of Columbia, and Manassas, Williamsburg, Richmond and Newport News, Va.; Dover, Rehoboth Beach, and Wilmington, Del.; Levitt City, New Haven, New London, Hartford, Meriden, Colchester and Stamford, Conn.; Burling, Brattleboro, Rutland and White River Junction, Vt.; Concord and Manchester, N.H.; Providence and Cranston, R.I.; Fairfield, Lewiston, Portland and Augusta, Maine and to points in the Commercial Zones of the respective named cities, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Swift Edible Oil Co., Division of Swift & Co., 115 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 136000 (Sub-No. 25TA) filed December 17, 1976. Applicant: ARTHUR H. FULTON, P.O. Box 86, Stephens City, Va. 22655. Applicant's representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Detroit, Mich., and its commercial zone, to Elizabeth City, N.C., and its commercial zone and Washington, D.C., and its commercial zone, for 180 days. Applicant has also field an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Potomac Distributing Company, 3010 Earl Place, N.W., Washington, D.C. 20010. Albermarle Distributing Company, Elizabeth City, N.C. 27909. Send Protests to: Interstate Commerce Commission, 12th & Constitution Ave., N.W., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 141776 (Sub-No. 2TA) (Correction) filed November 23, 1976, published in the FEDERAL REGISTER issue of December 6, 1976, and republished as

corrected this issue. Applicant: FOOD-TRAIN, INC., Spring and South Centre Sts., Ringtown, Pa. 17967. Applicant's representative: Richard Rueda, Suite 612, Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries NOI, candy cough drops, and hollow mold chocolate candy*, from the plant and warehouse sites of Luden's, Incorporated, Reading, Pa., to Cleveland and Cincinnati, Ohio; Detroit and Grand Rapids, Mich.; Melrose Park, Ill.; Milwaukee, Wis.; Minneapolis, Minn.; Des Moines, Iowa, and New Orleans, La., with the right to return refused, exchanged, rejected or damaged merchandise, for 180 days. Supporting shipper: Luden's Incorporated, Reading, Pa. 19603. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503. The purpose of this republication is to add the origin point in this proceeding.

No. MC 142355 (Sub-No. 2TA) filed December 15, 1976. Applicant: TRANS-WESTERN EXPRESS, LTD., 48 E. 56th Ave., Denver, Colo. 80216. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic granules and related materials and supplies*, from points in in Larimer County, Colo., to Salt Lake City, Utah and its commercial zone; and (2) *Plastic handles and related materials and supplies*, from Salt Lake City, Utah and its commercial zone, to points in Larimer County, Colo., restricted to services performed under a continuing contract with Teledyne Water Pik, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Teledyne Water Pik, 1730 E. Prospect, Fort Collins, Colo. 80521. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 142666TA (Correction) filed November 2, 1976, published in the FEDERAL REGISTER issue of December 6, 1976, and republished as corrected this issue. Applicant: J & J TRUCKING, East Wood St., Paris, Ark. 72855. Applicant's representative: James M. Duckett, 1021 Pyramid Life Bldg., Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, between points in Franklin, Johnson, Logan and Pope Counties, Ark.; and from points in these counties, to Fort Smith and Van Buren, Ark.; restricted to transportation of traffic having a prior or subsequent movement by rail, for 180 days. Supporting shippers: B & D Construction, Inc.; and Multi-Minerals Corp., Star Rt. 2, Ozark, Ark. 72949. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201. The purpose of this republication is to add the other supporting shipper, which was omitted in the previous publication.

No. MC 142696 (Sub-No. 1TA), filed December 20, 1976. Applicant: GREENE'S CARTAGE CO., INC., 1934 Avalon Ave., Muscle Shoals, Ala. 35660. Applicant's representative: R. S. Richard 57 Adams Ave., P.O. Box 2069, Montgomery, Ala. 36103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by home product distributors, restricted to home delivery, from Memphis, Tenn., to points to Tennessee, Alabama and Mississippi, under a continuing contract with Stanley Home Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stanley Home Products, Inc., 700 Firestone, Memphis, Tenn. 38107. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 142732TA filed December 16, 1976. Applicant: TIFFANY TRANSPORTATION COMPANY, INC., 3346 N.W. 78th Ave., Miami, Fla. 33122. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk, Classes A and B explosives, livestock, household goods, commodities requiring special handling and special equipment and cement), between points in Dade County, Fla., lying east of State Road 27, south of State Road 826, north of State Road 94, and west of the Atlantic Ocean; all shipments having a prior or subsequent movement by water, for 180 days. Supporting shippers: There are approximately 5 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 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 142735TA filed December 20, 1976. Applicant: FLAMINGO TRANSPORT, INC., 1530 Hammondville Road, Pompano Beach, Fla. 33062. Applicant's representative: Frank Linn (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (except in bulk and those which because of size or weight require specialized transportation equipment), from the facilities of Alumac Mill Products, Inc., in Grundy County, Ill., to Lebanon, Nashville and Sparta, Tenn.; Peachtree City, Ga.; Reidsville, Charlotte and Greensboro, N.C., and Hialeah, Jacksonville, Miami, Ocala, St. Petersburg and Tampa, Fla., under a continuing contract with Alumax Mill Products, Inc., for 180 days. Supporting shipper: Alumax Mill Products, Inc., 5555 E. Highway 6, Morris, Ill. 60450. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 N. W. 53rd Terrace, Miami, Fla. 33166.

No. MC142737TA filed December 20, 1976. Applicant: CLAYTON PUGH, doing business as CLAYTON PUGH TRUCKING, 3819 14th Ave., South, Seattle, Wash. 98108. Applicant's representative: Robert G. Gleason, 15 Court Grady Way, Renton, Wash. 98055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products, fresh and frozen; cheese and cheese products, and shortenings*, canned or cubed, between points in Washington and Oregon west of the Cascade Mountain Range and points in California, for 180 days. Supporting shippers: There are approximately 7 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: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-380 Filed 1-4-77;8:45 am]

[Notice No. 174]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

IMPORTANT NOTICE

DECEMBER 30, 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 45764 (Sub-No. 28TA) filed December 20, 1976. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., Industrial Highway & Saville Ave., P.O. Box 38, Eddystone, Pa. 19013. Applicant's representative: Edward Kells (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial machinery*, the transportation of which because of size or weight requires the use of special equipment or special handling and related machinery parts moving on through trailers, in foreign commerce, from Detroit, Mich., to Toluca, Mex., via the International Boundary at Laredo, Tex., under a continuing contract with Chrysler de Mexico, S.A., for 180 days. Supporting shipper: Chrysler de Mexico, S.A., P.O. Box 1688, Detroit, Mich. 48231. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 94350 (Sub-No. 372TA) filed December 20, 1976. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Haywood Road at Transit Drive, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Single-wide and double-wide mobile homes*, from points in Montgomery County, Tenn., to points in Illinois, Indiana, Kentucky, Missouri, North Carolina, Tennessee and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Modular Structures, P.O. Box 2296, Clarksville, Tenn. 37040. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 103051 (Sub-No. 383TA) filed December 20, 1976. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: David L. Morgan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Starch*, in bulk, in tank or hopper type vehicles, from Decatur, Ala., to points in Arkansas, Florida, Georgia, Indiana, Illinois, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia, for 180 days. Supporting shipper: American Maize Products Co., 113th St., & Indianapolis Blvd., Hammond, Ind. 46326. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A–422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 108761 (Sub-No. 4 TA) filed December 15, 1976. Applicant: THRONE AUTO SERVICE, INC., 3266 Upton Ave., Toledo, Ohio 43613. Applicant's representative: Michael M. Briley, 300 Madison Ave., Toledo, Ohio 43603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled vehicles and replacement vehicles for wrecked or disabled vehicles*, by use of wrecker equipment only, between Toledo, Ohio on the one hand, and, on the other, points in Michigan (except Wayne County); Indiana (except Steuben County); Illinois (except Cook County); and Erie and Pittsburgh, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rollins Leasing Corp., 411 Arco, Toledo, Ohio; Central Transport, 210 City Park, Toledo, Ohio; and Ryder Truck Rental, 1929 E. Manhattan Blvd., Toledo, Ohio. 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 117686 (Sub-No. 160TA) filed December 20, 1976. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 S. Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Minneapolis, Minn., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee and Texas, restricted to traffic originating at the plantsite and storage facilities of the Pillsbury Co., at or near Minneapolis, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Olivia Bradley, Transportation Manager, Pillsbury Company, Frozen Food Division, 7350 Commerce Lane, Minneapolis, Minn. 55432. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 123640 (Sub-No. 23TA) filed December 20, 1976. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maumee Ave., Fort Wayne, Ind. 46803. Applicant's representative: Irving Klein, 371 Seventh Ave., New York, N.Y. 10001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Footwear, footwear accessories, footwear display cases, and display materials, and materials and supplies* used in the distribution of footwear, between Huntington, Ind., on the one hand, and, on the other, points in Illinois, Indiana, Ohio, Michigan and Kentucky, under a continuing contract with Meldisco, a Division of Melville Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Meldisco, a Division of Melville Corporation, 401 Hackensack Ave., Hackensack, N.J. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 113, 343 W. Wayne St., Fort Wayne, Ind. 46802.

No. MC 123872 (Sub-No. 61TA) filed December 17, 1976. Applicant: W & L MOTOR LINES, INC., P.O. Drawer 2607, State Road 1148, Hickory, N.C. 28601. Applicant's representative: Allen E. Bowman (same address as applicant): Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from points in Alexander and Iredell Counties, N.C., to points in New Mexico, Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Gilliam Furniture, Inc., P.O. Box 1610; Blackwelder Furniture Co., P.O. Box 1810; and Statesville Chair Co., Statesville, N.C. Lewittes Furniture Enterprises, Inc., P.O. Box 1027, Taylorsville, N.C. 28681. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 124896 (Sub-No. 18TA) filed December 14, 1976. Applicant: WILLI-SAASON TRUCK LINES, INC., Thorne & Ralson Sts., P.O. Box 3485, Wilson, N.C. 27893. Applicant's representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Farmland Foods, Inc., at or near Carroll, Denison and Iowa Falls, Iowa, to Anniston, Birmingham, Dothan, Leeds, Mobile, Montgomery, Selma and Tuscaloosa, Ala.; Daytona Beach, Ft. Lauderdale, Gainesville, Hollywood, Jacksonville, Miami, Orlando, Plant City, Pompano Beach, Tallahassee and Tampa, Fla.; Albany, Athens, Atlanta, Columbus, Doraville, Dublin, Macon, Rome, Savannah, Thomasville and Way-

cross, Ga.; Greenville, Lexington and Louisville, Ky.; Asheboro, Charlotte, Durham, Greensboro, Greenville, Hickory, Holly Ridge, Kernsville, Lauring burg, Raleigh, Wilmington, Winston-Salem and Wilson, N.C.; Aiken, Charleston, Columbia, Dillon, Evergreen, Florence, Greenville, Orangeburg and Sumter, S.C.; and Chattanooga, Greenville, Jackson, Johnson City, Knoxville, Memphis, Murfreesboro and Nashville, Tenn., restricted to the transportation of traffic originating at the named origins and destined to the destinations, for 180 days. Supporting shipper: Farmland Foods, Inc., Denison, Iowa 51442. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 127616 (Sub-No. 24TA) filed December 20, 1976. Applicant: SAVAGE TRUCKING CO., INC., Elm Street, P.O. Box 27, Chester Depot, Vt. 05144. Applicant's representative: Clarence D. Horton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut timber frame buildings*, from Claremont, N.H., to points in Delaware, Connecticut, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, North Carolina and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cluster Shed, Inc., Division of Vermont Log Bldgs., Box 202, Hartland, Vt. 05048. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 134314 (Sub-No. 6TA) filed December 20, 1976. Applicant: CHARLES R. STROP, doing business as STROP TRANSPORTATION, R.R. One, Hastings, Nebr. 68901. Applicant's representative: Aryln L. Westergren, 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and packinghouse products*, from the plantsite of Dubuque Packing Company, at or near Mankato, Kans., to points in Rhode Island, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Missouri, New Jersey, New York, Nebraska, Ohio, Pennsylvania and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Earl Skahill, General Manager, Dubuque Packing Company, Box 282, Mankato, Kans. 66956. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., and Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 134824 (Sub-No. 4TA) filed December 15, 1976. Applicant: FOREST PRODUCTS TRANSPORTS, INC., 216 Newsom Bldg., P.O. Box 567, Columbia, Miss. 39429. Applicant's representative: Harold D. Miller, Jr., 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from the plantsites of Georgia-Pacific Corporation, located at or near Gloster and Roxie, Miss., and the plantsite of St. Regis Company, located at or near Magnolia, Miss., to the plantsite of Georgia-Pacific Corporation, at or near Port Hudson, La., under a continuing contract with Georgia-Pacific Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corporation, P.O. Box 520, Crossett, Ark. 71635. Send protests to: Alan C. Tarant, District Supervisor, Interstate Commerce Commission, Room 212, 145 E. Amite Bldg., Jackson, Miss 39201.

No. MC 136818 (Sub-No. 12TA) (Correction) filed October 5, 1976, published in the FEDERAL REGISTER issue of October 19, 1976, and republished as corrected this issue. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 W. Elwood, Phoenix, Ariz. 85031. Applicant's representative: Donald Fernaays, 4040 E. McDowell Road, Suite 312, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Thayne, Wyo., to points in California, Illinois, Minnesota, Wisconsin, Pennsylvania and New York, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Star Valley Cheese Corp., Thayne, Wyo. 83127. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025. The purpose of this republication is to add the state of Illinois as a destination point in this proceeding.

No. MC 142145 (Sub-No. 3TA), filed December 20, 1976. Applicant: LINDSAY TRANSPORTATION, INC., Lindsay, Nebr. 68644. Applicant's representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Irrigation systems and parts, equipment, materials and supplies* used in irrigation systems, their shipment or their installation (except commodities in bulk, in tank vehicles), from the facilities utilized by Lindsay Manufacturing Co., at or near Amarillo, Tex., to points in the United States (except Alaska and Hawaii); and *equipment materials and supplies* utilized in the manufacture of irrigation systems (except commodities in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii), to the facilities of Lindsay Manufacturing Co., at or near Amarillo, Tex., restricted to a transportation service to be performed under a continuing contract with Lindsay Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gerald L. Abts, Vice-President, Finance, Lindsay Manufacturing Co., Box 156, Lindsay, Nebr. 68644. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., & Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 142483 (Sub-No. 1TA), filed December 17, 1976. Applicant: W & L MOTOR LINES, INC., P.O. Box 2607, State Road 1148, Hickory, N.C. 28601. Applicant's representative: Allen E. Bowman (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Communications cable* (except commodities in bulk and those which because of size or weight require special equipment), from the plantsite and manufacturing facilities of Comm/Scope Company, located at or near Sherrills Ford, Catawba County, N.C., to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and Wyoming, under a continuing contract with Comm/Scope Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Comm-Scope Company, Rt. 1, Box 199A, Catawba, N.C. 28609. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 142682 (Sub-No. 1 TA) (correction), filed November 23, 1976, published in the FEDERAL REGISTER issue of December 10, 1976, and republished as corrected this issue. Applicant: LARRY A. SANDBERG & NADINE C. SANDBERG, doing business as, L & N HOG MARKET, Rural Route, Rowley, Iowa 52329. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (except in bulk), from the plantsite and storage facilities of Wapsie Valley Creamery, Inc., at or near Independence, Iowa, to points in Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wapsie Valley Creamery, Inc., 300 10th St. N.E., Independence, Iowa 50644. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309. The purpose of this republication is to change docket number MC 142682 (Sub-No. 1) in lieu of MC 142691 TA which was previously published in error.

No. MC 142730 (Sub-No. 1 TA), filed December 16, 1976. Applicant: THOMAS McGINNIS, doing business as T. McGIN-

NIS TRUCKING CO., Route 3, Box 329, Catlettsburg, Ky. 41129. Applicant's representative: John M. Friedman, 2930 Putnam Ave., Hurricane, W. Va. 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a)(1) *Face brick;* (2) *clay and shale*; (3) *concrete materials*, viz: *sand and gravel*, in bulk, in dump vehicles; (4) *concrete materials*, viz: Limestone, sand, and gravel, in bulk, in dump vehicles; (5) *concrete materials*, viz: Patio blocks, concrete lintels, parking curbs and decorative blocks; and (6) *concrete materials*, viz: decorative blocks and concrete blocks in special shapes; and (b)(1) Those commodities named in (1) and (2) above, from Marion, Glasgow and Richlands, Va., to points in Boyd, Greenup, Carter and Lawrence Counties, Ky.; Gallia, Meigs and Lawrence Counties, Ohio; and Cabell and Wayne Counties, W. Va.; (b)(2) Those commodities named in (3) above, from points in Scioto County, Ohio, to Catlettsburg and Greenup, Ky.; (3) Those commodities named in (4) above, from points in Adams County, Ohio, to Catlettsburg and Greenup, Ky.; (4) Those commodities named in (5) above, from points in Franklin County, Ohio, to Catlettsburg and Greenup, Ky.; and (5) Those commodities named in (6) above, from points in Ross County, Ohio, to Catlettsburg, Ky., under a continuing contract with H & H Supply, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H & H Supply, Inc., 1029 Center St., Catlettsburg, Ky. 41129. Send protests to: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Room 216 Bakhaus Bldg., 1500 W. Main St., Lexington, Ky. 40505.

PASSENGER APPLICATIONS

No. MC 142652 (Sub-No. 1 TA), filed December 20, 1976. Applicant: BRANDON TRANSPORT INC., 143 Dequoy, St-Gabriel-de-Brandon, Quebec, Canada JOK 2NO. Applicant's representative: Guy Poliquin, Room 140, 580 E. Grande-Allee, Quebec, Quebec, Canada G1R 2K3. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter and special operations, from points on the International Boundary line in the states of Maine, New Hampshire, Vermont, New York and Michigan, to points in the United States (except Alaska and Hawaii), restricted to traffic originating at Montreal, St-Gabriel-de-Brandon in the Province of Quebec, Canada, for 180 days. Supporting shipper: Agence de Voyages Brandon Enrg, 143 Dequoy, St-Gabriel de Brandon, Quebec, Canada. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 142691 (Sub-No. 1 TA) (Correction), filed November 30, 1976, published in the FEDERAL REGISTER issue of December 13, 1976, and republished as corrected this issue. Applicant: SOUTHBOUND, INC., P.O. Box 45157, Baton Rouge, La. 70895. Applicant's representative: E. J. Dominguez, Sr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in round-trip special operations, between Shreveport, Minden, Ruston and Monroe, La., on the one hand, and, on the other, Louisiana State Penitentiary, at or near Tunica, La., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Helen Walker, 4102 Martha St., Shreveport, La. 71109. Ida Edwards, 4200 Ester Ave., Monroe, La. 71201. Alton Gandy, c/o Amaco Station Dennis Drive Hwy. 7, Minden, La. 71055. Ada C. Veal, 412 Main St., Grambling, La. 71245. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113. The purpose of this republication is to change docket number MC 142691 (Sub-No. 1) in lieu of MC 142682 TA which was previously published in error.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-381 Filed 1-4-77;8:45 am]

federal register

WEDNESDAY, JANUARY 5, 1977

PART II

ENVIRONMENTAL PROTECTION AGENCY

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AIR POLLUTION CONTROL

Certification and Test Procedures for New Motorcycles; Emission Regulations and Appendices

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 659-1]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Emission Regulations for New Motorcycles

On October 22, 1975 a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 49496) for the control of exhaust and crankcase emissions from new motorcycles. Comments by interested parties to that NPRM received prior to February 10, 1976 were considered in the preparation of this final rule making.

Basis for motorcycle regulations. In the development of the final rule making, the effects of motorcycle emissions on ambient air quality on a national basis and in certain air quality control regions were reevaluated. Even with the use of reduced growth rates as recommended by some of those commenting on the NPRM, the analysis concludes that the control of motorcycle emissions is a reasonable strategy to reduce air pollution caused by motor vehicles. The projected contribution of motorcycles in 1985 ranges from 3 to 18 percent of the hydrocarbons and 3 to 5 percent of the carbon monoxide allowable to meet ambient air quality standards in the five air quality control regions assessed. In the time frame considered no single source will be a major contributor, and meeting the ambient air quality standards will require control of many sources each of which considered individually may not be a large contributor to air pollution. However, control in the aggregate will contribute significantly to needed reductions in ambient pollutant concentrations.

Emission standards and implementation dates. The NPRM contained proposed emission standards for 1978 and 1979 model year motorcycles of 5 grams/kilometre (5 g/km or 8 g/mi) hydrocarbons (HC) for engine displacements less than 170 cc, 5 to 14 g/km (22.5 g/mi) for displacements between 170 cc and 750 cc and 14 g/km above 750 cc. The carbon monoxide (CO) and nitrogen oxides (NOx) standards proposed were 17 g/km (27.4 g/mi) and 1.2 g/km (1.9 g/mi), respectively. For model year 1980 and later it was proposed that motorcycles be controlled to the ultimate light duty vehicle standards set forth in section 202 of the Clean Air Act, as amended, 42 U.S.C. 1857f-1 (commonly known as the "statutory standards"). In general the response to the proposed action was that the 1978 standards were achievable but that implementation of the statutory standards was not technically feasible as early as 1980, and that control to that level would not be cost effective.

An analysis of the costs and lead time for the 1978 standards confirmed that the proposed levels are a reasonable and cost effective means of control, and therefore, with the exception of the NOx standard, they are hereby being promulgated as proposed. The NOx standard has been deleted because an air quality analysis indicates that the motorcycle contribution to motor vehicle NOx emissions is negligible, being less than one half of one percent in 1990.

The analysis of the 1978 standards revealed that a level of control more stringent than the 1978 standards is feasible for model year 1980 at reasonable costs using available technology. Two levels of HC control, both of which eliminate the displacement dependency of the HC standard, were evaluated. These levels were 5 g/km HC (8 g/mi) and 2 g/km HC (3.2 g/mi). The 5 g/km standard proved to be as cost-effective as the 1978 standards and achieved only slightly less control than the 2 g/km standard. The analysis indicated that the 5 g/km HC standard could be implemented in 1980; the 2 /km standard would require several years more lead time to avoid major disruption to the industry since it is likely that most two stroke motorcycles would need to be converted to a four stroke design to comply with a 2 g/km standard. Based on this analysis, a follow-on standard of 5.0 g/km HC and 12 g/km CO applicable for the 1980 model year is hereby being promulgated. Data indicate that the 12 g/km (19.3 g/mi) CO level is achievable at low cost using available technology.

The 1978 standards will result in an average 34 percent reduction in HC and an average 36 percent reduction in CO emissions compared to the uncontrolled motorcycles. The 1980 standards will increase these percentage reductions to 54 and 49 percent, respectively.

The proposal for the 1980 motorcycle standards equivalent to the light duty vehicle statutory standards is being withdrawn at this time. Depending upon future air quality needs and the determination of the cost effectiveness, the Agency may, in the future, repropose those levels of control to become effective in the time frame beyond 1980.

Economic impact. EPA studies using information supplied by various manufacturers indicate that the cost of compliance with the promulgated emission standards for 1978 will result in an average increase in retail cost of 47 dollars per motorcycle. This cost will be partially offset by an average discounted lifetime fuel savings of 33 dollars and an undetermined savings in maintenance and improved reliability of the product. The average incremental cost increase for the 1980 standards is estimated to be $9 which includes a small additional improvement in fuel economy. The manufacturers estimated that fuel economy improvements associated with the 1978 emission standards would range as high as 65 percent with an average increase of 20 percent. No significant decrease in sales or shift in market shares (between manufacturers) is expected to result from the implementation of this regulation.

Applicability of emission regulations. The motorcycle definition has been changed to include 2 wheel vehicles and all 3 wheel vehicles having a curb mass of less than or equal to 680 kilograms (1500 lbs.). This definition provides objective criteria for determining a vehicle's class while maintaining consistency with the previous light duty vehicle motorcycle exclusion.

The preamble to the Notice of Proposed Rule Making stated that under the Clean Air Act, the EPA does not have the authority to prescribe standards for vehicles not designed for use on streets or highways. Some confusion was expressed by commenters over what constituted a motorcycle designed for use on streets or highways. The applicability section has been rewritten to state that these standards apply to new motorcycles which have a headlight, taillight and stoplight.

The applicability to only those motorcycles with displacements of at least 50 cc remains. Motorcycles with top speeds under 40 km/h (25 mi/h) or which cannot start from a stop using power from only the engine (e.g. most mopeds) have been excluded.

Certification procedure. In an effort to minimize the costs and certification time while obtaining reasonable assurance that newly manufactured motorcycles will comply with the standards for their useful life, substantial changes to the proposed certification procedure have been made.

The NPRM proposed that durability vehicles accumulate the entire mileage defined as its useful life and that a deterioration factor be calculated from the emissions test results for this vehicle. Then a separate (emission data) vehicle, calibrated to production specifications would accumulate sufficient mileage to stabilize emissions and compliance would be determined by applying the deterioration factor to this level of emissions. Under the promulgated procedure, the emission data and durability vehicles will be combined into one certification test vehicle and the test distance reduced to one half of the useful life distance. Cutting in half the test distance will reduce the lead time and cost required to accumulate test mileage and will permit the use of production calibrations on vehicles used to calculate deterioration factors. By combining durability and emissions data vehicles into one test motorcycle calibrated to production specifications, and by testing one such vehicle for each engine family-displacement system combination, added confidence in the representativeness of the resulting deterioration factor is gained.

Another change made to the certification procedures concerns test vehicle selection. The product line is grouped, by engine displacement in cubic centimetres (cc), into three vehicle classes. These classes are: I, 50–169 cc; II, 170–279 cc; III, 280 cc and greater engine displacement. Within each class the vehicles will further be grouped by engine family-displacement-control system combinations. Within each combination EPA will select the "worst case" vehicle to be tested for the purpose of demonstrating compliance with the emission standards. Only one

vehicle per engine family-displacement-control system combination will be selected for such testing. For engine families with less than 5000 annual sales, the manufacturer may request that only one vehicle per engine family be selected.

The test vehicle will be built to production tolerances and will accumulate distance to one half its useful life. A minimum of four emission tests performed by the manufacturer will be required, and from these data a deterioration factor line will be calculated and extrapolated to the useful life. If the deterioration factor line is below the standard, or all test points are below the standard, the vehicle will then be tested by EPA. If the results of applying the deterioration factors multiplicatively to the EPA test results are also below the standard (and all other procedural requirements are met), certification will be granted. For vehicles whose emissions exceed the standard when projected to the useful life, the manufacturer may elect to continue service accumulation to the useful life and demonstrate that emissions throughout the useful life will be below the standard.

Several comments were received requesting exclusion of low volume manufacturers from the regulations. An analysis of the effort required to reduce emissions to the promulgated standards revealed that low volume manufacturers will not incur unreasonably high per unit increases in cost, and consequently should not be excluded from complying with the regulations. However, to minimize certification costs both for the manufacturers and for the government, an experimental provision for low volume manufacturers has been adopted. Manufacturers with total U.S. sales of less than 10,000 vehicles will not be required to submit vehicles for certification testing by EPA. These manufacturers will be required to affirm in writing to EPA that their motorcycles conform to the applicable standards as confirmed by emission test data generated by or for the manufacturers (and retained in the records of the manufacturer) and that the aggregate model year sales of motorcycles to be covered by the certificate of conformity will be less than 10,000. The manufacturer must also retain in his records all of the data that would otherwise be required to be submitted to EPA in the completed application for certification; this documentation need not be submitted to EPA unless specifically requested by EPA at some subsequent time.

The procedure described above reduces the number of motorcycles required to be tested by EPA by approximately 60 percent from the procedure proposed in the NPRM. This is accomplished by revised vehicle selection criteria, the combining of durability and data vehicles into one test vehicle, and the special provisions for manufacturers with less than 10,000 annual sales. The Agency recognizes that this certification procedure is new and untried, and may require modification at a future date should it fail to result in assuring that motorcycles are designed to meet the emission standards for their useful life. However, the risk of this experiment is negated by the relatively small contribution of low volume manufactured motorcycles to air pollution. Currently there are only five manufacturers who sell more than 10,000 vehicles per year in the United States. Collectively these five produce over 90 percent of all motorcycles sold in this market while approximately 27 other manufacturers produce the remainder. If a special provision were not made to preclude small volume manufacturers from full certification, EPA would have to devote almost a quarter of its motorcycle certification resources to test vehicles which account for less than 5 percent of motorcycle emissions. While the special provisions in the final rule will allow the Agency and the smaller manufacturers to realize some cost savings they in no way reduce the manufacturer's obligation to comply with such standards. Since the Agency expects to include production motorcycles made by small volume manufacturers in one or more surveillance testing programs, the desired control will be obtained.

Useful life. In the NPRM useful life was described as the average distance a motorcycle could be expected to travel in its lifetime. The definition of useful life adopted by EPA for final rule making is of considerable import to the industry for two reasons. First, the definition of useful life affects the design of vehicles capable of meeting the emission standards in the preproduction design evaluation process ("certification"). To show compliance with a given emission standard over a greater distance requires emission control equipment which either is more durable or meets lower initial targets in order to continue meeting the emission standards after deterioration has occurred. Second, the useful life definition affects the duration of the warranties and the applicability of recall provisions in section 207 of the Act. Thus, the longer the useful life, the more extensive will be the manufacturer's liability under the warranty provisions and the greater his jeopardy under the recall provisions.

EPA has believed since the initial development of this regulation that its obligation is to obtain the maximum emission reduction which the technology allows, giving appropriate consideration to the cost of compliance. Obtaining the maximum reduction could theoretically be accomplished either of two ways—by specifying a given set of emission standards with a requirement that they be met for a useful life equal to their average total lives; or by specifying a shorter useful life mileage during which the standards are applicable (if permissible under the law), while setting correspondingly more stringent emission standards. EPA chose the first option in its proposal (namely, a set of standards which appeared feasible if they had to be met for average total life), because a longer period of useful life ensures some degree of pollution control for a greater proportion of the population of motor vehicles in use at any point in time and because EPA believed its discretion to specify useful life was limited by explicit statutory guidance (as will be explained below). The option of a shorter useful life with a tighter emission standard would be more likely to lead to gross emitters in the second half of a vehicle's life, particularly for a type of vehicle for which owner maintenance is the rule rather than the exception, and would not come as close as possible to the only useful life mileage for any vehicles given in the statute. Thus EPA believes that the proposed specification of useful life distance as average total life distance was supported by either of two independent considerations: It was closest to the statutory intent and, even if the statute is read to give EPA discretion to adopt a shorter period, the longer period was preferable public policy.

The comments submitted in response to the notice of proposed rule making did not lead EPA to conclude that it was wrong on the law, or provide any data or arguments (such as cost-effectiveness comparisons or demonstrations that compliance for average total life was infeasible) leading EPA to conclude that it had chosen an undesirable policy. Therefore EPA has decided to adopt the specification of "useful life" for motorcycles as average total life distance or five years, whichever comes first. EPA is aware that the manufacturers are already devoting their programs toward meeting the proposed emission standard for the life of their vehicles.

The policy issue will be discussed first. Even those manufacturers who argued that the Administrator was legally obligated to use half life as the basis of useful life nevertheless conceded that the Administrator could choose a longer period of time if he determined it was "appropriate," under section 202(d)(2) of the Act.[1] Although he does not believe the statute requires, or even allows (see below), useful life for motorcycles to be defined as half life, the Administrator determined that he should analyze the "appropriate" useful life, in case a court should agree with the legal views of these commenters. It has been determined that for motorcycles it is appropriate to specify a useful life of average total life for several reasons.

First, shorter useful lives are a compromise with what can be done in air pollution control, since they allow vehicles to escape regulation completely once a certain point is passed.

Second, technology allows motorcycles to be designed such that their emission control features are durable for their total lives, which are in all cases

[1] These manufacturers argued that EPA has discretion to classify motorcycles as "other" motor vehicles subject to section 202(d)(2) for purposes of determining useful life. As the D.C. Circuit has emphasized, Congress, in using the term "light duty vehicle", had in mind passenger cars exclusively or almost exclusively. International Harvester Co. v. Ruckelshaus, 478 F.2d 615, 639 (D.C. Cir. 1973).

less than two fifths the mileages for which automobile manufacturers and all other regulated manufacturers must design their emission control devices and systems to properly function.

None of the major manufacturers argued that they would be unable to meet the proposed 1978 standards over the full lifetime of their vehicles. Two manufacturers stated that a few of their models have generally low durability for some components which will ultimately cause the vehicle to be inoperative and that this could lead to difficulties during certification testing if tests had to be run for the full lifetime mileage. (As will be noted later this problem has been alleviated by permitting anticipated maintenance during the durability test.) In their comments on the NPRM manufacturers told EPA that their development efforts directed towards meeting the proposed 1978 federal standards for the full lifetime of their motorcycles were already underway.

The 1980 standards initially proposed by EPA (0.25 grams/kilometre—HC, 2.1 grams/kilometre—CO, and 0.25 grams/kilometre—were the equivalent values to kilometre—NOx were the equivalent values to the light duty vehicle statutory standards. Most motorcycle manufacturers claimed that this level of emission control was currently technologically infeasible for motorcycles and that sufficient lead time was not available to develop the new technologies necessary to meet these standards by 1980. As a result EPA has adjusted the 1980 standards to levels which in EPA's technical judgment can be met by manufacturers without undue hardship. Manufacturers have known about the revised 1980 standards for almost five months and have not called on EPA to halt their implementation on the grounds that they were infeasible. Further reason to believe that manufacturers can achieve at least a 5.0 gram/kilometer standard for HC emissions is based on the data supplied to the Administrator by the industry which led the Administrator to conclude in his California Waiver decision (41 FR 44209, October 7, 1976) that lead time and technology were available for manufacturers to comply with this level of stringency even though it might require two-stroke engines of greater than 250 cc displacement to convert to four-stroke engines.

Third, apart from issues of technological feasibility, the manufacturers might have offered data suggesting that for a given level of stringency in the standard the use of the total life concept was less cost-effective than use of a half life concept. But no conclusive arguments to this effect were offered for the 1978 standards which were proposed.

In summary, the Administrator has found several reasons of public policy which have led him to determine that the periods of useful life set forth in these regulations are appropriate.

EPA believes that the mileages set forth in these regulations are the required ones under section 202(d) of the Clean Air Act. Some commenters disagreed. These commenters argued not only that average total life was not required as the useful life for motorcycles under the Act, but that "half life" was. After careful consideration of the arguments and research offered by these commenters on the question, EPA has concluded that they are in error.

In section 202(d)(1) of the Act Congress specified the useful life of "light duty vehicles" as a period of 5 years or 50,000 miles (or the equivalent). For "any other motor vehicle," section 202(d)(2) requires the same or a "greater duration or mileage." Thus, whether motorcycles are light duty vehicles or "other" vehicles, the same floor of 5 years/50,000 miles appears to be the minimum allowed by the Act. Some manufacturers have suggested that the phrase "(or the equivalent)" which follows "50,000 miles" in section 202(d)(1) (and by implication in section 202(d)(2)) evidences a Congressional intent that the floor, or minimum, useful life for any vehicle is its "half life," rather than 5 years/50,000 miles.[7] While it is true that 5 years or 50,000 miles happens to equate approximately with half of the total lifetime usage of passenger cars (which are the sole, or at least major, category of light duty vehicles)[8] neither the language of the Act nor the legislative history indicates a Congressional intent that the half-life concept be applied as the minimum for other classes of vehicles, or that the words "(or the equivalent)" have that meaning.

The inclusion of the word "equivalent" in section 202(d) simply took account of the long-standing administrative policy of the Department of Health, Education, and Welfare (which regulated motor vehicle emissions prior to the creation of EPA) that the emission standards must be applicable to vehicles during the "normal service in the hands of the public" or during the test track "equivalent" of such normal service, since accumulation of mileage during certification was required to take place on a test track according to a specified urban driving cycle. See 45 CFR 85.87, 31 FR 5177 (March 30, 1966); § 85.92, 33 FR 8317 (June 4, 1968); § 85.92, 35 FR 17303 (November 10, 1970). For heavy duty vehicles, HEW required that the standards be applicable during "[n]ormal service in an urban area (or its dynamometer operation equivalent)." Proposed 45 CFR 85.113, 33 FR 126 (January 4, 1968); see §§ 85.113, 85.133, 33 FR 8319, 8322 (June 4, 1968); §§ 85.113, 85.133, 35 FR 17307, 17310, (November 10, 1970).

In sum, the origin of the phrase "(or the equivalent)" in section 202(d) of the Act was simply the administrative practice of allowing a variety of different "equivalent" methods of accumulating mileage or time to be used to prove the same things. This practice existed even prior to 1970 and the phrase has been consistently interpreted by EPA since 1970 for the same purpose.[9] The phrase was not intended by Congress to be a code word for "half life," which could have been expressed in explicit language if such had been the intention.[10] Thus the contention that there is a legal requirement for the Administrator to adopt half life as useful life is not valid.

As mentioned above, EPA believes that it is constrained by the statute from choosing a shorter period than it has done for motorcycles. In fact, EPA would have felt obligated to specify 50,000 miles if motorcycles lasted that long in actual service. Section 202(d)(1) of the Act established 5 years or 50,000 miles as the floor for useful life for light duty vehicles, and section 202(d)(2) incorporates this by reference as a floor for all other vehicles. However, it is obvious that few, if any, motorcycles last 50,000 miles (although they do last 5 years or more). This presented EPA with the choice between mandating a useful life mileage for motorcycles which is longer than the life of the vehicle (and therefore could not be met in a certificaton durability test) or selecting a useful life which comes as close as possible to the statutory floor of 50,000 miles. EPA concluded that the Congressional standard of a 50,000 mile useful life could best be met, for a vehicle which did not last 50,000 miles, by specifying a useful life as close to it as possible. Since specifying useful life as average total life distance leads to a much closer approximation of the 50,000

[7] One of the manufacturers argued that the phrase "(or the equivalent)" requires that useful life for motorcycles be the portion of a motorcycle's total life that is equivalent to the portion that 50,000 miles represents in a passenger car's total life, and stated that this was 60 percent; in other words, this comment stated that the statute required three-fifths life, rather than half life or total life. Another, which at a later stage argued that the statute required half life, had earlier argued that the phrase "(or the equivalent)" means the mileage equivalent of 5 years of use, without regard to what portion of the vehicle's total life that figure would represent. For the reasons stated in the text neither of these positions is demonstrated by the legislative history.

[8] See International Harvester Co. v. Ruckelshaus, 478 F. 2d 615, 639 (D.C. Cir. 1973); S. Rep. No. 91-1196, 91st Cong., 2d Sess. 24 (1970).

[9] After the 1970 amendments of the Act, the regulations were restructed to provide for expressing the applicability of emission standards in terms of the phrase "useful life," and the "equivalences" to normal mileage accumulation were transferred to the definitional sections of the regulation. It was not considered necessary to continue the phrase "equivalent" for light duty vehicles, but the phrase was continued for heavy duty engines, for which durability testing is normally done on an engine dynamometer, and the length of the test is defined in terms of hours instead of miles. 45 CFR 1201.1(a)(33)(ii) and (iii), 36 FR 16905 (August 26, 1971). These definitions, using the term "equivalent", are currently set forth in 40 CFR 85.702(a)(17), and 85.802(a)(26); *cf.* § 85.902 (1976).

[10] Indeed, to adopt the view that "equivalent" means "half life" would confer on the Administrator discretion to change even the five year/fifty thousand mile provision of 202(d)(1) for passenger cars if he found from new data that some other figures were "equivalent" to half life. This conclusion would be at odds with the express intent of Congress that it, not the Administrator, set the useful life for automobiles.

mile floor than would average half life distance, this becomes the mandatory floor.

As noted earlier, several manufacturers commented on the appropriateness of the specific values EPA had calculated for average lifetime mileage in the NPRM. Numerous detailed analyses of motorcycle average total life mileage based, as the EPA study was, on the Gallup Motorcycle Survey data, were received as comments to the NPRM. In calculating the useful life values contained in this final rule making, the best features of these analyses were combined with EPA's original analysis to obtain the most appropriate values, and these are used in the useful life definition contained in this final rule making. Life time mileages for three displacement classes were determined to be necessary and are as follows: 12,000 kilometres (7,456 miles) for small displacement motorcycles; 18,000 kilometres (11,185 miles) for medium displacement motorcycles; and 30,000 kilometres (18,641 miles) for large displacement motorcycles.

In the NPRM EPA did not propose a period of time to accompany mileage as a part of the useful life definition. For the certification-compliance testing section of the regulations a time period is irrelevant. For the warranty or recall provisions, however, a time period is useful to provide the manufacturer some specific limit to the period during which the vehicles must conform to applicable emission standards. Section 202(d) of the Act requires that EPA must set as useful life a period of five years or, if appropriate, some greater value. In this case EPA will set the minimum period that the law allows, or five years, as the useful life of a motorcycle. This value will apply regardless of the engine displacement of the vehicle.

Maintenance. The manufacturers requested that break-in maintenance and decarbonization be allowed as scheduled maintenance, and that combustion chamber access be allowed as unscheduled maintenance. Under the promulgated regulations, scheduled maintenance has been divided into two classes: Periodic maintenance and anticipated maintenance. Periodic maintenance will cover all those items which are required at fixed distance or time intervals, such as oil changes, tune-ups, etc. Any periodic maintenance not specifically authorized by the regulations may be performed as long as a showing is made that this maintenance will be performed by most owners in actual use. Anticipated maintenance will cover those types of failures which are likely to occur and for which no preventive maintenance is appropriate, and whose occurrence is manifested by an overt indication to the owner.

Examples of anticipated maintenance items are piston seizure which results in the vehicle being inoperative, or the need for cylinder head decarbonization, manifested by an obvious loss of power or surging. To qualify for anticipated maintenance, a manufacturer must specify in his application for certification the approximate distance at which the need for anticipated maintenance will occur, and must include the maintenance item in the owner's maintenance instructions. Anticipated maintenance must be approved by the Administrator prior to service accumulation. During testing the maintenance may be performed if there is an overt indication of the failure, and if the failure does not otherwise render the vehicle unrepresentative. Access to the combustion chamber will be allowed only if the manufacturer indicates prior to testing that such a failure is anticipated to occur and if he makes a showing that the type of maintenance which will alleviate the failure is likely to be done in the field.

Both the 207(a) warranty and the recall provision apply to motorcycles. The application of these requirements is neither affected by, nor in conflict with, the concept of anticipated maintenance. Anticipated maintenance instructions are premised on the catastrophic failure of parts to which they apply and the fact that such parts have a known service life less than the useful life of the motorcycle and must be installed and functioning in order for the motorcycle to operate. A catastrophic failure as used here is one which occurs without a significant period of degradation of either components or emissions performance. It is also a failure which renders the motorcycle inoperative. Thus, no amount of adjustment or modification would allow the motorcycle to operate.

Because of the nature of catastrophic failures, components which fail in such a manner pose no threat to the emissions performance of motorcycles. Such failures covered by anticipated maintenance instructions may not be subject to a claim under the section 207(a) warranty or recall under section 207(c)(1). However, the existence of an anticipated maintenance instruction will not insulate a manufacturer from recall or warranty actions if a component to which such an instruction applies fails in a non-catastrophic mode. If such a component actually deteriorates and emissions exceed standards (as a direct consequence of the failure or as a result of engine adjustment to improve driveability), nonconforming motorcycles may be remedied by a claim under the warranty and/or the recall provision.

Beginning with the 1980 model year, EPA will specify as part of scheduled maintenance the adjustment settings of any components which are capable of being adjusted and which would be expected to affect emission levels. Those adjustments within the physically allowable range that are expected to maximize driver perceived performance characteristics will be specified. For example, settings for the idle mixture, carburetor fuel metering rod and spark timing will be specified, where adjustment is available. Therefore, the manufacturers will be required to either calibrate the vehicle so that it meets the standards at all adjustments or to physically and permanently constrain the range of adjustment to the degree necessary so that the required emission levels will be achieved at any adjustment within that range. It is expected that motorcycle manufacturers will comply with this requirement by eliminating the need for certain in-use adjustments and by providing physical limitations (positive stops) to the range of any remaining maintenance adjustments. This procedure is being adopted because motorcycles to a large extent are maintained by their owners, and these vehicles are expected to be set by the owner to those adjustment points that he or she perceives will provide optimum performance by improving either the power or the fuel economy.

This procedure is intended to prevent the above standard emission levels otherwise associated with maladjustment. This provision of the regulations is especially important to the effective implementation of the 1980 standards since it is expected that the technology to be used to meet these standards will be basically engine adjustment technology. If limitations are not placed on such adjustments, it would be reasonably expected that the effectiveness of emission control would be largely negated as an inherent result of in-use maintenance practices.

Test Procedures. In general only minor adverse comments were received with respect to the test procedures. As stated in the NPRM preamble, consideration was being given to the use of the Critical Flow Venturi sampling system. This system has been adopted as an allowable alternative to the proposed Positive Displacement Pump constant volume sampler.

Manufacturers commented that the pre-emission test soak period was unnecessarily long especially for the small displacement motorcycles. Based on manufacturer and EPA data, the soak period has been revised to require soak periods of 6, 8 and 12 hours for Classes I through III, respectively.

Opposition to the 12 hour cyclic accumulation of durability distance was stated by some manufacturers. It was their opinion that this procedure added substantial cost and delay to distance accumulation and the effect on durability was uncertain. EPA maintains that this procedure is relevant to durability test cycles, and considers its use appropriate. The Agency concluded that the nonoperating period should be reduced to 8 hours in order to minimize distance accumulation time while still achieving the objectives of the procedure. Since the time required to accumulate the specified distances is 9 to 22 days, depending on the class, this requirement is not considered unreasonable.

The emission test dynamometer requirements have been restricted to performance requirements in terms of the road load characteristics and cooling. This was done to allow the maximum amount of test equipment flexibility for motorcycle manufacturers. The road load requirements have been changed from the single velocity specification to a two term equation of simulated road force as a function of velocity. The specified road load force at 65 km/h must be simulated

within a 5 newton (1.1 pounds force) tolerance. The forces at other speeds are simulated to the best ability of the equipment being used. It is the Agency's intention to specify a force tolerance over the entire test speed range if tests indicate there are significant errors in emissions or fuel economy measurement resulting from the use of equipment which does not accurately simulate the specified road load. These tests will be performed after the dynamometer being procured by EPA becomes operational; and tolerances, if determined necessary, will be issued for the 1980 model year.

One manufacturer was opposed to the emission driving schedule because of the need for the very small motorcycles to operate at wide open throttle during part of the driving schedule. The required maximum speed of 59 km/h (37 mi/h) for urban driving is considered by EPA to be a representative top speed for non-freeway traffic. EPA tests revealed that only motorcycles with certain combinations of gearing and wheel size have difficulty achieving the maximum speed. The present procedure which allows wide open throttle operation in place of achieving the required speed is considered representative of actual use, therefore the driving schedule as proposed is specified.

Manufacturers commented that the speeds in the durability cycle were also not representative for certain motorcycles. An analysis of the durability driving schedule speeds determined that certain modifications to the lap speeds should be made. The final rule making reflects these revised speeds.

Based on comments by one manufacturer, the displacement applicability of the two sets of shift points has been changed from above and below 170 cc to above and below 280 cc. A requirement for downshifting at the same vehicle speed as the upshift has been added. The use of manufacturer's recommended shift procedures is still allowable.

Motorcycle manufacturers have requested the use of indoor dynamometers for distance accumulation. There are no specific provisions for this in the regulations. However, the EPA will not disallow the use of a chassis dynamometer solely because it is located within a building. Indoor ambient temperature and the temperature measured at the cooling fan that are within 5° C of outdoor ambient are considered reasonable. Manufacturers wishing to use an indoor chassis dynamometer must request this in their application for certification.

Comments which were received in response to the NPRM are available for inspection and copying during normal business hours at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M St. S.W., Washington, D.C. 20460. As provided for in 40 CFR Part 2, a reasonable fee may be charged for copying services.

Single copies of EPA's detailed analysis of the comments received, entitled "Motorcycle Emission Regulations—Summary and Analysis of NPRM Comments", as well as copies of the Final Environmental Impact Statement are available upon request from the Public Information Center (PM-215), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

This Notice of Final Rulemaking is issued under the authority of sections 202, 206, 208 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, 1857f-6, 1857g(a)).

Effective date: This regulation becomes effective on February 4, 1977.

NOTE.—The Environmental Protection Agency has determined that this document contains a major regulation requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Inflation Impact Statement has been prepared.

Dated: December 23, 1976.

JOHN QUARLES,
Acting Administrator.

Subparts E and F are added as follows:

Subpart E—Emission Regulations for 1978 and Later New Motorcycles, General Provisions

Sec.

Subpart F—Emission Regulations for 1978 and Later New Motorcycles; Test Procedures

AUTHORITY: Secs. 202, 206, 207, 208, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, 1857f-6, 1857g(a)).

Subpart E—Emission Regulations for 1978 and Later New Motorcycles, General Provisions

§ 86.401-78 General applicability.

(a) This subpart applies to 1978 and later model year, new gasoline-fueled motorcycles built after 31 December 1977.

(b) Motocycles with engine displacements less than 50 cc (3.1 cu. in.) are excluded from the requirements of this subpart.

(c) A motorcycle is excluded from the requirements of this subpart, if, with an 80 kg (176 lb) driver, it cannot:

(1) Start from a dead stop using only the engine, or

(2) Exceed a maximum speed of 40 km/h (24.9 mph) level paved surfaces.

§ 86.402–78 Definitions.

(a) The definitions in this section apply to this subpart and also to Subpart F.

"Act" means Part A of title II of the Clean Air Act, 42 U.S.C. 1857 f–1 through f–7, as amended by Pub. L. 91–604.

"Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

"Class", see § 86.419.

"Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the engine crankcase ventilation or lubrication systems.

"Curb mass" means the actual or manufacturer's estimated mass of the vehicle with fluids at nominal capacity and with all equipment specified by the Administrator.

"Displacement", and "Displacement Class", see § 86.419.

"Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 86.420.

"Engine-displacement-system combination" means an engine family-displacement-emission control system combination.

"EPA Enforcement Officer" means any officer or employee of the Environmental Protection Agency so designated in writing by the Administrator (or by his designee).

"Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

"Fuel system" means the combination of fuel tank, fuel pump, fuel lines, oil injection metering system, and carburetor or fuel injection components, and includes all fuel system vents.

"Loaded vehicle mass" means curb mass plus 80 kg (176 lb.), average driver mass.

"Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January first of such calendar year. If the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

"Motorcycle" means any motor vehicle with a headlight, taillight, and stoplight and having: Two wheels, or Three wheels and a curb mass less than or equal to 680 kilograms (1499 pounds).

"Oxides of nitrogen" means the sum of the nitric oxide and nitrogen dioxide contained in a gas sample as if the nitric oxide were in the form of nitrogen dioxide.

"Scheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed on a periodic basis to prevent part failure or vehicle malfunction, or anticipated as necessary to correct an overt indication of vehicle malfunction or failure for which periodic maintenance is not appropriate.

"Span gas" means a gas of known concentration which is used routinely to set the output level of any analyzer.

"System" includes any motor vehicle modification which controls or causes the reduction of substances emitted from motor vehicles.

"Useful life" is defined for each class (see § 86.419) of motorcycle:

Class I–5.0 years or 12,000 km (7,456 miles), whichever first occurs.

Class II—5.0 years or 18,000 km (11,185 miles), whichever first occurs.

Class III—5.0 years or 30,000 km (18,641 miles), whichever first occurs.

"Unscheduled maintenance" means any inspection, adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed to correct or diagnose a part failure or vehicle malfunction which was not anticipated.

"Zero (0) kilometers (miles)" means that point after initial engine starting at which normal assembly line operations and adjustments are completed.

§ 86.403–78 Abbreviations.

The abbreviations used in this subpart have the following meanings in both capital and lowercase:

ASTM—American Society for Testing and Materials.
C—Celsius.
cc—Cubic centimetre(s).
cfh—Cubic feet per hour.
cfm—Cubic feet per minute.
cm—Centimetre(s).
CO—Carbon monoxide.
CO_2—Carbon dioxide.
Conc—Concentration.
cu.—Cubic.
CVS—Constant volume sampler.
EGR—Exhaust gas recirculation.
EP—End point.
EPA—Environmental Protection Agency.
F—Fahrenheit.
h—hour.
HC—Hydrocarbon(s).
Hg—Mercury.
H_2O—Water.
in.—Inch(es).
K—Kelvin.
kg—Kilogram(s).
km—Kilometre(s).
kpa—Kilopascals.
lb—Pound(s).
m—Metre(s).
mph—Miles per houf.
mm—Millimetre(s).
N_2—Nitrogen.
NOx—Oxides of nitrogen.
No.—Number.
O_2—Oxygen.
Pa—Pascal(s).
Pb—lead.
ppm—Parts per million by volume.
psi—Pounds per square inch.
psig—Pounds per square inch gauge.
R—Rankine.
rpm—Revolutions per minute.
wt—Weight.
°—Degree(s).
%—Percent.

§ 86.404–78 Section numbering.

(a) The year of initial applicability of a section is indicated by its section number. The two digits following the hyphen designate the first model year for which a section is effective. A section remains effective until superseded.

Example. Section 86.411–78 applies to 1978 and subsequent model years until it is superseded. If a § 86.411–81 is promulgated it would take effect beginning with 1981; § 86.411–78 would apply to years 1978 through 1980.

(b) A reference to a section without a year designation implies the appropriate model year.

Example. When considering 1979 vehicles a reference to § 86.411 implies § 86.411–79. However if no § 86.411–79 has been promulgated then § 86.411–78 is implied; See paragraph (a) of this section.

§ 86.405–78 Measurement system.

(a) This subpart and Subpart F have been written using System International (SI) units. SI units will be used to determine compliance with these regulations. English equivalents have been indicated solely for the user's convenience.

§ 86.406–78 Introduction, structure of subpart, further information.

(a) This subpart contains general provisions regulating the emission of air pollution from new motorcycles. Test procedures are found in Subpart F.

(b) Several discrete concepts are addressed:

(1) *Requirements.* §§ 86.407 to 86.415.

(2) *Application for certification.* §§ 86.416 and 86.417.

(3) *Test fleet selection.* § § 86.418 to 86.423.

(4) *Service accumulation, testing, maintenance, certification.* §§ 86.424 to 86.439.

(5) *Administrative provisions.* §§ 86.440 to 86.444.

(c) The certification procedure to be followed depends upon the manufacturer's projected sales.

(1) New motorcycles, produced by a manufacturer whose projected U.S. sales of motorcycles is 10,000 or more units (for the model year in which certification is sought) shall demonstrate compliance with all general standards and all specific emission requirements before they can be sold in the United States. The manufacturer is required to submit an application with sales data, product information, required maintenance, testing and service accumulation procedures. The Administrator will select vehicle(s) which will represent the manufacturer's product line. The manufacturer is required to construct these vehicles to be representative of actual production. Service is accumulated and emission tests performed with data submitted to the Administrator. The Administrator may run his own tests to confirm the manufacturer's results. The Administrator will review the data and either grant or deny certification. If the manufacturer wishes to make changes to a certified vehicle, or to produce a new vehicle, the Administrator must be notified. The Administrator may require testing to demonstrate continued compliance with emission standards. Each vehicle must be labeled with tune up specifications

and the purchaser must be supplied with maintenance instructions. Also, information on production vehicles must be supplied to the Administrator.

(2) New motorcycles produced by a manufacturer whose projected U.S. sales of motorcycles is less than 10,000 units (for the model year in which certification is sought) shall meet both the general standards and specific emission requirements described in § 86.401 through § 86.417, § 86.425, § 86.437, and § 86.440 through § 86.444 of this subpart before they can be sold in the United States. The manufacturer is required to submit an application containing a statement that his vehicles conform to the applicable emission standards. The manufacturer is required to retain in his records, but not submit with the application, valid emission test data which support his statement. The Administrator will review the application and either grant or deny certification. Each vehicle must be labeled with tune up specifications and the purchaser must be supplied with maintenance instructions. Also, information on production vehicles must be supplied to the Administrator.

(d) Manufacturers who are considering an application should contact: Director, Certification Division, Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, Michigan 48105 and state whether he plans to certify for total sales of greater than or less than 10,000 vehicles for the applicable model year.

§ 86.407–78 Certificate of conformity required.

Every new motorcycle manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into the United States which is subject to any of the standards prescribed in this subpart is required to be covered by a certificate of conformity issued pursuant to this subpart.

§ 86.408–78 General standards; increase in emissions; unsafe conditions.

(a) Any system installed on or incorporated in a new motorcycle to enable such vehicle to conform to standards imposed by this subpart:

(1) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such vehicle without such system, except as specifically permitted by regulation; and

(2) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motorcycle, its rider(s), or persons or property in close proximity to the vehicle.

(b) Every manufacturer of new motorcycles subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motorcycles in accordance with good engineering practice to ascertain that such test vehicles will meet the requirements of this section for the useful life of the vehicle.

§ 86.409–78 Defeat devices, prohibition.

(a) No motorcycle shall be equipped with a defeat device.

(b) Defeat device means any element of design which:

(1) Senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying or deactivating the operation of any part of the emission control system and

(2) Reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal urban vehicle operation and use, unless

(i) Such conditions are substantially included in the Federal emission test procedure, or

(ii) The need for the device is justified in terms of protecting the vehicle against damage or accident, or

(iii) The device does not go beyond the requirements of engine starting or warm-up.

§ 86.410–78 Emission standards for 1978 motorcycles.

(a)(1) Exhaust emissions from 1978 model year motorcycles shall not exceed:

(i) *Hydrocarbons.* (A) For vehicles with engine displacements equal to or greater than 50 cc (3.1 cu. in.) but less than 170 cc (10.4 cu. in.), 5.0 grams per vehicle kilometre.

(B) For vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.) but less than 750 cc (45.8 cu. in.), the standard is computed by use of the following formula, rounded in accordance with ASTM E 29–67 to two significant figures:

Hydrocarbon standard in grams per vehicle kilometre=5.0+0.0155×(D–170).
where:
D = engine displacement of the motorcycle in cubic centimetres, see § 86.419.

(C) For vehicles with engine displacements equal to or greater than 750 cc (45.8 cu. in.), 14 grams per vehicle kilometre.

(ii) *Carbon monoxide*: 17 grams per vehicle kilometre.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over driving schedules as set forth in Subpart F and measured and calculated in accordance with those procedures.

(b) No crankcase emissions shall be discharged into the ambient atmosphere from any new motorcycle subject to this subpart.

§ 86.410–80 Emission standards for 1980 motorcycles.

(a)(1) Exhaust emissions from 1980 model year motorcycles shall not exceed:

(i) *Hydrocarbons.* 5.0 grams per vehicle kilometre.

(ii) *Carbon monoxide.* 12 grams per vehicle kilometre.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over driving schedules as set forth in Subpart F and measured and calculated in accordance with those procedures.

(b) No crankcase emissions shall be discharged into the ambient atmosphere from any new motorcycle subject to this subpart.

§ 86.411–78 Maintenance instructions, vehicle purchaser.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new motorcycle the written instructions for the periodic and anticipated maintenance and use of the vehicle by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems for the vehicle's useful life.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in the English language and in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall:

(1) Contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions, and

(2) Specify the performance of all scheduled maintenance performed by the manufacturer under § 86.428.

§ 86.412–78 Maintenance instructions, submission to Administrator.

(a) *Instructions for ultimate purchaser.* (1) The manufacturer shall provide to the Administrator, at least 30 days before being supplied to the ultimate purchaser (unless the Administrator consents to a lesser period of time), a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser. The instructions must include the periodic and anticipated maintenance contained in the application for certification or contained in the manufacturers' records (if anticipated sales are less than 10,000 units). Such instructions must be reasonable and necessary to assure the proper functioning of the vehicle's emission control systems.

(2) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

(b) *Other instructions.* The manufacturer of any new motorcycle subject to any of the standards prescribed in this subpart shall submit to the Administrator at the time of issuance by the manufacturer, copies of all sales brochures, instructions, or explanations regarding the use, repair, adjustment, maintenance, or testing of such vehicle relevant to the control of crankcase or exhaust emissions, issued by the manufacturer for use by other manufacturers, assembly plants,

distributors, dealers, repair facilities, and ultimate purchasers. Any material not translated into the English language need not be submitted unless specifically requested by the Administrator.

§ 86.413–78 Labeling.

(a)(1) The manufacturer of any motorcycle shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles available for sale to the public and covered by a certificate of conformity.

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently attached and must be readily accessible. Multi-part labels may be used.

(3) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) *The label heading.* Vehicle Emission Control Information;

(ii) Full corporate name and trademark of the manufacturer;

(iii) Engine displacement (in cubic centimetres) and engine family identification;

(iv) Engine tune up specifications and adjustments, as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop). These specifications shall indicate the proper transmission position during tune up;

(v) Any specific fuel or engine lubricant requirements (e.g., lead content, Research octane number, engine lubricant type);

(vi) An unconditional statement of conformity to USEPA regulations which includes the model year; for example, This Vehicle Conforms to USEPA Regulation Applicable to ——— Model Year New Motorcycles.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle conforms to any other applicable Federal or State standards for new motorcycles or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle.

§ 86.414–78 Submission of vehicle identification numbers.

(a) Upon request by the Administrator, the manufacturer of any motorcycle covered by a certificate of conformity shall, within 30 days, identify by vehicle identification number, the vehicle(s) covered by the certificate of conformity.

(b) The manufacturer of any motorcycle covered by a certificate of conformity shall furnish to the Administrator, at the beginning of each model year, any vehicle identification number coding system which identifies whether such vehicle(s) are covered by a certificate of conformity.

§ 86.415–78 Production vehicles.

(a) Any manufacturer obtaining certification shall supply to the Administrator, upon his request, a reasonable number of production vehicles selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require.

(b) Any manufacturer obtaining certification shall notify the Administrator, on a quarterly basis, of the number of vehicles of each engine family-engine displacement-emission control system-fuel system-transmission type-inertial mass category combination produced for sale in the United States during the preceding quarter.

(c) All motorcycles covered by a certificate of conformity shall prior to delivery to the ultimate purchaser be adjusted, by the manufacturer or his agent, to the ignition timing specification detailed in § 86.413.

§ 86.416–78 Application for certification.

(a) New motorcycles produced by a manufacturer whose projected sales in the United States is 10,000 or more units (for the model year in which certification is sought) are covered by the following:

(1) An application for a certificate of conformity to the regulations in the English language applicable to new motorcycles shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment. Where possible, a manufacturer should include in a single application for certification, a description of all vehicles in each class for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles and the computation of test results will be determined separately for each application.

(2) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(i) Identification and description of the vehicles covered by the application and a description of their engine, emission control system and fuel system components. This shall include a detailed description of each auxiliary emission control device. Transmission gear ratios, overall drive ratios and vehicle mass (or range of mass) shall also be included. The label and its location shall be specified, § 86.413. Available optional equipment shall be described.

(ii) The range of available fuel and ignition system adjustments.

(iii) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles for which certification is requested. If reduced testing based on low sales volume is requested the method of predicting sales shall be described.

(iv) A description of the test equipment (if applicable) and fuel and engine lubricant proposed to be used.

(v) A description of the proposed service accumulation procedure and a description of the proposed scheduled maintenance.

(vi) A statement of recommended periodic and anticipated maintenance and procedures necessary to assure that the vehicles covered by a certificate of conformity in operation conform to the regulations, listings of the fuels and lubricants to be recommended to the ultimate purchaser and a description of the program for training of personnel for such maintenance, and the equipment required to perform this maintenance.

(vii) A description of normal assembly line operations and adjustments if such procedures exceed 10 km (6.2 miles) or one hour of engine operation.

(3) Completed copies of the application and of any amendments thereto, and all notifications under §§ 86.438 and 86.439 shall be submitted in such multiple copies as the Administrator may require.

(4) For purposes of this section, "auxiliary emission control device" means any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.

(b) New motorcycles produced by a manufacturer whose projected sales in the United States is less than 10,000 units (for the model year in which certification is sought) are covered by the following:

(1) All the information that would otherwise be required to be submitted to EPA under paragraph (a)(2) of this section must be made a part of the manufacturer's records, except there is no requirement to submit the information to the Administrator or receive approval from the Administrator.

(2) Section 86.437 details the statements that these manufacturers are required to provide to the Administrator.

(c) For the purpose of determining applicability of paragraphs (a) or (b) of this section, where there is more than one importer or distributor of vehicles manufactured by the same person, the projected sales shall be the aggregate of the projected sales of those vehicles by such importers or distributors.

§ 86.417–78 Approval of application for certification.

(a) After a review of the application for certification and any other information which the Administrator may require, the Administrator may approve

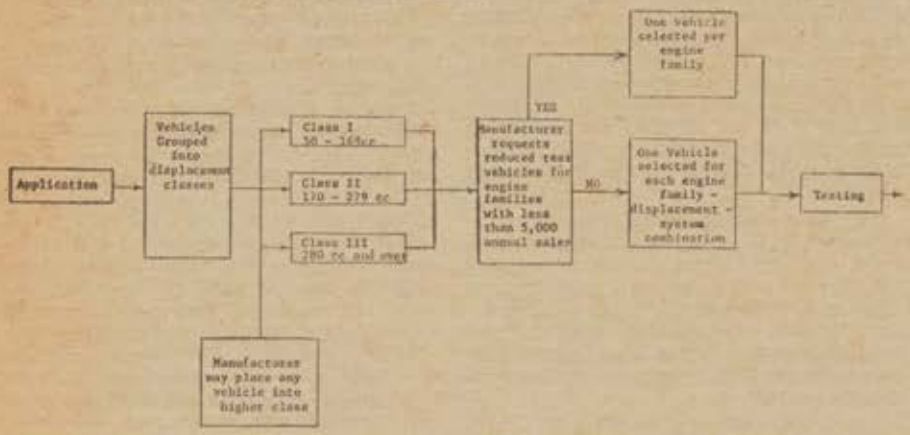
the application and select a test fleet as appropriate.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons including incompleteness, inaccuracy, inappropriate proposed distance accumulation procedures, maintenance, test equipment, label content or location, fuel or lubricant, and incorporation of defeat devices in vehicles described by the application. Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection. The manufacturer may request a hearing under § 86.443.

§ 86.418–78 Test fleet selection.

(a) Test fleet selection and requirements on test vehicles are found in §§ 86.419 to 86.423. This selection process is also graphically depicted in Figure E78–1.

Figure E78–1 Selection Process



§ 86.419–78 Engine displacement, motorcycle classes.

(a)(1) Engine displacement shall be calculated using nominal engine values and rounded to the nearest whole cubic centimetre, in accordance with ASTM E 29–67.

(2) For rotary engines, displacement means the maximum volume of a combustion chamber between two rotor tip seals minus the minimum volume of that combustion chamber between those two rotor tip seals times three times the number of rotors.

cc = (max. chamber volume − min. chamber volume) × 3 × no. of rotors

(b) Motorcycles will be divided into classes based on engine displacement.

(1) Class I—50 to 169 cc (3.1 to 10.4 cu. in.).

(2) Class II—170 to 279 cc (10.4 to 17.1 cu. in.).

(3) Class III—280 cc and over (17.1 cu. in. and over).

(c) At the manufacturer's option, a vehicle described in an application for certification may be placed in a higher class (larger displacement). All procedures for the higher class must then be complied with, compliance with emission standards will be determined on the basis of engine displacement.

§ 86.420–78 Engine families.

(a) The vehicles covered in the application will be divided into groupings whose engines are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(b) *Reciprocating families.* To be classed in the same engine family, reciprocating engines must be identical in all of the following applicable respects:

(1) The combustion cycle.

(2) The cooling mechanism.

(3) The cylinder configuration (inline, vee, opposed, bore spacings, etc.).

(4) The number of cylinders.

(5) The engine displacement class, § 86.419.

(6) The method of air aspiration.

(7) The number of catalytic converters, location, volume, and composition.

(8) The thermal reactor characteristics.

(9) The number of carburetors.

(10) The prechamber characteristics.

(11) The number of tune ups to be performed during service accumulation.

(c) At the manufacturer's option, reciprocating engines identical in all the respects listed in paragraph (b) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of features such as:

(1) The bore and stroke.

(2) The combustion chamber configuration.

(3) The intake and exhaust timing method of actuation (poppet valve, reed valve, rotary valve, etc.).

(4) The intake and exhaust valve or port sizes, as applicable.

(5) The fuel system.

(6) The exhaust system.

(d) *Rotary families.* To be classed in the same engine family, rotary combustion cycle engines must be identical in all of the following applicable respects:

(1) The major axis of the epitrochoidal curve.

(2) The minor axis of the epitrochoidal curve.

(3) The generating radius of the epitrochoidal curve.

(4) The cooling mechanism.

(5) The number of rotors.

(6) The engine displacement class, § 86.419.

(7) The method of air aspiration.

(8) The number of catalytic converters, location, volume and composition.

(9) The thermal reactor characteristics.

(10) The number of carburetors.

(11) The prechamber characteristics.

(12) The number of tune ups to be performed during service accumulation.

(e) At the manufacturer's option, rotary combustion cycle engines identical in all the respects listed in paragraph (d) of this section, may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of features, such as:

(1) The width of the rotor housing.

(2) The type and location of intake port (side, peripheral, combination, etc.).

(3) The number of spark plugs per rotor.

(4) The fuel system.

(5) The exhaust system.

(f) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (b) and (d) of this section, the Administrator will establish families of those engines based upon the features most related to their emission characteristics.

§ 86.421–78 Test fleet.

(a) A test vehicle will be selected by the Administrator to represent each engine-displacement-system combination. The configuration (engine calibration, transmission, drive ratio, mass, options, etc.) in the manufacturer's application which the Administrator believes has the greatest probability of exceeding the standards will be selected.

(b) At the manufacturer's option, the Administrator will only select one vehicle to represent each engine family where the total projected annual sales for that family are less than 5,000 vehicles.

(c) A manufacturer may elect to operate and test additional vehicles which are identical to those selected by the Administrator. Written notice of a commitment to operate and test additional vehicles shall be given to the Administrator prior to the start of testing and not later than 30 days following notification of the test fleet selection. The results of tests performed by the manufacturer will be combined to determine deterioration factors. Each vehicle must meet applicable standards when tested by the Administrator and when those results are projected to the useful life.

(d) In lieu of testing a test vehicle and submitting data therefore, a manufacturer may, with the prior written ap-

proval of the Administrator, submit exhaust emission data on a similar vehicle for which certification has previously been obtained or for which all applicable data has previously been submitted.

§ 86.422–78 Administrator's fleet.

The Administrator may require additional test vehicles identical in all material respects to vehicles selected in accordance with § 86.421. The number of vehicles selected shall not increase the size of the test fleet by more than 20 percent or one vehicle, whichever is greater.

§ 86.423–78 Test vehicles.

(a) At zero kilometres before testing or beginning to accumulate service on the test vehicle, the manufacturer shall provide the zero kilometre documents as required by the Administrator, and make the vehicle available for such testing or inspection as the Administrator may require. Testing or service accumulation shall not begin until authorized by the Administrator. Failure to comply with these requirements will invalidate all test data submitted for the vehicle.

(b) Once a manufacturer begins to operate a test vehicle, as indicated by compliance with paragraph (a) of this section, the data from the vehicle will be used, unless specified otherwise by the Administrator. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(c) Test vehicles shall be calibrated at zero kilometres within the production tolerences applicable to the manufacturer's specifications.

(d) The Administrator may disqualify a vehicle which receives assembly line operations and adjustments which will not be performed on production vehicles.

§ 86.424–78 Service accumulation, testing and maintenance.

(a) Service accumulation, emission testing and maintenance are described in §§ 86.425 to 86.429. The testing and certification procedures are graphically depicted in Figure E78–2.

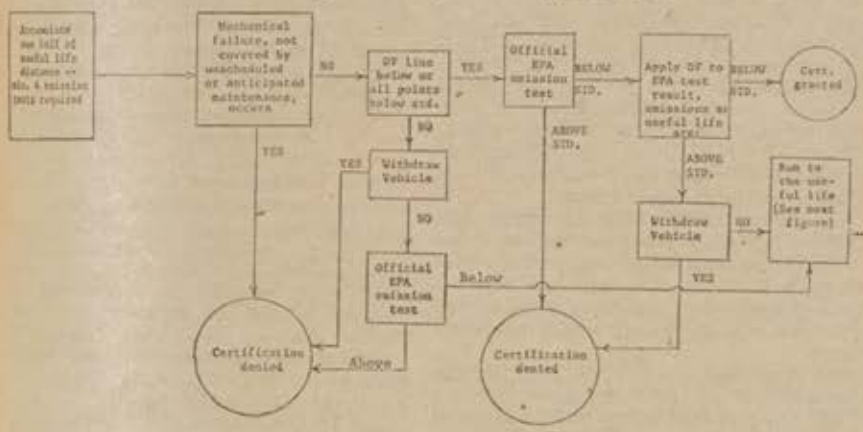


Figure E78–2 Testing and Certification

§ 86.425–78 Test procedures.

(a) Motorcycle emission test procedures are found in Subpart F.

(b) The Administrator may prescribe emission test procedures for any motorcycle which he determines is not susceptible to satisfactory testing by the procedures set forth in Subpart F.

(c) Testing of any type with respect to any test vehicle other than that specified in this subpart and Subpart F is not allowed except as specifically authorized by the Administrator.

§ 86.426–78 Service accumulation.

(a) The procedure for service accumulation will be the Durability Driving Schedule as specified in Appendix IV to this Part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate distance at a measured curb mass which is within 5 kg (11.0 lb) of the curb mass specified by the Administrator.

(b) During service accumulation, vehicles shall not be operated for more than 12 hours during an operating sequence. Engine shutdowns are permitted during the operating sequence, but the periods of shutdown are not included in the 12 hour total. Following each operating sequence, the vehicle shall soak, without operation, for a minimum of 8 hours. During soak periods, the vehicle shall be exposed to normal outside ambient temperatures and humidity conditions unless vehicle maintenance or servicing is being performed.

§ 86.427–78 Emission tests.

(a) Each test vehicle shall be driven with all emission control systems installed and operating for the following total test distances, or for such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. (See § 86.419 for class explanation).

Displacement class	Total test distance (kilometers)	Minimum test distance (kilometers)	Minimum number of tests
I	6,000	2,500	4
II	9,000	2,500	4
III	15,000	2,500	4

(b) All vehicles shall undergo at least four emission tests; one at the minimum test distance, one before and one after periodic maintenance, and one at the total test distance. If no maintenance is scheduled, then at least two tests will be performed, at equal intervals, between the minimum and total test distances. Additional tests may be performed; such tests must be at equal intervals and approved by the Administrator prior to starting service accumulation.

(c) Where the Administrator agrees to a lesser distance for service accumulation, he may modify the maintenance provisions of this Subpart.

(d) All tests required by this subpart must be conducted at an accumulated distance within 250 kilometers (155 mi) of the nominal distance at each test point.

(e) Up to three valid tests may be conducted at each test point. The number of valid tests must be the same at each test point for a given vehicle.

(f) The Administrator may require that any one or more of the test vehicles be submitted to him, at such places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(g) Whenever the Administrator conducts a test on a test vehicle, the results of that test, unless subsequently invalidated by the Administrator, shall comprise the data for the vehicle at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

§ 86.428–78 Maintenance, scheduled; test vehicles.

(a) Periodic maintenance on the engine, emission control system, and fuel system of test vehicles shall be scheduled for performance at the same distance intervals that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser. Such maintenance shall be performed only under the following provisions.

(b) Periodic major engine tune-ups to the manufacturer's specifications may be performed no more frequently than as follows nor may any tune-up be performed within 1000 km prior to the total test distance.

Displacement class:	*Minimum interval (kilometers)*
I	3,000
II	3,000
III	4,000

(c) A scheduled major engine tune up shall be restricted to items listed below and shall be conducted in a manner consistent with service instructions and

specifications provided by the manufacturer for use by customer service personnel. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required: (1) Breaker points, timing, (2) idle speed and idle air/fuel mixture, (3) valve lash, (4) engine bolt torque, and (5) spark plugs.

(d) [Reserved]

(e) Periodic change of engine and transmission oil, and change or service of oil, air, and fuel filters will be allowed at the same distance intervals that will be specified in the manufacturer's maintenance instructions.

(f) Requests for authorization of periodic maintenance of emission control related components not specifically authorized to be maintained by this section, and for anticipated maintenance (see § 86.428), must be made prior to the beginning of distance accumulation. The Administrator will approve the performance of such maintenance in the manufacturer makes a satisfactory showing that the maintenance will be performed on vehicles in use and that the maintenance is reasonable and necessary.

(1) The EGR system may be serviced a maximum of two times during the durability service accumulation if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for EGR system maintenance, or if the need for periodic maintenance of the EGR system is overtly signalled to the vehicle operator by an appropriate means, e.g., an indicator light or significantly reduced driveability performance.

(2) The catalytic converter may be serviced only once during the durability service accumulation if failure of the catalytic converter activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for catalytic converter maintenance, or if the need for periodic maintenance of the catalytic converter is overtly signalled to the vehicle operator by an appropriate means, e.g., an indicator light or significantly reduced driveability performance.

(g) Certain engine components may require maintenance which, by its nature, cannot be scheduled for periodic intervals, but which the manufacturer believes will be necessary. For example, piston and cylinder replacement caused by piston seizure which results in the vehicle being inoperative; or, in the case of two-stroke engines, decarbonization, the need for which is signalled to the vehicle operator by significantly reduced driveability performance. Such maintenance is designated anticipated maintenance. Anticipated maintenance must be identified by the manufacturer and approved as being appropriate by the Administrator prior to the start of service accumulation. The approximate distance at which the need for anticipated maintenance may arise must be specified in the application for certification.

(h) Complete emission tests (see Subpart F) are required, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions.

§ 86.428–80 Maintenance, scheduled; test vehicles.

(a) Periodic maintenance on the engine, emission control system, and fuel system of test vehicles shall be scheduled for performance at the same distance intervals that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser. Such maintenance shall be performed only under the following provisions.

(b) Periodic major engine tune-ups to the manufacturer's specifications may be performed no more frequently than as follows nor may any tune-up be performed within 1000 km prior to the official test.

Displacement class:	*Minimum interval (Kilometer)*
I	3,000
II	3,000
III	4,000

(c) A scheduled major engine tune-up shall be restricted to items listed below and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required: (1) Breaker points, timing, (2) idle speed and idle air/fuel mixture, (3) valve lash, (4) engine bolt torque, and (5) spark plugs.

(d) The Administrator will specify the ignition timing, idle air fuel mixture and other fuel system adjustments to be used at each tune-up. The settings selected will be those the Administrator deems appropriate within the physically available range.

(e) Periodic change of engine and transmission oil, and change or service of oil, air, and fuel filters will be allowed at the same distance intervals that will be specified in the manufacturer's maintenance instructions.

(f) Requests for authorization of periodic maintenance of emission control related components not specifically authorized to be maintained by this section, and for anticipated maintenance (see § 86.428), must be made prior to the beginning of distance accumulation. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on vehicles in use and that the maintenance is reasonable and necessary.

(1) The EGR system may be serviced a maximum of two times during the durability service accumulation if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for EGR system maintenance, or if the need for periodic maintenance of the EGR system is overtly signalled to the vehicle operator by an appropriate means, e.g., an indicator light or significantly reduced driveability performance.

(2) The catalytic converter may be serviced only once during the durability service accumulation if failure of the catalytic converter activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for catalytic converter maintenance, or if the need for periodic maintenance of the catalytic converter is overtly signalled to the vehicle operator by an appropriate means, e.g., an indicator light or significantly reduced driveability performance.

(g) Certain engine components may require maintenance which, by its nature, cannot be scheduled for periodic intervals, but which the manufacturer believes will be necessary. For example, piston and cylinder replacement caused by piston seizure which results in the vehicle being inoperative; or in the case of two-stroke engines, decarbonization, the need for which is signalled to the vehicle operator by significantly reduced driveability performance. Such maintenance is designated anticipated maintenance. Anticipated maintenance must be identified by the manufacturer and approved as being appropriate by the Administrator prior to the start of service accumulation. The approximate distance at which the need for anticipated maintenance may arise must be specified in the application for certification.

(h) Complete emission tests (see Subpart F) are required, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions.

§ 86.429–78 Maintenance, unscheduled; test vehicles.

(a) Any unscheduled engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on vehicles shall be performed only with the advance approval of the Administrator.

(1) In the case of unscheduled maintenance, such approval will be given if the Administrator:

(i) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle unrepresentative of vehicles in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and

(ii) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfire, vehicle stall, overheating, fluid leakage, loss of oil pressure, or charge indicator warning.

(2) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (a)(1)(i) of this section.

(b) Repairs to vehicle components of test vehicles, other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(c) The Administrator shall be given the opportunity to verify the extent of an overt indication of part failure and/or

vehicle malfunction (e.g., misfire, stall), or an activation of an audible and/or visual signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(d) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available at dealerships and other service outlets and

(1) Are used in conjunction with scheduled maintenance on such components, and

(2) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (a)(1) of this section for durability or emission data vehicles, or

(3) Unless specifically authorized by the Administrator.

(e) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle unrepresentative of vehicles in use, the vehicle shall not be used as a test vehicle.

(f) Complete emission tests are required, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions.

§ 86.430–78 Vehicle failure.

(a) Any test vehicle which incurs major mechanical failure necessitating disassembly of the engine shall not be used as a test vehicle. This prohibition does not apply to failures occurring after the official test at the total test distance.

§ 86.431–78 Data submission.

(a) Data from all tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within five working days). In addition, all test data shall be compiled and provided to the Administrator. Failure to comply with these requirements may invalidate all test data submitted for the test vehicle.

(b) The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer. If the Administrator determines that voiding the test was not appropriate, the Administrator may require that the data from that test be used in the calculation of the deterioration factor for emissions.

(c) When unscheduled or anticipated maintenance is performed, a complete record of all pertinent maintenance, including a preliminary engineering report of any malfunction diagnosis and the corrective action taken shall be included with the test data. A complete engineering report shall be delivered or air posted to the Administrator within 10 working days after the tests. In addition all test data and maintenance reports shall be compiled and provided to the Administrator.

(d) A complete record of all maintenance shall be supplied.

§ 86.432–78 Deterioration factor.

(a) Deterioration factors shall be developed for each test vehicle from the emission test results. A separate factor shall be developed for each pollutant. Results of all valid tests performed by the manufacturer shall be used. When the Administrator conducts service accumulation, results from all tests he performed shall be used.

(b) Emission results which are less than 0.10 g/km shall be considered to be 0.10 g/km for purpcses of this section.

(c) Test results for each pollutant shall be plotted as a function of the service accumulated at the start of the emission test, rounded to the nearest kilometre. These results shall be correlated to a straight line, fit by the method of least squares.

(d) An exhaust emission deterioration factor will be calculated by dividing the predicted emissions at the useful life distance by the predicted emissions at the total test distance. Predicted emissions are obtained from the correlation developed in paragraph (c) of this section.

$$\text{Factor} = \frac{\text{Predicted total distance emissions}}{\text{Predicted total test distance emissions}}$$

These interpolated and extrapolated values shall be carried out to four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29–67.

(e) Deterioration factors computed to be less than 1.0 shall be 1.0.

§ 86.433–78 [Reserved]

§ 86.434–78 Official emission tests.

(a) At the conclusion of service accumulation, and after emission tests for deterioration, the vehicle shall receive an official emission test. The Administrator shall designate where this test will occur.

(b) The manufacturer may request a second official test. The results of the second test will be used to determine compliance.

(c) If the emission results from the official test exceed the standards (without correction for deterioration), certification will be denied.

§ 86.435–78 Extrapolated emission values.

(a) If the deterioration factor lines are below the standards between the minimum test distance and the useful life, or if all points used to generate the lines are below the standards, predicted useful life emissions shall be calculated. If not, the manufacturers may elect to withdraw the vehicle or accumulate additional service.

(b) The emission results of each pollutant obtained from the official test will be multiplied by the appropriate deterioration factor to determine useful life emissions.

(1) If the useful life emissions are below the standards, certification will be granted.

(2) If any of the useful life emissions exceed the emission standards, the vehicle must (if not withdrawn) accumulate distance to the useful life.

§ 86.436–78 Additional service accumulation.

(a) Additional service up to the useful life will be accumulated under the same conditions as the initial service accumulation.

(b) New deterioration lines will be generated using all test points (except the first official EPA test) up to the useful life. The same procedures for determining the original deterioration line will be used.

(c) The vehicle will receive a final EPA official test. The manufacturer may request a second test. The results of the second test will be used to determine compliance.

(d) To qualify for certfiication:

(1) The final EPA official test results must be below the standards, and

(2) The deterioration line must be below the standard at the minimum test distance and the useful life, or all points used to generate the line, must be below the standard.

(e) If the vehicle is unable to complete the total distance due to engine mechanical failure, certification will be granted if:

(1) The mechanical failure was anticipated, § 86.428, and

(2) A new deterioration line using all available data, except the official EPA test, is below the standard at the minimum test distance and at the useful life, and

(3) The results of the EPA official test, when adjusted by the new deterioration factor, are below the standards.

(f) The provisions of this section are graphically depicted in Figure E78–3.

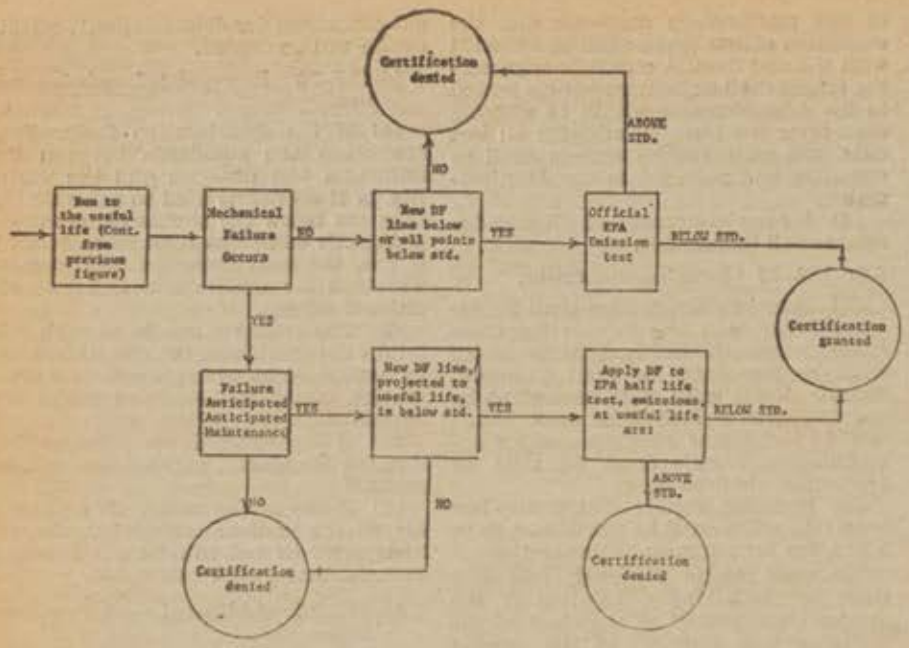


Figure E76-3 Additional Distance Accumulation

§ 86.437–78 Certification.

(a) New motorcycles produced by a manufacturer whose projected sales in the United States is 10,000 or more units (for the model year in which certification is sought) are covered by the following:

(1) The manufacturer shall submit to the Administrator a statement that the test vehicles with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirements of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this part. If such statements cannot be made with respect to any vehicle tested, the vehicle shall be identified, and all pertinent test data relating thereto shall be supplied.

(2) (i) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.441 and any other pertinent data or information, the Administrator determines that a test vehicle(s) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) except in cases covered by § 86.442.

(ii) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motorcycle covered by the certificate will meet the requirements of the Act and of this subpart. Each such certificate shall contain the following language:

This certificate covers only those new motorcycles which conform in all material respects, to the design specifications that applied to those vehicles described in the application for certification and which are produced during the ____ model year period of the said manufacturer, as defined in 40 CFR § 86.402.

It is a term of this certificate that the manufacturer shall consent to all inspections described in 40 CFR 86.441 which concern either the vehicle certified, or any production vehicle covered by this certificate, or any production vehicle which when completed will be claimed to be covered by this certificate. Failure to comply with all the requirements of § 86.441 with respect to any such vehicle may lead to revocation or suspension of this certificate as specified in 40 CFR 86.442. It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in § 86.442.

(iii) The certificate will cover all vehicles represented by the test vehicle and will certify compliance with no more than one set of applicable standards.

(3) (i) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.427, or information derived from any inspection carried out under § 86.441, or any other pertinent data or information, the Administrator determines that one or more test vehicles of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. The manufacturer may request a hearing on the Administrator's determination.

(ii) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any vehicles represented by a test vehicle(s) determined not in compliance with applicable standards:

(A) Request a hearing.

(B) Delete from the application for certification the vehicles represented by the failing test vehicle. (Vehicles so deleted may be included in a later request for certification under paragraph (b) (2) (iii) of this section.) The Administrator will then select in place of each failing vehicle an alternate vehicle chosen in accordance with selection criteria employed in selecting the vehicle that failed, or

(C) Repair the test vehicle and demonstrate by testing that it meets applicable standards. Another vehicle which is in all material respects the same as the first vehicle, as repaired, shall then be operated and tested in accordance with applicable test procedures.

(iii) If the manufacturer does not request a hearing or present the required data under subparagraph (2) of this paragraph, the Administrator will deny certification.

(b) New motorcycles produced by a manufacturer whose projected sales in the United States is less than 10,000 units (for the model year in which certification is sought) are covered by the following:

(1) The manufacturer shall submit to the Administrator an application for certification containing the following:

(i) A brief description of the vehicles to be covered by the certificate (the manufacturer's sales data book or advertising including specifications will satisfy this requirement for most manufacturers).

(ii) A statement signed by an authorized representative of the manufacturer stating: "The vehicles described herein have been tested in accordance with the provisions of Subpart E, Title 40, United States Code of Federal Regulations, and on the basis of those tests are in conformance with that Subpart. All of the data and records required by that Subpart are on file and are available for inspection by the Administrator. Total sales of vehicles subject to this Subpart will be limited to less than 10,000 units."

(2) If, after a review of the statement the Administrator determines that the requirements of this subpart have been met, he will issue a certificate of conformity with respect to the described vehicles except in cases covered by § 86.442.

(3) Such certificate will be issued for such a period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motorcycle covered by the certificate will meet the requirements of the Act and of this subpart. Each such certificate shall contain the following language:

This certificate covers no more than 9999 new motorcycles as described in the application for certification, and the records required in 40 CFR 86.416, manufactured by _____ and which are produced during the _____ model year period of the said manufacturer, as defined in 40 CFR 86.402.

It is a term of this certificate that the manufacturer shall consent to all inspections described in 40 CFR 86.441 which concern either the vehicle certified or any production vehicle covered by this certificate or any production vehicle which when completed will be claimed to be covered by this certificate. Failure to comply with all the requirements of § 86.441 with respect to any such vehicle may lead to revocation or suspension of this certificate as specified in 40 CFR 86.442. It is a term of this certificate that this certificate may be revoked or suspended

for the other reasons stated in § 86.442. It is also a term of this certificate that no changes shall be made to the vehicles covered by this certificate that will cause the vehicle's emissions to exceed the applicable emission standards as set forth in this chapter.

(4) The certificate will cover all vehicles described by the manufacturer.

(5)(i) If, after a review of the statements and descriptions submitted by the manufacturer, the Administrator determines that the applicable requirements have not been met, he will notify the manufacturer in writing, setting forth the basis for his determination. The manufacturer may request a hearing on the Administrator's determination.

(ii) If the manufacturer does not request a hearing or present the required information the Administrator will deny certification.

§ 86.438–78 Amendments to the application.

(a) The manufacturer shall inform the Administrator by way of amendment to the application of any proposed changes to vehicles in production or additional vehicles to be produced. The Administrator will, if appropriate, select a new test vehicle. Except as provided in § 86.439, no changes may be instituted until approved by the Administrator.

(b) The Administrator may allow reduced testing.

§ 86.439–78 Alternative procedure for amending certificates of conformity.

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 86.438, may notify him by appropriate amendment to the application for certification concurrently with implementation of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce vehicles as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 86.438.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 86.438 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added vehicles produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

§ 86.440–78 Maintenance of records.

(a) The manufacturer of any motorcycle subject to any of the standards or procedures prescribed in this subpart shall establish, maintain and retain the following adequately organized and indexed records:

(1) *General records.* (i)(A) Identification and description of all certification vehicles for which testing is required under this subpart.

(B) A description of all emission control systems which are installed on or incorporated in each certification vehicle.

(C) A description of all procedures used to test each such certification vehicle.

(ii) A properly completed application, following the format prescribed by the U.S. EPA for the appropriate year of production, fulfills each of the requirements of this paragraph.

(2) *Individual records.* (i) A brief history of each motorcycle used for certification under this subpart in the form of a separate booklet or other document for each separate vehicle in which shall be recorded:

(A) In the case where a current production engine is modified for use in a certification vehicle, a description of the process by which the engine was selected and of the modification made, giving specifically the place of modification and installation of the engine into the certification vehicle and the person(s) in charge of modification and installation. In the case where the engine for a certification vehicle is not derived from a current production engine, a general description of the build-up of the engine (e.g., experimental heads were cast and machined according to supplied drawings, etc.) giving specifically the place of engine assembly and installation into a certification vehicle and the person(s) in charge of engine assembly and installation. In both cases above, a description of the origin and selection process for the carburetor, fuel system, emission control system components, and exhaust after treatment device shall be included. The required descriptions shall specify the steps taken to assure that the certification vehicle with respect to its engine, drive train, fuel system, emission control system components, exhaust after treatment device, vehicle mass, or any other device or component that can reasonably be expected to influence exhaust emissions, will be represented of production vehicles, and that either all components and/or vehicle construction processes, component inspection and selection techniques, and assembly techniques employed in constructing such vehicles are reasonably likely to be implemented for production vehicles or that they are as closely analogous as practicable to planned construction and assembly processes.

(B) A complete record of all emission tests performed (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each such test, or exact copies thereof; the date, time, purpose, and location of each test; the distance accumulated on the vehicle when the test began and ended; and the names of supervisory personnel responsible for the conduct of the test.

(C) The date and times of each service accumulation run, listing both the distance accumulated and the name of each rider or each operator of the automatic service accumulation device.

(D) If used, the record of any devices employed to record the speed and/or distance in relationship to time of the test vehicle.

(E) A record and description of all maintenance and other servicing performed, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service. The description shall indicate whether or not EPA specifically consented to the work and, if EPA did not, shall list the provision of this subpart which authorizes its performance.

(F) A record and description of each test performed to diagnose engine or emissions control system performance, giving the date and time of test, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the test.

(G) The dates and times that the vehicle was idle in storage, in transit or transport, and required soak periods.

(H) A brief description of any significant events affecting the vehicle during any time in the period covered by the history not described by an entry under one of the previous headings including such extraordinary events as vehicle accidents or rider speeding citations or warnings.

(ii) Each such history shall be started on the date that the first of any of the selection of build-up activities in paragraph (a)(2)(i)(A) of this section occurred with respect to the certification vehicle, shall be updated each time the operational status of the vehicle changes or additional work is performed on it, and shall be kept in a designated location.

(3) All records required to be maintained under this subpart shall be retained by the manufacturer for a period of six (6) years after issuance of all certificates of conformity to which they relate. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer: *Provided*, That in every case all the information contained in the hard copy shall be retained.

§ 86.441–78 Right of entry.

(a) Any manufacturer who has applied for certification of a new motorcycle subject to certification tests under this Subpart shall admit or cause to be admitted

any EPA Enforcement Officer during operating hours on presentation of any credentials to any of the following:

(1) Any facility where any such tests or any procedures or activities connected with such tests are or were performed.

(2) Any facility where any new motorcycle which is being, was or is to be tested is present.

(3) Any facility where any construction process or assembly process used in the modification or build-up of such a vehicle into a certification vehicle is taking place or has taken place.

(4) Any facility where any record or other document relating to any of the above is located.

(b) Upon admission to any facility referred to in paragraph (c)(1) of this section, any EPA Enforcement Officer shall be allowed:

(1) To inspect and monitor any part or aspect of such procedures, activities, and testing facilities, including, but not limited to, monitoring vehicle preconditioning, emissions tests and service accumulation, maintenance, and vehicle soak and storage procedures; and to verify correlation or calibration of test equipment;

(2) To inspect and make copies of any such records, designs, or other documents; and

(3) To inspect and/or photograph any part or aspect of any such certification vehicle and any components to be used in the construction thereof.

(c) In order to allow the Administrator to determine whether or not production motorcycles conform in all material respects to the design specifications which applied to those vehicles described in the application for certification for which a certificate of conformity has been issued and to standards prescribed under section 202 of the Act, any manufacturer shall admit any EPA Enforcement Officer on presentation of credentials to both:

(1) Any facility where any document design, or procedure relating to the translation of the design and construction of engines and emission related components described in the application for certification or used for certification testing into production vehicles is located or carried on; and

(2) Any facility where any motorcycles to be introduced into commerce are manufactured or assembled.

(d) On admission to any such facility referred to in paragraph (c)(3) of this section, any EPA Enforcement Officer shall be allowed:

(1) To inspect and monitor any aspects of such manufacture or assembly and other procedures;

(2) To inspect and make copies of any such records, documents or designs; and

(3) To inspect and photograph any part or aspect of any such new motorcycles and any component used in the assembly thereof that are reasonably related to the purpose of his entry.

(e) Any EPA Enforcement Officer shall be furnished by those in charge of a facility being inspected with such reasonable assistance as he may request to help him discharge any function listed in this paragraph. Each applicant for or recipient of certification is required to cause those in charge of a facility operated for its benefit to furnish such reasonable assistance without charge to EPA whether or not the applicant controls the facility.

(f) The duty to admit or cause to be admitted any EPA Enforcement Officer applies whether or not the applicant owns or controls the facility in question and applies both to domestic and to foreign manufacturers and facilities. EPA will not attempt to make any inspections which it has been informed that local law forbids. However, if local law makes it impossible to do what is necessary to insure the accuracy of data generated at a facility, no informed judgment that a vehicle or engine is certifiable or is covered by a certificate can properly be based on that data. It is the responsibility of the manufacturer to locate its testing and manufacturing facilities in jurisdictions where this situation will not arise.

(g) For purposes of this section:

(1) "Presentation of credentials" shall mean display of the document designating a person as an EPA Enforcement Officer.

(2) Where vehicle, component, or engine storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those covered by paragraph (g)(2) of this section are concerned, "operating hours" shall mean all times during which an assembly line is in operation or all times during which testing, maintenance, service accumulation, production or compilation of records, or any other procedure or activity related to certification testing, to translation of designs from the test stage to the production stage, or to vehicle manufacture or assembly is being carried out in a facility.

(4) "Reasonable assistance" includes, but is not limited to, clerical, copying, interpretation and translation services, the making available on request of personnel of the facility being inspected during their working hours to inform the EPA Enforcement Officer of how the facility operates and to answer his questions, and the performance on request of emissions tests on any vehicle which is being, has been, or will be used for certification testing. Such tests shall be nondestructive, but may require appropriate service accumulation. A manufacturer may be compelled to cause the personal appearance of any employee at such a facility before an EPA Enforcement Officer by written request for his appearance, signed by the Assistant Administrator for Enforcement, served on the manufacturer. Any such employee who has been instructed by the manufacturer to appear will be entitled to be accompanied, represented, and advised by counsel. No counsel who accompanies, represents, or advises an employee compelled to appear may accompany, represent, or advise any other person in the investigation.

(5) Any entry without 24 hours prior written or oral notification to the affected manufacturer shall be authorized in writing by the Assistant Administrator for Enforcement.

§ 86.442–78 Denial, revocation, or suspension of certification.

(a) Notwithstanding the fact that any certification vehicle(s) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) if:

(1) The manufacturer submits false or incomplete information in his application of certification thereof; or

(2) The manufacturer renders inaccurate or invalid any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act or of this subpart with respect to such vehicle; or

(3) Any EPA Enforcement Officer is denied access on the terms specified in § 86.441 to any facility or portion thereof which contains any of the following:

(i) The vehicle, or

(ii) Any components used or considered for use in its modification or build-up into a certification vehicle, or

(iii) Any production vehicle which is or will be claimed by the manufacturer to be covered by the certificate, or

(iv) Any step in the construction of a vehicle described in (c) of this subdivision, or

(v) Any records, documents, reports, or histories required by this Part to be kept concerning any of the above.

(4) Any EPA Enforcement Officer is dehied "reasonable assistance" (as defined in § 86.444) in examining any of the items listed in paragraph (a)(1)(iii) of this section.

(b) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraph (a) of this section only when the infraction is substantial.

(c) In any case in which a manufacturer knowingly submits false or inaccurate information, or knowingly renders inaccurate or invalid any test data, or commits any fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(d) In any case in which certification of a vehicle is proposed to be withheld, denied, revoked, or suspended under paragraphs (a)(3) or (a)(4) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.441 in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle in question was not involved in the violation to a degree that would warrant withholding, denial, revocation, or suspension of certification under either paragraphs (a)(3) or (a)(4) of this section, shall have the burden of

establishing that contention to the satisfaction of the Administrator.

(e) Any revocation or suspension of certification under paragraph (a) of this section shall:

(1) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.444 hereof.

(2) Extend no further than to forbid the introduction into commerce of vehicles previously covered by the certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes the certification invalid ab initio.

(f) The manufacturer may request in the form and manner specified in § 86.443 that any determination made by the Administrator under paragraph (a) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.444. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue, he will grant the request with respect to such issue.

§ 86.443–78 Request for hearing.

Within 30 days following receipt of notification that an application has been rejected or that certification has been denied, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing with respect to such issue.

§ 86.444–78 Hearings on certification.

(a) (1) After granting a request for a hearing under § 86.443 the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing have not been fixed by the Administrator under § 86.443, the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(4) In the case of any hearing requested pursuant to § 86.437, the Administrator may in his discretion direct that all argument and presentation of evidence be concluded within such fixed period not less than 30 days as he may establish from the date that the first written offer of a hearing is made to the manufacturer. To expedite proceedings, the Administrator may direct that the decision of the Presiding Officer (who may, but need not be the Administrator himself) shall be the final EPA decision.

(b) (1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issue by the Administrator under a hearing and the supporting data submitted therewith and all documents relating to the request for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d) (1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(i) Simplification of the issues;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e) (1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrevelant, immaterial, and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of Title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

(f) (1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefore on all the material issues of fact, law, or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefore on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

Subpart F—Emission Regulations for 1978 and Later New Motorcycles; Test Procedures

§ 86.501–78 Applicability.

(a) This subpart contains the motorcycle test procedures specified in Subpart E.

(b) Provisions of this subpart apply to tests performed by both the Administrator and motor vehicle manufacturers.

§ 86.502–78 Definitions.

(a) The definitions in § 86.402–78 apply to this subpart.

§ 86.503–78 Abbreviations.

(a) The abbreviations in § 86.403–78 apply to this subpart.

§ 86.504–78 Section numbering.

(a) The section numbering system described in § 86.404–78 is used in this subpart.

§ 86.505–78 Introduction: structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to perform exhaust emission tests on motorcycles. Subpart E sets forth the testing requirements and test intervals necessary to comply with EPA certification procedures.

(b) Three topics are addressed in this subpart. Sections 86.508 through 86.515 set forth specifications and equipment requirements; §§ 86.516 through 86.526 discuss calibration methods and frequency; test procedures and data requirements are listed (in approximate order of performance) in §§ 86.527 through 86.544.

§ 86.506 [Reserved]

§ 86.507 [Reserved]

§ 86.508–78 Dynamometer.

(a) The dynamometer shall have a single roll with a diameter of at least 0.400 metre.

(b) The dynamometer shall be equipped with a roll revolution counter for measuring actual distance traveled.

(c) Flywheels or other means shall be used to stimulate the inertia specified in § 86.529 within a tolerance of ±3kg.

(d) A variable speed cooling blower shall direct air to the vehicle. The blower outlet shall be at least 0.40 m^2 (4.31 ft^2) and shall be squarely positioned between 0.3 m (0.98 ft) and 0.45 m (1.48 ft) in front of the vehicle's front wheel. The velocity of the air at the blower outlet shall be within the following limits (as a function of roll speed):

Actual roll speed	*Allowable cooling air speed*
0 km/h to 5 km/h	0 km/h to 10 km/h.
5 km/h to 10 km/h	0 km/h to roll speed+5 km/h.
10 km/h to 50 km/h	Roll speed ±5 km/h.
50 km/h to 70 km/h	Roll speed ±10 pct.
Above 70 km/h	At least 63 km/h.

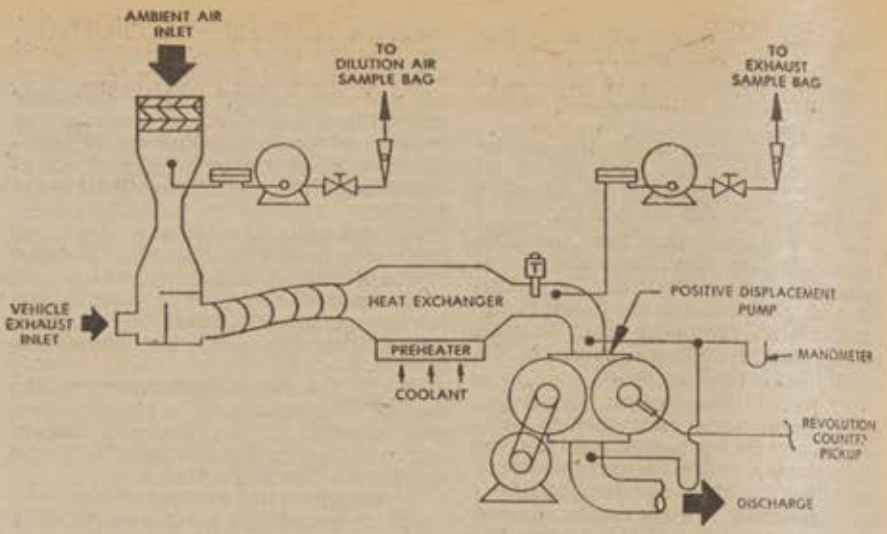
(e) The dynamometer shall comply with the tolerances in § 86.529.

§ 86.509–78 Exhaust gas sampling system.

(a) (1) *General.* The exhaust gas sampling system is designed to measure the true mass emissions of vehicle exhaust. In the CVS concept of measuring mass emissions, two conditions must be satisfied: The total volume of the mixture of exhaust and dilution air must be measured, and a continuously proportioned sample of volume must be collected for analysis. Mass emissions are determined from the sample concentration and totalized flow over the test period.

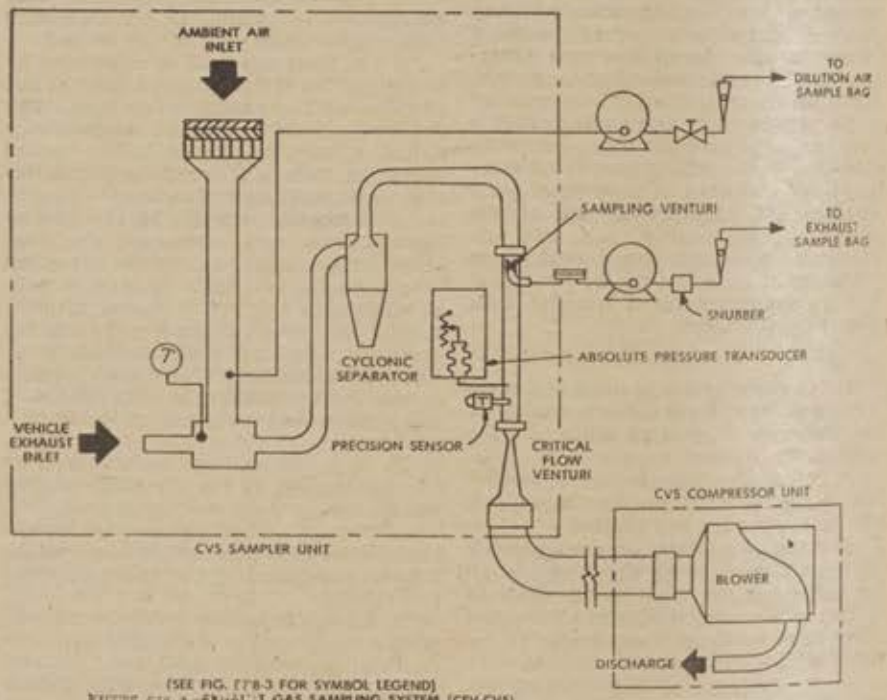
(2) *Positive Displacement Pump.* The Positive Displacement Pump-Constant Volume Sample (PDP–CVS), Figure F78–1, satisfies the first condition by metering at a constant temperature and pressure through the pump. The total volume is measured by counting the revolutions made by the calibrated positive displacement pump. The proportional sample is achieved by sampling at a constant flow rate.

(3) *Critical Flow Venturi.* The operation of the Critical Flow Venturi-Constant Volume Sampler (CFV–CVS), Figure F78–2, is based upon the principles of fluid dynamics associated with critical flow. Proportional sampling is maintained by use of a small CFV in the sample line, which responds to the varying temperatures in the same manner as the main CFV. Total flow per test phase is determined by continuously computing and integrating instantaneous flow. A low response time temperature sensor is necessary for accurate flow calculation.



(SEE FIG. F78-3 FOR SYMBOL LEGEND)

FIGURE F78–1—EXHAUST GAS SAMPLING SYSTEM (PDP-CVS)



(SEE FIG. F78-3 FOR SYMBOL LEGEND)

FIGURE F78–2—EXHAUST GAS SAMPLING SYSTEM (CFV-CVS)

(4) [Reserved]

(5) *Other systems.* Other sampling systems may be used if shown to yield equivalent results, and if approved in advance by the Administrator (e.g., a heat exchanger with the CFV–CVS or an electronic flow integrator without a heat exchanger, with the PDP–CVS).

(b) *Component description, PDP–CVS.* The PDP–CVS, Figure F78–1, consists of a dilution air filter and mixing assembly, heat exchanger, positive displacement pump, sampling system, and associated valves, pressure and temperature sensors. The PDP–CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the vehicle shall remain within ±1.25 kPa (±5.02 in. H_2O) of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±0.25 kPa (±1.00 in H_2O) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The gas mixture temperature, measured at a point immediately ahead of the positive displacement pump, shall be within ±5° C (9° F) of the designed operating temperature at the start of the test. The gas mixture temperature variation from its value at the start of the test shall be limited to ±5° C (9° F) during the entire test. The temperature measuring system shall have an accuracy and precision of ±1° C (1.8° F).

(3) The pressure gauges shall have an accuracy and precision of ±0.4 kPa (3 mm Hg).

(4) The location of the dilution air inlet shall be placed and the flow capacity of the CVS shall be large enough to virtually eliminate water condensation in the system.

(5) Sample collection bags for dilution air and exhaust samples shall be of sufficient size so as not to impede sample flow.

(c) *Component description, CFV–CVS.* The CFV–CVS, Figure F78–2, consists of a dilution air filter and mixing assembly, cyclone particulate separator, sampling venturi, critical flow venturi, sampling system, and assorted valves, pressure and temperature sensors. The CFV–CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the vehicle shall remain within ±1.25 kPa (5.02 in H_2O) of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±0.25 kPa (1.00 in H_2O) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The temperature measuring system shall have an accuracy and precision of ±1° C (1.8° F) and a response time of 0.100 s to 62.5 percent of a temperature change (as measured in hot silicone oil).

(3) The pressure measuring system shall have an accuracy and precision of ±0.4 kPa (3 mm Hg).

(4) The location of the dilution air inlet shall be placed and the flow capacity of the CVS shall be large enough to virtually eliminate water condensation in the system.

(5) Sample collection bags for dilution air and exhaust samples shall be of sufficient size so as not to impede sample flow.

§ 86.510 [Reserved]

§ 86.511–78 Exhaust gas analytical system.

(a) *Schematic drawing.* Figure F78–3 is a schematic drawing of the exhaust gas analytical system. Since various configurations can produce accurate results, exact conformance with this drawing is not required. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Major component description.* The analytical system, Figure F78–3, consists of a flame ionization detector (FID) for the determination of hydrocarbons, nondispersive infrared analyzers (NDIR) for the determination of carbon monoxide and carbon dioxide, and, if oxides of nitrogen are measured, a chemiluminescence analyzer (CL) for the determination of oxides of nitrogen. The exhaust gas analytical system shall conform to the following requirements:

(1) The chemiluminescence analyzer requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

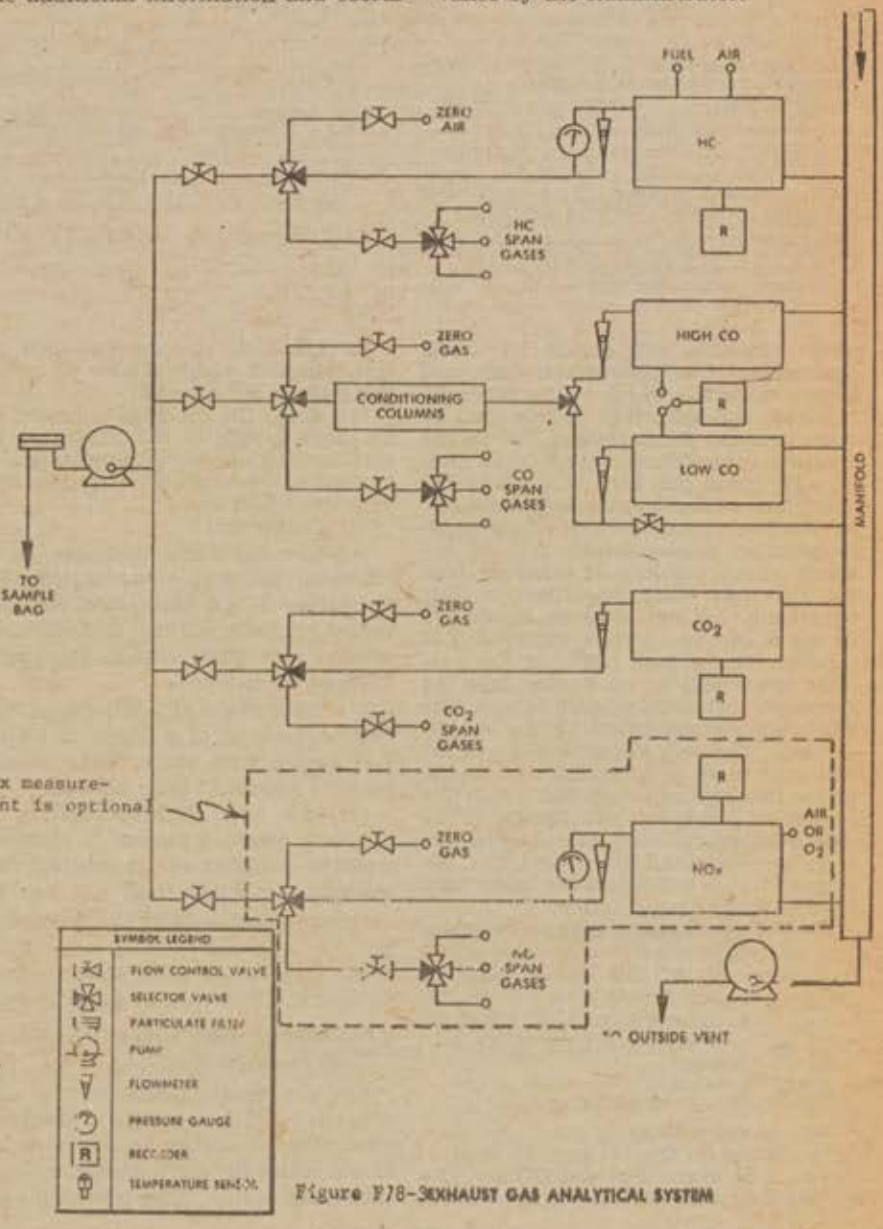


Figure F78-3EXHAUST GAS ANALYTICAL SYSTEM

(2) The carbon monoxide (NDIR) analyzer may require a sample conditioning column containing $CaSO_4$, or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

(i) If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted, see § 86.522 and § 86.544.

(ii) A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2 which has been bubbled through water at room temperature produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on ranges above 300 ppm full scale or less than 3 ppm on ranges below 300 ppm full scale, see § 86.522.

(c) *Other analyzers and equipment.* Other types of analyzers and equipment may be used if shown to yield equivalent results and if approved in advance by the Administrator.

§ 86.512 [Reserved]

§ 86.513–78 Fuel and engine lubricant specifications.

(a) Gasoline having the following specifications will be used by the Administrator in exhaust emission testing. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer for emission testing except that the lead and octane specifications do not apply.

Item	ASTM designation	Leaded	Unleaded
Octane, research minimum	D2699	100	96.
Pb (organic), gram/litre (grams/U.S. gallon)		0.370 (1.4) minimum	0.000–0.013 (0.00–0.05).
Distillation range	D86		
IBP, °C (°F)		23.9–35 (75–95)	23.9–35 (75–95).
10 pct point, °C (°F)		48.9–57.2 (120–135)	48.9–57.2 (120–135).
50 pct point, °C (°F)		93.3–110 (200–230)	93.3–110 (200–230).
90 pct point, °C (°F)		148.9–162.8 (300–325)	148.9–162.8 (300–325).
EP, °C (°F), maximum		212.8 (415)	212.8 (415).
Sulfur, mass percent, maximum	D1266	0.10	0.10.
Phosphorus, gram/litre (gram/U.S. gallon), maximum.		0.0026 (0.01)	0.0013 (0.005).
RVP, kPa (psi)	D323	55.2–63.4 (8.0–9.2)	55.2–63.4 (8.0–9.2).
Hydrocarbon composition	D1319		
Olefins, percent, maximum		10	10.
Aromatics, percent maximum		35	35.
Saturates		Remainder	Remainder.

(b) Gasoline and engine lubricants representative of commercial fuels and engine lubricants which will be generally available through retail outlets shall be used in scenic accumulation. For leaded gasoline, the minimum lead content shall be 0.370 gram per litre (1.4 grams per U.S. gallon), except that where the Administrator determines that vehicles represented by a test vehicle will be operated using gasoline of different lead content than that prescribed in this paragraph, he may consent in writing to use a gasoline with a different lead content. This octane rating of the gasoline used shall be no higher than 4.0 Research octane numbers above the minimum recommended by the manufacturer. The Reid Vapor Pressure of the fuel used shall be characteristic of the motor fuel during the season which the service accumulation takes place. If the manufacturer specifies several lubricants to be used by the ultimate purchaser, the Administrator will select one to be used during service accumulation.

(c) The specification range of the fuels and engine lubricants to be used under paragraph (b) of this section shall be reported in accordance with § 86.416.

(d) The same lubricant(s) shall be used for both service accumulation and emission testing.

§ 86.514–78 Analytical gases.

(a) Analyzer gases.

(1) Gases for the CO and CO_2 analyzers shall be single blends of CO and CO_2 respectively using nitrogen as the diluent.

(2) Gases for the hydrocarbon analyzer shall be single blends of propane using air as the diluent.

(3) Gases for the NOx analyzer shall be single blends of NO named as NOx with a maximum NO_2 concentration of 5 percent of the nominal value using nitrogen as the diluent.

(4) [Reserved]

(5) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 0.04 percent (400 ppm) carbon dioxide, and 0.1 ppm nitric oxide.

(6) "Zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(7) The use of proportioning and precision blending devices to obtain the required analyzer gas concentrations is allowable provided their use has been approved in advance by the Administrator.

(b) Calibration gases shall be known to within ±2 percent of the true values.

§ 86.515–78 EPA Urban Dynamometer Driving Schedule.

(a) The dynamometer driving schedules are listed in Appendix I. The driving schedules are defined by a smooth trace drawn through the specified speed vs. time relationships. They consist of a non-repetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates. Appropriate driving schedules are as follows:

Class I—Appendix I(c)
Class II—Appendix I(b)
Class III—Appendix I(b)

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I or as printed on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of § 86.537 is defined by upper and lower limits. The upper limit is 3.2 km/h (2 mph) higher than the highest point on the trace within 1 second of the given time. The lower limit is 3.2 km/h (2 mph) lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as may occur during gear changes) are acceptable provided they occur for less than 2 seconds on any occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences. When conducted to meet the requirements of § 86.532 the speed tolerance shall be as specified above, except that the upper and lower limits shall be 6.4 km/h (4 mph).

(c) Figure F78–4 shows the range of acceptable speed tolerances for typical points. Figure F78–4(a) is typical of portions of the speed curve which are increasing or decreasing throughout the two second time interval. Figure F78–4 (b) is typical of portions of the speed curve which include a maximum or minimum value.

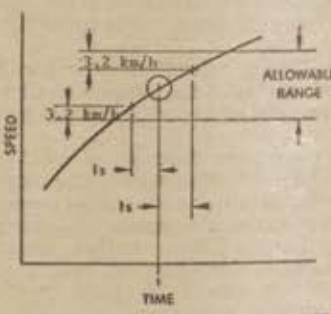


FIGURE F78–4a—DRIVERS TRACE, ALLOWABLE RANGE

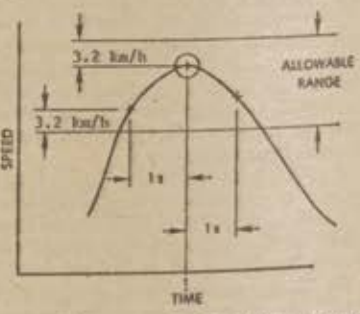


FIGURE F78–4b—DRIVERS TRACE, ALLOWABLE RANGE

§ 86.516–78 Calibrations, frequency and overview.

(a) Calibrations shall be performed as specified in §§ 86.517 through 86.526.

(b) [Reserved]

(c) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the hydrocarbon analyzer, carbon dioxide analyzer, carbon monoxide analyzer, and, if oxides of nitrogen are measured, oxides of nitrogen analyzer.

(2) Calibrate the dynamometer. If the dynamometer receives a weekly performance check (and remains within calibration), the monthly calibration need not be performed.

(d) At least weekly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Check the oxides of nitrogen converter efficiency, if oxides of nitrogen are measured, and

(2) Perform a CVS system verification, and

(3) Run a performance check on the dynamometer. This check may be omitted if the dynamometer has been calibrated within the preceding month.

(e) The CVS positive displacement pump or Critical Flow Venturi shall be calibrated following initial installation, major maintenance or as necessary when indicated by the CVS system verification (described in § 86.519).

(f) Sample conditioning columns, if used in the CO analyzer train, should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

§ 86.517 [Reserved]

§ 86.518–78 Dynamometer calibration.

(a) The dynamometer shall be calibrated at least once each month or performance verified at least once each week and then calibrated as required. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll is allowed to coast down. The kinetic energy of the system is dissipated by the dynamometer. This method neglects the variations in roll bearing friction due to the drive axle weight of the vehicle.

(b) Calibration shall consist of coasting down the dynamometer for each inertia load combination used. Coastdown times for the interval from 70 to 60 km/h shall be within the tolerances specified in § 86.529. The dynamometer adjustments necessary to produce these results shall be noted for future reference.

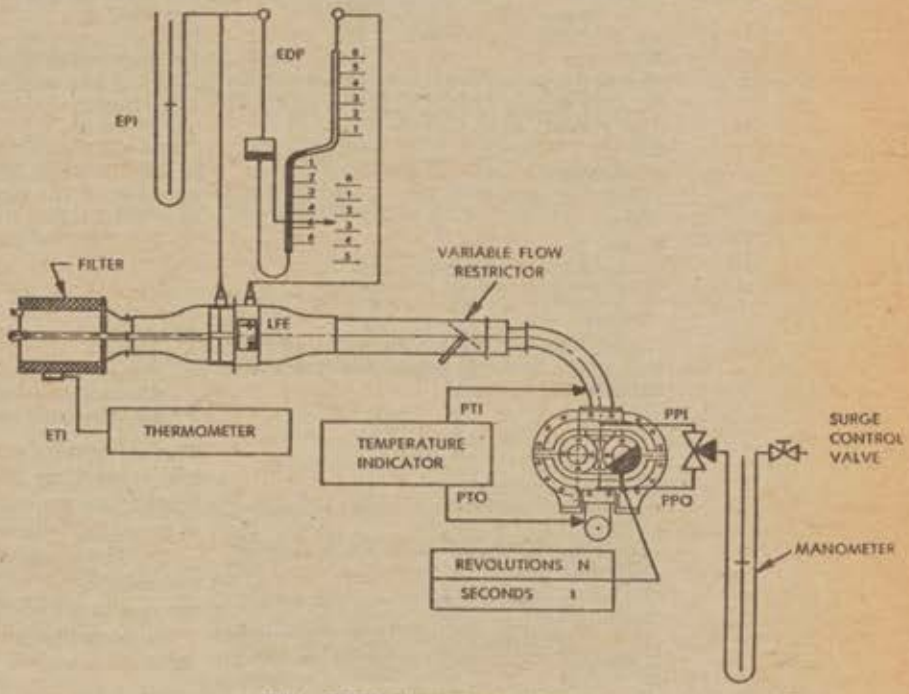
(c) The performance check consists of conducting a dynamometer coastdown at one or more inertia-horsepower settings and comparing the coastdown time to the table in Figure F78–9 of § 86.529–78. If the coastdown time is outside the tolerance, a new calibration is required.

§ 86.519–78 Constant volume sampler calibration.

The CVS (Constant Volume Sampler) is calibrated using an accurate flowmeter and restrictor valve. Measurements of various parameters are made and related to flow through the unit. Procedures used by EPA for both PDP (Positive Displacement Pump) and CFV (Critical Flow Venturi) are outlined below. Other procedures yielding equivalent results may be used if approved in advance by the Administrator. After the calibration curve has been obtained, verification of the entire system can be performed by injecting a known mass of gas into the system and comparing the mass indicated by the system to the true mass injected. An indicated error does not necessarily mean that the calibration is wrong, since other factors can influence the accuracy of the system, e.g. analyzer calibration. A verification procedure is found in paragraph (c) of this section.

(a) *PDP calibration.* (1) The following calibration procedure outlines the equipment, the test configuration, and the various parameters which must be measured to establish the flow rate of the constant volume sampler pump. All the parameters related to the pump are simultaneously measured with the parameters related to a flowmeter which is connected in series with the pump. The calculated flow rate (at pump inlet absolute pressure and temperature) can then be plotted versus a correlation function which is the value of a specific combination of pump parameters. The linear equation which relates the pump flow and the correlation function is then determined. In the event that a CVS has a multiple speed drive, a calibration for each range used must be performed.

(2) This calibration procedure is based on the measurement of the absolute values of the pump and flowmeter parameters that relate the flow rate at each point. Three conditions must be maintained to assure the accuracy and integrity of the calibration curve. First, the pump pressures should be measured at taps on the pump rather than at the external piping on the pump inlet and outlet. Pressure taps that are mounted at the top center and bottom center of the pump drive headplate are exposed to the actual pump cavity pressures, and therefore reflect the absolute pressure differentials. Secondly, temperature stability must be maintained during the calibration. The laminar flowmeter is sensitive to inlet temperature oscillations which cause the data points to be scattered. Gradual changes (±1° C (1.8° F)) in temperature are acceptable as long as they occur over a period of several minutes. Finally, all connections between the flowmeter and the CVS pump must be absolutely void of any leakage.



F78–5 —PDP-CVS CALIBRATION CONFIGURATION

(3) During an exhaust emission test the measurement of these same pump parameters enables the user to calculate the flow rate from the calibration equation.

(4) Connect a system as shown in Figure F78–5. Although particular types of equipment are shown, other configurations that yield equivalent results may be used if approved in advance by the Administrator. For the system indicated, the following data with given accuracy are required:

Calibration data measurements

Parameter	Symbol	Units	Tolerances
Barometric pressure (corrected)	P_B	kPa (In. Hg)	±0.03 kPa (±0.01 In. Hg).
Ambient temperature	T_A	°C (°F)	±0.3°C (±0.54°F).
Air temperature into LFE	ETI	°C (F)	±0.15°C (±0.27°F).
Pressure depression upstream of LFE	EPI	kPa (in. H_2O)	±0.01 kPa (±0.05 in. H_2O).
Pressure drop across the LFE matrix	EDP	kPa (in. H_2O)	±0.003 kPa (±0.025 in. H_2O).
Air temperature at CVS pump inlet	PTI	°C (°F)	±0.25°C (±0.45° F).
Pressure depression at CVS pump inlet	PPI	kPa (in. Fluid)	±0.021 kPa (±0.046 in. Fluid)
Specific gravity of manometer fluid (1.75 oil)	Sp. Gr.		
Pressure head at CVS pump outlet	PPO	kPa (in. Fluid)	±0.021 kPa (±0.046 in. Fluid).
Air temperature at CVS pump outlet (optional)	PTO	°C (°F)	±0.25°C (±0.45°F).
Pump revolutions during test period	N	Revs	±1 Rev.
Elapsed time for test period	t	s	±0.05 s.

(5) After the system has been connected as shown in Figure F78–5, set the variable restrictor in the wide open position and run the CVS pump for twenty minutes. Record the calibration data.

(6) Reset the restrictor valve to a more restricted condition in an increment of pump inlet depression (about 1.0 kPa (4" H_2O)) that will yield a minimum of six data points for the total calibration. Allow the system to stabilize for 3 minutes and repeat the data acquisition.

(7) *Data analysis:* (i) The air flow rate, Q_s, at each test point is calculated from the flowmeter data using the manufacturer's prescribed method.

(ii) The air flow rate is then converted to pump flow, V_o, per revolution at absolute pump inlet temperature and pressure.

$$V_o = \frac{Q_s}{n} \times \frac{T_p}{293.15} \times \frac{101.325}{P_p}$$

Where:

V_o = Pump flow, m^3/revolution (ft^3/revolution) at T_p, P_p
Q_s = Meter air flow rate in standard cubic metres per minute, standard conditions are 20° C, 101.325 kPa (68° F, 29.92 In. Hg).
n = Pump speed in revolutions per minute.
T_p = Pump inlet temperature, K(R) = PTI + 273.15 for English units, T_p = PTI + 459.67
P_p = Absolute pump inlet pressure, kPa (In. Hg) = P_B − PPI for English units, $P_p = P_B$ − PPI (SP. GR./13.57)

Where:

P_B = barometric pressure, kPa (In. Hg)
PPI = Pump inlet depression, kPa (In. fluid)
SP. GR. = Specific gravity of manometer fluid relative to water.

(iii) The correlation function at each test point is then calculated from the calibration data:

$$X_o = \frac{1}{n}\sqrt{\frac{\Delta P_p}{P_e}}$$

Where:

X_o = correlation function.
ΔP_p = The pressure differential from pump inlet to pump outlet, kPa (In. Hg) = $P_e - P_p$
P_e = Absolute pump outlet pressure, kPa (In. Hg) = P_B + PPO for English units, $P_e = P_B$ + PPO(SP. GR./13.57)

Where:

PPO = Pressure head at pump outlet, kPa (In. fluid)

(iv) A linear least squares fit is performed to generate the calibration equations which have the forms:

$$V_o = D_o - M(X_o)$$
$$n = A - B(\Delta P_p)$$

D_o, M, A, and B are the slope-intercept constants describing the lines.

(8) A CVS system that has multiple speeds shall be calibrated on each speed used. The calibration curves generated for the ranges will be approximately parallel and the intercept values, D_o, will increase as the pump flow range decreases.

(9) If the calibration has been performed carefully, the calculated values from the equation will be within ±0.50 percent of the measured value of V_o. Values of M will vary from one pump to another, but values of D_o for pumps of the same make, model, and range should agree within ±3 percent of each other. Particulate influx from use will cause the pump slip to decrease as reflected by lower values for M. Calibrations should be performed at pump startup and after major maintenance to assure the stability of the pump slip rate. Analysis of mass injection data will also reflect pump slip stability.

(b) *CFV calibration.* (1) Calibration of the Critical Flow Venturi (CFV) is based upon the flow equation for a critical venturi. Gas flow is a function of inlet pressure and temperature:

$$Q_s = \frac{K_v P}{\sqrt{T}}$$

Where:

Q_s = Flow
K_v = Calibration coefficient
P = Absolute pressure
T = Absolute temperature

The calibration procedure described below establishes the value of the calibration coefficient at measured values of pressure, temperature and air flow.

(2) The manufacturer's recommended procedure shall be followed for calibrating electronic portions of the CFV.

(3) Measurements necessary for flow calibration are as follows:

Calibration data measurements

Parameter	Symbol	Units	Tolerances
Barometric pressure (corrected)	P_B	kPa (in. Hg)	±0.03 kPa (±0.01 in. Hg).
Air temperature, flowmeter	ETI	°C (°F)	±0.15° C (±0.27° F).
Pressure depression upstream of LFE	EPI	kPa (in. H_2O)	±0.01 kPa (±0.05 in. H_2O).
Pressure drop across LFE matrix	EDP	kPa (in. H_2O)	±0.001 kPa (±0.005 in. H_2O).
Air flow	Q_s	m^3/min. (ft^3/min)	±0.5%.
CFV inlet depression	PPI	kPa (in. fluid)	±0.02 kPa (±0.05 in. fluid).
Temperature at venturi inlet	T_V	°C (°F)	±0.25° C (±0.45° F).
Specific gravity of manometer fluid (1.75 oil)	Sp. Gr.		

(4) Set up equipment as shown in Figure F78–6 and check for leaks. Any leaks between the flow measuring device and the critical flow venturi will seriously affect the accuracy of the calibration.

(5) Set the variable flow restrictor to the open position, start the blower and allow the system to stabilize. Record data from all instruments.

(6) Vary the flow restrictor and make at least 8 readings across the critical flow range of the venturi.

(7) *Data analysis.* The data recorded during the calibration are to be used in the following calculations:

(i) The air flow rate, Q_s, at each test point is calculated from the flow meter data using the manufacturer's prescribed method.

(ii) Calculate values of the calibration coefficient for each test point:

$$K_v = \frac{Q_s\sqrt{T_v}}{P_v}$$

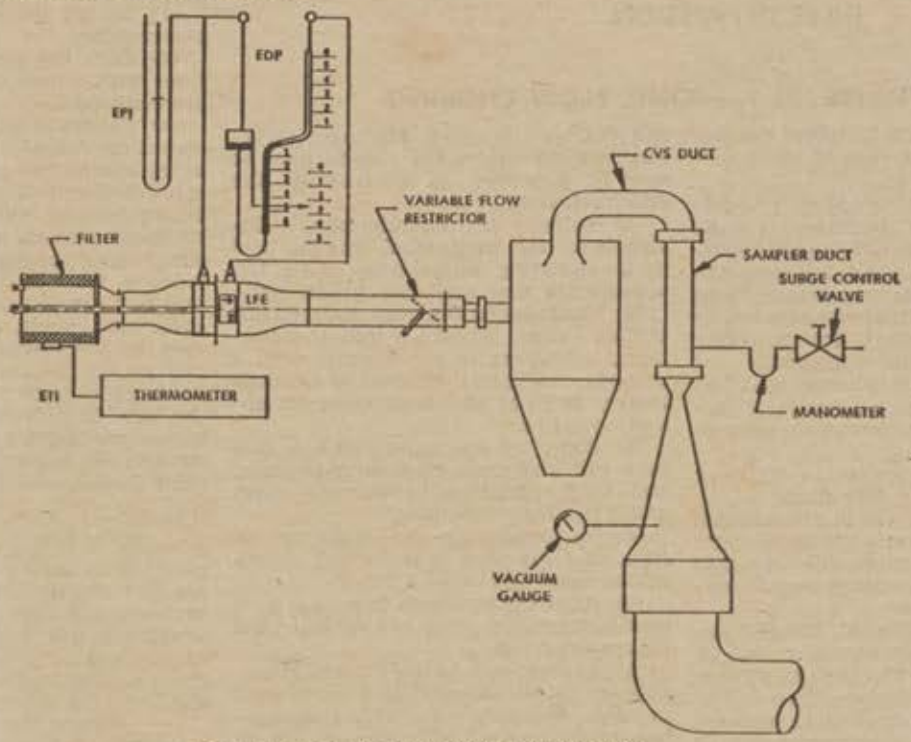


FIGURE F78-6 CFV-CVS CALIBRATION CONFIGURATION

Where:

Q_s=Flow rate, standard conditions are 20° C, 101.325 kPa (68° F, 29.92 in. Hg)
T_v=Temperature at venturi inlet, K(R).
P_v=Pressure at venturi inlet, kPa (mm Hg)=P_B−PPI

for English units P_v=P_B−PPI (SP. GR./13.57).

Where:

PPI=Venturi inlet pressure depression, kPa (in. fluid).
SP. GR.=Specific gravity of manometer fluid, relative to water.

(iii) Plot K_v as a function of venturi inlet depression. For sonic flow, K_v will have a relatively constant value. As pressure decreases (vacuum increases), the venturi becomes unchoked and K_v decreases (is no longer constant). See Figure F78–7.

(iv) For a minimum of 8 points in the critical region calculate an average K_v and the standard deviation.

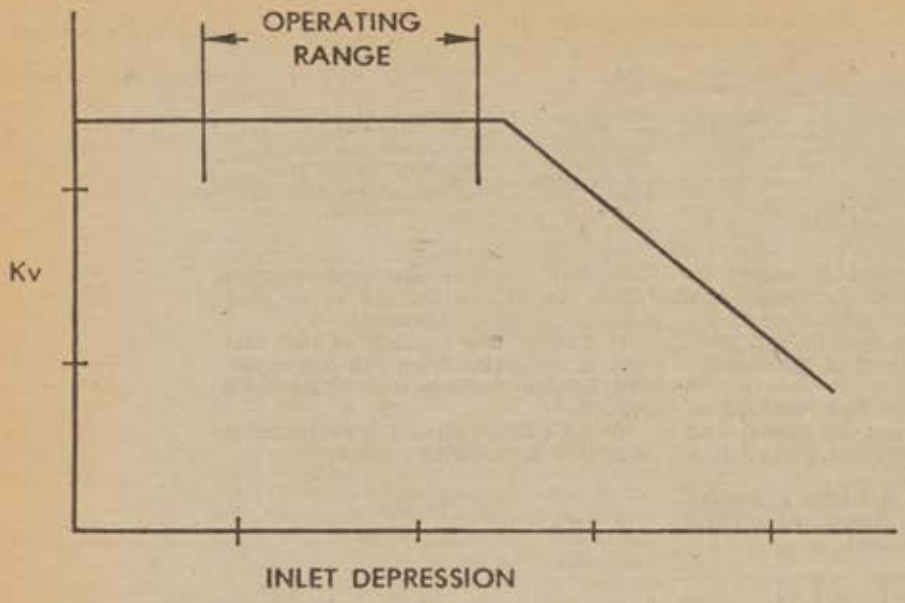


FIGURE F78-7 —SONIC FLOW CHOKING

(v) If the standard deviation exceeds 0.3 percent of the average K_v take corrective action.

(c) *CVS System Verification.* The following "gravimetric" technique can be used to verify that the CVS and analytical instruments can accurately measure a mass of gas that has been injected into the system. (Verification can also be accomplished by constant flow metering using critical flow orifice devices.)

(1) Obtain a small cylinder that has been charged with pure propane or carbon monoxide gas (caution—carbon monoxide is poisonous).

(2) Determine a reference cylinder weight to the nearest 0.01 grams.

(3) Operate the CVS in the normal manner and release a quantity of pure propane or carbon monoxide into the system during the sampling period (approximately 5 minutes).

(4) The calculations of § 86.544 are performed in the normal way except in the case of propane. The density of propane (0.6109 kg/m³/carbon atom (17.30 g/ft³/carbon atom)) is used in place of the density of exhaust hydrocarbons. In the case of carbon monoxide, the density of 1.164 kg/m³ (32.97 g/ft³) is used.

(5) The gravimetric mass is subtracted from the CVS measured mass and then divided by the gravimetric mass to determine the percent accuracy of the system.

(6) The cause for any discrepancy greater than ±2 percent must be found and corrected.

§ 86.520 [Reserved]

§ 86.521–78 Hydrocarbon analyzer calibration.

(a) Initial and periodic optimization of detector response. Prior to its introduction into service and at least annually thereafter the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. Alternate methods yielding equivalent results may be used if approved in advance by the Administrator.

(1) Follow the manufacturer's instructions for instrument startup and basic operating adjustment using the appropriate fuel and zero grade air.

(2) Optimize on the most common operating range. Introduce into the analyzer, a propane in air mixture with a propane concentration equal to approximately 90% of the most common operating range.

(3) Select an operating fuel flow rate that will give near maximum response and least variation in response with minor fuel flow variations.

(4) To determine the optimum air flow, use the fuel flow setting determined above and vary air flow.

(5) After the optimum flow rates have been determined, they are recorded for future reference.

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the FID hydrocarbon analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples.

(1) Adjust analyzer to optimize performance.

(2) Zero the hydrocarbon analyzer with zero grade air.

(3) Calibrate on each normally used operating range with propane in air calibration gases having nominal concentrations of 50 and 100 percent of that range. Additional calibration points may be generated.

§ 86.522–78 Carbon monoxide analyzer calibration.

(a) Initial and periodic interference check. Prior to its introduction into service and annually thereafter the NDIR carbon monoxide analyzer shall be checked for response to water vapor and CO_2:

(1) Follow the manufacturer's instructions for instrument startup and operation. Adjust the analyzer to optimize performance on the most sensitive range.

(2) Zero the carbon monoxide analyzer with either zero grade air or zero grade nitrogen.

(3) Bubble a mixture of 3% CO_2 in N_2 through water at room temperature and record analyzer response.

(4) An analyzer response of more than 1% of full scale for ranges above 300 ppm full scale or of more than 3 ppm on ranges below 300 ppm full scale will require corrective action. (Use of conditioning columns is one form of corrective action which may be taken.)

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the NDIR carbon monoxide analyzer shall be calibrated.

(1) Adjust the analyzer to optimize performance.

(2) Zero the carbon monoxide analyzer with either zero grade air or zero grade nitrogen.

(3) Calibrate on each normally used operating range with carbon monoxide in N_2 calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

§ 86.523–78 Oxides of nitrogen analyzer calibration.

(a) Prior to its introduction into service and weekly thereafter, if oxides of nitrogen are measured, the chemiluminescent oxides of nitrogen analyzer shall be checked for NO_2 to NO converter efficiency. Figure F78-8 is a reference for the following steps:

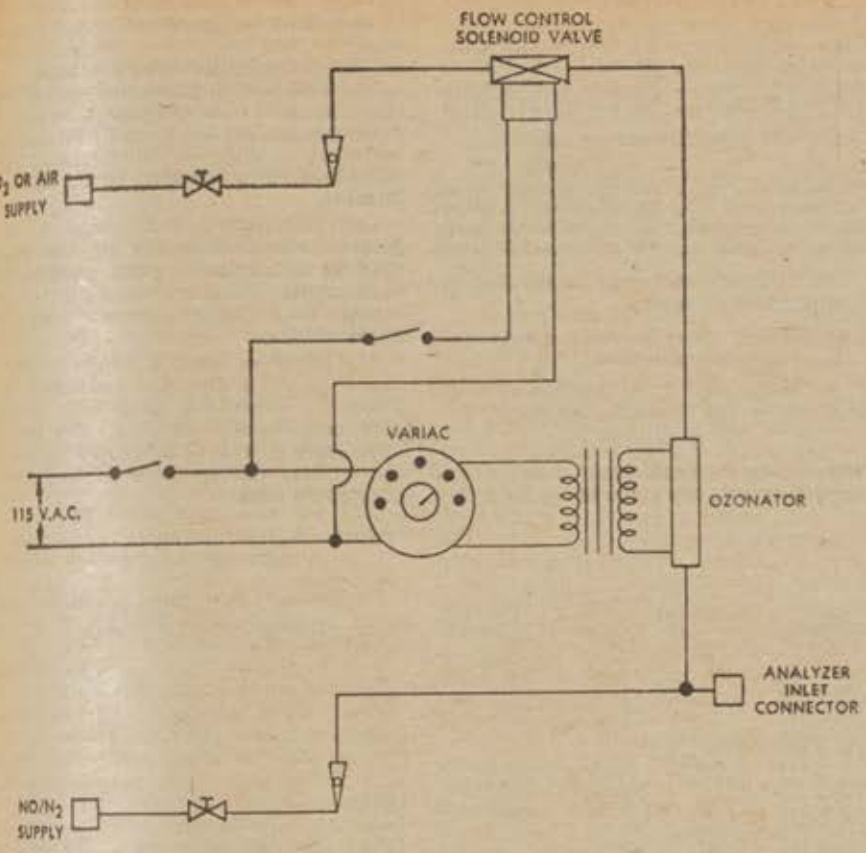
(1) Follow the manufacturer's instructions for instrument startup and operation. Adjust the analyzer to optimize performance.

(2) Zero the oxides of nitrogen analyzer with zero grade air or zero grade nitrogen.

(3) Connect the outlet of the NOx generator to the sample inlet of the oxides of nitrogen analyzer which has been set to the most common operating range.

(4) Introduce into the NOx generator analyzer-system a NO in nitrogen (N_2) mixture with a NO concentration equal to approximately 80 percent of the most common operating range. The NO_2 content of the gas mixture shall be less than 5 percent of the NO concentration.

(5) With the oxides of nitrogen analyzer in the NO mode, record the concentration of NO indicated by the analyzer.



(SEE FIG F78-3 FOR SYMBOL LEGEND)
FIGURE F78-8—NOx CONVERTER EFFICIENCY DETECTOR

(6) Turn on the NOx generator O_2 (or air) supply and adjust the O_2 (or air) flow rate so that the NO indicated by the analyzer is about 10 percent less than indicated in step 5. Record the concentration of NO in this NO+O_2 mixture.

(7) Switch the NOx generator to the generation mode and adjust the generation rate so that the NO measured on the analyzer is 20 percent of that measured in step 5. There must be at least 10 percent unreacted NO at this point. Record the concentration of residual NO.

(8) Switch the oxides of nitrogen analyzer to the NOx mode and measure total NOx. Record this value.

(9) Switch off the NOx generation but maintain gas flow through the system. The oxides of nitrogen analyzer will indicate the NOx in the NO+O_2 mixture. Record this value.

(10) Turn off the NOx generator O_2 (or air) supply. The analyzer will now indicate the NOx in the original NO in N_2 mixture. This value should be no more than 5 percent above the value indicated in step 4.

(11) Calculate the efficiency of the NOx converter by substituting the concentrations obtained into the following equation:

$$\text{Percent Eff.} = \left(1 + \frac{a-b}{c-d}\right) \times 100$$

where:
a = concentration obtained in step 8.
b = concentration obtained in step 9.
c = concentration obtained in step 6.
d = concentration obtained in step 7.

If converter efficiency is not greater than 90 percent corrective action will be required.

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter, if oxides of nitrogen are measured, the chemiluminescent oxides of nitrogen analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples. Proceed as follows:

(1) Adjust analyzer to optimize performance.

(2) Zero the oxides of nitrogen analyzer with zero grade air or zero grade nitrogen.

(3) Calibrate on each normally used operating range with NO in N_2 calibration gases with nominal concentrations of 50 and 100 percent of that range. Additional calibration points may be generated.

§ 86.524–78 Carbon dioxide analyzer calibration.

(a) Prior to its introduction into service and monthly thereafter the NDIR carbon dioxide analyzer shall be calibrated:

(1) Follow the manufacturer's instructions for instrument startup and operation. Adjust the analyzer to optimize performance.

(2) Zero the carbon dioxide analyzer with either zero grade air or zero grade nitrogen.

(3) Calibrate on each normally used operating range with carbon dioxide in N_2 calibration gases with nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

§ 86.525 [Reserved]

§ 86.526–78 Calibration of other equipment.

(a) Other test equipment used for testing shall be calibrated as often as required by the manufacturer or as necessary according to good practice.

§ 86.527–78 Test procedures, overview.

The procedures described in this and subsequent sections are used to determine the conformity of vehicles with the standards set forth in Subpart E.

(a) The overall test consists of prescribed sequences of fueling, parking, and operating conditions.

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area. The test consists of engine startups and vehicle operation on a chassis dynamometer, through a specified driving schedule. A proportional part of the diluted exhaust emissions is collected continuously for subsequent analysis, using a constant volume (variable dilution) sampler.

(c) [Reserved]

(d) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this Subpart. Maintenance to correct component malfunction or failure shall be authorized in accordance with Subpart E.

§ 86.528–78 Transmissions.

(a) Vehicles equipped with transfer cases, multiple sprockets, etc., shall be tested in the manufacturer's recommended configuration for street or highway use. If more than one configuration is recommended or if the recommendation is deemed unreasonable by the Administrator, the Administrator will specify the test configuration.

(b) All tests shall be conducted with automatic transmissions in "Drive" (highest gear). Automatic clutch-torque converter transmissions may be shifted as manual transmissions at the option of the manufacturer.

(c) Idle modes shall be run with automatic transmissions in "Drive" and the

wheels braked, manual transmission shall be in gear with the clutch disengaged; except first idle, see §§ 86.536 and 86.537.

(d) The vehicle shall be driven with minimum throttle movement to maintain the desired speed. No simultaneous use of brake and throttle shall be permitted.

(e) Acceleration modes shall be driven smoothly. Automatic transmissions shall shift automatically through the normal sequence of gears; manual transmissions shall be shifted as recommended by the manufacturer to the ultimate purchaser (unless determined to be unreasonable by the Administrator) with the operator closing the throttle during each shift and accomplishing the shift with minimum time. If the vehicle cannot accelerate at the specified rate, the vehicle shall be operated with the throttle fully opened until the vehicle speed reaches the value prescribed for that time in the driving schedule.

(f) The deceleration modes shall be run in gear using brakes or throttle as necessary to maintain the desired speed. Manual transmission vehicles shall be downshifted using the same shift points as when upshifting or as recommended by the manufacturer in the vehicle owner's manual. All downshifts shall be made smoothly, disengaging the clutch while shifting and engaging the clutch once the lower gear has been selected. For those modes which require the vehicle to decelerate to zero, manual transmission clutches shall be disengaged when the speed drops below 15 km/h (9.3 mph) for vehicles with engine displacements equal to or greater than 280 cc (17.1 cu. in.), when the speed drops below 10 km/h (6.2 mph) for vehicles with engine displacements less than 280 cc (17.1 cu. in.), when engine roughness is evident, or when engine stalling is imminent.

(g) If downshifting during deceleration is not permitted in the vehicle owner's manual, manual transmissions will be downshifted at the beginning of or during a power mode if recommended by the manufacturer or if the engine obviously is lugging. For those modes which require these vehicles to decelerate to zero, manual transmission clutches shall be disengaged when the speed drops below 25 km/h (15.5 mph) for vehicles with engine displacement equal to or greater than 280 cc (17.1 cu. in.), when the speed drops below 20 km/h (12.4 mph) for vehicles with engine displacements less than 280 cc (17.1 cu. in.), when engine roughness is evident, or when engine stalling is imminent. While the clutch is disengaged and during these deceleration modes, the vehicle shall be shifted to the appropriate gear for starting the next mode.

(h) If shift speeds are not recommended by the manufacturer, manual transmission vehicles shall be shifted as follows:

(1) For Class I and II motorcycles:

Shift	*Speed*
1st to 2d gear	19 km/h (11.8 mi/h).
2d to 3d gear	33 km/h (20.5 mi/h).
3d to 4th gear	44 km/h (27.3 mi/h).
4th to 5th gear	53 km/h (32.9 mi/h).

(2) For Class III motorcycles:

Shift	*Speed*
1st to 2d gear	30 km/h (18.6 mi/h).
2d to 3d gear	45 km/h (28.0 mi/h).
3d to 4th gear	60 km/h (37.3 mi/h).
4th to 5th gear	75 km/h (46.6 mi/h).

(3) Higher gears may be used at the manufacturer's option.

§ 86.529–78 Road load force and inertia weight determination.

(a) Road load as a function of speed is given by the following equation:

$$F = A + CV^2$$

The values for coefficients A and C and the test inertia are given in Figure F78–9. Velocity (V) is in km/h and force (F) is in newtons. The forces given by this equation shall be simulated to the best ability of the equipment being used.

(b) The inertia given in Figure F78–9 shall be used. Motorcycles with loaded vehicle mass outside these limits shall be tested at an equivalent inertial mass and road load force specified by the Administrator.

(c) The dynamometer shall be adjusted to reproduce the specified road load as determined by the most recent calibration. Alternatively, the actual vehicle road load can be measured and duplicated:

(1) Make at least 5 replicate coastdowns in each direction from 70 to 60 km/h on a smooth, level, track under balanced wind conditions. The driver must have a mass of 80±10 kg and be in the normal driving position. Record the coastdown time.

Figure F78–9

LOADED VEHICLE MASS (kg)	EQUIVALENT INERTIA (kg)	FORCE COEFFICIENTS A (N)	C (N/(km/h)²)	@ 65 km/h TARGET TIME (sec)	70 TO 60 km/h COASTDOWN CALIBRATION TIME: ALLOWABLE TARGET TIME (sec)	ALLOWABLE TIME (sec)
95 - 102	100	6.0	.0221	94.8	3.1	3.0
103 - 115	110	6.82	.0227	96.8	3.1	3.0
116 - 125	120	1.70	.0230	98.8	3.2	3.2
126 - 135	130	2.57	.0233	100.7	3.3	3.4
136 - 145	140	3.44	.0236	102.7	3.4	3.6
146 - 155	150	4.32	.0240	104.7	3.5	3.8
156 - 165	160	5.19	.0241	107.0	4.1	4.0
166 - 175	170	6.06	.0244	109.0	4.3	4.2
176 - 185	180	6.94	.0246	111.0	4.5	4.3
186 - 195	190	7.81	.0249	113.1	4.6	4.5
196 - 205	200	8.69	.0252	115.1	4.8	4.6
206 - 215	210	9.56	.0255	117.1	5.0	4.8
216 - 225	220	10.43	.0257	119.2	5.1	4.9
226 - 235	230	11.31	.0260	121.2	5.3	5.1
236 - 245	240	12.18	.0263	123.2	5.4	5.2
246 - 255	250	13.06	.0266	125.3	5.5	5.4
256 - 265	260	13.93	.0268	127.3	5.7	5.5
266 - 275	270	14.80	.0271	129.3	5.8	5.6
276 - 285	280	15.68	.0274	131.4	5.9	5.7
286 - 295	290	16.55	.0277	133.4	6.0	5.8
296 - 305	300	17.43	.0279	135.4	6.1	6.0
306 - 315	310	18.30	.0282	137.5	6.2	6.1
316 - 325	320	19.17	.0285	139.5	6.3	6.2
326 - 335	330	20.05	.0288	141.6	6.5	6.3
336 - 345	340	20.92	.0290	143.6	6.6	6.4
346 - 355	350	21.80	.0293	145.6	6.7	6.5
356 - 365	360	22.67	.0296	147.7	6.8	6.6
366 - 375	370	23.54	.0299	149.7	6.9	6.7
376 - 385	380	24.42	.0301	151.7	6.98	6.8
386 - 395	390	25.29	.0304	153.8	7.07	6.9
396 - 405	400	26.17	.0307	155.8	7.16	7.0
406 - 415	410	27.04	.0310	157.8	7.24	7.0
416 - 425	420	27.91	.0312	159.9	7.33	7.1
426 - 435	430	28.79	.0315	161.9	7.41	7.2
436 - 445	440	29.66	.0317	163.9	7.49	7.3
446 - 455	450	30.54	.0318	166.0	7.61	7.4
456 - 465	460	31.41	.0319	168.0	7.73	7.5
466 - 475	470	32.28	.0319	167.1	7.84	7.6
476 - 485	480	33.16	.0320	168.3	7.95	7.7
486 - 495	490	34.03	.0320	169.4	8.06	7.8
496 - 505	500	34.90	.0321	170.5	8.17	7.9
506 - 515	510	35.78	.0322	171.7	8.28	8.0
516 - 525	520	36.65	.0322	172.8	8.39	8.2
526 - 535	530	37.53	.0323	173.9	8.49	8.3
536 - 545	540	38.40	.0323	175.1	8.60	8.4
546 - 555	550	39.27	.0324	176.2	8.70	8.5
556 - 565	560	40.15	.0325	177.3	8.80	8.6
566 - 575	570	41.02	.0325	178.5	8.90	8.7
576 - 585	580	41.90	.0326	179.6	9.00	8.8
586 - 595	590	42.77	.0327	180.8	9.10	8.9
596 - 605	600	43.64	.0327	181.9	9.19	9.0
606 - 615	610	44.52	.0328	183.0	9.29	9.0
616 - 625	620	45.39	.0328	184.2	9.38	9.1
626 - 635	630	46.27	.0329	185.3	9.47	9.2
636 - 645	640	47.14	.0330	186.5	9.56	9.3
646 - 655	650	48.01	.0330	187.6	9.65	9.4
656 - 665	660	48.89	.0331	188.7	9.74	9.5
666 - 675	670	49.76	.0332	189.9	9.83	9.6
676 - 685	680	50.64	.0332	191.0	9.92	9.7
686 - 695	690	51.51	.0333	192.1	10.01	9.8
696 - 705	700	52.38	.0333	193.2	10.09	9.8
706 - 715	710	53.26	.0334	194.4	10.17	9.9
716 - 725	720	54.13	.0335	195.5	10.26	10.0
726 - 735	730	55.01	.0335	196.6	10.34	10.1
736 - 745	740	55.88	.0336	197.8	10.42	10.2
746 - 755	750	56.75	.0336	198.9	10.50	10.2
756 - 765	760	57.63	.0337	200.1	10.59	10.3

(2) Average the coastdown times. Adjust the dynamometer load so that the coastdown time is duplicated with the vehicle and driver on the dynamometer.

(3) Alternate procedures may be used if approved in advance by the Administrator.

§ 86.530–78 Test sequence, general requirements.

(a) Ambient temperature levels encountered by the test vehicle throughout the test sequence shall not be less than 20° C (68° F) nor more than 30° C (86° F). The vehicle shall be approximately level during the emission test to prevent abnormal fuel distribution.

§ 86.531–78 Vehicle preparation.

(a) The manufacturer shall provide additional fittings and adapters, as required by the Administrator * * *, such as * * * to accommodate a fuel drain at the lowest point possible in the tank(s) as installed on the vehicle and to provide for exhaust sample collection.

§ 86.532–78 Vehicle preconditioning.

(a) The vehicle shall be moved to the test area and the following operations performed:

(1) The fuel tank(s) shall be drained through the provided fuel tank(s) drain(s) and charged with the specified test fuel, § 86.513, to half the tank(s) capacity.

(2) The vehicle shall be placed, either by being driven or pushed, on a dynamometer and operated through one Urban Dynamometer Driving Schedule test procedure (see § 86.515 and Appendix I). The vehicle need not be cold, and may be used to set dynamometer horsepower.

(b) Within five (5) minutes of completion of preconditioning, the vehicle shall be removed from the dynamometer and may be driven or pushed to the soak area to be parked. The vehicle shall be stored for not less than the following times prior to the cold start exhaust test.

	hrs.
Class I	6
Class II	8
Class III	12

In no case shall the vehicle be stored for more than 36 hours prior to the cold start exhaust test.

§ 86.533 [Reserved]

§ 86.534 [Reserved]

§ 86.535–78 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test and a "hot" start test following the "cold" start by 10 minutes. Engine startup (with all accessories turned off), operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with ambient air and a continuously proportional sample is collected for analysis during each phase. The composite samples collected in bags are analyzed for hydrocarbons, carbon monoxide, carbon dioxide, and, optionally, for oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, carbon dioxide, and, optionally, for oxides of nitrogen.

(b) [Reserved]

(c) The vehicle speed, as measured from the dynamometer rolls, shall be used. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(d) Practice runs over the prescribed driving schedule may be performed at test points, provided an emission sample is not taken, for the purpose of finding the minimum throttle action to maintain the proper speed-time relationship, or to permit sampling system adjustments.

(e) The drive wheel tires must be inflated to the manufacturer's recommended pressure, ±15 kPa (±2.2 psi). The drive wheel tire pressure shall be reported with the test results.

(f) If the dynamometer has not been operated during the two hour period immediately preceding the test, it shall be warmed up for 15 minutes by operating at 50 km/h (31.1 mph) using a non-test vehicle, or as recommended by the dynamometer manufacturer.

(g) If the dynamometer horsepower must be adjusted manually, it shall be set within one hour prior to the exhaust emissions test phase. The test vehicle shall not be used to make this adjustment. Dynamometers using automatic control of preselectable power settings may be set anytime prior to the beginning of the emissions test.

(h) The driving distance, as measured by counting the number of dynamometer roll revolutions, shall be determined for the transient cold start, stabilized cold start, and transient hot start phases of the test.

§ 86.536–78 Engine starting and restarting.

(a) (1) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20 second idle period shall begin when the engine starts.

(2) *Choke operation.* (i) Vehicles equipped with automatic chokes shall be operated according to the instructions in the manufacturer's operating instructions or owner's manual including choke setting and "kick-down" from cold fast idle. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(ii) Vehicles equipped with manual chokes shall be operated according to the manufacturer's operating instructions or owner's manual. Where times are provided in the instructions, the Administrator may specify the specific point for operation, within 15 seconds of the recommended time.

(3) The operator may use the choke, throttle etc. where necessary to keep the engine running.

(4) If the manufacturer's operating instructions or owner's manual do not specify a warm engine starting procedure, the engine (automatic and manual choke engines) shall be started by opening the throttle about half way and cranking the engine until it starts.

(b) [Reserved]

(c) If, during the cold start, the vehicle does not start after 10 seconds of cranking, or ten cycles of the manual starting mechanism, cranking shall cease and the reason for failure to start determined. The revolution counter on the constant volume sampler shall be turned off and the sample solenoid valves placed in the "standby" position during this diagnostic period. In addition, either the CVS blower shall be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period.

(1) If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action (following the unscheduled maintenance provisions) of less than 30 minutes duration may be taken and the test continued. The sampling system shall be reactivated at the same time cranking is started. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken (following the unscheduled maintenance provisions), and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(2) If the vehicle does not start during the hot start after ten seconds of cranking, or ten cycles of the manual starting mechanism, cranking shall cease, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken in accordance with § 86.428 or § 86.429, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(d) If the engine "false starts", the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.)

(e) *Stalling.* (1) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts, the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle shall then be restarted and accelerated to the speed required at that point in the driving schedule and the test continued. During acceleration to this point, shifting shall be performed in accordance with § 86.528.

(3) If the vehicle will not restart within one minute, the test shall be

voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

§ 86.537–78 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with the engine turned off (see § 86.532 for required time). The vehicle shall be stored prior to the emission test in such a manner that precipitation (e.g., rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 12.0 km (7.5 miles), (10.9 km (6.8 miles) for Class I motorcycles) and simulates a hot start drive of 12.0 km (7.5 miles), (10.9 km (6.8 miles) for Class I motorcycles). The vehicle is allowed to stand on the dynamometer during the 10 minute period between the cold and hot start tests. The cold start is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of the driving schedule including engine shutdown. The hot start test similarly consists of two periods. The period, representing the hot start "transient" phase, terminates at the same point in the driving schedule at the first period of the cold start test. The second period of the hot start test, "stabilized" phase, is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run.

(b) The following steps shall be taken for each test:

(1) Place drive wheel of vehicle on dynamometer without starting engine.

(2) Activate vehicle cooling fan system.

(3) With the sample selector valves in the "standby" position, connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(4) Start the Constant Volume Sampler (if not already on), the sample pumps, and the temperature recorder. (The heat exchanger of the constant volume sampler, if used, should be preheated to operating temperature before the test begins).

(5) Adjust the sample flow rates to the desired flow rate (minimum of 80 cc/s (10.2 ft³/hr) for PDP–CVS) and set the gas flow measuring devices to zero.

NOTE.—CFV–CVS sample flowrate is fixed by the venturi design.

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Start the gas flow measuring device, position the sample selector valves to direct the sample flow into the "transient" exhaust sample bag and the "transient" dilution air sample bag and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule (§ 86.515).

(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the sample flows from the "transient" bags to the "stabilized" bags, switch off gas flow measuring device No. 1 and start gas flow measuring device No. 2. Before the acceleration, which begins at 510 seconds, record the roll revolutions. As soon as possible, transfer the "transient" exhaust and dilution samples to the analytical system and process the samples according to § 86.540 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(12) Turn engine off 2 seconds after the end of the last deceleration (at 1,369 seconds).

(13) Five seconds after the engine stops running, simultaneously turn off gas flow measuring device No. 2 and position the sample selector valves to the "standby" position. Record the measured roll revolutions. As soon as possible, transfer the "stabilized" exhaust and dilution air samples to the analytical system and process the samples according to § 86.540 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(14) Immediately after the end of the sample period turn off the vehicle cooling fan system.

(15) Turn off the CVS or disconnect the exhaust tube from the tailpipe of the vehicle.

(16) Repeat the steps in paragraphs (b)(2) through (10) of this section for the hot start test, except only one evacuated sample bag is required for sampling exhaust gas and one for dilution air. The step in paragraph (b)(7) of this section shall begin between 9 and 11 minutes after the end of the sample period for the cold start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off gas flow measuring device No. 1 and position the sample selector valve to the "standby" position. (Engine shutdown is not part of the hot start test sample period.) Record the measured roll revolutions.

(18) As soon as possible, transfer the hot start "transient" exhaust and dilution air samples to the analytical system and process the samples according to § 86.540 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(19) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.

(20) The constant volume sampler may be turned off, if desired.

(21) Continuous monitoring of exhaust emissions will not normally be allowed. Specific written approval must be obtained from the Administrator for continuous monitoring of exhaust emissions.

§ 86.538 [Reserved]

§ 86.539 [Reserved]

§ 86.540–78 Exhaust sample analysis.

The following sequence of operations shall be performed in conjunction with each series of measurements:

(a) Zero the analyzers and obtain a stable zero reading. Recheck after tests.

(b) Introduce span gases and set instrument gains. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test sample. Span gases should have concentrations equal to 75 to 100 percent of full scale. If gain has shifted significantly on the analyzers, check the calibrations. Show actual concentrations on chart.

(c) Check zeros; repeat the procedure in paragraphs (a) and (b) of this section if required.

(d) Check flowrates and pressures.

(e) Measure HC, CO, CO_2, and, optionally, NOx concentrations of samples.

(f) [Reserved]

(g) Check zero and span points. If difference is greater than 2 percent of full scale, repeat the procedure in paragraphs (a) through (f) of this section.

§ 86.541 [Reserved]

§ 86.542–78 Records required.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) *Vehicle:* Make, Vehicle identification number, Model year, Transmission type, Odometer reading, Engine displacement, Engine family, Emission control system, Recommended Idle RPM, Nominal fuel tank capacity, Inertial loading, Actual curb mass recorded at 0 kilometres, and Drive wheel tire pressure.

(g) *Dynamometer serial number:* As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided the test cell records show the pertinent information.

(h) All pertinent instrument information such as tuning—gain—serial number—detector number—range. As an alternative, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided test cell calibration records show the pertinent instrument information.

(i) *Recorder charts:* Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Test cell barometric pressure, ambient temperature and humidity.

NOTE.—A central laboratory barometer may be used; provided that individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(k) [Reserved]

(l) Pressure of the mixture of exhaust and dilution air entering the CVS metering device, the pressure increase across the device, and the temperature at the inlet. The temperature may be recorded continuously or digitally to determine temperature variations.

(m) The number of revolutions of the positive displacement pump accumulated during each test phase while exhaust samples are being collected. The number of standard cubic metres metered by a critical flow venturi during each test phase would be the equivalent record for a CFV-CVS.

(n) The humidity of the dilution air.

NOTE.—If conditioning columns are not used (see § 86.522 and § 86.544) this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

§ 86.543 [Reserved]

§ 86.544–78 Calculations; exhaust emissions.

The final reported test results, with oxides of nitrogen being optional, shall be computed by use of the following formulae: (The results of all emission tests shall be rounded, using the "Rounding-Off Method" specified in ASTM E 29-67, to the number of places to the right of the decimal point indicated by expressing the applicable standard to three significant figures.)

(a)

$$Ywm = 0.43[(Yct+Ys)/(Dct+Ds)] + 0.57[(Yht+Ys)/(Dht+Ds)].$$

where:

Ywm=Weighted mass emissions of CO_2 or of each pollutant, i.e., HC, CO, or NOx, in grams per vehicle kilometre.

Yct=Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Yht=Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Ys=Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

Dct=The measured driving distance from the "transient" phase of the cold start test, in kilometres.

Dht=The measured driving distance from the "transient" phase of the hot start test, in kilometres.

Ds=The measured driving distance from the "stabilized" phase of the cold start test, in kilometres.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1) Hydrocarbon mass:

HCmass=Vmix X DensityHC X (HCconc/1,000,000).

(2) Oxides of nitrogen mass:

NOxmass=Vmix X DensityNO2 X (NOxconc X Kh/1,000,000).

(3) Carbon monoxide mass:

COmass=Vmix X DensityCO X (COconc/1,000,000).

(4) Carbon dioxide mass:

CO2mass=Vmix X DensityCO2 X (CO2 conc/100).

(c) Meaning of symbols:

HCmass=Hydrocarbon emissions, in grams per test phase.

DensityHC=Density of hydrocarbon in the exhaust gas, 0.5767 kg/m³/carbon atom (16.33 g/ft³/carbon atom), assuming an average carbon to hydrogen ratio of 1:1.85, at 20°C (68°F) and 101.325 kPa (760 mm Hg) pressure.

HCconc=Hydrocarbon concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent, i.e., equivalent propane X3.

HCconc=HCe-HCd (1-1/DF).

where:

HCe=Hydrocarbon concentrations of the dilute exhaust sample as measured, in ppm carbon equivalent. (Propane ppm x 3.)

HCd=Hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent. (Propane ppm x 3.)

NOxmass=Oxides of nitrogen emissions, in grams per test phase.

Density NO2=Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, 1.913 kg/m³ (54.16 g/ft³), at 20° C (68° F) and 101.325 kPa (760 mm Hg) pressure.

NOxconc=Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in ppm.

NOxconc=NOxe-NOxd (1-1/DF).

where:

NOxe=Oxides of nitrogen concentration of the dilute exhaust sample as measured, in ppm.

NOxd=Oxides of nitrogen concentration of the dilution air as measured, in ppm.

COmass=Carbon monoxide emissions, in grams per test phase.

Density CO=Density of carbon monoxide, 1.164 kg/m³ (32.97 g/ft³), at 20° C (68° F) and 101.325 kPa (760 mm Hg) pressure.

COconc=Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and CO2 extraction, in ppm.

COconc=COe-COd (1-1/DF).

where:

COe=Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in ppm. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

COe=(1-0.01925CO2e—0.000323R) COem.

where:

COem=Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

CO2e=Carbon dioxide concentration of the dilute exhaust sample, in mole percent.

R=Relative humidity of the dilution air, in percent (see § 85.478-22 (n)).

COd=Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in ppm.

COd=(1-0.000323R) COdm.

where:

COdm=Carbon monoxide concentration of the dilution air sample as measured, in ppm.

NOTE.—If a CO instrument, which meets the criteria specified in § 86.511 is used and the conditioning column has been deleted, COem can be substituted directly for COe and COdm can be substituted directly for COd.

CO2mass=Carbon dioxide emissions, in grams per test phase.

Density CO2=Density of carbon dioxide, 1.843 kg/m³ (52.20 g/ft³), at 20° C (68° F) and 101.325 kPa (760 mm Hg) pressure.

CO2conc=Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

CO2conc=CO2e-CO2d (1-1/DF) 10^{-4}

Where:

CO2d=Carbon dioxide concentration of the dilution air as measured, in ppm.

DF=13.4/[CO2+(HCe+COe) 10^{-4}]

Vmix=Total dilute exhaust volume in cubic metres per test phase corrected to standard conditions (293.15° K (528° R) and 101.325 kPa (760 mm Hg)).

Vmix=Vo X N [(Pb-Pi) (293.15° K)]/[(101.325 kPa) (Tp)]

Where:

Vo=Volume of gas pumped by the positive displacement pump, in cubic metres per revolution. This volume is dependent on the pressure differential across the positive displacement pump. (See calibration techniques in Appendix III.)

N=Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

Pb=Barometric pressure in kPa.

Pi=Pressure depression below atmospheric measured at the inlet to the positive displacement pump.

Tp=Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Kelvin.

Kh=Humidity correction factor.

Kh=1/[1-0.0329 (H-10.71)]

Where:

H=Absolute humidity in grams of water per kilogram of dry air.

H=[(6.211) Ra X Pd]/[Pb-(Pd X Ra/100)]

Ra=Relative humidity of the ambient air, in percent.

Pd=Saturated vapor pressure, in kPa at the ambient dry bulb temperature.

(d) Example calculation of mass emission values for vehicles wth engine displacements equal to or greater than 170 cc (10.4 cu. in.):

(1) For the "transient" phase of the cold start test, assume Vo=0.0077934 m³ per revolution; N=12,115; R=20.5 percent; Ra=20.5 percent; Pb=99.05 kPa; Pd=3.382 kPa; Pi=9.851 kPa; Tp=309.8 K; HCe 249.75 ppm carbon equivalent; NOxe=38.30 ppm; COem=311.23 ppm; CO2e=0.415 percent; HCd=4.90 ppm; NOxd=0.30 ppm; COdm=8.13 ppm; CO2d=370 ppm; Dct=5.650 km. Then:

Vmix=[(0.0077934) (12,115) (99.05-9.851) (293.15)]/[(101.325) (309.3)]

Vmix=78.651 m³ per test phase.

H=[(6.211) (20.5) (3.382)]/[(99.05)—(3.382) (20.5/100)]

H=4.378 grams H_2O per kg dry air.

Kh=1/[1-0.0329(4.378-10.71)]

Kh=0.8276

COe=[1-0.01925(0.415)—0.000323 (20.5)] 311.23

COe=306.68 ppm.

COd=[1-0.000323 (20.5)] 8.13

COd=8.08 ppm.

DF=13.4/[0.415+(249.75+306.68) 10^{-4}]

DF=28.472

HCconc=249.75-4.90(1-1/28.472)

HCconc=245.02 ppm.

HCmass=(78.651) (576.7) (245.02) 10^{-6}

HCmass=11.114 grams per test phase

NOxconc=38.30-0.30 (1-1/28.472)

NOxconc=38.01 ppm.

NOxmass=(78.651) (1913) (38.01) (0.8276) 10^{-6}

NOxmass=4.733 grams per test phase.

COconc=306.68-8.08 (1-1/28.472)

COconc=298.88 ppm.

COmass=(78.651) (1164) (298.88) 10^{-6}

COmass=27.362 grams per test phase.

$CO2conc = 0.415 - 370\ (1 - 1/28.472)\ 10^{-4}$
$CO2conc = 0.3793$ percent.
$CO2mass = (78.651)(1843)(0.3793)\ 10^{-2}$
$CO2mass = 549.81$ grams per test phase.

(2) For the "stabilized" portion of the cold start test, assume that similar calculations resulted in HCmass=7.184 grams per test phase; NOxmass=2.154 grams per test phase; COmass=61.541 grams per test phase; and CO2mass=529.52 grams per test phase. Ds=6.070 kilometres.

(3) For the "transient" portion of the hot start test, assume that similar calculations resulted in HCmass=6.122 grams per test phase; NOxmass=7.056 grams per test phase; COmass=34.964 grams per test phase; and CO2mass=480.93 grams per test phase. Dht=5.660 kilometres.

(4) For a 1978 motorcycle with an engine displacement equal to or greater than 170 cc (10.4 cu. in.):

$Hcwm = 0.43[(11.114 + 7.184)/(5.6505.070)] + 0.57[(6.122 + 7.184)\ /\ (5.660 + 6.070)]$
$HCwm = 1.318$ grams per vehicle kilometre.
$NOxwm = 0.43[(4.733 + 2.154)\ /\ (5650 + 6.070)] + 0.57\ [(7.056 + 2.154)\ /\ (5.660 + 6.070)]$
$NOxwm = 0.700$ grams per vehicle kilometre.
$COwm = 0.43[(27.362 + 64.541)\ /\ (5.650 + 6.070)] + 0.57\ [(34.964 + 64.541)\ /\ (5.660 + 6.070)]$
$COwm = 8.307$ grams per vehicle kilometre.
$CO2wm = 0.43[(549.81 + 529.52)\ /\ (5.650 + 6.070)] + 0.57\ [(480.93 + 539.52)\ /\ (5.660 + 6.070)]$
$CO2wm = 88.701$ grams per vehicle kilometre.

[FR Doc.77-146 Filed 1-4-77;8:45 am]

[FRL 658-8]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Appendices to Motor Vehicle Emission Regulations

On October 22, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 49517) setting forth revisions to the Appendices to the motor vehicle emission regulations in Part 85 of Title 40 of the Code of Federal Regulations. The proposed changes were needed to complement the publication of the proposed regulations for the control of exhaust and crankcase emissions from new motorcycles (40 FR 49496). In addition, the appendices were proposed in the International System of Units (SI). Comments by interested parties to the NPRM received prior to 10 February 1976 were considered in the preparation of the final rule making.

Presented below is a list of the major changes to the proposed Appendices which are incorporated for final rule making.

(1) Appendix I, the EPA dynamometer driving schedule, is published as proposed in kilometre per hour units. For the convenience of the user, the driving schedule in miles per hour units is retained. Manufacturers of light duty vehicles or light duty trucks may use either schedule (a) in miles per hour or schedule (b) in kilometres per hour. The tolerance diagram in the corresponding units should be used. Motorcycles with displacements greater than or equal to 170cc (10.4 cu. in.) are to use schedule (b) and motorcycles with displacements less than 170cc are to use schedule (c).

(2) The proposed revision to Appendix II, Procedures for Dynamometer Road Power Calibration, is dropped from the final rule making. A new motorcycle dynamometer calibration procedure, consistent with the revised motorcycle road load force specification, is incorporated in the body of the motorcycle test procedures, Part 86, Subpart F. For light duty vehicles and light duty trucks, the dynamometer calibration procedure has also been incorporated in the body of the applicable test procedures, Part 86, Subpart B.

(3) The revision to Appendix III, Constant Volume Sampler Flow Calibration, is also dropped from the final rulemaking. The calibration procedure, which now includes a method for calibrating a critical flow venturi constant volume sampler, is incorporated in the applicable test procedure sections of Part 86 for motorcycles and for light duty vehicles and light duty trucks.

(4) Appendix IV(b) has been revised to include the durability driving schedule for each of the three motorcycle classes. For laps 1 through 9, the lap speed in SI units has been revised to more nearly equate these schedules with the English unit schedule for light duty vehicles contained in Appendix IV(a). For motorcycles with engine displacements less than 170cc (10.4 cu. in.), the speeds for laps 10 and 11 have been reduced to reflect the inability of some of the smaller motorcycles to achieve the proposed maximum speeds for those laps. For motorcycles with engine displacements equal to or greater than 170cc and less than 280cc (17.1 cu. in.), the speed for lap 11 has been reduced because motorcycles in this class are often designed for dual-purpose operation and may be incapable of attaining the proposed maximum speed for this lap.

(5) Appendix V continues to be reserved.

(6) Appendix VI, Vehicle and Engine Components, is published as proposed.

(7) Appendix VII, Parameters and Specifications, was proposed on December 23, 1974 (39 FR 44246) as part of the Coverage of Motor Vehicle Certificate of Conformity Regulations. It was proposed for motorcycles on October 22, 1975 with certain modifications applicable to motorcycles included. Appendix VII is not included for final rulemaking at this time because of pending resolution of comments. It is anticipated final rulemaking, applicable to all motor vehicles, will be published at a later date.

Comments which were received in response to the NPRM and EPA's detailed analysis of the comments are available for inspection and copying during normal business hours at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. As provided for in 40 CFR Part 2, a reasonable fee may be charged for copying services.

The Enviromental Protection Agency 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.

The environmental and economic impacts associated with the regulations published of subparts E and F of Title 40, Part 86, Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures—Emission Regulations for New Motorcycles, have been analyzed. This analysis is contained in the Environmental and Economic Impact Statement, Motorcycle Exhaust and Crankcase Regulations for the 1978 Model Year, December 1976. Single copies of this document are available from the Public Information Center (PM-215), U.S. Environmental Protection Agency, Washington, D.C. 20460.

This Notice of Final Rulemaking is issued under the authority of sections 202, 206, 207, 208, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, 1857f-5a, 1857f-6, 1857g(a)).

Effective date: This addition to Part 86 becomes effective on February 22, 1977.

Date: December 23, 1976.

JOHN QUARLES,
Acting Administrator.

The following changes are made to the appendices in Part 86 of Chapter I of Title 40 of the Code of Federal Regulations:

1. Appendix I is revised by redesignating Appendix I of Part 85 as part (a) of Appendix I, adding paragraph (a) prior to the schedule listing, and adding paragraphs (b) and (c) to read as follows:

APPENDIX I—URBAN DYNAMOMETER DRIVING SCHEDULES

(a) EPA Urban Dynamometer Driving Schedule for Light Duty Vehicles and Light Duty Trucks.

* * * * * *

(b) EPA Urban Dynamometer Driving Schedule for Light Duty Vehicles, Light Duty Trucks, and Motorcycles with engine displacements equal to or greater than 170 cc (10.4 cu. in.).

Speed Versus Time Sequence

Time (seconds):	Speed (kilometres per hour)	Time (seconds):	Speed (kilometres per hour)	Time (seconds):	Speed (kilometres per hour)	Time (seconds):	Speed (kilometres per hour)
0	0	37	31.9	74	40.9	111	51.2
1	0	38	27.4	75	40.1	112	51.8
2	0	39	24.0	76	40.2	113	52.1
3	0	40	25.0	77	40.9	114	51.8
4	0	41	24.5	78	41.8	115	51.0
5	0	42	24.9	79	41.8	116	46.0
6	0	43	25.7	80	41.4	117	40.7
7	0	44	27.5	81	42.0	118	35.4
8	0	45	30.7	82	43.0	119	30.1
9	0	46	34.0	83	44.3	120	24.8
10	0	47	36.5	84	46.0	121	19.5
11	0	48	36.0	85	47.2	122	14.2
12	0	49	36.5	86	48.0	123	8.9
13	0	50	36.4	87	48.4	124	3.6
14	0	51	34.3	88	48.9	125	0
15	0	52	30.6	89	49.4	126	0
16	0	53	27.5	90	49.4	127	0
17	0	54	25.4	91	49.1	128	0
18	0	55	25.4	92	48.9	129	0
19	0	56	26.5	93	48.8	130	0
20	0	57	31.9	94	48.9	131	0
21	4.8	58	34.5	95	49.6	132	0
22	9.5	59	37.3	96	48.9	133	0
23	13.8	60	38.9	97	48.1	134	0
24	18.5	61	39.6	98	47.6	135	0
25	23.0	62	40.1	99	48.0	136	0
26	27.2	63	40.2	100	48.8	137	0
27	27.6	64	39.5	101	49.4	138	0
28	29.1	65	39.4	102	49.7	139	0
29	33.3	66	39.8	103	49.9	140	0
30	34.9	67	39.9	104	49.7	141	0
31	36.0	68	39.8	105	49.9	142	0
32	36.2	69	39.6	106	48.0	143	0
33	36.0	70	39.6	107	48.1	144	0
34	34.0	71	40.4	108	48.6	145	0
35	33.6	72	41.2	109	49.4	146	0
36	33.8	73	41.4	110	50.2	147	0

Time (seconds):	Speed (kilometres per hour)
148	0
149	0
150	0
151	0
152	0
153	0
154	0
155	0
156	0
157	0
158	0
159	0
160	0
161	0
162	0
163	0
164	5.3
165	10.6
166	15.9
167	21.2
168	26.6
169	31.9
170	35.7
171	39.1
172	41.5
173	42.5
174	41.4
175	40.4
176	39.8
177	40.2
178	40.6
179	40.9
180	41.5
181	43.8
182	42.6
183	38.6
184	36.5
185	31.2
186	28.6
187	27.7
188	29.1
189	30.9
190	32.3
191	35.7
192	39.4
193	43.9
194	49.1
195	53.9
196	58.3
197	60.0
198	63.2
199	65.2
200	67.8
201	70.0
202	72.6
203	74.0
204	76.3
205	76.4
206	76.4
207	76.1
208	76.0
209	75.6
210	75.6
211	75.6
212	75.6
213	75.6
214	76.0
215	76.3
216	77.1
217	78.1
218	79.0
219	79.7
220	80.5
221	81.4
222	82.1
223	82.9
224	84.0
225	85.6
226	87.1
227	87.9
228	88.4
229	88.5
230	88.4
231	87.9
232	87.9
233	88.2
234	88.7
235	89.3
236	89.6
237	90.3
238	90.6
239	91.1
240	91.3
241	91.3
242	90.9
243	90.9
244	90.9
245	90.9
246	90.9
247	90.9
248	90.8
249	90.3
250	89.8
251	88.7
252	87.9
253	87.3
254	86.9
255	86.4
256	86.3
257	86.7
258	86.9
259	87.1
260	87.1
261	86.6
262	85.9
263	85.3
264	84.7
265	83.8
266	84.3
267	83.7
268	83.5
269	83.2
270	82.9
271	83.0
272	83.4
273	83.8
274	84.5
275	85.3
276	86.1
277	86.9
278	88.4
279	89.2
280	89.5
281	90.1
282	90.1
283	89.8
284	88.8
285	87.7
286	86.3
287	84.5
288	82.9
289	82.9
290	82.9
291	82.2
292	80.6
293	80.6
294	80.0
295	80.5
296	79.8
297	79.7
298	79.7
299	79.7
300	79.0
301	78.2
302	77.4
303	76.0
304	74.2
305	72.4
306	70.5
307	68.6
308	66.8
309	64.9
310	62.0
311	59.5
312	56.6
313	54.4
314	52.3
315	50.7
316	49.2
317	49.1
318	48.3
319	46.7
320	44.3
321	36.9
322	34.6
323	32.3
324	30.7
325	29.8
326	27.4
327	24.9
328	20.1
329	17.4
330	12.9
331	7.6
332	2.3
333	0
334	0
335	0
336	0
337	0
338	0
339	0
340	0
341	0
342	0
343	0
344	0
345	0
346	0
347	1.6
348	6.9
349	12.2
350	17.5
351	22.0
352	27.8
353	32.2
354	36.2
355	38.1
356	40.6
357	42.8
358	45.2
359	48.3
360	49.6
361	50.0
362	51.7
363	52.8
364	54.1
365	55.5
366	55.7
367	56.2
368	56.0
369	55.5
370	55.8
371	57.1
372	57.9
373	57.9
374	57.9
375	57.9
377	57.9
376	57.9
378	58.1
379	58.0
380	58.7
381	58.0
383	57.9
383	56.5
384	54.9
385	53.9
386	50.5
387	46.7
388	41.4
389	37.0
390	32.7
391	28.2
392	23.3
393	19.3
394	14.0
395	8.7
396	3.4
397	0
398	0
399	0
400	0
401	0
402	0
403	4.3
404	9.5
405	14.9
406	20.1
407	25.4
408	30.7
409	36.0
410	40.2
411	41.3
412	44.3
413	46.7
414	48.3
415	48.4
416	48.3
417	47.8
418	47.2
419	46.3
420	45.1
421	40.2
422	34.9
423	29.6
424	24.3
425	19.0
426	13.7
427	8.4
428	3.1
429	0
430	0
431	0
432	0
433	0
434	0
435	0
436	0
437	0
438	0
439	0
440	0
441	0
442	0
443	0
444	0
445	0
446	0
447	0
448	5.3
449	10.6
450	15.9
451	21.2
452	26.6
453	31.9
454	37.2
455	42.5
456	44.7
457	46.8
458	50.7
459	53.1
460	54.1
461	56.0
462	56.5
463	57.3
464	58.1
465	57.9
466	58.1
467	58.3
468	57.9
469	57.5
470	57.9
471	57.9
473	57.3
472	57.1
474	57.0
475	56.6
476	56.6
477	56.6
478	56.6
479	56.6
480	56.6
481	56.3
482	56.5
483	56.6
484	57.1
485	56.6
486	56.3
487	56.3
488	56.3
489	56.0
490	55.7

491	58.8
492	53.8
493	51.5
494	48.4
495	45.1
496	41.0
497	36.3
498	31.9
499	26.0
500	21.2
501	16.6
502	11.6
503	6.4
504	1.6
505	0
506	0
507	0
508	0
509	0
510	0
511	1.9
512	5.6
513	8.9
514	10.6
515	13.7
516	15.4
517	16.9
518	19.2
519	22.5
520	25.7
521	28.6
522	30.6
523	32.3
524	33.8
525	35.4
526	37.0
527	38.3
528	39.4
529	40.1
530	40.2
531	40.2
532	40.2
533	40.2
534	40.2
535	40.2
536	41.3
537	41.5
538	41.8
539	41.2
540	40.6
541	40.2
542	40.2
543	40.2
544	39.3
545	37.2
546	31.9
547	26.6
548	21.2
549	15.9
550	10.5
551	5.3
552	0
553	0
554	0
555	0
556	0
557	0
558	0
559	0
560	0
561	0
562	0
563	0
564	0
565	0
566	0
567	0
568	0
569	5.3
570	10.6
571	15.9
572	20.9
573	23.8
574	25.7
575	27.4
576	27.4

577	27.4
578	28.2
579	28.5
580	28.5
581	28.2
582	27.4
583	27.2
584	26.7
585	27.4
586	27.5
587	27.4
588	26.7
589	25.8
590	26.6
591	26.7
592	27.4
593	26.5
594	29.8
595	30.9
596	32.5
597	33.8
598	34.0
599	34.1
600	34.8
601	35.4
602	36.0
603	36.2
604	36.2
605	36.2
606	36.5
607	38.1
608	40.4
609	41.8
610	42.6
611	43.5
612	43.0
613	36.7
614	31.4
615	26.1
616	20.8
617	15.4
618	10.1
619	4.8
620	0
621	0
622	0
623	0
624	0
625	0
626	0
627	0
628	0
629	0
630	0
631	0
632	0
633	0
634	0
635	0
636	0
637	0
638	0
639	0
640	0
641	0
642	0
643	0
644	0
645	0
646	3.2
647	7.2
648	12.6
649	16.4
650	20.1
651	23.6
652	24.6
653	28.2
654	31.5
655	33.6
656	36.7
657	37.5
658	39.4
659	40.7
660	41.2
661	41.6
662	42.1

663	42.4
664	42.3
665	42.5
666	42.6
667	42.9
668	41.8
669	41.0
670	38.9
671	34.4
672	29.8
673	26.4
674	23.3
675	18.7
676	14.0
677	9.3
678	5.6
679	3.2
680	0
681	0
682	0
683	0
684	0
685	0
686	0
687	0
688	0
689	0
690	0
691	0
692	0
693	0
694	2.3
695	5.3
696	7.1
697	10.5
698	14.6
699	18.3
700	21.7
701	23.6
702	26.4
703	28.9
704	26.6
705	26.6
706	29.3
707	30.9
708	32.3
709	34.6
710	36.2
711	36.2
712	35.6
713	36.5
714	37.5
715	37.8
716	36.2
717	34.8
718	33.0
719	29.0
720	24.1
721	19.3
722	14.5
723	10.0
724	7.2
725	4.8
726	3.4
727	0.8
728	0.8
729	5.1
730	10.5
731	15.4
732	20.1
733	22.5
734	25.7
735	29.0
736	31.5
737	34.0
738	37.2
739	39.4
740	41.0
741	42.6
742	43.6
743	44.4
744	44.9
745	45.6
746	46.0

747	46.8
748	45.9
749	46.4
750	45.1
751	44.3
752	43.1
753	41.0
754	37.8
755	34.6
756	30.6
757	26.6
758	24.0
759	20.1
760	15.1
761	10.0
762	4.8
763	2.4
764	2.4
765	0.8
766	0
767	4.8
768	10.1
769	15.4
770	20.8
771	25.4
772	28.2
773	29.6
774	31.4
775	33.3
776	35.4
777	37.3
778	40.2
779	42.6
780	44.3
781	45.1
782	45.5
783	46.6
784	46.5
785	45.5
786	45.3
787	45.9
788	45.5
789	45.5
790	45.5
791	45.4
792	44.4
793	44.3
794	44.3
795	44.3
796	44.3
797	44.3
798	44.3
799	44.4
800	45.1
801	45.9
802	48.3
803	49.9
804	51.5
805	53.1
806	53.1
807	54.1
808	54.7
809	55.2
810	55.0
811	54.7
812	54.7
813	54.6
814	54.1
815	53.3
816	53.1
817	52.3
818	51.5
819	51.3
820	50.9
821	50.7
822	49.2
823	48.3
824	48.1
825	48.1
826	48.1
827	48.1
828	47.6
829	47.5
830	47.5
831	47.2

Time (seconds):	metres per hour)
832	46.5
833	45.4
834	44.6
835	43.5
836	41.9
837	38.1
838	35.4
839	33.0
840	30.9
841	30.9
842	32.3
843	33.6
844	34.4
845	35.4
846	36.4
847	37.3
848	38.6
849	40.2
850	41.8
851	42.8
852	43.8
853	43.1
854	43.5
855	43.8
856	44.7
857	45.3
858	46.3
859	46.5
860	46.7
861	46.8
862	46.7
863	45.3
864	44.3
865	43.8
866	41.5
867	40.2
868	39.4
869	39.9
870	40.4
871	41.0
872	41.4
873	42.2
874	43.3
875	44.3
876	44.7
877	45.7
878	46.7
879	47.0
880	46.8
881	46.7
882	46.5
883	45.9
884	45.2
885	45.1
886	45.1
887	44.4
888	43.8
889	42.8
890	43.5
891	44.3
892	44.7
893	45.1
894	44.7
895	45.1
896	45.1
897	45.1
898	44.6
899	44.1
900	43.3
901	42.8
902	42.6
903	42.6
904	42.8
905	42.3
906	42.2
907	42.2
908	41.7
909	41.2
910	41.2
911	41.7
912	41.5
913	41.0
914	39.6
915	37.8
916	35.7
917	34.8
918	34.8
919	34.9
920	36.4
921	37.7
922	38.6
923	38.9
924	39.3
925	40.1
926	40.4
927	40.6
928	40.7
929	41.0
930	40.6
931	40.2
932	40.7
933	41.2
934	39.8
935	39.4
936	39.1
937	39.1
938	39.4
939	40.2
940	40.2
941	39.6
942	39.6
943	38.8
944	39.4
945	40.4
946	41.3
947	40.4
948	38.6
949	35.4
950	32.3
951	27.2
952	21.9
953	16.6
954	11.3
955	6.0
956	0.6
957	0
958	0
959	0
960	3.3
961	8.5
962	13.8
963	19.2
964	24.5
965	28.3
966	29.9
967	32.2
968	34.0
969	35.4
970	37.0
971	39.4
972	42.3
973	44.3
974	45.2
975	45.7
976	45.9
977	45.9
978	45.9
979	44.6
980	44.3
981	43.8
982	43.1
983	42.6
984	41.8
985	41.3
986	40.6
987	38.6
988	35.4
989	34.6
990	34.6
991	35.1
992	36.2
993	37.0
994	36.7
995	36.7
996	37.0
997	36.5
998	36.5
999	36.8
1,000	37.8
1,001	38.6
1,002	39.6
1,003	39.9
1,004	40.4
1,005	41.0
1,006	41.9
1,007	41.0
1,008	40.2
1,009	39.8
1,010	38.1
1,011	37.3
1,012	36.9
1,013	36.2
1,014	35.4
1,015	34.8
1,016	33.0
1,017	28.2
1,018	22.9
1,019	17.5
1,020	12.2
1,021	6.9
1,022	1.6
1,023	0
1,024	0
1,025	0
1,026	0
1,027	0
1,028	0
1,029	0
1,030	0
1,031	0
1,032	0
1,033	0
1,034	0
1,035	0
1,036	0
1,037	0
1,038	0
1,039	0
1,040	0
1,041	0
1,042	0
1,043	0
1,044	0
1,045	0
1,046	0
1,047	0
1,048	0
1,049	0
1,050	0
1,051	0
1,052	0
1,053	1.9
1,054	6.4
1,056	11.7
1,056	17.1
1,057	22.4
1,058	27.4
1,059	29.8
1,060	32.2
1,061	36.1
1,062	37.0
1,063	38.6
1,064	39.9
1,065	41.2
1,066	42.6
1,067	43.1
1,068	44.1
1,069	44.9
1,070	45.5
1,071	45.1
1,072	44.3
1,073	43.5
1,074	43.5
1,075	42.3
1,076	39.4
1,077	36.2
1,078	34.6
1,079	33.2
1,080	29.0
1,081	24.1
1,082	19.8
1,083	17.0
1,084	17.1
1,085	16.1
1,086	15.3
1,087	14.6
1,088	14.0
1,089	13.8
1,090	14.2
1,091	14.5
1,092	14.0
1,093	13.8
1,094	12.9
1,095	11.3
1,096	8.6
1,097	6.6
1,098	4.2
1,099	1.6
1,100	0
1,101	0.2
1,102	1.0
1,103	2.6
1,104	5.8
1,105	11.1
1,106	16.1
1,107	20.6
1,108	22.5
1,109	23.3
1,110	25.7
1,111	29.1
1,112	32.2
1,113	33.6
1,114	34.1
1,115	34.3
1,116	34.4
1,117	34.9
1,118	36.2
1,119	37.0
1,120	38.3
1,121	39.4
1,122	40.2
1,123	40.1
1,124	39.9
1,125	40.2
1,126	40.9
1,127	41.5
1,128	41.8
1,129	42.5
1,130	42.8
1,131	43.3
1,132	43.5
1,133	43.5
1,134	43.5
1,135	43.3
1,136	43.1
1,137	43.1
1,138	42.6
1,139	42.5
1,140	41.8
1,141	41.0
1,142	39.6
1,143	37.8
1,144	34.6
1,145	33.2
1,146	28.2
1,147	25.7
1,148	22.5
1,149	17.3
1,150	11.9
1,151	6.6
1,152	1.3
1,153	0
1,154	0
1,155	0
1,156	0
1,157	0
1,158	0
1,159	0
1,160	0
1,161	0
1,162	0
1,163	0
1,164	0
1,165	0
1,166	0
1,167	0
1,168	0
1,169	3.4
1,170	8.7
1,171	14.0
1,172	19.3
1,173	24.6
1,174	29.8
1,175	34.0
1,176	37.0
1,177	37.8
1,178	37.0
1,179	36.2
1,180	32.2
1,181	26.9
1,182	21.6

Time (seconds):	Speed (kilometres per hour)
1,183	16.3
1,184	10.9
1,185	5.6
1,186	0.3
1,187	0
1,188	0
1,189	0
1,190	0
1,191	0
1,192	0
1,193	0
1,194	0
1,195	0
1,196	0
1,197	0.3
1,198	2.4
1,199	5.6
1,200	10.5
1,201	15.8
1,202	19.3
1,203	20.8
1,204	20.9
1,205	20.3
1,206	20.6
1,207	21.1
1,208	21.1
1,209	22.5
1,210	24.9
1,211	27.4
1,212	29.9
1,213	31.7
1,214	33.8
1,215	34.6
1,216	35.1
1,217	35.1
1,218	34.6
1,219	34.1
1,220	34.6
1,221	35.1
1,222	35.4
1,223	35.2
1,224	34.9
1,225	34.6
1,226	34.5
1,227	34.4
1,228	32.3
1,229	31.4
1,230	30.9

Time (seconds):	Speed (kilometres per hour)
1,231	31.5
1,232	31.9
1,233	32.2
1,234	31.4
1,235	28.2
1,236	24.9
1,237	20.2
1,238	16.1
1,239	12.9
1,240	9.7
1,241	6.4
1,242	4.0
1,243	1.1
1,244	0
1,245	0
1,246	0
1,247	0
1,248	0
1,249	0
1,250	0
1,251	0
1,252	1.6
1,253	1.6
1,254	1.6
1,255	1.6
1,256	1.6
1,257	2.6
1,258	4.8
1,259	6.4
1,260	8.0
1,261	10.1
1,262	12.9
1,263	16.1
1,264	16.9
1,265	15.3
1,266	13.7
1,267	12.2
1,268	14.2
1,269	17.7
1,270	23.5
1,271	27.4
1,272	31.4
1,273	33.8
1,274	35.1
1,275	35.7
1,276	37.0
1,277	38.0
1,278	38.8

Time (seconds):	Speed (kilometres per hour)
1,279	39.4
1,280	39.4
1,281	38.6
1,282	37.8
1,283	37.8
1,284	37.8
1,285	37.8
1,286	37.8
1,287	37.8
1,288	38.6
1,289	39.8
1,290	39.4
1,291	39.8
1,292	40.2
1,293	40.9
1,294	41.2
1,295	41.4
1,296	41.8
1,297	42.2
1,298	43.5
1,299	44.7
1,300	45.5
1,301	46.7
1,302	46.8
1,303	46.7
1,304	45.1
1,305	39.8
1,306	34.4
1,307	29.1
1,308	23.8
1,309	18.5
1,310	13.2
1,311	7.9
1,312	2.6
1,313	0
1,314	0
1,315	0
1,316	0
1,317	0
1,318	0
1,319	0
1,320	0
1,321	0
1,322	0
1,323	0
1,324	0
1,325	0
1,326	0

Time (seconds):	Speed (kilometres per hour)
1,327	0
1,328	0
1,329	0
1,330	0
1,331	0
1,332	0
1,333	0
1,334	0
1,335	0
1,336	0
1,337	0
1,338	2.4
1,339	7.7
1,340	13.0
1,341	18.3
1,342	21.2
1,343	24.3
1,344	27.0
1,345	29.5
1,346	31.4
1,347	32.7
1,348	34.3
1,349	35.2
1,350	35.6
1,351	36.0
1,352	35.4
1,353	34.8
1,354	34.0
1,355	33.0
1,356	32.2
1,357	31.5
1,358	29.8
1,359	28.2
1,360	26.6
1,361	24.9
1,362	22.5
1,363	17.7
1,364	12.9
1,365	8.4
1,366	4.0
1,367	0
1,368	0
1,369	0
1,370	0
1,371	0

(c) EPA Urban Dynamometer Driving Schedule for motorcycles with engine displacements less than 170 cc (10.4 cu. in.).

Speed Versus Time Sequence

Time (seconds):	Speed (kilometres per hour)
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0

Time (seconds):	Speed (kilometres per hour)
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	4.8
22	9.5
23	13.8
24	18.5
25	23.0
26	27.2

Time (seconds):	Speed (kilometres per hour)
27	27.8
28	29.1
29	33.3
30	34.9
31	36.0
32	36.2
33	35.8
34	34.6
35	33.6
36	32.8
37	31.9
38	27.4
39	24.0

Time (seconds):	Speed (kilometres per hour)
40	24.0
41	24.6
42	24.9
43	25.7
44	27.5
45	30.7
46	34.0
47	36.5
48	36.9
49	36.5
50	36.4
51	34.3
52	30.6

Time (seconds):	Speed (kilometres per hour)
53	37.5
54	35.4
55	25.4
56	28.5
57	31.9
58	34.8
59	37.3
60	38.9
61	39.6
62	40.1
63	40.2
64	39.6
65	39.4
66	39.8
67	39.9
68	39.8
69	39.6
70	39.6
71	40.4
72	41.2
73	41.4
74	40.9
75	40.1
76	40.2
77	40.9
78	41.8
79	41.8
80	41.4
81	42.0
82	43.0
83	44.3
84	45.0
85	47.2
86	48.0
87	48.4
88	48.9
89	49.4
90	49.4
91	49.1
92	48.9
93	48.8
94	48.9
95	49.0
96	48.9
97	48.1
98	47.5
99	48.0
100	48.8
101	49.4
102	49.7
103	49.9
104	49.7
105	48.9
106	48.9
107	48.1
108	48.6
109	49.4
110	50.2
111	51.2
112	51.8
113	52.1
114	51.8
115	51.0
116	46.0
117	40.7
118	35.4
119	30.1
120	24.8
121	19.5
122	14.2
123	8.9
124	3.5
125	0
126	0
127	0
128	0
129	0
130	0
131	0
132	0
133	0
134	0
135	0
136	0
137	0
138	0
139	0
140	0
141	0
142	0
143	0
144	0
145	0
146	0
147	0
148	0
149	0
150	0
151	0
152	0
153	0
154	0
155	0
156	0
157	0
158	0
159	0
160	0
161	0
162	0
163	0
164	3.4
165	6.8
166	10.3
167	13.7
168	17.1
169	20.5
170	23.0
171	25.2
172	26.7
173	27.4
174	26.6
175	26.0
176	25.6
177	25.9
178	26.1
179	26.3
180	26.7
181	28.2
182	27.5
183	24.9
184	23.5
185	20.1
186	18.5
187	17.8
188	18.6
189	19.3
190	20.7
191	23.0
192	25.4
193	28.3
194	31.6
195	34.7
196	37.5
197	38.6
198	40.7
199	42.0
200	43.6
201	45.1
202	46.7
203	47.7
204	48.5
205	49.2
206	49.2
207	49.0
208	48.9
209	48.7
210	48.7
211	48.7
212	48.7
213	48.7
214	48.9
215	49.1
216	49.6
217	50.2
218	50.9
219	51.3
220	51.8
221	52.4
222	52.8
223	53.4
224	54.1
225	55.1
226	56.0
227	56.6
228	56.9
229	57.0
230	56.9
231	56.6
232	56.6
233	56.8
234	57.1
235	57.5
236	57.7
237	58.1
238	58.3
239	58.6
240	58.7
241	58.7
242	58.5
243	58.5
244	58.5
245	58.5
246	58.5
247	58.5
248	58.4
249	58.1
250	57.8
251	57.1
252	56.6
253	56.2
254	55.9
255	55.6
256	55.5
257	55.8
258	55.9
259	56.0
260	56.0
261	55.7
262	55.3
263	54.9
264	54.5
265	54.0
266	54.3
267	53.9
268	53.8
269	53.6
270	53.4
271	53.5
272	53.7
273	54.0
274	54.4
275	54.9
276	55.4
277	55.9
278	56.3
279	57.4
280	57.6
281	58.0
282	58.0
283	57.8
284	57.2
285	56.5
286	55.5
287	54.4
288	53.4
289	53.1
290	53.4
291	52.9
292	51.9
293	51.6
294	51.9
295	51.8
296	51.4
297	51.1
298	51.2
299	51.3
300	50.9
301	50.3
302	49.5
303	48.9
304	47.6
305	46.6
306	45.4
307	44.1
308	43.0
309	41.5
310	39.9
311	38.3
312	36.5
313	35.0
314	33.7
315	32.6
316	31.7
317	31.6
318	31.1
319	30.0
320	28.5
321	25.7
322	22.3
323	20.8
324	19.6
325	19.3
326	17.6
327	16.1
328	12.9
329	11.2
330	8.3
331	4.9
332	1.5
333	0
334	0
335	0
336	0
337	0
338	0
339	0
340	0
341	0
342	0
343	0
344	0
345	0
346	0
347	1.6
348	6.9
349	12.2
350	17.5
351	22.9
352	27.8
353	32.2
354	36.2
355	38.1
356	40.6
357	42.8
358	45.2
359	46.3
360	46.6
361	50.9
362	51.7
363	52.8
364	54.1
365	55.6
366	55.7
367	56.3
368	56.0
369	55.5
370	55.8
371	57.1
372	57.9
373	57.9
374	57.9
375	57.9
376	57.9
377	57.9
378	58.1
379	58.6
380	58.7
381	58.6
382	57.9
383	56.5
384	54.9
385	53.9
386	50.5
387	46.7
388	41.4

Time (seconds):	Speed (kilometres per hour)
389	37.0
390	32.7
391	28.2
392	23.3
393	19.3
394	14.0
395	8.7
396	3.4
397	0
398	0
399	0
400	0
401	0
402	0
403	4.2
404	9.5
405	14.8
406	20.1
407	25.4
408	30.7
409	36.0
410	40.2
411	41.2
412	44.3
413	46.7
414	48.3
415	48.4
416	48.3
417	47.8
418	47.2
419	46.3
420	45.1
421	40.2
422	34.9
423	29.6
424	24.3
425	19.0
426	13.7
427	8.4
428	3.1
429	0
430	0
431	0
432	0
433	0
434	0
435	0
436	0
437	0
438	0
439	0
440	0
441	0
442	0
443	0
444	0
445	0
446	0
447	0
448	5.3
449	10.6
450	15.9
451	21.2
452	26.6
453	31.9
454	37.2
455	42.5
456	44.7
457	46.8
458	50.7
459	53.1
460	54.1
461	56.0
462	56.5
463	57.3
464	58.1
465	57.9
466	58.1
467	58.3
468	57.9
469	57.5
470	57.2
471	57.9
472	57.3

Time (seconds):	Speed (kilometres per hour)
473	57.1
474	57.0
475	56.6
476	56.6
477	56.6
478	56.6
479	56.6
480	56.6
481	56.3
482	56.5
483	56.6
484	57.1
485	56.6
486	56.3
487	56.3
488	56.3
489	56.0
490	55.7
491	55.5
492	53.9
493	51.5
494	48.4
495	45.1
496	41.0
497	36.2
498	31.9
499	26.6
500	21.2
501	16.6
502	11.6
503	6.4
504	1.6
505	0
506	0
507	0
508	0
509	0
510	0
511	1.9
512	5.6
513	8.9
514	10.5
515	13.7
516	15.4
517	16.9
518	19.2
519	22.5
520	25.7
521	28.5
522	30.6
523	32.3
524	33.8
525	35.4
526	37.0
527	38.3
528	39.4
529	40.1
530	40.2
531	40.2
532	40.2
533	40.2
534	40.2
535	40.2
536	41.2
537	41.5
538	41.8
539	41.2
540	40.6
541	40.2
542	40.2
543	40.2
544	39.3
545	37.2
546	31.9
547	26.6
548	21.2
549	15.9
550	10.6
551	5.3
552	0
553	0
554	0
555	0
556	0

Time (seconds):	Speed (kilometres per hour)
557	0
558	0
559	0
560	0
561	0
562	0
563	0
564	0
565	0
566	0
567	0
568	0
569	5.3
570	10.6
571	15.9
572	20.9
573	23.5
574	25.7
575	27.4
576	27.4
577	27.4
578	28.2
579	28.5
580	28.5
581	28.2
582	27.4
583	27.2
584	26.7
585	27.4
586	27.5
587	27.4
588	26.7
589	26.6
590	26.6
591	26.7
592	27.4
593	28.3
594	29.8
595	30.9
596	32.5
597	33.8
598	34.0
599	34.1
600	34.6
601	35.4
602	36.0
603	36.2
604	36.2
605	36.2
606	36.5
607	38.1
608	40.4
609	41.8
610	42.6
611	43.5
612	42.9
613	36.7
614	31.4
615	26.1
616	20.8
617	15.4
618	10.1
619	4.8
620	0
621	0
622	0
623	0
624	0
625	0
626	0
627	0
628	0
629	0
630	0
631	0
632	0
633	0
634	0
635	0
636	0
637	0
638	0
639	0
640	0

Time (seconds):	Speed (kilometres per hour)
641	0
642	0
643	0
644	0
645	0
646	3.2
647	7.2
648	12.6
649	16.4
650	20.1
651	22.5
652	24.6
653	28.2
654	31.5
655	33.8
656	35.7
657	37.5
658	39.4
659	40.7
660	41.2
661	41.8
662	42.0
663	42.2
664	42.2
665	42.5
666	42.6
667	42.6
668	41.8
669	41.0
670	38.0
671	34.4
672	29.8
673	26.4
674	23.3
675	18.7
676	14.0
677	9.3
678	5.6
679	3.2
680	0
681	0
682	0
683	0
684	0
685	0
686	0
687	0
688	0
689	0
690	0
691	0
692	0
693	0
694	2.3
695	5.3
696	7.1
697	10.5
698	14.8
699	18.2
700	21.7
701	23.5
702	26.4
703	26.9
704	26.6
705	26.6
706	29.3
707	30.9
708	32.3
709	34.6
710	36.2
711	36.2
712	35.6
713	36.5
714	37.5
715	37.8
716	36.2
717	34.8
718	33.0
719	28.0
720	24.1
721	19.3
722	14.5
723	10.0
724	7.2

Time (seconds):	Speed (kilometres per hour)
725	4.8
726	3.4
727	0.8
728	0.8
729	5.1
730	10.5
731	15.4
732	20.1
733	22.5
734	25.7
735	29.0
736	31.5
737	34.6
738	37.2
739	39.4
740	41.0
741	42.6
742	43.6
743	44.4
744	44.9
745	45.5
746	46.0
747	46.0
748	45.5
749	45.4
750	45.1
751	44.3
752	43.1
753	41.0
754	37.8
755	34.6
756	30.6
757	26.6
758	24.0
759	20.1
760	15.1
761	10.0
762	4.8
763	2.4
764	2.4
765	0.8
766	0
767	4.8
768	10.1
769	15.4
770	20.8
771	25.4
772	28.2
773	29.6
774	31.4
775	33.3
776	35.4
777	37.3
778	40.2
779	42.6
780	44.3
781	45.1
782	45.5
783	46.5
784	46.5
785	46.5
786	46.3
787	45.9
788	45.5
789	45.5
790	45.5
791	45.4
792	44.4
793	44.3
794	44.3
795	44.3
796	44.3
797	44.3
798	44.3
799	44.4
800	45.1
801	45.9
802	48.3
803	49.9
804	51.5
805	53.1
806	53.1
807	54.1
808	54.7
809	55.2
810	56.0
811	54.7
812	54.7
813	54.6
814	54.1
815	53.3
816	52.1
817	52.3
818	51.5
819	51.3
820	50.9
821	50.7
822	49.2
823	48.3
824	48.1
825	48.1
826	48.1
827	48.1
828	47.6
829	47.5
830	47.5
831	47.2
832	46.5
833	45.4
834	44.6
835	43.5
836	41.0
837	38.1
838	35.4
839	33.0
840	30.9
841	30.9
842	32.3
843	33.6
844	34.4
845	35.4
846	36.4
847	37.3
848	38.6
849	40.2
850	41.6
851	42.8
852	42.8
853	43.1
854	43.5
855	43.8
856	44.7
857	45.2
858	46.3
859	46.5
860	46.7
861	46.8
862	46.7
863	45.2
864	44.3
865	43.5
866	41.5
867	40.2
868	39.4
869	39.9
870	40.4
871	41.0
872	41.4
873	42.2
874	43.3
875	44.3
876	44.7
877	45.7
878	46.7
879	47.6
880	46.8
881	46.7
882	46.5
883	45.9
884	45.2
885	45.1
886	45.1
887	44.4
888	43.6
889	42.8
890	43.5
891	44.3
892	44.7
893	45.1
894	44.7
895	45.1
896	45.1
897	45.1
898	44.6
899	44.1
900	43.3
901	42.8
902	42.6
903	42.6
904	42.6
905	42.3
906	42.2
907	42.2
908	41.7
909	41.2
910	41.2
911	41.7
912	41.5
913	41.0
914	39.6
915	37.8
916	35.7
917	34.8
918	34.8
919	34.9
920	36.4
921	37.7
922	38.6
923	38.9
924	39.3
925	40.1
926	40.4
927	40.6
928	40.7
929	41.0
930	40.6
931	40.2
932	40.2
933	40.2
934	39.6
935	39.4
936	39.1
937	39.1
938	39.4
939	40.2
940	40.2
941	39.6
942	39.6
943	38.8
944	39.4
945	40.4
946	41.2
947	40.4
948	38.6
949	35.4
950	32.3
951	27.2
952	21.9
953	16.6
954	11.3
955	6.0
956	0.6
957	0
958	0
959	0
960	3.2
961	8.5
962	13.8
963	19.2
964	24.5
965	28.2
966	29.9
967	32.2
968	34.0
969	35.4
970	37.0
971	39.4
972	42.3
973	44.3
974	45.2
975	45.7
976	45.9
977	45.9
978	45.9
979	44.6
980	44.3
981	43.8
982	43.1
983	42.6
984	41.8
985	41.4
986	40.6
987	38.6
988	36.4
989	34.6
990	34.6
991	35.1
992	36.2
993	37.0
994	36.7
995	36.7
996	37.0
997	36.5
998	36.5
999	36.5
1,000	37.8
1,001	39.6
1,002	39.6
1,003	39.9
1,004	40.4
1,005	41.0
1,006	41.2
1,007	41.0
1,008	40.2
1,009	38.8
1,010	38.1
1,011	37.3
1,012	36.9
1,013	36.2
1,014	35.4
1,015	34.6
1,016	33.0
1,017	28.2
1,018	22.9
1,019	17.5
1,020	12.2
1,021	6.9
1,022	1.6
1,023	0
1,024	0
1,025	0
1,026	0
1,027	0
1,028	0
1,029	0
1,030	0
1,031	0
1,032	0
1,033	0
1,034	0
1,035	0
1,036	0
1,037	0
1,038	0
1,039	0
1,040	0
1,041	0
1,042	0
1,043	0
1,044	0
1,045	0
1,046	0
1,047	0
1,048	0
1,049	0
1,050	0
1,051	0
1,052	0
1,053	1.9
1,054	6.4
1,055	11.7
1,056	17.1
1,057	22.4
1,058	27.4

Time (seconds):	Speed (kilometres per hour)
1,059	29.8
1,060	32.2
1,061	35.1
1,062	37.0
1,063	38.6
1,064	39.9
1,065	41.2
1,066	42.6
1,067	43.1
1,068	44.1
1,069	44.9
1,070	45.5
1,071	45.1
1,072	44.3
1,073	43.5
1,074	43.5
1,075	42.3
1,076	39.4
1,077	36.3
1,078	34.6
1,079	33.2
1,080	29.0
1,081	24.1
1,082	19.8
1,083	17.9
1,084	17.1
1,085	16.1
1,086	15.3
1,087	14.6
1,088	14.0
1,089	13.8
1,090	14.2
1,091	14.5
1,092	14.0
1,093	13.8
1,094	12.9
1,095	11.3
1,096	8.0
1,097	6.8
1,098	4.2
1,099	1.6
1,100	0.9
1,101	0.2
1,102	1.0
1,103	2.6
1,104	5.6
1,105	11.1
1,106	16.1
1,107	20.6
1,108	22.5
1,109	23.2
1,110	25.7
1,111	29.1
1,112	32.2
1,113	33.8
1,114	34.1
1,115	34.3
1,116	34.4
1,117	34.9
1,118	36.3
1,119	37.0
1,120	38.3
1,121	39.4
1,122	40.3
1,123	40.1
1,124	39.9
1,125	40.2
1,126	40.9
1,127	41.5
1,128	41.8
1,129	42.5
1,130	43.8
1,131	43.3
1,132	43.5
1,133	43.5
1,134	43.6
1,135	43.3
1,136	43.1
1,137	43.1
1,138	42.6
1,139	42.5
1,140	41.8
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1,170	8.7
1,171	14.0
1,172	19.3
1,173	24.6
1,174	29.9
1,175	34.9
1,176	37.0
1,177	37.8
1,178	37.9
1,179	36.2
1,180	33.3
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1,182	21.6
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1,184	10.9
1,185	5.6
1,186	0.3
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1,190	0
1,911	0
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1,194	0.0
1,195	0.0
1,196	0.0
1,197	0.3
1,198	2.4
1,199	5.6
1,200	10.5
1,201	15.8
1,202	19.3
1,203	20.8
1,204	20.9
1,205	20.3
1,206	20.6
1,207	21.1
1,208	21.1
1,209	22.5
1,210	24.9
1,211	27.4
1,212	29.9
1,213	31.7
1,214	33.8
1,215	34.6
1,216	35.1
1,217	35.1
1,218	34.6
1,219	34.1
1,220	34.6
1,221	35.1
1,222	35.4
1,223	35.2
1,224	34.9
1,225	34.6
1,226	34.6
1,227	34.4
1,228	32.3
1,229	31.4
1,230	30.9
1,231	31.5
1,232	31.9
1,233	32.2
1,234	31.4
1,235	28.2
1,236	24.9
1,237	20.9
1,238	16.1
1,239	12.9
1,240	9.7
1,241	6.4
1,242	4.0
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1,251	0
1,252	1.6
1,253	1.6
1,254	1.6
1,255	1.6
1,256	1.6
1,257	2.6
1,258	4.8
1,259	6.4
1,260	8.0
1,261	10.1
1,263	12.9
1,263	16.1
1,264	16.9
1,265	16.3
1,266	13.7
1,267	13.2
1,268	14.2
1,269	17.7
1,270	22.5
1,271	27.4
1,273	31.4
1,273	39.6
1,274	36.1
1,275	36.7
1,276	37.0
1,277	38.0
1,278	38.8
1,279	39.4
1,280	39.4
1,281	38.6
1,282	37.8
1,283	37.8
1,284	37.8
1,285	37.6
1,286	37.8
1,287	37.8
1,288	39.6
1,289	38.8
1,290	39.4
1,291	39.8
1,292	40.2
1,293	40.9
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1,306	34.4
1,307	29.1
1,308	23.8
1,309	18.5
1,310	13.2
1,311	7.9
1,312	2.6
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1,314	0
1,315	0
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1,319	0
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1,323	0
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1,334	0
1,335	0
1,336	0
1,337	0
1,338	2.4
1,339	7.7
1,340	13.0
1,341	18.3
1,342	21.2
1,343	24.3
1,344	27.0
1,345	29.5
1,346	31.4
1,347	32.7
1,348	34.3
1,349	35.2
1,350	35.6
1,351	36.0
1,352	35.4
1,353	34.8
1,354	34.0
1,355	33.0
1,356	32.2
1,357	31.5
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1,360	26.6
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1,362	22.5
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1,364	12.9
1,365	8.4
1,366	4.0
1,367	0
1,368	0
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1,370	0
1,371	0

2. Appendix IV is revised to read as follows:

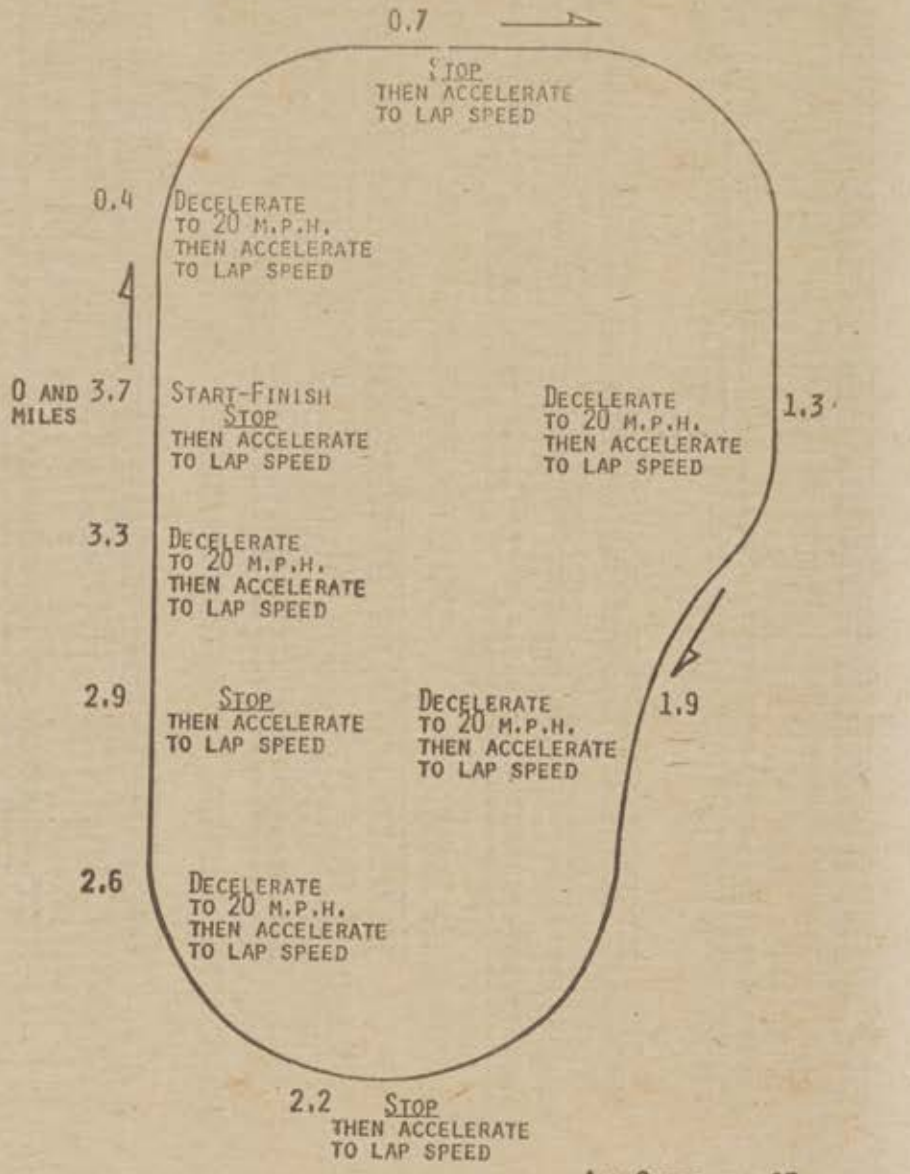
APPENDIX IV—DURABILITY DRIVING SCHEDULES

(a) Durability Driving Schedule for Light Duty Vehicles and Light Duty Trucks.

The schedule consists basically of 11 laps of a 3.7 mile course. The basic vehicle speed for each lap is listed below:

Lap:	Speed miles per hour
1	40
2	30
3	40
4	40
5	35
6	30
7	35
8	45
9	35
10	55
11	70

During each of the first nine laps there are 4 stops with 15 second idle. Normal accelerations and decelerations are used. In addition, there are 5 light decelerations each lap from the base speed to 20 m.p.h. followed by light accelerations to the base speed.



The 10th lap is run at a constant speed of 55 m.p.h.

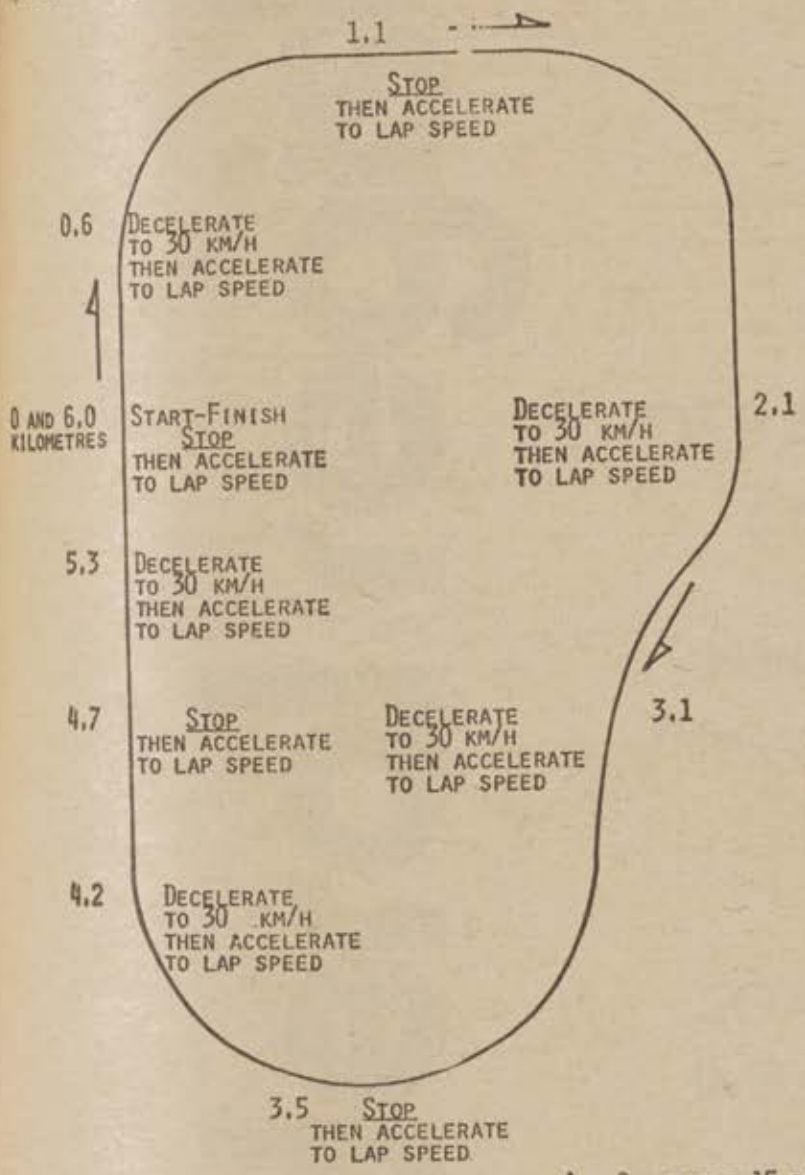
The 11th lap is begun with a wide open throttle acceleration from stop to 70 m.p.h. A normal deceleration to idle followed by a second wide open throttle acceleration occurs at the midpoint of the lap.

(b) Durability Driving Schedule for Motorcycles. The Durability Driving Schedule for Class III Motorcycles may be used for Light Duty Vehicles and Light Duty Trucks.

The schedule consists basically of 11 laps of a 6.0 km (3.7 mi) course. The basic vehicle speed for each lap is listed below:

Speed (kilometers per hour)

Lap	Class I	Class II	Class III
1	65	65	65
2	45	45	45
3	65	65	65
4	65	65	65
5	55	55	55
6	45	45	45
7	55	55	55
8	70	70	70
9	55	55	55
10	70	90	90
11	70	90	110



ALL STOPS ARE 15 SECONDS

During each of the first nine laps there are 4 stops with 15 second idle. Normal accelerations and decelerations are used. In addition, there are 5 light decelerations each lap from the base speed to 30 km/h followed by light accelerations to the base speed.

The 10th lap is run at a constant speed.

The 11th lap is begun with a wide open throttle acceleration from stop. A normal deceleration to idle followed by a second wide open throttle acceleration occurs at the midpoint of the lap.

This schedule may be modified with the advance approval of the Administrator if it results in unsafe operation of the vehicle.

3. Appendix VI is revised to read as follows:

APPENDIX VI—VEHICLE AND ENGINE COMPONENTS

(a) Light Duty Vehicles, Light Duty Trucks, Motorcycles and Gasoline Fueled Heavy Duty Engines.

I. Basic Mechanical Components–Engine.
(1) Intake and exhaust valves.
(2) Drive belts.
(3) Manifold and cylinder head bolts.
(4) Engine oil and filter.
(5) Engine coolant.
(6) Cooling system hoses and connections.
(7) Vacuum fittings, hoses, and connections.
(8) Oil injection metering system.

II. Fuel System.
(1) Fuel specification-octane rating, lead content.
(2) Carburetor-idle RPM, mixture ratio.
(3) Choke mechanism.
(4) Fuel system filter and fuel system lines and connections.
(5) Choke plate and linkage.

III. Ignition Components.
(1) Ignition timing and advance systems.
(2) Distributor breaker points and condenser.
(3) Spark plugs.
(4) Ignition wiring.
(5) Operating parts of distributor.

IV. Crankcase Ventilation System.
(1) PCV valve.
(2) Ventilation hoses.
(3) Oil filler breather cap.
(4) Manifold inlet (carburetor spacer, etc.).

V. External Exhaust Emission Control System.
(1) Secondary air injection system hoses.
(2) Air system manifolds
(3) Control valves and air pump.
(4) Manifold reactors.
(5) Catalytic converters.
(6) Exhaust recirculation.
(7) Water injection.

VI. Evaporative Emission Control System.
(1) Engine compartment hose connections.
(2) Carbon storage media.
(3) Fuel tank pressure-relief valve operation.
(4) Fuel vapor control valves.

VII. Air Inlet Components.
(1) Carburetor air cleaner filter.
(2) Hot air control valve.

(b) Diesel Light Duty Vehicles, Diesel Light Duty Trucks, and Diesel Heavy Duty Engines.

I. Engine Mechanical Components.
(1) Valve train.
(2) Cooling system.
a. Coolant.
b. Thermostat.
c. Filter.
(3) Lubrication.
a. Oil filter.
b. Lubricant.

II. Fuel System.
(1) Fuel type.
(2) Fuel pump.
(3) Fuel filters.
(4) Injectors.
(5) Governor.

III. Air Inlet Components.
(1) Air cleaner.
(2) Inlet ducting.

IV. External Exhaust Emission Control System.
(1) Rack limiting devices (aneroid, throttle delay, etc.).
(2) Manifold reactors.
(3) Catalytic converters.
(4) Exhaust recirculation.
(5) Water injection.

[FR Doc.77-147 Filed 1-4-77;8:45 am]

federal register

WEDNESDAY, JANUARY 5, 1977

PART III

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

COASTAL ENERGY IMPACT PROGRAM

Interim-Final Regulations for Financial Assistance to Coastal States

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 931—COASTAL ENERGY IMPACT PROGRAM

The National Oceanic and Atmospheric Administration (NOAA) hereby publishes interim-final regulations pursuant to section 308 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451, et seq.), hereinafter referred to as the "Act," for the purpose of defining the procedures by which coastal States and local governments can qualify for impact assistance under the Coastal Energy Impact Program (CEIP).

These interim-final regulations incorporate many of the comments received by the Office of Coastal Zone Management (OCZM), NOAA, in response to the proposed regulations published October 22, 1976 (41 FR 46724). Any comments on these regulations received by OCZM by February 4, 1977, will be considered before final rules and regulations governing the CEIP are published. These interim-final regulations will become effective February 4, 1977, and will remain in effect until superceded by final regulations.

Introduction. The Coastal Energy Impact Program provides financial assistance—loans, bond guarantees, and grants—to help coastal States and local communities affected by new or expanded coastal energy activity.

The program consists of two interlocking sources of financial assistance: (1) The Coastal Energy Impact Fund established under section 308(h) and authorized for $800 million over ten years; and (2) formula grants provided for in section 308(b) and authorized for $400 million over eight years.

Assistance in the Fund is aimed at meeting State and local needs resulting from impacts caused by new or expanded coastal energy activity. Assistance from the formula grants is aimed somewhat more narrowly. Formula grants are available to assist State and local governments in meeting needs resulting primarily from outer Continental Shelf (OCS) energy activity.

The CEIP can provide assistance to help State and local governments meet needs resulting from the impacts of three levels of energy activity in or affecting the coastal zone. First, grant assistance from the Fund is available to States to plan for the impacts in the coastal zone of any new or expanded energy facilities, whether or not the facilities are actually located in the coastal zone. Second, assistance from the Fund is available to meet State and local needs resulting from coastal energy activity. (Coastal energy activity is defined in the Act to include:

(1) Outer Continental Shelf (OCS) energy activity; (2) any transportation, conversion, treatment, transfer, or storage of liquefied natural gas; and (3) any transportation, transfer, or storage of coal, oil, or natural gas. These activities must also be coastal dependent. That is, the facilities needed for the coastal energy activity must have technical requirements necessitating their location in or near the coastal zone.) Third, additional grant assistance is available to States to address impacts resulting primarily from OCS energy activity.

Assistance under the CEIP takes four forms. First, the CEIP can provide planning grants to prepare for oncoming energy activity and for its socioeconomic and environmental consequences.

Second, the CEIP can help finance the new or improved public facilities and new or increased public services required because of new or expanded coastal energy development.

Third, the CEIP can provide repayment assistance—refinancing, modification of terms, supplemental loans, or repayment grants—to the borrowing government when it cannot meet its credit obligations because actual revenues from the coastal energy activity are insufficient.

Fourth, the CEIP can provide grants to help prevent, reduce, or repair damage to valuable environmental or recreational resources when the person responsible for the damage cannot be identified or cannot be charged for the damage.

To be eligible for assistance under the CEIP, a coastal State must be receiving a grant under section 305 of the Act, must have a coastal management program which has been approved under section 306 of the Act, or must be making satisfactory progress toward the development of a management program which is consistent with the policies set forth in section 303 of the Act.

Philosophy and objectives. The central objective of the CEIP is to provide coastal States and local communities financial assistance to deal with the effects of new or expanded coastal energy activity. The CEIP seeks to strike a balance between the National objectives of increasing energy self-sufficiency and of protecting and managing the Nation's coastal resources.

The implementation of a program as complex and potentially important as the CEIP must be informed by a coherent policy framework. The framework underlying OCZM's effort to design the CEIP can be expressed in terms of the following principles and objectives.

a. Coastal States and communities should assume the primary responsibility for planning and providing public facilities and public services, financing them from the increased revenue base created by the new or expanded energy activity when possible. The Federal role should be complementary in nature.

b. Since new energy activity benefits the Nation, the fiscal and environmental risks and costs should be shifted from the coastal States and communities to the Federal Government when they cannot be assumed directly by the end users of the energy.

c. Those involved in developing energy resources should pay the full costs of development, including socioeconomic costs that can be attributed to the development.

d. Federal impact assistance should be provided in a manner that acts as an incentive to Federal agencies, States, communities, and industry to work together to develop mechanisms to assure that sufficient funds reach the point of need at the time of need.

In addition, OCZM believes an impact assistance program should follow certain operating principles:

a. Funds should be available where needed, yet both shortfalls and windfalls should be avoided.

b. Funds should be available before the impacts occur, when they are most needed.

c. Funds should be available for appropriate uses, yet limited to appropriate amounts so Federal assistance does not become an incentive for inappropriate coastal development.

d. An assistance program should be as simple to administer as possible, with maximum discretion and control retained by the State and local governments.

e. An impact assistance program for coastal energy activity must be linked to the coastal management programs and objectives of the coastal States.

This framework, definition of the problem, and set of principles and objectives have guided OCZM's formulation of the CEIP regulations. The following discussion intends to show exactly how these ideas are reflected in the regulations.

Sources and uses of section 308 moneys. The CEIP is designed under the Act to have both a primary and a secondary source of assistance for each of the four purposes for which the assistance may be used: public facilities and services, repayment assistance, environmental/recreational amelioration, and planning.

The Fund is the primary source of assistance for three of the four purposes. Assistance for public facilities and services would come first from loans and guarantees under the Fund (sections 308(d)(1) and (2)). Only when a State cannot qualify for credit assistance or its allotment of credit assistance is insufficient can the proceeds of formula grants (section 308(b)) be used for public facilities and public services.

The primary forms of repayment assistance are refinancing, modification of terms, and supplemental loans (sections 308(d)(3)(A) through (C)). A repayment grant (sections 308(d)(3)(D) and 308(b)(4)(A)), is the secondary form of repayment assistance. In the case of a bond guarantee, the source of the grant would first be the formula grants (section 308(b)(4)(A)), and then, if those moneys are insufficient, the Fund (section 308(d)(3)(D)). In the case of a loan, the repayment grant would be made from the Fund only (section 308(d)(3)(D)).

For planning grants, the Fund (section 308(c)) is also the primary source of assistance. (Grants under this section could cover 80 percent of the costs of the projects.) If these moneys are insufficient, formula grants (section 308(b)(4)(B)) could be used for planning. (These

grants could cover 100 percent of the costs of the projects.)

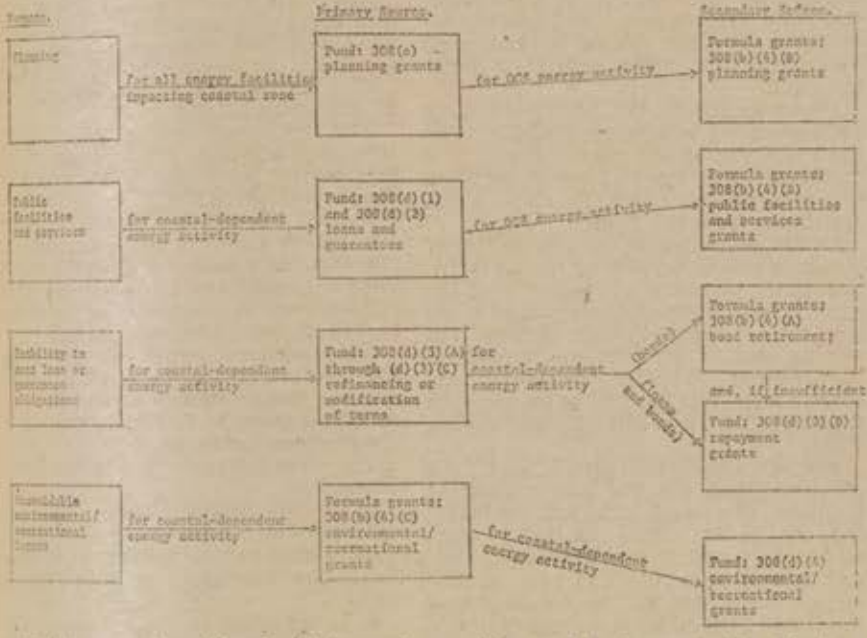
Preventing, reducing, or ameliorating unavoidable damage to valuable environmental or recreational resources is the only purpose of the four for which the proceeds of formula grants (section 308 (b)(4)(C)) are to be the primary source. If these moneys are insufficient for that purpose (or if the State has no allotted formula grant, as will be the case for States without OCS energy activity off their coasts), moneys are available for environmental and recreational purposes under the Fund (section 308(d)(4)).

(The purposes for which CEIP assistance may be used, along with the primary and secondary sources of assistance for each purpose, are depicted in the diagram in figure 1.)

Clearly, an important part of the regulations deals with the problem of defining when the secondary source of assistance may be used for a given purpose, that is, when assistance is insufficient or unavailable under the primary source.

Figure 1.

Coastal Energy Impact Program: Primary and Secondary Funding Sources.



In the case of public facilities and public services, the determination of whether adequate funds from the primary source are insufficient or unavailable hinges on the estimates of need in each State calculated by OCZM as part of the allotment process. If the need is greater than the amount allotted to the State under the primary source, the secondary source may be tapped. A second way in which funds might be "unavailable" under the primary source is if a State or local government is prohibited from borrowing by some constitutional or statutory provision. It is OCZM's intention to limit this avenue to the secondary source to cases in which the impediment to borrowing is truly insurmountable. If, for example, a State can legally encumber debt through any mechanism—such as a referendum or vote of the legislature—OCZM will not consider that credit assistance is unavailable to the State.

In the case of repayment assistance, the move to the secondary source—a repayment grant—will be made by OCZM after study of the fiscal data the borrower will be asked to submit periodically.

Administrative procedures. In managing this somewhat complicated flow of funds from sources to uses, OCZM intends to keep procedures as simple as possible, and to leave to the States a great deal of discretion as to how the funds are ultimately used. At the same time, OCZM intends to minimize the likelihood that funds could be used for projects that are not in accord with the purposes of the Act.

The reconciliation of these objectives has been a central concern in the formulation of the regulations. In large part, the application and requisition procedures envisaged in the regulations call for showings or certifications by the State or local government that the requirements of the Act and the regulations are, in fact, being complied with. OCZM will retain review authority over these applications and verification authority over these requisitions, but will rely heavily both on the incentives for proper compliance which have been structured into the program and on thorough auditing procedures.

Assistance for public facilities and public services. Each year OCZM will compile a list of energy facilities that qualify as being required by new or expanded coastal energy activity, as defined in the Act. The usual criterion for inclusion of a facility on this list is that a major Federal or State license or permit has been obtained for that facility during that year. In the case of OCS activity, the criterion is that the facility be required by new or expanded OCS activity for which an exploration or development plan has been approved in the preceding year (and after July 26, 1976, the date Pub. L. 94-370 was signed). OCZM's central concern in constructing this list will be to ensure optimal timing of funds; that is, OCZM will not restrict itself only to the license, permit, or lease criteria, but will include on the list any eligible coastal energy activity it determines will motivate the provision of public facilities and services in that year. The States will have a 45-day comment period each year to suggest additions to this list.

The list will form the basis of the allotment among the coastal States of the assistance for public facilities and services available that year under the Fund.

OCZM will project the increased employment and population likely to result from construction or expansion of the energy facilities on the list. These population estimates will be multiplied by standardized unit costs of providing public facilities and annual costs of providing services. (These costs will be adjusted for regional variations.)

This calculation will result in a set of "need factors" for each State. If the sum of these need factors for the whole country is less than the amount appropriated for the Fund that year, each State will be allotted the amount of its need factor. If, however, the sum of all the need factors is more than the amount appropriated, the need factors will serve as the basis for a proportional allotment of the credit assistance among the States.

Each State will be responsible for allocating according to need its allotment among the State agencies and the units of local government within the State. The State will also be responsible for coordinating and submitting all the applications from within the State. Each separate application will include a fiscal management schedule setting out forecasts of revenues and expenditures in the borrowing jurisdiction. The information required in such a schedule will be kept to a minimum, and is intended to be precisely the sort of information a community would normally wish to have for sound fiscal planning and capital budgeting. OCZM will also provide technical assistance, on request, to help in completing these schedules.

OCZM will then review the applications and award the loans or guarantees directly to the State or local governments involved.

If credit assistance from the Fund is unavailable, the State may requisition the proceeds of its allotted formula grant for public facilities and public services required as a direct result of new or expanded OCS activity. The proceeds of formula grants may go only to the State, which must then allocate them in proportion to State and local needs.

Repayment assistance. Periodically after the initial award of credit assistance, a borrowing State or local government must submit a report updating its fiscal management schedule. The borrower can request at any time a review

for repayment assistance, which will be based in large part on the contents of its updated schedule.

After reviewing the updated schedule, OCZM may recommend one or more forms of repayment assistance. If there is an inability to repay because projected energy related revenues have not materialized, OCZM will extend the payback period, modify the terms and conditions of a loan, refinance, or provide a supplemental loan. If the updated schedule shows that the coastal energy activity and associated revenues are not likely to materialize as expected, and if one of the primary forms of repayment assistance has been utilized, OCZM will make a repayment grant to enable the borrower to meet obligations.

Grants for unavoidable environmental/recreational losses. The term "unavoidable" is defined in the Act to mean essentially what an economist would call "noninternalizable." This concept refers to the external costs of an energy activity—in this case the damage to a valuable environmental or recreational resource—which are really costs of producing the energy, even though they may not actually be paid by the energy industry. Such costs can be "internalized" if they can be charged to the person (the energy industry in this case) who causes these costs.

The Act defines an unavoidable loss as one for which the cost of prevention, reduction, or amelioration cannot be attributed to or assessed against an identifiable person. Damage that resulted from a past coastal energy activity will often be eligible for grant assistance under the Act. This kind of loss is essentially "unavoidable" when it is impossible to assess it against an identifiable person now. Damage from activity that might take place in the future, however, cannot be as easily determined to be unavoidable unless it cannot be attributed to an identifiable person. The reason behind this difference is as follows: whereas one cannot legitimately hold liable a corporation that caused damage in the past because the State or local government failed to adequately exercise its permitting or other police powers, one cannot similarly excuse the State or local government from an ongoing responsibility to prevent future environmental/recreational damage by encouraging the internalization of the costs.

In order to create an incentive for the "internalization" described above, the regulations provide that environmental/recreational grants can be used to pay the administrative costs a State or community might incur in assessing a loss or enforcing a regulatory action.

It is important to note that environmental/recreational grants are intended to ameliorate the adverse impacts of coastal energy activity, including past or ongoing coastal energy activity. Since the primary source for such grants is the proceeds of a State's formula grants, and since these grants are allotted by a formula that reflects in good part ongoing OCS energy activity, these grants can provide significant relief to those States that have borne the weight of past impacts from energy activity.

Another feature of the environmental/recreational grants under these regulations is the provision that moneys may be used to pay the differential cost between the least-cost method of providing a public facility and a more environmentally sound method, if that facility is required as a result of past, ongoing, or anticipated coastal energy activity.

If a State's allotted formula grant is insufficient in any year for all environmental/recreational amelioration projects eligible in that year, the State (or a unit of local government through the State) may also apply for a grant under the Fund. Grants from the Fund are allotted among the States by the same method as the credit assistance under the Fund.

Planning grants. OCZM will annually allot planning assistance available from the Fund among the coastal States by a methodology similar to, but simpler than, the methodology used to allot credit assistance from the Fund.

OCZM will compile an annual list of proposed new or expanding energy facilities. Since planning assistance from the Fund is not restricted to planning for the impacts of coastal energy activity, but can be used to plan for the impacts of any energy facilities impacting the coastal zone, this list will be longer than that used for the credit assistance allotment.

Also, since more lead time is needed for planning than for the construction of facilities, the usual criterion for inclusion on the list is that the facility must be one for which a major State or Federal license or permit has been applied for, or one which will be required as a result of a Federal lease sale scheduled to take place in two years (rather than one for which a Federal permit or license has been granted, or for which an exploration or development plan has been approved by the U.S. Department of the Interior). Again, the license/permit test will not be the exclusive basis of the list.

To each of the facilities in this list, OCZM will apply a standardized planning-need factor that reflects the number of employees expected to be required by that facility both during construction and at its expected level of output, as well as considerations of environmental impact and safety. This will generate a planning-need equivalency for each facility, and the sum of the equivalencies of all facilities within a State will constitute the total planning need equivalency for that State. Planning assistance from the Fund will be allotted among States on a proportional basis according to these total State planning-need equivalencies.

If the planning assistance allotted to a State from the Fund is not sufficient to meet its planning needs in a given year, the State may requisition for planning purposes the proceeds of its formula grants up to an amount equal to ten percent of that State's credit assistance allotment from the Fund for public facilities and services.

The ten percent figure slightly exceeds the fraction of total project costs allowed by other Federal agencies for planning purposes. OCZM decided upon this restriction for two reasons. Under the Act, the environmental/recreational purposes are the only use for which formula grants are to be the primary source, and the limitation helps to assure that some of these formula grants will be available for environmental/recreational use. Also, it was felt that the amount spent on planning for public facilities and services should be correlated to the amount spent to construct or provide those public facilities and services.

Intrastate allocation. The Act, in section 308(g)(2), provides that the State must formulate a process to allocate the assistance it receives under the CEIP among the State and local governments in proportion to need.

The regulations provide basic criteria that such a process must contain. They also provide for review and approval of that process by OCZM.

Lateral seaward boundaries. In order for formula grants to be allotted, the lateral seaward boundaries of coastal States must be extended so that a determination of adjacency can be made for two of the factors in that allotment formula: (1) Number of acres leased adjacent to the coastal State in the previous fiscal year; and (2) the amount of oil and gas produced adjacent to each coastal State in the previous fiscal year.

The regulations distinguish three cases:

a. If two States already have an agreement on boundaries, the lateral seaward boundaries will be extended according to the principles used in that agreement.

b. If no such agreement exists, the States will have six months from the date of publication of final regulations to form such agreements. If no agreement between two given States exists by that time, OCZM will draw the lines of demarcation necessary to make its computations.

c. If at some time in the future an agreement is reached, OCZM will subsequently use that newly agreed boundary for its calculations.

OCZM will impound that part of a State's formula grant that is dependent on any area in dispute because boundaries have not been fixed at the time of an allotment.

Audit and recovery of funds. The Act, in section 308(b)(5), sets forth requirements to ensure that the proceeds of formula grants are spent for authorized purposes.

These regulations detail record and audit procedures to which a State is subject. They also describe procedures that may be used to recover funds expended for unauthorized purposes or not spent within the allowable time.

The State must repay—with interest at the rate in effect for loans from the Fund at the time the proceeds of the grant were disbursed—if an audit finds that the grants were, in fact, expended for unauthorized purposes.

After a State has had an opportunity to respond to claims of unauthorized use of funds, and if OCZM has made a final determination that the funds were expended for unauthorized purposes or not spent within the allowable time, the State must repay immediately. If it does not, OCZM is empowered to take other action, including the withholding of funds which would be otherwise available to the State from the CEIP. Funds could also be withheld from any other program within the Department of Commerce. OCZM may also refer the case to the Department of Justice.

Coordination with other Federal agencies. These regulations include requirements that the CEIP funds not be used in a manner which is duplicative of other Federal assistance.

Compliance with the National Environmental Policy Act. OCZM expects to conduct an environmental impact assessment on all projects—whether for environmental/recreational needs or for the provision of public facilities—and to cause an environmental impact statement to be prepared on those projects that constitute major Federal actions significantly affecting the quality of the human environment. This does not mean that OCZM will prepare a full impact statement to accompany every use of grant proceeds or credit assistance, since many projects funded under section 308 will involve only routine or minor activity. In some cases, OCZM may prepare an area-wide impact statement that would consider the impacts of and alternatives to all projects for which funding is proposed in a specific impact area.

Extensive changes have been made in the regulations in response to comments received by OCZM during the period following publication of the proposed regulations in the FEDERAL REGISTER (October 22, 1976, 40 FR 46724). A list of the comments and OCZM's responses to them follows.

SUBPART A—OBJECTIVES

The section discussing the objectives of planning grants (§ 931.2) has been reworded in order to better parallel the language describing other objectives of the program.

One commentator objected to the regulation which provides an incentive for the internalization of environmental and recreational losses (§ 931.5), claiming the Act does not provide for such an incentive. OCZM believes that the definition of the term "unavoidable" in section 308(1)(2) of the Act implicitly provides such an incentive.

SUBPART B—DEFINITIONS

One commentator suggested that the United States Code (U.S.C.) citation be included in the definition of the term "Act" (§ 931.10(a)). The comment was accepted.

Several commentators suggested that in § 931.13(a)(1) the word "energy" be included in the phrase "outer Continental Shelf activity". The comment was accepted.

Several commentators suggested certain language describing the technical requirements necessitating the siting of energy facilities in the coastal zone. OCZM drafted the language into § 931.13(c) after carefully reading the legislative history of the Act, so the regulations adhere closely to the intent of Congress. OCZM believes that some of the factors listed in § 931.13(c) will be important for certain energy facilities and others not.

One commentator suggested that the regulations include in the definition of the term "significantly affected" (§ 931.14) the case in which the energy activity potentially violates applicable standards of air and water quality. The comment was accepted.

One commentator thought that the regulations should explicitly indicate who will determine whether the siting, construction, expansion, or operation of an energy facility threatens to damage any environmental or recreational resource. The comment was rejected, because the regulations clearly imply that OCZM will make such determinations.

Several commentators indicated that the term "significantly affected" is defined too broadly (§ 931.14). Since this definition is one of the triggering mechanisms for placing an energy facility on the list that qualifies a State for section 308(c) assistance, OCZM believes that the term should be defined broadly so that planning moneys can be provided for all the facilities that might significantly impact the coastal zone. Furthermore, since section 308(c) moneys are relatively limited, there is little chance of inducing development in the coastal zone by broadly defining "significantly affected".

Several commentators suggested that the phrase "new or expanded" be deleted from the definition of "new or expanded coastal energy activity" (§ 931.15), as it relates to sections 308(d)(1), (2), and (3). The comments were rejected, because OCZM interprets the Act to mean that loans and guarantees be provided only for those new or improved public facilities and services that are required as a result of new or expanded coastal energy activity.

Several commentators suggested that the definition of "outer Continental Shelf energy activity" (§ 931.17) be expanded to include oil tankers, refineries, and gas processing plants. However, since the Congress did not intend to include those facilities required by the treatment or transportation of oil and gas, the comments were rejected.

One commentator suggested that workover rigs, diving tenders, and drilling tenders be included in the definition of "outer Continental Shelf energy activity" (§ 931.17(2)(iv)(I)). The comment was accepted.

Several commentators thought that the definition of "outer Continental Shelf energy activity" is stricter in the regulations than in the Act. They argued that the Act defines outer Continental Shelf energy activity as "the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production," which includes any energy facility defined in section 304(c)(5) of the Act. Since Congress delegated to the Associate Administrator the authority to interpret the term "directly required" he/she is concluding that only those energy facilities included in § 931.17(b) be defined as "directly required" by outer Continental Shelf energy activity. Furthermore, the regulations provide the Associate Administrator with the flexibility to add to the list any other energy facility he/she deems appropriate.

Another commentator believed that the definition of "outer Continental Shelf energy activity" is stricter in the regulations than in the Act, because it requires the facilities to have technical requirements necessitating their location in the coastal zone. This requirement is based upon OCZM's interpretation of the term "directly required," as it is used in section 304(12) of the Act, to define the energy facilities that are included within the term "outer Continental Shelf energy activity."

One commentator questioned whether new activities under old or amended plans are included in the definition of "new or expanded outer Continental Shelf energy activity" (§ 931.18). OCZM intends that the folowing cases be included in that definition:

(i) Any activity resulting from a lease sale occurring after July 26, 1976;

(ii) Any activity resulting from an exploration or development plan approved after July 26, 1976, even if such activity is on a tract leased before July 26, 1976;

(iii) Any activity resulting from an amendment to a plan, providing that such amendment is approved by the Department of Interior (DOI) after July 26, 1976; and

(iv) Any activity resulting from a notice to drill issued by the DOI after July 26, 1976, including the case of drilling a well whose exploration or development plan was approved before July 26, 1976, but whose notice to drill is issued by the DOI after July 26, 1976.

One commentator asked OCZM to clearly relate the equipment, machinery, products, and devices described in § 931.19(a)(2) to the activities described in § 931.19(a)(1). The comment was accepted.

Several commentators suggested changing the language in § 931.19(b) from "includes and is limited to" to "includes." The comment was accepted.

One commentator suggested changing the language in § 931.19(b)(12) from "tanker or barge transportation systems" to "transportation systems for tankers, barges, or the vessels described in § 931.17(b)(2)(iv)(I)," and to include publicly owned transportation systems. The comments were accepted.

A few commentators thought that the definition of "unit of general purpose local government" should exclude planning agencies that do not have taxing power. The comment was accepted, and OCZM included a definition of "unit of

local government" in § 931.22(c), which includes planning agencies.

SUBPART C—BASIC ELIGIBILITY

One commentator recommended that the Secretary of Commerce rather than the Associate Administrator judge whether a State is making satisfactory progress toward the development of a management program consistent with the policies set forth in section 303 (§ 931.25(a)(3)). The commentator suggested that the Associate Administrator might be overly critical of coastal management programs which were not being developed pursuant to sections 305 or 306 of the Act. This comment was rejected. Congress has indicated its concern that the CEIP be administered in close harmony with the purposes and spirit of the coastal management program element of the Act. The Secretary of Commerce has delegated this coordination responsibility to the Associate Administrator of the Office of Coastal Zone Management in recognition of the Associate Administrator's ability to satisfactorily accomplish this objective.

One commentator recommended that eligibility based upon a program developed pursuant to the policies set forth in section 303 be described without reference to a State's involvement in a section 305 or 306 funded management program. In response to this recommendation, OCZM has added § 931.25(b)(3), which recognizes eligibility under a section 303 management program following a State's showing of good cause for not developing or implementing a program under sections 305 or 306.

Two commentators noted that a number of the elements listed within § 931.25 (c) resemble some of the criteria required for a program developed pursuant to section 305. The commentators argued that sections 303 and 305 are separate bases for eligibility and that any redundancy between the two should be removed. No substantive changes were made in response to these comments; however, the format of the section has been modified. OCZM has determined that the elements listed are basic to implementing the policies described in section 303. Mere resemblance to some of the requirements within section 305 does not justify their removal. Minimum section 303 criteria have been provided to require that the State's management program is sufficiently comprehensive to assure that utilization of CEIP assistance will be compatible with the goals and objectives of the Act.

Two commentators recommended that Federal Clean Air Act and Federal Water Pollution Control Act requirements be a necessary part of any management program developed pursuant to section 303. The Congressional declaration of policy expressed in section 303 makes it clear that Congress was concerned about environmental degradation within the Nation's coastal areas. To address this concern, the final regulations include a section directing that a section 303 program conform to the requirements of the Federal environmental protection acts cited above (§ 931.25(c)(2)(v)).

Two commentators recommended that Federal agencies should not only be able to participate in the development of a management program, but also that their views be "incorporated" into the policies, procedures, and regulatory provisions of such a program. This recommendation was rejected. However, the final regulations do require the States to adequately consider Federal agency views (§ 931.25 (c)(3)).

Two commentators recommended that commercial and industrial interests be added to the list of those parties afforded an opportunity to participate in the development of the State's management program (§ 931.25(c)(4)). The comment was accepted.

A number of commentators recommended that the final regulations provide a more explicit formal and direct link between the granting of CEIP assistance and review and approval of such assistance by the coastal management agency responsible for developing or implementing a coastal management program. OCZM agrees with this recommendation and has modified the final regulations to achieve this objective (§ 931.26(a)(3)). The final regulations clearly require that no CEIP assistance will be granted without coastal management agency review and certification of compatibility or consistency with State coastal management programs.

Two commentators noted that the proposed regulations only required CEIP assistance to be "compatible" with a State's coastal management program. The commentators urged that the CEIP assistance should be reviewed for "consistency" with an approved management program. OCZM agrees in part. However, Federal consistency only applies in cases when a State has an approved management program funded under section 306 of the Act. Accordingly, the final regulations require CEIP assistance to be "consistent" with a management program approved under section 306. With respect to management programs being developed pursuant to section 305 or in a manner consistent with the policies set forth in section 303, OCZM has retained the compatibility test for two reasons. First, complete consistency is a benefit awarded to a coastal State only after a management program has been approved. Second, during the development stages of a coastal program, policies and guidelines are normally not fully defined, substantive requirements have not been established, and, therefore, it becomes extremely difficult to make a consistency determination. Instead, OCZM has required the granting of CEIP assistance to be conditioned upon a determination by the coastal management agency that the Federal assistance will be utilized in a manner compatible with the goals and policies being developed to manage the State's coastal resources.

One commentator recommended that the final regulations direct a State's Governor to add his designation of State agencies to the certification from the State's Attorney General indicating that the designated agencies have legal authority to fulfill their assigned roles under the Act. No changes were made in response to this comment. OCZM presumes that the agencies designated by the Governor have adequate legal authority to carry out the functions described in this subpart.

SUBPART D—PLANNING

One commentator suggested that the definition of "eligibile energy facility" (§ 931.32) be expanded to include any energy facility which the Associate Administrator believes is likely to be sited, expanded, or constructed, in the near future. The comment was accepted.

Several commentators questioned whether devising strategies for the public purchase of land is one of the legitimate purposes of the CEIP. OCZM feels that increased land prices is one of the important economic consequences of coastal energy development and therefore that one of the purposes of the CEIP is to provide assistance to States to plan for such consequences (§ 931.33 (a)(6)).

One commentator suggested that OCZM include "planning for public facilities," including preliminary architectural and engineering fees, as one of the allowable uses of section 308(c) planning assistance. The comment was not accepted (§ 931.33(a)(12)).

Several commentators suggested that the methodology used by OCZM to allot section 308(c) moneys should take into account the impacts of the various energy facilities on air and water quality. The comment was accepted. OCZM will develop for each energy facility standardized planning needs that will include considerations of air and water quality in addition to other environmental impacts.

Several commentators suggested that OCZM delete the regulation that a State with an approved coastal zone management program would not be eligible for section 308(c) assistance. The comment was accepted.

One commentator suggested that the Associate Administrator be able to extend the period of availability of a State's allotment if he/she determines that the circumstances warrant such an extension. The comment was accepted (§ 931.36(a)).

Several commentators felt that a 30-day comment period on the list of eligible energy facilities might not be long enough. The comment was accepted, and the comment period was extended to 45 days (§ 931.36(b)(3)).

Several commentators thought that the limitation of planning grants to no more than five percent of the total amount of credit assistance available to a State was too restrictive. The comment was accepted. OCZM raised the limitation to ten percent (§ 931.38(c)).

Several commentators suggested that, considering the limited amount of money available under section 308(c), States should be allowed more flexibility in the uses of such money. The comment was

accepted. OCZM deleted the regulation which required that States spend planning money in proportion to OCS and non-OCS needs. OCZM also made the whole application and requisition process much simpler, so the planning money will be available as soon as possible.

Many commentators objected to the limitation of the amount of formula grants that may be used for planning purposes to a fixed fractional amount (now ten per cent, but originally five per cent in the October 22 proposed regulation) of the credit assistance allotted the State under section 308(e)(1). These commentators argued that such a limitation was not explicitly mentioned in the Act and thus must not be within the intent of Congress.

Although there is no explicit statutory language specifying such a limitation, OCZM feels it is within the intent of Congress and OCZM's rulemaking authority. The statute allows section 308(b) funds to be used for planning only for public facilities and services required as a direct result of new or expanded OCS energy activity. Because OCZM is well aware that planning can be an unending process, OCZM thinks it reasonable to correlate the amount of planning money available for public facilities and services to the amount of money to be spent for the construction or provision of those public facilities or services. This correlation can best be achieved, OCZM feels, through the ten per cent rule.

SUBPART E—FINANCING PUBLIC FACILITIES AND PUBLIC SERVICES

A number of commentators took issue with the interpretation in subpart E that public facilities and public services eligible for funding under sections 308(d)(1) and (2) of the Act must be required as a result of "new or expanded coastal energy activity" (§ 931.41(b)), since the term "coastal energy activity" appears in sections 308(d)(1) and (2) unqualified by the term "new or expanded." The inclusion of these adjectives in subpart E of the regulations is based upon an inconsistency between the language in section 308(a) and that in section 308(e) (which requires the promulgation of regulations to implement section 308(d)), as well as on the legislative history of the CEIP.

Sections 308(d)(1) and (2) of the Act provide for credit assistance in the form of loans and guarantees to coastal States and units of general purpose local government for the purpose of providing new or improved public facilities or public services which are "required as a result of coastal energy activity." Section 308(e) mandates the promulgation of regulations to allot credit assistance under section 308(d), and to establish criteria and procedures to evaluate the ability of States and local governments to repay. In each case, the regulations are to be based upon factors which include "new or expanded coastal energy activity," new employment, and new population. Because it made little sense to base implementing regulations upon a more narrow range of factors than those upon which financial assistance is to be provided, OCZM found it necessary to look to the basic policies and structure of the credit assistance program as they are described in the legislative history of the CEIP.

The loan and guarantee provisions of section 308(d) were intended to help States and units of general purpose local government by providing *front-end* financing to address the impacts of coastal energy activity. There are numerous references to this intent in the legislative history accompanying sections 308(d)(1) and (2). The term "front-end financing" necessarily implies financing to address problems associated with the early stages of energy activity. Credit assistance under section 308(d) is coupled with repayment assistance under section 308(d)(3), so that the Federal government will assume some of the risks associated with planning for and carrying out projects to address energy impacts.

Thus, the structure of the credit and repayment assistance provisions of section 308(d) is based on providing loans and guarantees during the early stages of coastal energy activity, when revenues from that activity are often not sufficient to pay for necessary public facilities and services.

Given the apparent inconsistency of language in sections 308(d)(1) and (2) of the Act, and the basic policies and structure of the credit assistance and repayment provisions as described in the legislative history, the regulations require that public facilities and public services eligible for funding under section 308(d) must be "required as a result of new or expanded coastal energy activity." It should be noted that the term is defined so that many new functions associated with coastal energy activity which began prior to July 26, 1976, will nevertheless be included.

Several commentators thought that the list of eligible facilities under the definition "public facility" (§ 931.42(a)) should not have been exclusive. OCZM never intended to include an exclusive list in the final regulations; the phrase "only the following facilities" was included to draw out comments suggesting additions to the list. The word "only" has since been deleted from the regulation.

Several commentators objected to the limitation of "mass transit" to "local bus systems" (931.42(a)(7)). OCZM did not intend to exclude mass transit from the list, since this item is listed in the Act. Rather, OCZM intended to indicate by rule that it did not consider large-scale or statewide mass transit systems to be required as a result of new or expanded coastal energy activity. OCZM now feels that this limitation is not necessary, since the certification procedures of § 931.48(a) and the intrastate allocation process of Subpart J should prevent use of funds for projects not required as a result of such activity. Accordingly, the comment was accepted.

Several commentators were concerned that in the regulations a facility is defined as a "public facility" only to the extent that it does not serve industrial facilities. This is OCZM's interpretation of the Act's requirement that such facilities "will support increased population" (section 304(e)(14)). Several commentators have suggested that since industrial facilities ultimately support population. CEIP moneys should be used to pay for new facilities to support industry. This interpretation clearly distorts Congressional intent. The Act did not intend to attract growth to the coastal zone by providing facilities for industry, and OCZM does not intend to change this part of the definition of "public facility" or "public service."

Several commentators were concerned that a limitation of "public services" to the salaries of essential personnel for maintenance of public facilities would be too restrictive. In response, OCZM has broadened the definition to include any service authorized by law to be provided by a State or unit of general purpose local government (§ 931.42(b)).

Several commentators objected to the word "significantly" in the definition of "new or improved" as being vague and restrictive. Also, a number of commentators pointed out that new employment can create a need for new or improved facilities even when there is no "new population." This definition has been modified accordingly (§ 931.42(c)).

The regulations initially provided that a public service was defined as "new or improved" if that type or level of service had been offered no earlier than 180 days prior to application for or requisition of CEIP moneys. In response to comments that that time period was too short, it has been changed to the preceding fiscal year (§ 931.42(d)). Furthermore, "new employment" has been added to new population as a criterion.

Many commentators found the definition in § 931.42(e) unnecessarily cumbersome, and many found the inclusion of the concept "normal growth" troubling. The revised definitions have been simplified, but the basic idea remains: a public facility or service is "required as a result of new or expanded coastal energy activity" if that facility or level of service would not have been needed in the absence of the energy activity (or would not have been needed as early without the energy activity). Questions of normal growth and of the timing of the facility or service are implicit in the definition, and a comment now follows § 931.42(f) explaining the intent of the definition.

The definition in § 931.42(f) has been modified to parallel that in § 931.42(e).

Some commentators have been concerned that paragraph (1) of § 931.42(g) asks States to employ unusual methods of encumbering debt or to use some ill-defined inherent power of the State to encumber debt. This has never been OCZM's intention, and since OCZM believes that paragraph (g)(1) expresses its intention clearly and correctly, it has not been changed.

Several commentators pointed out that paragraph (2) (§ 931.42(g)) was not entirely clear. It has been reworded to be more explicit.

Many commentators expressed concern that the regulations do not define credit

assistance to be "unavailable" (in the meaning of section 308(b)(3)(B) of the Act) when a borrower cannot forecast sufficient revenues to amortize a loan or bond, and thus that the regulations do not permit direct use of the State's formula grant proceeds under these circumstances. The regulations do not include this case in the definition of "unavailable" because it is inconsistent with the policies and structure of section 308.

Indeed, to define "unavailable" in the manner suggested above would be to return to the concept of "net adverse impacts" contained in the original Senate version of S. 586 and so clearly rejected in the Act that ultimately became law. The Act recognizes that forecasts are a poor substitute for reality. To base assistance on such forecasts entirely would be to encourage both shortfalls and windfalls. The Act and the regulations provide a much more flexible approach tailored to needs as the needs arise.

The concept of "unavailability" as currently embodied in the regulations should be preferable to States and local governments. § 931.42(g)(2) sets forth clearly a rule by which the unavailability of credit assistance is to be determined; it is a rule that applies in the aggregate on a State-wide basis. This determination is made at the time of allotment (as described in § 931.46(e)), permitting the State complete certainty as to the extent of grants and loans/guarantees available to it. The State can thus set its own priorities and make its own decisions, packaging a combination of credit and grant assistance as the State, and not the Federal Government, desires.

A large number of commentators expressed concern that the list of energy facilities that forms the basis of the credit assistance allotment process was limited to those new or expanded coastal energy activities which have received a major State or Federal license or permit. Specifically, there was concern that either: Some energy facilities causing coastal impacts may not require such a license or permit or may, for some other reason, not be included on the list; or This license/permit test may not recognize the oncoming energy facility soon enough for impact mitigation to be effective.

OCZM has modified this regulation to make explicit that the Associate Administrator has the discretion to add to the list any facility he/she deems appropriate. The license/permit test will be a starting point from which OCZM will compile its list; it will serve as a criterion for judging the likelihood that impacts will occur. The choice of which facilities to include, and the choice of which license or permit is the most appropriate criterion, will rest with OCZM. Nevertheless, the States will have a comment period (extended from 30 to 45 days) each year during which more facilities can be added to the list.

OCZM has already begun to research the timing problem, and will use the optimal timing of impact aid as the central guide to the inclusion of energy facilities on the final list.

Several commentators expressed concern that in § 931.46(c):

"Standardized" costs would not adequately represent true costs of providing public facilities and services;

"Standardized" costs would not fully account for regional variations in costs or special construction problems; and

The language of the regulations was not clear as to whether "inflation" would be considered in updating these costs.

The Act allows no option as to whether these costs should be "standardized" or not. Section 308(e)(1) refers explicitly to standardized costs.

OCZM's language is already quite explicit that the costs would be adjusted for regional cost differences, and that these costs would be explicitly disaggregated by region (the State level is the minimum disaggregation level contemplated). OCZM intends that these costs reflect the true regional costs of providing public facilities and services; they will be adjusted, for example, to account for the "growth effect," which holds that the costs of providing such facilities in a small but rapidly growing community are higher than in a larger community remaining nearer equilibrium.

The language of § 931.46(c) has been clarified to make explicit that changes in regional prices ("inflation") will be considered in updating costs.

There was some concern that the 30-day comment period would not be long enough to permit States and localities to evaluate completely the data presented. Accordingly, the period was changed to 45 days (§ 931.46(d)).

A number of commentators pointed out that no "requisition procedure" is mentioned in the Act. OCZM feels, however, that all the elements of the requisition procedure are contained in the Act; the certifications (§ 931.48) translate the explicit requirements of the Act into the simplest possible management procedures which are consistent with State CZM efforts, that the use of the proceeds are in accord with an equitable intrastate allocation system, that the proceeds are used for projects required as a direct result of OCS energy activity, and that grant proceeds are not used unless other Federal funds are not available for the same purpose.

Two commentators argued that the time period for review of State applications and requisitions should be limited so that OCZM could not delay funds by delaying such review; one commentator suggested a 90-day limit. The regulations have been modified to indicate that OCZM intends to process applications and requisitions for planning grants within 45 days of receipt and for most environmental/recreational grants within 45 days of completion of the required A-95 reviews. OCZM is equally committed to the prompt disbursement of funds for public facilities and services; however, since this aspect of the program is somewhat more complex than the others, OCZM is not certain what an appropriate time limit should be. Therefore, no explicit time limit is mentioned in this subpart.

A large number of commentators criticized the requirement for providing factual information necessary to evaluate the environmental impacts of a proposed project, in detail sufficient to enable the Associate Administrator to determine whether an EIS would be required (§ 931.48(a)(5)). Some argued that this requirement should apply only to the loan and guarantee applications and not to formula grant requisitions. It remains the opinion of OCZM, the Department of Commerce, and the Council on Environmental Quality that the EIS requirement of the National Environmental Policy Act (NEPA) does apply to the formula grant portion of the CEIP. OCZM intends to make an environmental assessment of each project proposed to provide new or expanded public facilities or public services, but OCZM anticipates the preparation of an EIS only when such a project is a major Federal action significantly affecting the quality of the human environment.

One commentator suggested that the environmental assessment be performed by the State, which would then inform OCZM when it thought a project "major." OCZM believes this approach would constitute an illegal delegation of authority under NEPA.

One commentator felt that the language of the October 22 proposed regulations was not sufficiently clear as to what was expected from the State regarding this environmental assessment. The language has been made more clear, and specific guidelines on the EIS process will be provided later.

One commentator felt the required fiscal management schedule (§ 931.48(b)) to be unwarranted and unnecessarily onerous. OCZM believes it to be a relatively simple procedure, and one that is in keeping with the requirements set forth in section 308(e)(3) of the Act. The information required is precisely the sort of information that a community would need, irrespective of the CEIP, to undertake the planning and capital budgeting needed to provide public facilities and services. Furthermore, OCZM intends to assist communities compile the fiscal management schedule, where necessary.

Two commentators accused OCZM of requiring in the regulations that a borrower raise its normal rates and change its normal methods of generating revenue in order to qualify for a loan or guarantee. In fact, quite the opposite is true. The regulations (§ 931.48(b)(2)(iii)) make clear that the loan or guarantee will be based on the rates and methods of a "base-case" scenario presented by the borrower. This base-case, would be calculated as if no new or expanded coastal energy activity were to occur, and would require changes in rates and methods only to the extent that such changes would be necessary to balance revenues and expenditures in the absence of the coastal energy activity. Indeed, there is no prohibition in the regulations against a borrower lowering its rates, if revenues and expenditures in the base-case justify it. (If the forecasts in the

fiscal management schedule are not consonant with fiscal impacts observed under similar circumstances in the past, OCZM will, however, request that the loan or guarantee be based on rates and methods no lower than the average of those in force during the five years previous to the borrower's application for credit assistance. In no case, however will OCZM demand that rates be raised above those used in the base case.)

Many commentators objected to the limitation (in § 931.52 of the October 22 proposed regulations) requiring the total amount of CEIP assistance used for the provision of public facilities and public services to be no more than four times the amount used for environmental/recreational amelioration projects. These commentators argued that, since such a limitation was not expressly mentioned in the Act, it must not be within the intent of Congress.

OCZM has decided to remove the limitation because there are technical problems with it: the ratio does not work, for example, if there is no appropriation under the formula grants (section 308(b)) in some year.

OCZM nevertheless feels that the limitation was within the intent of Congress, since the Act states that environmental/recreational amelioration is the only purpose for which the formula grants are primary source, thus implying that Congress intended those grants to be used for that purpose. This four-to-one limitation was an effort to ensure that there would be sufficient formula grants available for that use.

SUBPART F—REPAYMENT ASSISTANCE

The most frequently expressed concern regarding subpart F was that the CEIP regulations do not provide that repayment assistance should flow "automatically" to a borrower whenever revenues are insufficient. There was a fear that the regulations afford the Associate Administrator too much discretion in deciding whether a borrower is entitled to such assistance.

The regulations make it clear that the Associate Administrator *shall* award repayment assistance whenever revenues from the anticipated coastal energy activity and the related new population do not materialize as anticipated in the fiscal management schedule. The regulations now set forth clearly the extent of the Associate Administrator's discretion:

In determining whether a repayment remedy, including a repayment grant, is warranted, OCZM will use as criterion only the extent to which the actual increases in employment and the related population resulting from coastal energy activity (and the facilities associated with that activity) do not provide adequate revenues. The Associate Administrator does not have discretion to withhold repayment assistance when that assistance is needed because the coastal energy activity (and related population and facilities) does not provide the revenues anticipated in the fiscal management schedule as described in § 931.48 (b)(2)(5), and the Associate Administrator also does not have discretion to award any form of repayment assistance when the need for that assistance arises from causes unrelated to the coastal energy activity. Each loan or guarantee contract signed by the borrower will set forth in detail the conditions under which repayment assistance will be available, and those conditions will be binding on the Associate Administrator.

A number of commentators noted that while setting forth the forms of repayment assistance available, the October 22 proposed regulations had listed the extension of a payback period and the modification of terms separately, while including refinancing as one form of term modification. These commentators pointed out that extension of the payback period and modification of terms should more properly be combined, and refinancing should be listed as a separate remedy. This idea was accepted and the appropriate changes made (§ 931.67 (b)(1)).

One commentator took issue with OCZM's use of the term "forgiveness" in referring to a repayment grant from the Fund. While such a grant, in some sense, may be interpreted as "forgiveness," the assistance is more precisely a grant and the regulations have adopted that language (§ 931.67(b)(4)).

Another commentator suggested that a mechanism be established for appeals by States and units of general purpose local government of the Associate Administrator's determinations regarding repayment assistance. Such a mechanism has been included in § 931.69.

SUBPART G—GRANTS FOR UNAVOIDABLE LOSSES OF COASTAL ENVIRONMENTAL AND RECREATIONAL RESOURCES

One commentator suggested the regulations make explicit that the formula grants can be used to replace a lost environmental or recreational resource. The comment was accepted.

Several commentators referred to the definition of "unavoidable" and asked, if a State can attribute only a part of an environmental/recreational loss to an identifiable person, whether the State would be eligible for assistance for the part of the loss that could not be attributed to an identifiable person. The regulations state that the State will be eligible for assistance for only that part of an environmental/recreational loss that cannot be attributed to an identifiable person (§ 931.72).

Several commentators, referring to the definition of "unavoidable," requested a clarification of the extent of the State's responsibility to prove that an environmental/recreational loss could not be paid for with funds that were available from other Federal programs. OCZM intends that States use other possible sources of Federal assistance before being able to use sections 308(b) and 308(d)(4) moneys for environmental or recreational purposes. However, if assistance is not expected to be provided to a State through another Federal program in a timely manner, assistance under this subpart would be provided.

Several commentators pointed out that a resource might be recreational even if it was not in use at the time of the application/requisition. The comment was accepted. Any recreational resource that has been in use, or that has been designated under a State's coastal zone management program as an area of particular concern or potential use for recreational purposes, will qualify under the definition of recreational resource in the regulations.

One commentator suggested including water quality in the definition of environmental resources. The comment was accepted.

The language in § 931.74(a) has been changed to make clear that if a State can recover only part of an environmental/recreational loss and the rest of the loss is unavoidable, the State is eligible for assistance for that part of the loss that is unavoidable.

Several commentators requested an extension of the period for comments on the data used for the allotment of section 308(b) formula grants. The comment was accepted, and the comment period was extended from 30 to 45 days (§ 931.76).

Several commentators pointed out that the limitation removing OCS energy activities from the list used for the allotment of section 308(d)(4) grants was not contained in the Act. Since non-OCS States are not eligible for section 308(b) moneys, OCZM proposed this limitation as the only way such States could receive additional assistance to cope with their environmental losses. Nevertheless, the comment was accepted, and OCS energy activities will be included in the list used to allot section 308(d)(4) formula grants (§ 931.77).

Several commentators suggested that the Associate Administrator have a limited period of time to process requisitions for formula grants. The comment was accepted. It is OCZM's intent to process the completed requisitions and applications within 45 days of completion of the required A–95 reviews, unless it is determined that an EIS is required (§ 931.78).

Several commentators pointed out that the Act did not specifiy that environmental grants used for future unavoidable losses could cover only 80 percent of the cost of the project. The comment was accepted, and the limitation was deleted.

Several commentators suggested that, if an environmental loss could be mitigated by the construction of a public facility, the States should be able to use environmental grants for the provision of such public facility. OCZM still believes that the State should first attempt to use credit assistance for the provision of any public facility. OCZM added, however, that the State can use environmental grants to provide public facilities to be used for environmental protection as defined in § 931.42(a)(2), and for public facilities used to reduce or ameliorate environmental losses from freshwater or saltwater intrusion or erosion. Furthermore, the environmental grants can be used to cover the differential cost be-

tween the least-cost method of providing a public facility and a higher cost method that causes less environmental loss than the least-cost method. Finally, any other facility that is determined to be necessary primarily for the reduction or amelioration of environmental losses will be eligible for environmental grants.

Several commentators pointed out that the regulations do not make clear that when the cost of an environmental or recreational project is incommensurate with the value of the lost resource, OCZM will provide that part of the cost of the project equal to the value of the lost resource. The language was redrafted to clarify that this is the case (§ 931.79).

SUBPART H—LATERAL SEAWARD BOUNDARIES

Several commentators pointed out that customary use of the term "demarcation" involves the actual marking of a boundary line on the ground, and that the term delimitation is more appropriate for the discussion or description of lines which are placed on maps or charts to indicate bounded areas. As a result of these comments, the term "delimitation" has been used throughout subpart H. Lateral seaward boundary lines refer to boundaries in the territorial sea established by interstate compact, agreement, or judicial decision, and delimitation lines refer to lines established by the Associate Administrator to determine adjacency of the Outer Continental Shelf to coastal States for the purpose of calculating the formula grants.

One commentator requested that the regulations not limit interstate agreements, compacts, or judicial decisions to those existing before July 26, 1976. Therefore, the regulations have been changed to cover agreements, compacts, and judicial decisions defining lateral seaward boundaries made prior to and after the date these regulations become effective, rather than the July 26, 1976, date (§ 931.81).

One commentator suggested that States be limited to "equitable principles" in establishing lateral seaward boundaries, while several others asked that States be free to use any principles they choose. OCZM feels that lateral seaward boundaries between States, established to the outer limit of the territorial sea by interstate compact or agreement, may be based on any principles which are mutually acceptable to those States involved (§ 931.82(a)).

Several commentators expressed concern that the time frame specified for establishing delimitation lines was too long, considering the 270-day limitation for implementing the CEIP. Consequently, a shorter schedule for establishing delimitation lines has been adopted, but in order to allow States sufficient time to negotiate lateral seaward boundary agreements, the 270-day deadline cannot be met. States will be allowed six months rather than one year, as stated in the proposed regulations, to mutually agree on their lateral seaward boundaries. States not reaching agreement will be allowed four months after the initial period to submit written arguments in support of their respective positions. Finally, the period during which the Associate Administrator will establish the required delimitation lines, without benefit of lateral seaward boundaries, has been shortened from three months to two months.

Several commentators criticized the procedures by which the Associate Administrator will establish delimitation lines for those States which fail to agree on their lateral seaward boundaries. Objections were raised to the substitution of "equitable principles" for the statutory language "applicable principles of law." The purpose in using "equitable principles" was to indicate that an equitable distribution of funds would be achieved by considering all applicable and relevant principles in establishing delimitation lines. Another commentator suggested the use of the Convention on the Continental Shelf and relevant judicial decisions, in addition to the Convention on the Territorial Sea and the Contiguous Zone, when establishing delimitation lines. Finally, it was recommended that the Interagency Coastline Committee of the Law of the Sea Task Force be consulted on all matters dealing with the baseline and with application of the Conventions. These comments have all resulted in changes which are reflected in the regulations.

Several commentators suggested that only that portion of the formula grant allocation which relates to disputed areas should be impounded. This wording has been adopted in § 931.85.

One commentator thought States should be paid interest on impounded funds while delimitation lines were being established. Since this is impossible, States are urged to move as quickly as practicable to reach agreement on lateral seaward boundaries and avoid the impoundment of funds.

SUBPART I—GENERAL PROVISIONS

A total of six comments were received on § 931.52 of the October 22 proposed regulations. Three commentators suggested closer adherence to the requirements of Federal Management Circulars 74–4 and 74–7. Clear reference to these documents would help clarify what is expected of applicants. Several other commentators raised issues closely related to the 74–4 and 74–7 provisions. One commentator pointed out the need to provide for changes in project scope; another suggested a change to allow for coverage of certain pre-approval costs; a third objected to inconsistent terminology and uncertainty as to whether the allowable and nonallowable cost lists were meant to be "exclusive."

The section on allowable costs has been moved to subpart I, General Provisions, to make clear that it is applicable to all forms of CEIP assistance, and it has been rewritten to conform to FMC 74–7. Language restricting changes in scope has been removed in favor of the approach stated in FMC 74–7. Pre-approval costs are now considered allowable when specifically covered by grant and loan agreements and related contractual documents. Terminology has been made consistent. A new section has been added to cover administrative procedures. It states that such procedures will conform as far as possible with FMC 74–7 (§ 931.91). Specific procedures will be provided in a guidelines manual now being developed.

SUBPART J—INTRASTATE ALLOCATION OF FINANCIAL ASSISTANCE

Many of the comments on the intrastate allocation process resulted from an examination of this subpart by the National Association of Counties (NACo) and the National Governors Conference (NGC) under commission from OCZM. Disagreement centered on whether the regulations should include a process enabling local governments to appeal to the Associate Administrator a State allocation decision. NGC felt that no such process should be required; if one were mandated by OCZM, it should be used only after appeals to a State process had been exhausted. NACo, by contrast, asked that the Associate Administrator review a State allocation upon request of a local government to determine whether the State had adhered to the allocation process previously approved by OCZM.

OCZM accepted the appeals process suggested by NACo, but also included a requirement for a State appeals process, as suggested by NGC, and a requirement that the State process be exhausted before an appeal to the Associate Administrator would be entertained. An NGC suggestion that the matter of this appeal be limited to the record and evidence of the State appeal was also accepted.

NGC also suggested the deletion of several specific criteria for intrastate allocation listed in the proposed regulations. This suggestion was rejected, because it was felt that these criteria are essential to fulfill the requirement that the allocation be proportional to need.

NGC also asked for deletion of the requirement that the State submit to OCZM a justification whenever its intrastate allocation of funds differs significantly from the distribution of funds OCZM calculates as part of the State's "need factor." This comment was also rejected; it was felt that a requirement for such a justification is warranted and militates against arbitrary or inequitable allocation without intruding on the State process.

NACo requested a requirement that the State not allocate to itself or its agencies more than five percent of the total amount allotted to the State by OCZM. This suggestion was rejected, since an arbitrary figure of this sort would ignore the wide variation among State roles in providing public facilities and public services.

NACo also suggested language requiring the inclusion of local officials on the existing State body overseeing the intrastate allocation process or on a coastal policy task force created by the State. This comment was rejected. Although OCZM views such inclusion or such a task force as an acceptable method of involving local officials in the allocation process, OCZM does not have the responsibility to dictate the method by which

the State will effect the participation of local officials.

NACo further suggested that the role of localities be made more prominent in the regulations. The language of subpart J now reflects this concern. NACo also requested language suggesting that the State establish a priority ranking system as a means of allocating CEIP funds within the State. This request was accepted, and the appropriate language has been included in the regulations.

Several commentators noted that the regulations had not called for explicit participation by the general public in the allocation process. This deficiency has been corrected.

One commenator complained that the regulations stated that the intrastate allocation system should be "equitable." This comment was rejected, since the requirement for equity is included only as an "objective," not as an operational requirement. The statute requires that the allocation process result in an allocation that is proportional to need.

One commentator suggested that the intrastate allocation process provide explicitly for the use of compatible assumptions and methods for projecting facility needs and impacts. This idea was accepted, and appropriate language has been inserted in § 931.112(e).

One commentator suggested that, in order to prevent one community from delaying funds to all other communities in the State by appealing to the Associate Administrator, OCZM should hold in escrow only the amount allotted to the appealing community. This idea was rejected, since the amounts allocated to the other communities are dependent on the allocation to the appealing community, and thus cannot be determined before the outcome of the appeal is known.

Public review and comment period. These interim-final regulations are subject to comment and modification. Written comments on the regulations should be received by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C., 20235, by February 4, 1977.

A final environmental impact statement (EIS) and supplement have been prepared to accompany these interim-final regulations. In accord with Council on Environmental Quality guidelines, the regulations will not become effective until February 4, 1977.

The National Oceanic and Atmospheric Administration has determined that this document contains a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107, and certifies that an Inflationary Impact Statement has been prepared.

Effective date. February 4, 1977.

Dated: December 23, 1976.

ROBERT M. WHITE,
Administrator.

In consideration of the foregoing, a new Part 931 is added as follows:

Subpart A—Objectives

Subpart B—General Definitions

Subpart C—Basic Eligibility

Subpart D—Planning for the Consequences of Energy Facilities

Subpart E—Financing Public Facilities and Public Services

Subpart F—Repayment Assistance

Subpart G—Grants for Unavoidable Losses of Coastal Environmental and Recreational Resources

Subpart H—Lateral Seaward Boundaries

Subpart I—General Provisions

Subpart J—Intrastate Allocation of Financial Assistance

AUTHORITY: Sec. 308, Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280, 15 U.S.C. 1451 et seq.), as amended by Pub. L. 94-370 (90 Stat. 1013).

Subpart A—Objectives

§ 931.1 Overall objectives.

(a) The central objective of the Coastal Energy Impact Program (CEIP) established under section 308 of the Act is to provide coastal States and units of local government with financial assistance to mitigate the adverse on-shore effects of new or expanded coastal energy activity.

(b) A second objective of the CEIP is to strike a balance between two major national goals:

(1) To encourage development of domestic energy resources and thus to further the objective of increased energy self-sufficiency; and

(2) To protect and manage the Nation's coasts in a manner consistent with the coastal zone management programs and objectives of the individual States over both the short and the long term.

(c) A third objective of the CEIP is to provide assistance that is simple to administer and that permits the coastal States and units of local government a high degree of control and discretion.

§ 931.2 Planning grants.

The objective of providing planning assistance under the CEIP is to encourage rational, timely, and thorough planning for and management of the consequences in the coastal zone of energy facility siting and energy resource development.

§ 931.3 Public facilities and public services assistance.

The objectives of providing assistance under the CEIP for public facilities and public services are:

(a) To advance the national goal of attaining a greater degree of energy self sufficiency by providing assistance to meet those State and local needs for public facilities and services resulting from new or expanded coastal energy activity; and

(b) To discourage inappropriate development in the coastal zone by creating incentives to provide only those public facilities and public services actually needed because of the incoming coastal energy activity.

§ 931.4 Repayment assistance.

The objective of providing repayment assistance under the CEIP is to shift to the Federal Government most of the risk of fiscal loss borne by coastal States and units of general purpose local government in whose jurisdictions new or expanded coastal energy activity is expected to take place.

§ 931.5 Environmental and recreational grants.

The objectives of providing assistance under the CEIP for the prevention, reduction, or amelioration of unavoidable losses of valuable environmental or recreational resources are:

(a) To help coastal States and units of local government prevent, reduce, or ameliorate environmental degradation and recreational losses in the coastal zone when the degradation or losses are the unavoidable result of coastal energy activity; and

(b) To encourage the prevention of environmental or recreational losses by providing assistance only when the losses cannot be attributed to or charged against a specific person.

Subpart B—General Definitions

§ 931.9 Index to definitions.

The following listing includes all terms defined in Part 931 of this title keyed to the section or paragraph where they are defined.

Term	Section
Act	931.10(a)
Associate Administrator	931.24
Borrower	931.62
Coastal energy activity	931.13
Coastal zone	931.11
Eligible energy facility	931.32
Energy facility	931.19
Energy facility directly required by OCS energy activity	931.17(b)
Environmental resource	931.72(c)
First landed	931.72(g)
Fiscal management schedule	931.48 (b)(2)
Fiscal surplus	931.42(h)
Fund	931.12
Impact area	931.21
In close proximity to	931.13(d)
Joint funding	931.98 (b)(1)
Loss	931.72(b)
New employment	931.72(f)
New or expanded coastal energy activity	931.15
New or expanded energy facility	931.20
New or expanded OCS energy activity	931.18
New or improved public facility	931.42(c)
New or improved public service	931.42(d)
NOAA	931.23
OCZM	931.23
Outer Continental Shelf	931.16
Outer Continental Shelf energy activity	931.17
Person	931.72(h)
Public facility	931.42(a)
Public service	931.42(b)
Public facilities and services required as a result of coastal energy activity	931.42(e)
Public facilities and services required as a direct result of OCS energy activities	931.42(f)
Recreational resource	931.72(d)
Section	931.10(b)
Significantly affected	931.14
Unavailability of credit assistance	931.42(g)
Unavoidable	931.72(a)
Unit of general purpose local government and unit of local government	931.22
Valuable	931.72(e)

§ 931.10 Act.

(a) The term "Act" means the Coastal Zone Management Act of 1972, Pub. L. 92-583, 86 Stat. 1280, as amended by Pub. L. 93-612, 88 Stat. 1974, and by Pub. L. 94-370, 90 Stat. 1013 (16 U.S.C. 1451 et seq.).

(b) The term "section" means a section of the Coastal Zone Management Act of 1972, as amended.

§ 931.11 Coastal zone.

The term "coastal zone" is that area of land and water whose boundaries are determined by a State under § 920.11 of this chapter for purposes of the development of a coastal zone management program under section 305, or under § 923.11 of this chapter for purposes of administering a coastal zone management program under section 306, or as part of a management program which is consistent with the policies set forth in section 303. Such boundaries must be approved by the Associate Administrator.

§ 931.12 Fund.

The term "Fund" means the Coastal Energy Impact Fund established under section 308(h).

§ 931.13 Coastal energy activity.

(a) The term "coastal energy activity" is limited to the following activities:

(1) Any outer Continental Shelf energy activity;

(2) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas; or

(3) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deepwater port, as defined in section 3(10) of the Deepwater Ports Act of 1974 (33 U.S.C. 1502(10)).

(b) An activity is a "coastal energy activity" only to the extent that:

(1) The conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and

(2) The Associate Administrator determines that a technical requirement exists which necessitates that such siting, construction, expansion, or operation be carried out in, or in close proximity to, the coastal zone of any coastal State.

(c) Such technical requirements are limited to:

(1) Dependency on coastal waters;

(2) Safety;

(3) Proximity to oil or natural gas fields;

(4) Location of markets;

(5) State and/or Federal siting regulations;

(6) Type and amount of required land; and

(7) Competitive uses for any environmental or recreational resource affected by such siting, construction, expansion, or operation.

Comment: For each energy facility some of the above technical requirements will be significant and some not. Several examples might clarify this point.

Platform construction yards are usually located close to deep coastal waters, because deep water (20 ft. to 200 ft.) is used during different construction phases. Furthermore, such yards require about 20 acres of flat land for the construction of concrete platforms, and up to 1000 acres for the construction of steel platforms.

Service bases are also located close to coastal waters, because several thousand tons of supplies are transferred each month by vessels between the service bases and the platforms. For the same reason service bases have to be located close to oil and gas fields.

The location of some LNG facilities will be influenced by safety standards prevalent in the area. The location of LNG regasification facilities might be influenced by the location of the closest markets for natural gas.

Finally, the direction of a pipeline might be determined by the location of the oil fields and the closest refinery.

(d) The siting, construction, expansion, or operation of any equipment or facility shall be "in close proximity to" the coastal zone of any coastal State if such coastal zone has been or is likely to be significantly affected by such siting, construction, expansion, or operation.

§ 931.14 Significantly affected.

The coastal zone of a coastal State is "significantly affected" by the siting, construction, expansion, or operation of an energy facility if such siting, construction, expansion, or operation:

(a) Causes population influxes in any area under the jurisdiction of a unit of local government;

(b) Changes employment patterns in the coastal zone, including those in fishing and tourism;

(c) Makes necessary new or improved public facilities or public services in the coastal zone;

(d) Damages or threatens to damage any valuable environmental or recreational resources in the coastal zone, including degradation of air or water quality, or potential violation of air or water quality standards; or

(e) Increases or threatens to increase significantly risks to public safety and real property in or near navigational corridors or marine or land terminals and facilities.

§ 931.15 New or expanded coastal energy activity.

The term "new or expanded coastal energy activity," means any coastal energy activity as defined in § 931.13 if the siting, construction, expansion, initial operation, or replacement, in whole or in part, of any equipment or facility required by the conduct, support, or facilitation of such activity takes place after July 26, 1976.

(*Comment*: The term "expansion" is intended to include both the physical expansion of a facility itself and the expansion of the output of the facility. The term "initial operation" is intended to include the case in which a previously operating but then idle energy facility is reactivated after July 26, 1976.)

§ 931.16 Outer Continental Shelf.

The term "outer Continental Shelf" or "OCS" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters, as defined in 43 U.S.C. 1301, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

§ 931.17 Outer Continental Shelf energy activity.

(a) The term "outer Continental Shelf energy activity" means any exploration for, or any development or production of, oil or natural gas from the outer Continental Shelf; or the siting, construction, expansion, or operation of any new or expanded energy facilities that are directly required by such exploration, development, or production.

(b) The term "directly required" refers to any new or expanded energy facilities that have technical requirements, as described in § 931.13, which necessitate their location in the coastal zone and are:

(1) Publicly owned transportation systems to the extent that they serve outer Continental Shelf energy activities;

(2) Owned or operated by OCS lessees or their contractors, subcontractors, or principal suppliers of equipment or facilities. Such equipment and facilities are limited to:

(i) Exploratory and development drilling rigs;

(ii) Platforms, subsea completions, and subsea production systems;

(iii) The following components of marine pipeline systems:

(A) Pressure source,

(B) Gathering lines,

(C) Pipelines,

(D) Intermediate pressure boosting facilities, and

(E) Landfall sites;

(iv) The following facilities to the extent that they serve outer Continental Shelf energy activities;

(A) Offshore storage and loading facilities of oil and gas,

(B) Marine terminals,

(C) Construction yards for platforms and exploration rigs,

(D) Pipe coating yards,

(E) Bases supporting platform and pipeline installation,

(F) Electric generating plants,

(G) Temporary service bases used in exploration phase,

(H) Permanent service bases used in development phase, and

(I) Transportation facilities limited to helicopters, heliports, tug boats, crew boats, supply boats, production utility boats, ocean and seismic vessels, barges, "spread" vessels, workover rigs, diving tenders, and drilling tenders; or

(3) Such other facilities which the Associate Administrator determines to be directly required by OCS exploration, development, or production.

§ 931.18 New or expanded outer Continental Shelf energy activity.

The term "new or expanded outer Continental Shelf energy activity" means any outer Continental Shelf energy activity, as defined in § 931.17, which supports exploration, development, or production according to plans, amendments to plans, or notices to drill approved or issued by the U.S. Department of the Interior after July 26, 1976.

§ 931.19 Energy facility.

(a) The term "energy facility" means any equipment or facility which is or will be used primarily:

(1) In the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

(2) For the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in the activities described in paragraph (a)(1) of this section.

(b) The term includes:

(1) Electric generating plants, including those involving fossil or biomass fuels, nuclear power, direct solar energy, ocean thermal energy conversion, tidal or wave power, wind power, or geothermal energy;

(2) Petroleum refineries and associated facilities;

(3) Gasification plants;

(4) Facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas;

(5) Uranium enrichment or nuclear fuel processing facilities;

(6) Facilities to separate oil, water, and gas;

(7) Drilling rigs, platforms, subsea completions, and subsea production systems;

(8) Construction yards for platforms and exploration rigs, pipe coating yards, bases supporting platforms and pipeline installation, and crew and supply bases;

(9) Oil and gas storage facilities, including salt domes;

(10) Marine pipeline systems, including pressure source, gathering lines, pipeline, intermediate pressure boosting facilities, and landfall sites;

(11) Oil and gas processing facilities;

(12) Transportation systems for tankers or the vessels described in §931.17(b)(2)(iv)(I) or to connect any of the facilities in this section with primary transportation systems;

(13) Facilities, including deepwater ports, for the transfer of petroleum;

(14) Facilities for geopressurized gas; and

(15) Terminals which are associated with any of the foregoing.

§ 931.20 New or expanded energy facility.

The term "new or expanded energy facility" refers to an energy facility whose siting, construction, expansion, initial operation, or replacement, in whole or in part, takes place after July 26, 1976.

§ 931.21 Impact area.

The term "impact area" means an area composed of one or more counties or regions in which the siting, construction, expansion, or operation of facilities required by new or expanded coastal energy activity significantly affects the coastal zone (as defined in § 931.14).

§ 931.22 Unit of general purpose local government and unit of local government.

(a) The term "unit of general purpose local government" means:

(1) Any political subdivision of any coastal State that (in whole or in part) is located in or has authority over such State's coastal zone; or

(2) Any political subdivision of any coastal State that is located within a political subdivision of such coastal State that (in whole or in part) is located in or has authority over such State's coastal zone; or

(3) Any special entity created by such coastal State or political subdivision that (in whole or in part) is located in or has authority over such State's coastal zone.

(b) The term "unit of general purpose local government" is limited to those entities described in paragraph (a) of this section that:

(1) Have authority to levy taxes or establish and collect user fees; and

(2) Provide any public facility or public service that is financed in whole or in part by taxes or user fees.

(c) The term "unit of local government" means any unit of general purpose local government, as defined in

paragraphs (a) and (b) of this section, or any agency recognized or designated as an areawide or regional comprehensive planning and development agency pursuant to Office of Management and Budget Circular A-95, under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, or under Title IV of the Intergovernmental Cooperation Act of 1968.

§ 931.23 NOAA and OCZM.

(a) The acronym "NOAA" means the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(b) The acronym "OCZM" means the Office of Coastal Zone Management of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 931.24 Associate Administrator.

"Associate Administrator" refers to the Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

Subpart C—Basic Eligibility

§ 931.25 Eligibility requirements.

(a) No coastal State is eligible to receive any financial assistance under this part unless such State:

(1) Has a management program which has been approved under section 306; or

(2) Is receiving a grant under sections 305 (c) or (d); or

(3) Is making, in the judgment of the Associate Administrator, satisfactory progress toward the development of a management program which is consistent with the policies set forth in section 303.

(b) With respect to coastal State eligibility under paragraph (a)(3) of this section, the Associate Administrator shall judge that a State is making satisfactory progress toward the development of a management program which is consistent with the policies set forth in section 303 if one of the following conditions is met:

(1) A coastal State has extinguished its eligibility for program development funding under section 305 without achieving program implementation approval under section 306, but is still pursuing development and implementation of a management program consistent with the policies set forth in section 303; or

(2) A coastal State's eligibility for program funding under section 305 or section 306 has been suspended, but the State is making adequate efforts to reacquire eligibility under sections 305 or 306 and is still pursuing development of a management program consistent with the policies set forth in section 303; or

(3) A coastal State is otherwise pursuing a comprehensive management program which is consistent with the policies set forth in section 303 and for good cause shown is not developing or implementing such program under sections 305 or 306.

(c) For purposes of paragraph (b) of this section, "consistent with the policies set forth in section 303" refers to a management program which incorporates:

(1) Policies which provide for the preservation, protection, development, and, where possible, the restoration or enhancement of the resources of the State's coastal zone;

(2) Provisions which ensure wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values, as well as to needs for economic development. Such provisions shall include, but are not limited to:

(i) Identification of a coastal zone which is capable of being delineated and which is subject to management under the program;

(ii) Identification of permissible land and water uses for the area within the coastal zone;

(iii) Procedures for assuring that land and water uses of regional and national benefit are not arbitrarily restricted or excluded in policies or management mechanisms developed pursuant to the State's program;

(iv) State and local legal authorities and organizational structures sufficient to effectuate management over identified land and water uses within the coastal zone; and

(v) Coastal zone water pollution and air pollution control mechanisms which are consistent with the requirements of the Federal Water Pollution Control Act, as amended, and the Clean Air Act, as amended;

(3) An opportunity for Federal agencies having interests affecting the State's coastal zone to participate in the development of the State's management program and have their views adequately considered; and

(4) An opportunity for local governments, State and regional agencies, commercial and industrial groups, and the general public to participate in the development of the State's management program and have their views adequately considered.

§ 931.26 Designation of State agencies.

(a) In order to receive any financial assistance under this part the Governor of a coastal State must designate a State agency or agencies:

(1) To submit applications and requisitions for financial assistance under section 308;

(2) To assure, to the maximum extent practicable, that financial assistance provided under section 308 is apportioned, allocated, and granted to units of local government within such State on a basis which is proportional to the extent to which such units need such assistance; and

(3) To receive and administer section 305 grants pursuant to § 920.42 of this chapter, to receive and administer section 306 grants pursuant to § 923.23 of this chapter, or to administer a State coastal management program which is being developed in a manner consistent with section 303.

(i) In the event the coastal State is implementing a management program approved under section 306, all applications and requisitions for financial assistance under section 308 shall be reviewed for consistency with the State's management program by the State agency administering the State's coastal management program in accordance with the requirements of section 307(d).

(ii) In the event the coastal State is developing a management program pursuant to section 305 or in a manner consistent with the policies of section 303, all applications and requisitions for financial assistance under section 308 shall be reviewed by the State agency administering the management program. No assistance under section 308 shall be granted unless the coastal zone management agency certifies that the section 308 financial assistance will be utilized in a manner compatible with the State's developing program.

(b) While preferable in terms of coordination, it is not required that a single State agency perform all three functions stated in subsection (a) of this section. The State coastal zone management agency designated pursuant to paragraph (a)(3) need not be the agency performing one or both of the functions required by paragraphs (a)(1) and (2) of this section. However, in the event the State agency (or agencies) designated under paragraphs (a)(1) and (2) is not the same as the State coastal zone management agency designated under paragraph (a)(3), then the State agency designated under paragraph (a)(1) shall be responsible for maintaining coordination among the agencies designated under paragraph (a). Such coordination shall include implementation of procedures for assuring that the necessary consistency and compatibility reviews required in this part have been made.

Subpart D—Planning for the Consequences of Energy Facilities

§ 931.30 General.

This subpart sets forth policies and requirements for planning assistance to coastal States under sections 308(c) and 308(b). This subpart also states the overall objectives, the purposes for which the assistance may be used, and the basic eligibility requirements. It also describes procedures for allotting section 308(c) moneys among eligible coastal States, for applying for section 308(c) assistance, and for requisitioning the proceeds of section 308(b) grants. Procedures for the allotment of section 308(b) assistance are described in § 931.76.

§ 931.31 Objectives.

The objectives of assistance under this subpart are:

(a) To assist coastal States and units of local government in the study of and planning for any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in such State's coastal zone as a result of the siting, construction, expansion, or operation of new or expanded energy facilities;

(b) To encourage rational, timely, and thorough planning for the management of energy facility siting and the impacts from energy resource development;

(c) To help coastal States and units of local government study, plan for, and manage the provision of public facilities and public services required as a direct result of new or expanded OCS energy activity; and

(d) To redefine, integrate, and apply to specific locations and energy facilities the energy planning and impact management process included in State coastal zone management programs pursuant to section 305(b)(8) of the Act.

§ 931.32 Definitions.

"Eligible energy facility" means a new or expanded energy facility, as defined in § 931.20, that significantly affects the coastal zone; and

(a) For which a major State or Federal license or permit has been applied for;

(b) Which is projected to be required as a result of a Federal lease sale scheduled by the U.S. Department of the Interior to occur no more than two years from the date of the allotment of planning assistance under § 931.36; or

(c) Which the Associate Administrator determines to be eligible.

(*Comment:* Under paragraph (c), the Associate Administrator would include an energy facility that does not meet the specifications of paragraphs (a) and (b) if there are other reasonable assurances supplied by the State that such a facility is likely to be sited, expanded, or constructed in the near future. Such assurances might include a local license or permit or a notice of intention.)

§ 931.33 Purposes.

(a) Allowable uses of section 308(c) grants under this subpart include:

(1) Study of and planning for the economic, social, or environmental consequences of the siting, construction, expansion, or operation of energy facilities, including:

(i) Increased population;

(ii) Changes in employment patterns, including those in fishing and tourism;

(iii) Changes in demand for public facilities, public services, and housing;

(iv) Local price inflation;

(v) Changes in patterns of tax and user fee revenues or intergovernmental transfers;

(vi) Effects on fishing and tourism resources;

(vii) Effects on beaches, sand dunes, air quality, water quality, or other environmental or recreational resources;

(viii) Shoreline erosion;

(ix) Ecological effects; and

(x) Effects on public safety.

(2) Performing cost benefit analyses and otherwise comparing the consequences of alternative energy facility types or sites;

(3) Analyzing private industry or government energy facility siting policies;

(4) Conducting analyses required for State or local regulatory decisions related to energy facilities, including licenses, leases, permits, and zoning ordinances;

(5) Conducting risk management studies, hazard analyses, emergency contingency planning and coordination studies, and assessments of mitigating measures for maintaining or improving public safety threatened by the siting, construction, expansion, or operation of energy facilities;

(6) Devising strategies for the public purchase of land or the establishment of other enforceable land-use controls for lands upon or near which energy development is to take place;

(7) Devising strategies for recovering compensation from appropriate parties for any adverse impacts caused by the energy activity involved;

(8) Devising methods of protecting recreational or environmental resources, as defined in § 931.72, threatened by the siting, construction, operation, or expansion of energy facilities;

(9) Collecting data and analyzing information required in §§ 931.48(a)(5) and 931.78(c)(4) for environmental impact assessment;

(10) Designing and carrying out an intrastate allocation process as described in Subpart J of this part and paying other reasonable costs of administering assistance under section 308;

(11) Forecasting employment, population, public facility and public service needs and costs, and tax and user fee revenues;

(12) Planning for the public facilities eligible for financing under Subpart E of this part; and

(13) Study of and planning for the secondary consequences, including environmental and economic, of alternative types and sites of public facilities eligible for financing under Subpart E of this part.

(b) Allowable uses of section 308(b) grants under this subpart include those allowable uses given in paragraph (a) of this section if they are directly related to the provision of public facilities and services required as a direct result of new or expanded OCS energy activity.

§ 931.34 Sources.

The primary source of assistance for the purposes set forth in § 931.33 is section 308(c) grants that have been allotted to eligible coastal States. If such moneys, plus the necessary matching share, are insufficient in any fiscal year for the purposes set forth in § 931.33(b), section 308(b) grants that have been allotted according to § 931.76 become a source of assistance.

§ 931.35 Eligibility.

(a) To be eligible for grants under section 308(c), a coastal State must meet the basic eligibility requirements of Subpart C of this part.

(b) To be eligible for use of section 308(b) grants under this subpart, a coastal State:

(1) Must meet the basic eligibility requirements of Subpart C of this part; and

(2) Must show that its allotment under § 931.36 is insufficient for the purposes of § 931.33(b).

§ 931.36 Allotment of financial assistance among eligible coastal States.

(a) Moneys appropriated to the Fund in any fiscal year for the purposes of section 308(c) will be allotted by formula among eligible coastal States according to the procedures of this subpart. Moneys allotted to a coastal State will remain available for award to such State until the end of the fiscal year following the fiscal year in which the allotment took place. Allotted moneys not disbursed by that time will be returned to the Fund. The Associate Administrator may extend the period of availability of an allotment if he/she determines that such an extension is warranted.

(b) The following general process will be used to allot section 308(c) moneys.

(1) The Associate Administrator will establish standardized planning need factors for various types of energy facilities at various levels of output, taking into account relative regional variations in temporary and permanent employment, environmental effects, and safety considerations.

(2) The Associate Administrator will draw up for each Coastal State an annual list of eligible energy facilities for which section 308(c) moneys have not been previously allotted.

(3) Coastal States will be provided with these standardized planning need factors and with the list of facilities. The States will have 45 days to submit comments to the Associate Administrator on the factors and the list of facilities. The Associate Administrator will then make revisions as appropriate, taking into account the State comments.

(*Comment:* The State comment period is intended to bring to OCZM's attention those energy facilities for which the State wishes to initiate planning but which were not included in the list. The State must present evidence that each facility it wishes to add is likely to be constructed. Examples of facilities that might not be included on OCZM's list, but which might be brought to light during the comment period, include energy facilities whose construction is expected to resume (under an old permit) after a period of dormancy, and facilities whose character has changed in a way that does not demand a permit but nevertheless motivates renewed planning efforts.)

(4) The Associate Administrator will then apply the standardized planning need factors described in paragraph (b)(1) of this section to the list described in paragraph (b)(2) of this section to obtain a total planning need equivalency for each coastal State. Each eligible coastal State will then be allotted a proportion of the total section 308(c) moneys appropriated to the Fund for that fiscal year equal to the State's planning need equivalency divided by the sum of the planning need equivalencies of all the eligible coastal States.

(c) Procedures for allotment of section 308(b) assistance are discussed in § 931.76.

§ 931.37 Application procedure.

(a) An eligible coastal State may submit its application to the Associate Administrator for award of the section 308 (c) moneys allotted to it as soon as it is notified of the amount of the allotment and until 45 days prior to the end of the fiscal year after the fiscal year in which the allotment took place, unless the Associate Administrator judges that an extension of this deadline is warranted. The application for section 308(c) assistance is to be made by the State entity designated under § 931.26(a)(1). An eligible coastal State may requisition proceeds of grants allotted to it under section 308(b) as soon as it is notified of the amount of the allotment. The requisition is to be made by the State entity designated under § 931.26(a)(1).

(b) Applications for amounts allotted for section 308(c) planning assistance or requisitions for the amount of funds to be used for section 308(b) planning must:

(1) Contain a certification that the planning assistance will be allocated within the State in accord with the equitable intrastate allocation system required under Subpart J of this part;

(2) Contain a certification by the State agency designated under § 920.42 or § 923.23 of this chapter, or under § 931.26 (a)(3), that the moneys will be used in a manner that is compatible with the State's developing, or consistent with the State's approved, coastal zone management program; and

(3) Contain a certification that the planning assistance from section 308(c) will be used only for the purposes set forth in § 931.33(a), and that the planning assistance from section 308(b) will be used only for the purposes set forth in § 931.33(b).

(c) Requisitions for proceeds of section 308(b) grants must contain:

(1) A certification that the costs of such study and planning exceed the amount of section 308(c) grants allotted to the State in that fiscal year; and

(2) Such adequate assurances as are required by Subpart I of this part.

(d) It is the Associate Administrator's intent to process completed applications and requisitions within 45 days of receipt. Assignment of the proceeds of grants for planning under sections 308 (c) and (b) to specific activities and projects is the responsibility of the State in accord with the provisions of Subpart J of this part.

§ 931.38 Limitations.

(a) Section 308(c) moneys awarded to a coastal State may not exceed 80 percent of the actual cost of the study or planning. States may use in-kind contributions as the non-Federal matching share in accord with Federal Management Circular 74-7.

(b) Sections 308(c) and 308(b) planning assistance may not be used:

(1) To duplicate the development of the general planning process for energy facilities required of management programs under section 305(b)(8); or

(2) For general energy studies or plans divorced from actual, proposed, or likely energy facilities.

(*Comment:* According to the Act, States may use section 305 grants to develop the general planning process for coastal energy facilities required under section 305(b)(8).)

(c) A coastal State may use for the purposes set forth in § 931.33(b) an amount of the assistance provided to it under section 308(b) that is up to ten percent of the total amount of credit assistance allotted it under section 308 (e)(1).

(*Comment:* The purpose of the above restriction is to limit the amount of section 308(b) grants which can be used for the planning of public facilities and services required as a direct result of new or expanded OCS energy activity.)

Subpart E—Financing Public Facilities and Public Services

§ 931.40 General.

This subpart sets forth policies governing assistance to coastal States and units of general purpose local government under sections 308(d)(1) and (2) and 308(b), the objectives of providing this assistance, the purposes for which it may be used, and the sources from which it will be drawn. This subpart also describes the procedures for allotting credit assistance among coastal States, for applying for credit assistance from the Fund (sections 308(d)(1) and (2)), and for requisitioning the proceeds of formula grants (section 308(b)).

§ 931.41 Objectives.

The objectives of assistance under this subpart are:

(a) To help coastal States and units of general purpose local government finance the public facilities and provide the public services needed because of new or expanded coastal energy activity;

(b) To provide front-end financing that can be expected to be repaid later from revenues generated by the new or expanded coastal energy activity, unless such revenues do not materialize; and

(c) To assure that necessary development in coastal areas is consistent with State coastal zone management objectives, the safeguarding of valuable national coastal environmental and recreational resources, and public safety.

§ 931.42 Definitions.

(a) The term "public facility" includes the following facilities to the extent that they are financed by any State or unit of general purpose local government, that they meet the requirements of Subpart I, of this part, and that they do not primarily serve industrial facilities, except if the public facilities are wholly owned by a unit of general purpose local government and if industrial user charges from the facilities are a primary source of revenue included in the fiscal management schedule described in § 931.48(b)(2):

(1) *Education.* Day care centers; primary, secondary, and general vocational schools, including portable classrooms and temporary facilities; school equipment; libraries, including books and equipment;

(2) *Environmental protection.* Facilities and equipment used to monitor or control air and water quality or noise standards, or to ensure the continued viability of fish and wildlife resources;

(3) *Government administration.* Facilities and equipment essential for general government administration;

(4) *Health care.* Emergency medical facilities and equipment, including ambulances; clinic and hospital buildings and equipment; alcohol and drug abuse centers; emergency shelter and sanitary facilities;

(5) *Public safety.* Detention centers, police equipment and stations, fire stations and firefighting equipment, fire training centers, animal control facilities, and communication facilities and equipment;

(6) *Recreation.* Facilities and equipment for amateur sports and performing arts, community recreational centers, local parks and playgrounds;

(7) *Transportation.* Streets and street lighting, roads, bridges, road maintenance equipment, parking associated with public facilities, docks, air and water navigation aids, canals and navigation facilities, air terminals in remote areas, mass transit including bus and ferry systems;

(8) *Public utilities.* Electric generating plants and distribution systems; natural gas distribution systems; solid waste collection systems; waste collection and treatment systems, including drainage; water supply systems; and telephone systems.

(b) The term "public service" means any service authorized by law to be provided by a State or unit of general purpose local government to the extent that:

(1) It is financed by the State or unit of general purpose local government;

(2) It meets the requirements of Subpart I of this part; and

(3) It does not primarily serve industrial facilities.

(c) A public facility is considered "new or improved" if, after July 26, 1976, it is constructed in order to serve new population or it is expanded or renovated to serve new employment and/or new population.

(d) A public service is considered "new or improved" if the proposed type or increased level of service was not offered in the fiscal year prior to the application or requisition for assistance for such service, and if this type or increased level of service serves new employment and/or new population.

(e) A public facility or public service is "required as a result" of new or expanded coastal energy activity if the expected increase in utilization because of the new employment and related new population resulting from that activity is at least as great as the amount of unutilized capacity in the absence of such coastal energy activity.

(f) A public facility or public service is "required as a direct result" of new or

expanded OCS energy activity if the expected increase in utilization because of individuals (and their families) newly employed in new or expanded OCS energy activity is at least as great as the amount of unutilized capacity in the absence of such OCS energy activity.

(*Comment:* The definitions in paragraphs (e) and (f) above are intended to assure that financing for public facilities and services is available on a lead-time basis. In other words, if shortages of public facilities and services are projected to occur because of new or expanded coastal energy activity, or are projected to occur because of new or expanded coastal energy activity earlier than would be necessary to accommodate normal growth, then assistance from the Fund or formula grants can be applied for or requisitioned.)

(g) Adequate credit assistance is "unavailable" to a coastal State in a fiscal year only if:

(1) There is no institutional process which has ever been used or reasonably could have been used as of July 26, 1976, or which is now permitted, or which was permitted under constitutional or statutory authority as of July 26, 1976, through which credit assistance from the Fund could be obtained by the State or a unit of general purpose local government therein to finance projects or programs necessary to provide a new or improved public facility or public service which is required as a direct result of new or expanded OCS energy activity; or

(2) The State's total need factor (as defined in § 931.46) is greater than the credit assistance from the Fund allotted to the coastal State for that year (as computed according to § 931.46) plus that portion of any unallotted credit assistance that is available in the Fund and that can be allotted to the State.

(h) "Fiscal surplus" means that amount of moneys available to service debt incurred under the provisions of this part, and is equal to the amount by which revenues exceed expenditures, calculated using the same rates and methods for generating revenue and determining expenditures as were described in the borrower's original fiscal management schedule submitted pursuant to § 931.48 (b) (2).

§ 931.43 Purposes.

(a) Credit assistance available from the Fund (sections 308(d) (1) and (2)) is intended to help meet State and local needs to finance most of the new or improved public facilities and public services that are required as a result of new or expanded coastal energy activity.

(b) Grant assistance from the formula grants (section 308(b)) is intended to help meet State and local needs for new or improved public facilities and public services that are required as a direct result of new or expanded OCS energy activity.

§ 931.44 Sources.

The primary source of assistance for purposes set forth in § 931.43(a) is the allotments of credit assistance from the Fund (sections 308(d) (1) and (2)). If adequate credit assistance is unavailable (as defined in § 931.42(g)) from the Fund, the formula grants (section 308 (b)) become a source of assistance for the purposes set forth in § 931.43(b).

§ 931.45 Eligibility.

(a) To be eligible for assistance from the Fund under sections 308(d) (1) or (2) or from formula grants under section 308(b) (4) (B), a coastal State must meet the basic eligibility requirements of Subpart C of this part.

(b) To be eligible for use of section 308 (b) grants under this subpart, adequate credit assistance from the Fund must be unavailable, as defined in § 931.42(g).

§ 931.46 Allotment of sections 308(d) (1) and (2) credit assistance among coastal States.

(a) Credit assistance available in any fiscal year through the Fund, to the extent provided for in appropriations Acts, will be allotted in each fiscal year among coastal States according to the procedures of this section.

(b) The Associate Administrator will compile annually a list of new or expanded coastal energy activities:

(1) For which major Federal or State permits or licenses have been obtained;

(2) For which exploration plans are expected to be submitted to the U.S. Department of the Interior because an OCS lease sale has taken place;

(3) For which development plans have been approved by the Department of the Interior; or

(4) Which, in the determination of the Associate Administrator, are likely to necessitate the construction of new or improved public facilities or the provision of new or improved public services. It is on this list that the Associate Administrator will base his/her estimate of both the number of additional individuals who are expected to become employed in the activities and the related new population who are expected to reside in the respective coastal States.

(c) The Associate Administrator will determine annually standardized unit costs for public facilities and public services for new temporary and permanent population in the relevant coastal impact areas. These costs will take into account regional cost differences, an area's existing population, its population growth rate, and changes in regional prices.

(d) The Associate Administrator will furnish to the States the data developed pursuant to paragraphs (b) and (c) of this section. Coastal States will have 45 days to comment. The Associate Administrator will consider the State comments and will revise the data as necessary. He/she will then calculate State need factors using the procedures of paragraph (e) of this section.

(e) (1) The Associate Administrator will compute a need factor for each impact area from the data developed pursuant to paragraphs (b) and (c) of this section. A State need factor will then be computed for each coastal State by summing the need factors for the impact areas of that State. A national need factor will be computed by summing all of the State factors. Finally, a relative need factor will be calculated for each coastal State by dividing the State's need factor by the national need factor.

(2) In the process of determining the need factors of this paragraph, the Associate Administrator will also compute for each coastal State a direct OCS need factor. The direct OCS need factor will be computed using OCS employees and their families but not secondary population. This factor will be used in determining the extent to which a State can requisition the proceeds of its formula grants for the provision of new or improved public facilities and public services required as a direct result of new or expanded OCS energy activities.

(f) The Associate Administrator will compute each coastal State's allotment of credit assistance in proportion to that State's relative need factor and notify the coastal States of their respective allotments. To the maximum extent practicable, allotments will reflect proportionately each State's direct OCS and other needs.

(1) The total amount of available funds allotted among the coastal States in any fiscal year will be the lesser of the following amounts:

(i) The national need factor as computed according to paragraph (e) of this section; or

(ii) The total amount of new credit assistance appropriated for that year plus any amount available in the Fund that can be allotted to the States.

(2) If the amount in paragraph (f) (1) (i) of this section is less than the amount in paragraph (f) (1) (ii) of this section, the extra credit assistance will be retained in the Fund for use in subsequent years.

(g) After being notified of its allotment, a coastal State may submit to the Associate Administrator applications (as described in § 931.48) for loans and guarantees from this allotment during the remainder of the fiscal year and the succeeding two fiscal years. Allotted credit assistance not awarded to a coastal State or its units of general purpose local government by the end of the second fiscal year after the fiscal year in which the allotment was established may be subject to reallotment among all the coastal States. The Associate Administrator will extend the period of availability of an allotment if he/she determines that such an extension is warranted.

§ 931.47 Allotment of section 308(b) formula grants.

The annual allotment of formula grants among coastal States is described in § 931.76.

§ 931.48 Application and requisition procedures.

(a) A coastal State or unit of general purpose local government applying for credit assistance from the Fund or a coastal State requisitioning the proceeds of formula grants must submit the following information:

(1) A certification by the State entity designated under § 931.26(a) (2) that the

request results from an equitable intrastate allocation of the State's overall available assistance as described in Subpart J of this part;

(2) A certification by the State agency designated under § 923.23 or § 920.42 of this chapter or under § 931.26(a)(3) that the moneys will be used in a manner that is compatible with the State's developing, or consistent with the State's approved, coastal zone management program;

(3) A certification by the State agency designated in accord with § 931.26(a)(1) that the State or unit of general purpose local government has considered other sources of Federal assistance for the project and will use them where feasible;

(4) A certification by the State agency designated in accord with § 931.26(a)(1) that the public facilities or public services for which assistance is being sought are required either as a result of new or expanded coastal energy activity or as a direct result of new or expanded OCS energy activity;

(5) Factual information necessary to evaluate the project's environmental impacts, in detail sufficient to enable the Associate Administrator to determine whether an environmental impact statement (EIS) will be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(6) For any assistance requested for a new or improved public service, a certification that the amount requested does not exceed either:

(i) The amount by which revenues to pay for services will lag behind expenditures as forecast in the fiscal management schedule described in paragraph (b)(2) of this section, because revenues do not keep pace with expenditures because of structural lags in collections or because the costs of providing the services during the initial period of the energy activity exceeds revenues; or

(ii) The amount by which that portion of revenues which are forecast to accrue from the energy facilities will be less than the portion of total revenues which normally accrue to the borrower from industrial sources, because the energy facilities will be located outside of the jurisdiction which will have to provide the services; and

(7) A showing that such applications or requisitions for assistance have complied with the requirements of the Project Notification and Review System established by Office of Management and Budget Circular No. A-95 (Part I).

(b) A coastal State or unit of general purpose local government applying for credit assistance from the Fund must submit the following information:

(1) A description of the new or expanded coastal energy activity causing impacts because of which the credit assistance is sought;

(2) A fiscal management schedule comprising the following information:

(i) A statement of fiscal conditions, including the best available data on revenues and expenditures over the past five years;

(ii) An estimate of current levels of utilization of public facilities or public services which are similar to those for which assistance is sought;

(iii) A set of population, employment, revenue, and expenditure forecasts calculated as if no new or expanded coastal activity were to occur, including a description of any measures necessary to ensure that revenues will equal or exceed expenditures in this base case;

(iv) A set of population, employment, expenditure, and revenue forecasts for the case in which the new or expanded energy activity occurs, using the same methods and rates as in paragraph (b)(2)(iii) of this section;

(v) The net changes in population, employment, expenditures, and revenues, calculated as the difference between the forecasts of paragraph (b)(2)(iv) and the base case of paragraph (b)(2)(iii) of this section; and

(vi) A description of the particular new or improved public facilities or public services, required as a result of new or expanded coastal energy activity, for which the assistance is sought, including costs on an annualized basis.

(*Comment:* The fiscal management schedule is intended to include the same type of data normally required by States or communities for capital improvement budgeting. Appropriate technical assistance will be provided by OCZM upon request.)

(3) When the likelihood of eventual repayment assistance seems high, or when the forecasts of paragraph (b)(2)(v) of this section vary substantially from the impacts experienced under similar circumstances in the past, it will be OCZM's practice to require that the forecasts of paragraphs (b)(2)(iii) and (iv) be based on tax rates no lower than the average tax rates in force in the borrowing jurisdiction during the five fiscal years prior to the borrower's application for credit assistance. However, the Associate Administrator will not require that a State or unit of general purpose local government raise its rates or alter its methods from those described in paragraph (b)(2)(iii) in order to qualify for a loan.

(c)(1) A coastal State may requisition in any fiscal year the proceeds of its allotted formula grants for the purposes of § 931.43(b) after it has been notified of its credit assistance allotment for that year, if adequate credit assistance from the Fund is unavailable (as defined in § 931.42(g)) for such purposes. This requisition may be submitted along with or after the pertinent applications for credit assistance from the Fund. A coastal State requisitioning the proceeds of formula grants must provide the Associate Administrator with such adequate assurances as are required by § 931.97(a).

(2) Before disbursing proceeds of formula grants, the Associate Administrator will:

(i) Verify the certifications submitted pursuant to paragraph (a) of this section;

(ii) Determine whether credit assistance under the Fund is unavailable (as defined in § 931.42(g));

(iii) Determine that the State has provided such adequate assurances as are required by § 931.97(a); and

(iv) Determine whether an environmental impact statement will be required under the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.)

§ 931.49 [Reserved]

§ 931.50 Special requirements for section 308(d)(1) loans.

(a) *Interest rate.* The interest rate shall be the current average market yield for outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loans. The Administrator of NOAA may under special circumstances approve lower interest rates.

(b) *Eligibility.* The Associate Administrator will make loans to otherwise eligible borrowers even though the fiscal surplus as calculated in the original fiscal management schedule appears to be insufficient fully to amortize a loan for public facilities required as a result of new or expanded coastal energy activity.

(c) *Payback schedule.* (1) Each loan contract under the provisions of this subpart will incorporate by reference the original fiscal management schedule submitted pursuant to § 931.48(b)(2), and will set forth in detail the conditions under which repayment assistance will be granted. The conditions set forth in the loan contract will be binding upon the Associated Administrator and the borrower regarding repayment assistance described in Subpart F of this part.

(2) Each loan agreement will contain a repayment schedule establishing the borrower's annual loan service payments. The repayment schedule will be calculated in the following manner:

(i) If an adequate fiscal surplus is forecast in the fiscal management schedule, it will be the practice of the Associate Administrator to set the annual loan servicing payments at no more than 80 percent of such annual fiscal surplus; or

(ii) If the fiscal surplus forecast in the fiscal management schedule is inadequate to amortize the loan, the Associate Administrator, in consultation with the borrower, will determine an appropriate repayment schedule, which may include deferrals of payment or repayment assistance as described in Subpart F of this part.

(3) Borrowers may repay loans faster than called for in the repayment schedule without prepayment penalty.

(*Comment:* The purpose of the 80 percent benchmark is to provide a margin for error in the forecasts of the fiscal management schedule and to assure the borrower that discretionary modifications of terms and conditions, supplemental loans, or refinancing by the Associate Administrator will be kept to a minimum.)

(d) *Maturity of loans.* Loans must be repaid within the minimum time the Associate Administrator finds to be consistent with the projections of the borrower. In no event will a loan, including extensions and renewals thereof, be made with a maturity exceeding 30 years

from the date of the award of the loan or exceeding two thirds of the useful life of the facility being financed.

(e) *Security.* The Associate Administrator retains the option of requiring security from the borrower, including the pledge of future revenues or user charges from the public facility, before awarding a loan from the Fund. However, no loan will require as a condition that a State or unit of general purpose local government pledge its full faith and credit to repayment.

(f) *Disbursement of loan funds.* The Associate Administrator will disburse loan funds on a phased basis, with each phase tied to the completion of a specific part of the project or projects for which the loan moneys are to be used. Disbursement schedules will be determined by the Associate Administrator on a case-by-case basis.

§ 931.51 Special requirements for section 308(d)(2) Federal guarantees.

(a) *Eligibility.* The Associate Administrator will consider eligible for guarantee under the Fund any legal debt of any eligible borrower, if the Secretary of the Treasury approves such debt and it meets other requirements set forth in section 308(f).

(b) *Taxable Obligations.* The interest paid on any obligation which is guaranteed under section 308(d)(2) and which is received by the purchaser of such obligation (or the purchaser's successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

(c) *Interest subsidy.* The Associate Administrator may pay out of the Fund to the coastal State or the unit of general purpose local government issuing an obligation guaranteed under section 308(d)(2) not more than the portion of the interest on such obligation as exceeds the amount of interest that would be due at a comparable rate for loans made under section 308(d)(1) at the time the obligation is guaranteed by the Associate Administrator.

(d) *Fees for guarantees.* The Associate Administrator will levy a fee for providing a Federal guarantee. This fee will be set on the basis of the administrative costs incurred in providing and monitoring such guarantee. The fee may be waived in the event repayment assistance (as described in Subpart F of this part) is required.

(e) *Default procedures and guarantee incontestability.* If a borrower defaults on a bond or other evidence of indebtedness guaranteed under the Fund, the holder of the bond or other indebtedness may demand payment from the Associate Administrator of the principal and accrued interest of the obligation in accord with section 308(f)(5)(B). The validity of such a guarantee shall be considered incontestable, except when the holder of the obligation is guilty of fraud or misrepresentation or was aware of fraud or misrepresentation at the time he purchased the obligation.

(f) *Guarantee contract.* Each guarantee contracted under the provisions of this subpart will incorporate by reference the original fiscal management schedule submitted pursuant to § 931.48(b)(2), and will set forth in detail the conditions under which repayment assistance will be granted. The conditions set forth in the contract will be binding on the Associate Administrator and the borrower regarding repayment assistance described in Subpart F of this part.

§ 931.52 Limitations.

For public facilities and services, as defined in § 931.42, to be financed with the proceeds of formula grants under section 308(b)(4)(B), the Associate Administrator will not disapprove any project or program for highways and secondary roads, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care, if these projects or programs meet the requirements of this subpart and of section 308. Neither will the Associate Administrator disapprove a project or program to provide public facilities and public services which he/she determines is for environmental protection, as defined in § 931.42(a)(2), if these projects or programs meet the requirements of this Subpart and of section 308.

Subpart F—Repayment Assistance

§ 931.60 General.

This subpart sets forth policies and procedures for awarding various forms of repayment assistance under sections 308(d)(3) and 308(b)(4)(A).

§ 931.61 Objectives.

The objectives of the repayment assistance are to ensure that:

(a) Credit obligations will be modified and tailored according to ability to repay so that defaults can be avoided; and

(b) Net fiscal losses to the State or unit of general purpose local government resulting from coastal energy activity will be minimized.

§ 931.62 Definitions.

The term "borrower" refers to a State or a unit of general purpose local government that has been awarded credit assistance under sections 308(d)(1) or (d)(2).

§ 931.63 Purposes.

(a) The purpose of repayment assistance under sections 308(d)(3)(A–C) of the Act is to assist a borrower who is temporarily unable to meet scheduled repayments of loans or guaranteed bonds.

(b) The purpose of a repayment grant from the proceeds of a State's allotted formula grant (section 308(b)) is to assist a borrower in meeting scheduled repayments of a guaranteed bond when the remedies of sections 308(d)(3)(A–C) are inadequate.

(c) The purpose of a repayment grant from a State's allotted credit assistance from the Fund (section 308(d)(3)(D)) is to assist a borrower in meeting scheduled repayments of a loan or guaranteed bond when the remedies of sections 308(d)(3)(A–C) are inadequate and formula grants are not available for that purpose. If the State's allotment is insufficient, a grant will be made from the Fund.

§ 931.64 Sources of repayment assistance.

(a) *Primary sources.* The primary sources of repayment assistance are modification of credit assistance terms and conditions under section 308(d)(3)(A), refinancing of a loan under section 308(d)(3)(B), or making a supplemental loan under section 308(d)(3)(C) for meeting a loan or guarantee obligation.

(b) *Secondary sources.* If the borrower is unable to meet scheduled repayments by means of one or more of the primary sources of repayment assistance, and if the inability to repay results from a change in scope of the coastal energy activity or the related new population, the secondary sources of repayment assistance may be used to meet obligations. These secondary sources are the proceeds of the State's allotment of formula grants (section 308(b)) and grants from the State's allotment of moneys from the Fund (section 308(e)(1)), or from the Fund if the State's allotment is insufficient.

§ 931.65 General eligibility.

(a) A coastal State or unit of general purpose local government is eligible for repayment assistance only if:

(1) It has been awarded a loan under section 308(d)(1) or a guarantee under section 308(d)(2); and

(2) It has submitted a report, as required under § 931.66, updating the information required as part of the fiscal management schedule.

(b) A borrower does not have to be in default before qualifying for repayment assistance. The default of a borrower will nevertheless automatically occasion review for repayment assistance by the Associate Administrator.

§ 931.66 Application update.

After submitting its original credit assistance application, and until the full repayment of its loan or guaranteed obligation, the borrower shall submit periodically to the Associate Administrator a report updating the fiscal management schedule described in § 931.48(b)(2). The frequency of submission of this report will be established by the Associate Administrator in consultation with the borrower. This revised schedule should contain whatever new information the borrower has received and can document concerning the new or expanded coastal energy activity and its likely effects on revenues and expenditures. This revised schedule is to be prepared using the same rates and methods for generating revenue and determining expenditures as were described in the borrower's original fiscal management schedule submitted pursuant to § 931.48(b)(2). However, if the borrower increases its tax rates and methods, then the additional revenues accrued to the borrower because of such increase will be included in the calculation of the fiscal surplus, pursuant to § 931.42(h).

§ 931.67 Review for repayment assistance.

(a) When the actual fiscal surplus falls below 80 percent of the fiscal surplus in the fiscal management schedule described in § 931.48(b)(2), or at the request of the borrower, the Associate Administrator shall undertake a review for repayment assistance. At the time it makes this request for review the borrower must submit a report (described in § 931.66) updating its fiscal management schedule. The Associate Administrator will examine the information and forecasts contained in the updated fiscal management schedule, particularly those relating to the status and effects of the coastal energy activity involved.

(b) All terms and conditions of the loan or guarantee will remain in effect pending review of the borrower's request for repayment assistance.

§ 931.68 Award of repayment assistance.

(a) It is the Associate Administrator's intent to offer repayment assistance within 45 days after the request for repayment assistance described in § 931.67, upon a finding that the actual fiscal surplus, as described in the updated fiscal management schedule, is insufficient to enable the borrower to meet its annual loan service payment or obligation under a guarantee in accord with its repayment schedule because the actual increases in employment and related population from new or expanded coastal energy activity and associated facilities have failed to provide adequate revenues.

(b) Repayment assistance offered pursuant to paragraph (a) of this section will consist of one or more of the following types.

(1) *Modification of terms.* In the case of loans awarded under section 308(d)(1), the repayment schedule tailored to the forecasts in the borrower's fiscal management schedule (as described in § 931.50(c)) may be retailored to the revised fiscal management schedule. Such modification of terms may include an extension of the payback period; however, the payback period may not exceed 30 years from the date of the award of the original loan.

(2) *Refinancing.* Outstanding loans under section 308(d)(1) or outstanding bond or other obligations guaranteed under section 308(d)(2) may be refinanced by means of a loan at the interest rate appropriate at the time of the refinancing.

(3) *Supplemental loans.* If the Associate Administrator determines that expected revenues will be temporarily insufficient to meet the borrower's guaranteed bond or other obligations or to meet a loan repayment schedule, he/she may offer to make a supplemental loan to the borrower.

(4) *Repayment grants.* (i) If the Associate Administrator has taken action under paragraphs (b)(1-3) of this section and additional action under those paragraphs would not produce an actual fiscal surplus, sufficient to enable the borrower to meet its obligations within a reasonable time, NOAA will make a repayment grant in an amount sufficient to enable the borrower to meet its obligations.

(ii) In the case of a bond guaranteed under section 308(d)(2), this grant must be from the proceeds of the State's allotted formula grants. If the State's formula grant allotment is insufficient to retire service on all the State and local bonds requiring repayment grants in that year, repayment grants will also be made from the State's allotment of credit assistance and, when necessary, from the Fund. In the case of loans made under section 308(d)(1), that part of the original loan that cannot be repaid may be repaid from a grant from the State's allotment of credit assistance and, when necessary, from the Fund.

(c) When the Associate Administrator offers one of the courses of action in § 931.68(b)(1-4), the borrower may submit to the Associate Administrator a formal acceptance of the recommended form of repayment assistance. The repayment assistance will take effect as soon as NOAA receives the borrower's formal acceptance.

(d) If the formula grants allotted the State are insufficient for all the repayment grants recommended by the Associate Administrator in a year, the State shall indicate which bonds it wishes to retire with the proceeds of available formula grants, giving priority to local bonds in accordance with section 308(b)(4)(A). Those borrowers whose bonds the State has indicated it cannot retire with the proceeds of formula grants may request immediately repayment grants from the State's allotment of credit assistance and, when necessary, from the Fund. Borrowers in States that have no allotted formula grants may request immediately repayment grants recommended by the Associate Administrator from the State's allotment of credit assistance and, when necessary, from the Fund.

(e) If, after the review for repayment assistance, the Associate Administrator determines that no repayment assistance is warranted, or if the borrower does not formally accept such assistance, the borrower will remain subject to the terms and conditions of the loan or guarantee and to the requirements of Subpart I of this part.

§ 931.69 Appeal procedure.

(a) Whenever a dispute arises concerning the Associate Administrator's finding made pursuant to § 931.68(a) regarding the existence of conditions which require an offer of repayment assistance, the borrower may appeal the Associate Administrator's decision to the Administrator of NOAA by submitting a request for review to the Office of the Administrator of NOAA.

(b) The Administrator of NOAA, if requested, will order a formal hearing on the record to be conducted within 30 days of the borrower's request for review.

(c) The Administrator will issue a written decision on the appeal within 60 days of the borrower's request for review.

(d) The appeal procedure provided for in paragraphs (a)-(c) of this section is intended to provide a timely and impartial forum for resolving disputes concerning repayment assistance, which may arise under contracts for credit assistance. Such appeal procedures may be initiated by the borrower, but do not expressly or by implication limit the borrower's other remedies at law or in equity. The borrower may seek appropriate judicial relief in a court of competent jurisdiction without the consent of the Associate Administrator or the Administrator of NOAA, and without first having exhausted the appeal procedures provded in paragraphs (a)-(c) of this section.

Subpart G—Grants for Unavoidable Losses of Coastal Environmental and Recreational Resources

§ 931.70 General.

This subpart sets forth policies and requirements for awarding environmental and recreational grants to coastal States under sections 308(b) and 308(d)(4), and describes the objectives of awarding these moneys, the purposes for which they may be used, the sources from which they will be drawn, and the eligibility requirements.

§ 931.71 Objectives.

The objectives of providing Federal moneys under sections 308(b) and 308(d)(4) are:

(a) To help States and units of local government prevent, reduce or ameliorate unavoidable loss of valuable environmental or recreational resources resulting from coastal energy activity; and

(b) To ensure that the person responsible for these environmental or recreational losses pays for their full cost.

§ 931.72 Definitions.

(a) The term "unavoidable" refers to that part of damage to or loss of an environmental or recreational resource resulting from coastal energy activity or from the public facilities associated therewith that either:

(1) Cannot be attributed to any identifiable person or persons; or

(2) Cannot be prevented, reduced, or ameliorated by assessment of the loss against an identifiable person or persons through the reasonable implementation or enforcement of the existing regulatory authority of the State or of any political subdivision of the State; and

(3) Cannot be paid for with funds that are available from any other Federal program.

(*Comment:* "Regulatory authorities" refers to statutes, local ordinances, or laws and implementing regulations, existing at the time of application or requisition, which set standards or conditions for development. Provisions that create a right to receive monetary damages rather than actually prevent, reduce, or ameliorate a loss are not included. There are two general types of regulatory authorities:

(1) Development regulations such as zoning and subdivision that apply to new or expanded development activity; and

(2) Pollution and nuisance prevention regulations that may apply to current operations as well as to new development activity.

In most cases, a loss occurring before July 26, 1976, will be unavoidable when there is no continuing violation of a regulation of the second type by the source of loss. Losses occurring as a result of new or expanded coastal energy activity will require review of both regulatory situations.

It is intended that States or units of local government use other possible sources of Federal assistance before being able to use sections 308 (b) and (d)(4) for environmental or recreational purposes. However, if assistance is not expected to be provided to a State or unit of local government through another Federal program in a timely manner, assistance under this subpart will be provided.)

(b) The term "loss" refers to any damage to or degradation of an environmental or recreational resource, including the loss of public access to that resource.

(c) The term "environmental resource" refers to:

(1) Areas of land and/or water that are or have been largely in a natural state, or whose value derives primarily from ecological considerations;

(2) Important animal and plant populations, their habitat, and areas of human use;

(3) Air and water quality; or

(4) An area that has been designated under a State's approved coastal zone management program as an area of particular concern for environmental purposes.

(d) The term "recreational resource" refers to an area of land and/or water that has characteristics making it desirable for one or more types of recreational activities, and which has, in fact, been in use for such activities, or which has designated under a State's approved coastal zone management program as an area of particular concern or potential use for recreational purposes.

(e) The term "valuable", is intended to include all relevant benefits, both quantifiable and non-quantifiable, attributable to the resource being valued, including the replacement cost for a similar resource.

(f) The term "new employment" means those persons employed during a given fiscal year by the U.S. Department of the Interior's OCS lessees, as well as new employees of contractors, subcontractors, or principal suppliers of those OCS lessees. The term refers to those persons who obtain employment during that fiscal year in any of the facilities defined in § 931.17, if such facility is directly required by new or expanded OCS energy activity as defined in § 931.18.

(g) The term "first landed" in a particular coastal state refers to oil and natural gas produced from the OCS that is first unloaded from tankers or barges at ports within that State, or is brought to shore in pipelines that first touch non-submerged land in that State.

(*Comment:* Suppose a pipeline comes ashore in State where it connects to oil or natural gas processing or distribution facilities. On the way from the well to State A, the pipeline passes over a small island or a rock that belongs to State B without causing any impact. In this situation, State A will be considered to State in which the oil or gas is "first landed.")

(h) The term "person" means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any State; the Federal Government; any State, regional, or local government; or any entity of any such Federal, State, regional, or local government.

§ 931.73 Sources.

(a) The primary source of assistance for preventing, reducing, or ameliorating environmental or recreational resource losses resulting from coastal energy activity is the formula grants (section 308 (b)(4)(C)) allotted to coastal States according to § 931.76.

(b) If a State has no allotment under section 308(b), or if the Associate Administrator determines that grant money allotted the State under section 308(b) are insufficient, the State may apply for the grant moneys under section 308(d)(4) that are allotted it according to § 931.77.

§ 931.74 Purposes.

(a) Assistance is provided in sections 308(b)(4)(C) and 308(d)(4) to help States and units of local government design and implement projects to prevent, reduce, or ameliorate unavoidable environmental and recreational losses in the coastal zone resulting from the siting, construction, expansion, or operation of any equipment or facility required by coastal energy activity before or after July 26, 1976. The grant moneys are available only to the extent that there is no feasible way to recover the cost of prevention, reduction, or amelioration from an identifiable person or persons causing the loss, or from another Federal program.

(b) Assistance under this subpart is also intended to pay for:

(1) Administrative costs incurred in the enforcement or legal defense of conditions imposed on new or expanded energy facilities to satisfy the requirements of § 931.78(c)(3)(ii) for the assessment of losses;

(2) The design and implementation of programs and strategies to prevent, reduce, or ameliorate unavoidable environmental and recreational losses, including the cumulative effects of coastal energy activity;

(3) Restoration, replacement, or acquisition of environmental or recreational resources; and

(4) The cost differential between the least cost method of providing a public facility required as a result of coastal energy activity and a higher cost method that reduces the environmental loss of the least cost method.

§ 931.75 Eligibility.

(a) To be eligible for environmental or recreational grants under sections 308(b)(4)(C) and 308(d)(4), a coastal State must meet the basic eligibility requirements of Subpart C of this part.

(b) To be eligible for grants under section 308(d)(4), a State's allotment under section 308(b) must be insufficient. States that have no allotment of grants under section 308(b) are immediately eligible for assistance under section 308(d)(4).

§ 931.76 Allotment of formula grants (section 308(b)).

Moneys appropriated in any fiscal year for the purposes of section 308(b) will be allotted among eligible coastal States according to the following procedures. Allotments will be made as soon as is practicable. The proceeds of grants which are requisitioned by and disbursed to a State in any fiscal year but which are not expended or committed by the end of the fiscal year after the fiscal year in which the proceeds were disbursed are subject to recovery in accordance with Subpart I of this part and are subject to subsequent reallotment. Grant proceeds not requisitioned remain available for disbursement until the end of fiscal year 1984, at which time proceeds not disbursed will be returned to the United States Treasury.

(a) At the end of each fiscal year, the Associate Administrator will gather from appropriate Federal and other agencies the following data:

(1) The amount, by adjacent coastal State, of OCS acreage leased in that fiscal year;

(2) The amount, by adjacent coastal State, of oil and natural gas produced from the OCS that year;

(3) The amount of oil and natural gas produced from the OCS that is first landed in each coastal State that year; and

(4) The amount of new employment, as defined in § 931.72(f), by coastal State.

(*Comment:* In computing the volumes of oil and gas in paragraphs (a)(2) and (a)(3), the Associate Administrator will consider 6,000 cubic feet of natural gas to be the equivalent of one barrel of oil.)

(b) The Associate Administrator will provide these data to the States as soon as the data are collected. The States will have a comment period of 45 days during which to present evidence of errors in the data. At the end of the 45-day period, the allotment—incorporating any revised data—will be made.

(c) The data for each State in paragraphs (a)(1-4) of this section, when divided by the sum of these data for all States, constitute a set of weighting coefficients which will be applied in the following manner to the amount appropriated for the purpose of section 308(b):

(1) The set of State coefficients derived from the data of paragraph (a)(1) of this section (acreage leased) will be applied to one-third of the amount appropriated;

(2) The set of coefficients derived from the data of paragraph (a)(2) of this section (oil and gas produced) will be applied to one-sixth of the amount appropriated;

(3) The set of coefficients derived from the data of paragraph (a)(3) of this section (oil and gas first landed) will be

applied to one-sixth of the amount appropriated; and

(4) The set of coefficients derived from the data of paragraph (a)(4) of this section (new employment) will be applied to one-third of the amount appropriated.

(d) The procedure above will result in four separate amounts for each coastal State. The sum of these four amounts is the allotment for each State of the moneys appropriated for the purposes of section 308(b).

§ 931.77 Allotment from the Fund (section 308(d)(4)).

(a) Moneys appropriated for the purposes of section 308(d)(4) will be allotted to the States according to the procedures outlined in Subpart E of this part for allotting sections 308(d) (1) and (2) assistance.

(b) Moneys alloted a State under section 308(d)(4) that are not expended or committed within the fiscal year in which the allotment was made will be returned to the Fund for reallotment. The Associate Administrator will extend the period of availability of an allotment if he/she determines that there are extenuating circumstances that justify such an extension.

§ 931.78 Requisition and application procedures.

(a) An eligible coastal State may requisition the proceeds of its formula grants for the purposes set forth in § 931.74 as soon as it is notified of the amount of its allotment. If the State's grant is insufficient or if the State has not been allotted formula grants, the State may apply for moneys from the Fund.

(b) The requisitions and applications must be made by the State entity designated under § 931.26(a)(1).

(c) Requisitions for proceeds under section 308(b) and applications for moneys under section 308(d) must:

(1) Contain a certification by the State entity designated under § 931.26(a)(2) that the disbursement of the moneys within the State will be in accord with the intrastate allocation system required under section 308(g)(2) and as described in Subpart J of this part;

(2) Contain a certification by the State agency designated under § 923.23 or § 920.42 of this chapter or under § 931.J(a)(3) that the moneys will be used in a manner that is compatible with the State's developing, or consistent with the State's approved, coastal zone management program;

(3) Contain a certification that the loss is "unavoidable" as defined in § 931.72(a);

(4) Include factual information necessary to evaluate the project's environmental impacts, in detail sufficient to enable the Associate Administrator to determine whether an environmental impact statement (EIS) will be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(5) Contain a showing that such applications or requisitions for assistance have complied with the requirements of the Project Notification and Review System established by Office of Management and Budget Circular Number A-95 (Part I).

(d) Requisitions for proceeds under section 308(b) must also contain such adequate assurances as are required by Subpart J of this part.

(e) It is the intent of the Associate Administrator that completed requisitions and applications will be processed within 45 days of completion of the required A-95 reviews, unless the Associate Administrator determines that an environmental impact statement is required.

(f)(1) Prior to being notified of any allotment under sections 308(b) and (d)(4), a coastal State agency designated under § 931.26(a)(1) may submit to the Associate Administrator proposals for projects to reduce or ameliorate the loss of or damage to valuable environmental/recreational resources that has resulted from coastal energy activity. Such proposals must contain information and certifications required under paragraph (c) of this section.

(2) Upon completion of the Associate Administrator's verification, and if he/she determines that no environmental impact statement is required, the State may requisition in any year proceeds of section 308(b) grants for such projects, after notification of its allotment under section 308(b), without submission of any further information or further review and verification by the Associate Administrator except for the adequate assurances required under paragraph (d) of this section.

§ 931.79 Limitations.

The proceeds of grants under section 308(b) and moneys under section 308(d)(4) may not be used:

(a) For the prevention, reduction, or amelioration of any loss of an environmental or recreational resource that is directly attributable to the sale, lease, rental, or conversion to other uses of such resource by a State agency or unit of local government;

(b) To pay for that part of the cost of a project, designed to prevent, reduce, or ameliorate the loss of a recreational resource, which is incommensurate with the value of the recreational resource;

(c) To pay for that part of the cost of a project, designed to prevent, reduce, or ameliorate the loss of an environmental resource, which is incommensurate with the value of the environmental resource; or

(d) For any prevention, reduction, or amelioration of an unavoidable environmental loss by means of a public facility of the types specified in § 931.42(a), except for:

(1) Facilities for environmental protection as defined in § 931.42(a)(2);

(2) Facilities to reduce or ameliorate environmental losses from freshwater or saltwater intrusion or erosion;

(3) Payment of the differential in cost between the least cost method of providing a public facility required as a result of coastal energy activity and a higher cost method that reduces the environmental loss of the least cost method; and

(4) Any such facility or modification of an existing facility that is determined by the Associate Administrator to be necessary primarily for the reduction or amelioration of environmental losses.

Subpart H—Lateral Seaward Boundaries

§ 931.80 General.

For the calculations of formula grant allotments under § 931.76, outer Continental Shelf acreage and production shall be considered adjacent to a particular coastal State if such acreage and production lie on that State's side of the extended lateral seaward boundaries of that State. These extended lateral seaward boundaries of a coastal State shall be determined by delimitation lines established by the Associate Administrator according to the procedures of this subpart. These delimitation lines are to be established solely for determining a State's adjacency to outer Continental Shelf acreage and production for the purposes of section 308(b), and they are not intended to have application under any other law or treaty of the United States.

§ 931.81 Establishment of delimitation lines when agreements exist between States.

If a lateral seaward boundary extending to the outer limit of the territorial sea has been clearly defined or fixed by an interstate compact, agreement, or judicial decision at the time these regulations become effective, a delimitation line extending such boundary through the outer Continental Shelf shall be based on the principles used to delimit or define the lateral seaward boundary in such compact, agreement, or decision. A copy of all such compacts, agreements or decisions must be submitted to the Associate Administrator before calculations of State allotments are made and within one month from the date these regulations become effective.

§ 931.82 Establishment of delimitation lines when no agreements exist between States.

If no lateral seaward boundary, or any portion thereof, has been clearly defined or fixed by interstate compact, agreement, or judicial decision, a delimitation line extending from the outer limit of the territorial sea through the outer Continental Shelf shall be established in the following manner:

(a) If within six months from the date these regulations become effective a lateral seaward boundary to the outer limit of the territorial sea is delimited or defined by an interstate compact, agreement, or judicial decision, the Associate Administrator will establish a delimitation line through the outer Continental Shelf based upon the same principles used to delimit or define the lateral seaward boundary in such compact, agreement, or judicial decision. A lateral seaward boundary established by inter-

state compact or agreement may be based on any principles which are mutually acceptable to the States involved. When such a boundary is based on the principles of equidistance contained in the Convention on the Territorial Sea and the Contiguous Zone, the procedures outlined in § 931.84 will be followed. The lateral seaward boundary delimited or defined by such a compact, agreement, or judicial decision must be appropriately documented to the Associate Administrator no later than six months from the date these regulations become effective. Appropriate documentation shall include data sufficient to define the lateral seaward boundary and may include dimensionally stable base maps, geographic positions, azimuths, computations, and written descriptions.

(b) If a lateral seaward boundary is not defined or delimited by compact, agreement, or judicial decision within six months from the date these regulations become effective, delimitation lines will be established by the Associate Administrator based on applicable principles of law, including but not limited to the principles enumerated in the Convention on the Territoral Sea and the Contiguous Zone, the Convention on the Continental Shelf, and relevant judical decisions. When delimitation lines are determined by the principles of equidistance as contained in the Conventions, the procedures outlined in § 931.84 will be followed. Prior to establishing these delimitation lines, the Associate Administrator will allow a four month period during which time the States failing to delimit or define a lateral seaward boundary may submit written arguments in support of their respective positions. Within two months after expiration of the period allowed for submission of arguments by States, the Associate Administrator will establish the required delimitation lines. The procedures of this paragraph may be invoked at any time after these regulations become effective if the States concerned jointly seek a determination by the Associate Administrator.

§ 931.83 Establishment of delimitation lines under later compacts agreements, or judicial decisions.

If, after the date these regulations become effective, two or more States enter into or amend an interstate compact of agreement, or a judical decision is rendered in order to clearly define or fix a lateral seaward boundary, delimitation lines extending such a boundary through the outer Continental Shelf will be based on principles used to delimit or define the lateral seaward boundary in such compact, agreement, or judicial decision. However, delimitation lines so extended or altered will not affect grants made previously in accord with calculations under § 931.76.

§ 931.84 Procedures for defining delimitation lines by equidistance principles.

When delimitation is based on the principles of equidistance as contained in the Conventions on the Territorial Sea and the Contiguous Zone and on the Continental Shelf, the baseline as described therein will be the intersection of the National Ocean Survey (NOS) low water datum of reference with the land, as determined and published by the NOS on large scale nautical charts of the area. The baseline used in the application of equidistance principles to define lateral seaward boundaries or delimitation lines is that baseline from which the breadth of the territorial sea is measured. The Interagency Coastline Committee of the NSC Law of the Sea Task Force, who has the responsibility to apply principles of international law and the Convention on the Territorial Sea and the Contiguous Zone in delimiting the territorial sea and the contiguous zone of the United States, will be charged with the identification of the baseline, including closing lines, on NOS charts as required to establish the equidistance lines. The NOS will chart points along the equidistance lines, determine the geographic positions of these points by either graphical or analytical procedures, and document the delimitation lines for review and comment by the Coastline Committee and final approval by the Associate Administrator.

§ 931.85 Formula grants impounded for disputed areas.

That portion of a State's allotment of section 308(b) formula grants which is dependent on Outer Continental Shelf acreage and production in disputed areas will be impounded until such time as the required delimitation lines have been established by the Associate Administrator using the procedures outlined in § 931.82.

Subpart I—General Provisions

§ 931.90 Allowable costs.

(a) Allowable costs will be determined in accord with Federal Management Circular 74-4, Cost Principles Applicable to Grants and Contracts with State and Local Governments (34 CFR 255), and with the unique requirements of the Coastal Energy Impact Program. Specifically, project costs must:

(1) Be necessary and reasonable for proper and efficient administration of the program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of States or units of local governments;

(2) Be authorized or not prohibited under State or local laws or regulations;

(3) Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items;

(4) Be consistent with policies, regulations, and procedures that apply uniformly to both Federally assisted and other activities of the unit of government of which the recipient is a part;

(5) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances;

(6) Not be allocable to or included as a cost of any other Federally financed program in either the current or a prior period; and

(7) Be net of all applicable credits.

(b) Applications for assistance under this part for projects or programs to provide new or improved public facilities will be subject to the following additional requirements.

(1) Design and performance standards must conform to professionally recognized national standards. Costs must be reasonable and comparable to the cost of similar work awarded through open competitive bidding in the geographic area of the project.

(2) Compensation for engineering, architectural, or similar services shall not be based on a percentage-of-construction cost.

(3) The following will be allowable project costs when necessary and reasonable for the completion of projects or programs assisted under this part:

(i) Land acquisition (including less-than-fee simple), easements, and rights-of-way;

(ii) Architectural, engineering, and other necessary technical service fees;

(iii) Lease or rental of essential moveable equipment;

(iv) Construction expenses, including construction materials, fixtures, appurtenances, and fixed machinery and equipment;

(v) Site preparation and improvement; and

(vi) Initial operating inventory of supplies and depletable material.

(4) Activities conducted, or assets acquired, prior to approval of an assistance application are allowable costs only when specifically provided for in the grant or loan contract or agreement. Previously acquired assets not covered by an agreement may, however, be included in the State's matching share to the extent that they are applicable to the project or program. Purchase options for land and materials essential to the project or program may be an allowable project cost.

§ 931.91 Administrative procedures.

Administrative procedures for grants and credit assistance are based to the maximum extent possible upon Federal Management Circular 74-7, Uniform Administrative Requirements for Grants-in-Aid to State and Local Government (34 CFR 256).

§ 931.92 Compliance with OMB Circular A-95 requirements.

All preapplications, applications, and requisitions for assistance for public facilities and public services and for environmental and recreational grants are subject to the Project Notification and Review System established by Office of Management and Budget Circular No. A-95 (Part I), as implemented by regulations promulgated by the National Oceanic and Atmospheric Administration, 15 CFR 905.

§ 931.93 Other Federal requirements.

Compliance with all other Federal statutory provisions and regulations

thereunder which are applicable to Federal assistance programs and recipients of such assistance is a condition of CEIP assistance.

§ 931.94 Environmental Impact Statements.

Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., and the guidelines issued thereunder, 40 CFR 1500.1 et seq., the Associate Administrator will conduct an environmental impact assessment on each proposed use of assistance under Subparts E and G of this part to determine whether an environmental impact statement (EIS) will be required. Such assessment will be based on threshold criteria which will be provided in guidelines. It is not anticipated that proposed uses of assistance under Subparts D (Planning) and F (Repayment Assistance) of this part will require EIS preparation; however, the Associate Administrator will monitor the uses of assistance under these subparts with the requirements of NEPA in mind. Initial data and information on the environmental impacts of a proposed project will be provided by the potential recipient of assistance under this part, according to guidelines which will be developed by OCZM. When the Associate Administrator determines that an EIS will be required, he/she will also consider the preparation of a regional or programmatic EIS on a group of similar or related projects, if appropriate. If, prior to receiving notice of its allotment under Subpart E of this part, a State wishes to seek an advance determination as to whether an EIS will be required for a proposed project, such State may submit the information required under § 931.48 (a)(5) to the Associate Administrator. The Associate Administrator will review the information submitted and will make a determination within 45 days of receipt of such information.

§ 931.95 Records.

(a) All initial recipients of financial assistance under section 308 shall keep and preserve, and shall require each unit of local government to which it passes the assistance to keep and preserve, detailed project control records reflecting acquisitions, work progress, expenditures, and commitments, indicating in each instance their relationship to estimated costs and schedules. Such records shall be retained until:

(1) Completion of the project, program, or other undertaking for which a grant was made or used, and thereafter for a period of at least three years; or

(2) Full repayment of a loan or guaranteed indebtedness for which such financial assistance was provided, and thereafter for a period of at least three years.

(b) All recipients described in paragraph (a) of this section shall keep and preserve such full written financial records, accurately disclosing the amount and the disposition of the assistance, together with the amounts and disposition of other funds applied to the project, program, or other undertaking, as shall adequately establish compliance with the requirements of section 308, the terms and conditions upon which such financial assistance was made, and the standards for financial management systems contained in Attachment G to Federal Management Circular (FMC) 74–7.

(1) Recipients of grant assistance shall retain such financial records until completion of the project, program, or other undertaking for which such grant was made or used and thereafter for a period of at least three years.

(2) Recipients of loans or guarantees shall retain such financial records until complete repayment of the loan or guaranteed indebtedness for which such financial assistance was provided and thereafter for a period of at least three years.

§ 931.96 Audit.

The Associate Administrator, the Secretary of Commerce, and the Comptroller General shall have access for purposes of audit and examination to any records, books, documents, and papers which belong to, or are used or controlled by, any recipient of the assistance or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if such financial assistance is being or was used in accordance with section 308, the terms and conditions upon which such financial assistance was received, and FMC 74–7.

§ 931.97 Recovery of funds.

This section sets forth requirements and procedures in accordance with section 308(b)(5) to ensure that grant proceeds received by States under section 308(b) may be recovered by NOAA if such proceeds have been expended or committed for unauthorized purposes, or if they have not been expended or committed before the close of the fiscal year immediately following the fiscal year in which the grant proceeds were disbursed.

(a) *Adequate assurances.* (1) Each requisition for the proceeds of section 308(b) grants submitted by a State under Subparts D, E, F, or G of this part shall contain a written statement that:

(i) The State agency requisitioning the proceeds possesses the legal authority to do so;

(ii) The State agency has established or will establish fiscal control and fund accounting procedures which assure proper further disbursement of and accounting for grant proceeds;

(iii) The State will repay to the United States, with interest at the rate esablished for loans made under section 308(d)(1) at the same time the proceeds of section 308(b) grants were disbursed, the amount of a grant which has been determined by the Associate Administrator not to have been expended or committed for purposes other than those set forth in §§ 931.33(b), 931.43(b), 931.63 (b), and 931.74; and

(iv) The State will repay to the United States the amount of any grant which has been determined by NOAA to have been expended or committed before the close of the fiscal year immediately following the fiscal year in which the grant proceeds were disbursed.

(2) If a State has received a written request for repayment under § 931.97(b)(1) NOAA may require such additional assurances as it finds necessary to protect the interests of the United States in the making of grants to the State.

(b) *Procedures for the recovery of funds.* (1) Upon receipt from NOAA of a written request for repayment which contains a finding that the proceeds of a grant received by the State under section 308(b) have been expended or committed for purposes other than those set forth in §§ 931.33(b), 931.43(b), 931.63 (b), and 931.74, or have not been expended or committed before the close of the fiscal year immediately following the fiscal year in which the grant proceeds were disbursed, such State shall provide a written response within 15 days to either refute or admit such findings.

(2) The Associate Administrator shall make a determination that repayment by the State will or will not be required, and shall notify the State of this determination no later than 45 days from the receipt by the State of the request for repayment described in paragraph (b)(1) of this section.

(3) If the Associate Administrator determines that repayment is required, the State shall have 30 days from the date of receipt of such determination to file a request for reconsideration with the Associate Administrator, or 60 days from the date of receipt of such determination to make a repayment by check in the amount stated in such determination.

(i) If the State's request for reconsideration is denied, the State shall have 15 days from the date of such denial to make a repayment by check in the amount determined to be owed to the United States.

(ii) If, as a result of the State's request for reconsideration, the Associate Administrator modifies his/her determination of the amount required to be repaid by the State, such State shall have 15 days from the date of such modification to make the repayment, if any, by check.

(4) If no repayment is received within the time period established by paragraph (b)(3) of this section, NOAA shall take necessary action to recover the amount due. Methods of recovery may include, but are not limited to:

(i) The modification or termination of a grant being received by such State under section 308(b);

(ii) The modification or termination of financial assistance under sections of the Act other than section 308(b);

(iii) The withholding of future financial assistance to the State under any section of the Act; and

(iv) The modification or termination of financial assistance being received by such State under other programs administered by the Department of Commerce, or the withholding of future financial as-

sistance to such State under these programs.

(5) Actions undertaken under paragraph (b) of this section shall not in any way prejudice any rights of NOAA to pursue such other remedies as may be legally available and appropriate under the circumstances, including the referral of the claim against the State to the Department of Justice.

§ 931.98 Coordination with other Federal agencies.

(a) No financial assistance for studying and planning provided under sections 308(b)(4)(B) and 308(c), for public facilities and public services provided under sections 308(b)(4)(B) and (d), or for environmental and recreational projects provided under sections 308(b)(4)(C) and (d)(4) shall be awarded or disbursed if other Federal funds are available for such purposes, unless the Associate Administrator is assured that the Federal assistance to be received under section 308:

(1) Is to be used in addition to, and not in lieu of, any Federal funds which any coastal State or unit of local government may obtain under any other law; and

(2) Is not duplicative of other funding assistance.

(b)(1) The term "joint funding" means the coordination of multiple Federal assistance under the authority and provisions of the Joint Funding Simplification Act of 1974 (Pub. L. 93-510) in support of and consistent with the CEIP.

(2) When assistance from other Federal programs is insufficient to cover a project or when combinations of assistance from multiple Federal programs are appropriate and beneficial, States and units of local government may request joint funding by the CEIP and other Federal programs in accordance with OMB Circular A-111, 41 FR 32040.

Subpart J—Intrastate Allocation of Financial Assistance

§ 931.110 General.

This subpart sets forth policies, requirements, and criteria required by sections 308 (e)(2) and (g)(2) and related to the intrastate allocation of financial assistance provided under section 308.

§ 931.111 Objective.

The objective of these requirements is to assure, to the maximum extent feasible, that section 308 assistance allotted to coastal States is distributed among units of local government in amounts which are proportional to need and in a manner which is equitable and expeditious.

§ 931.112 Process required for intrastate allocations.

Each coastal State must designate or establish a process to allocate its allotted section 308 assistance among State agencies and units of local government based upon need for such assistance. This process must be approved by the Associate Administrator, and it must:

(a) Specify the respective roles of State agencies and units of local government in determining the intrastate allocation of section 308 assistance;

(b) Indicate the State agency designated under § 931.26 which will assume a lead role for administering the process;

(c) Describe the means to be used to define, determine, evaluate, and set priorities for the needs for financial assistance resulting from coastal energy activity;

(d) Describe the means to be used to allocate financial assistance;

(e) Include methods and procedures to assure direct and effective participation by affected State agencies and units of local government throughout the development and implementation of the allocation process;

(f) Include a method of assigning priority to projects for which assistance is not otherwise available from Federal, State, or private sources;

(g) Include a method of assigning priority to projects based on criteria which include need, immediacy or severity of impacts, the establishment of resource or fiscal management capacity of units of local government, and protection of the environment;

(h) Preserve local autonomy;

(i) Establish a coordination mechanism to prevent overlapping or conflicting activities and to ensure a common basis for making assumptions and projections about needs and impacts;

(j) Provide for formal notification of, direct consulation with, and comment by affected units of local government;

(k) Assure that information on the allocation of financial assistance is available to the public throughout the allocation process;

(l) Stipulate reasonable time limits for the allocation of financial assistance; and

(m) Establish or designate a procedure by which units of local government may appeal to the State either the results of its allocation decisions or whether the State complied with the intrastate allocation process described in this section and approved by the Associate Administrator. Such a procedure must include provisions for a record, evidence, and exhibits of relevant information subject to the appeal.

§ 931.113 Forms of assistance.

To the maximum extent practicable and in accord with the intrastate allocation process established pursuant to § 931.112:

(a) States that requisition the proceeds of grants under section 308 for purposes specified in Subparts D and G of this part must pass this assistance through to State agencies and units of local government in the form of grants;

(b) States that requisition the proceeds of grants under section 308 for purposes specified in Subparts E and F of this part must pass this assistance through to State agencies and units of general purpose local government in the form of grants;

(c) States that are allotted credit assistance under section 308 (d)(1) and (d)(2) must pass this assistance through to State agencies and units of general purpose local government using one of the following methods:

(1) State agencies may borrow to provide public facilities and public services needed to meet either State or local needs;

(2) State agencies may borrow to reloan or to grant this assistance to units of general purpose local government for public facilities and public services needed to meet local needs; or

(3) State agencies and units of general purpose local government may submit applications to the State to borrow from the Fund to provide needed public facilities and public services.

§ 931.114 Review and appeal.

(a) The Associate Administrator will review the State's intrastate allocation of section 308 assistance to determine whether the allocation process results in a distribution of assistance which, to the maximum extent practicable, is proportional to need.

(b) In making this latter determination for sections 308 (d)(1) and (d)(2) assistance, the Associate Administrator will compare the proportion of the State's relative need factor (as described in § 931.46) which was originally computed for each impact area with the proportion of the State's allotment under § 931.46 which has been allocated by the State for use within each impact area.

(c) If there is substantial discrepancy between these two proportions, the State agency designated under § 931.26(a)(2) and responsible for the intrastate allocation process will be asked to submit a justification.

(d) A unit of local government may appeal to the Associate Administrator to determine whether the State complied with the intrastate allocation process described in § 931.112 and approved by the Associate Administrator. Such an appeal must be made within 30 days after the unit of local government has exhausted the appeal procedure described in § 931.112(m). Such appeal is limited to the record, evidence, and exhibits introduced at or resulting from the appeal process established or designated pursuant to § 931.112(m). The Associate Administrator will notify the State and unit of local government of his/her findings within 45 days of receipt of the appeal.

(e) If the Associate Administrator finds that the State has not substantially complied with the approved process, section 308 assistance will be withheld until the State reallocates the assistance in accord with the approved process.

[FR Doc.77-212 Filed 1-4-77;8:45 am]

federal register

WEDNESDAY, JANUARY 5, 1977

PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

NATIONAL DIFFUSION NETWORK PROGRAM

Final Regulations

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 193—NATIONAL DIFFUSION NETWORK PROGRAM

Final Regulations

Pursuant to the authority contained in section 422(a) of the General Education Provisions Act (20 U.S.C. 1231a), a notice of proposed rulemaking for the National Diffusion Network was published in the FEDERAL REGISTER in 41 FR 45962–45964 on October 18, 1976 governing contract awards under the National Diffusion Network Program. The program has the purpose of promoting wide-spread installation in local school systems of already developed, rigorously evaluated, exemplary educational programs at the early childhood, elementary, secondary, and adult education levels.

I. PROGRAM PURPOSE

The National Diffusion Network is a delivery system designed to disseminate information and provide technical assistance to local school systems, public and private elementary and secondary schools, and early childhood or adult education programs in order that they may adopt exemplary elementary and secondary education, early childhood, or adult education programs, products, and practices approved for dissemination by the Joint Dissemination Review Panel (JDRP) of the Education Division of the Department of Health, Education, and Welfare. The JDRP serves as a quality control mechanism with respect to educational programs, products, and practices proposed for dissemination by officers or employees of the Education Division. In the course of carrying out their program responsibilities, these officers or employees identify programs, developed with Federal funds, which they believe to be sufficiently exemplary to be disseminated in order that they may be replicated or otherwise used in other settings. The JDRP reviews these and approves for dissemination by agencies of the Education Division those programs for which there is adequate evidence that they have been effective.

These JDRP approved programs make up the pool of exemplary programs, products, or practices disseminated by the National Diffusion Network for widespread installation in local school districts and in nonprofit private schools. The Network is designed to carry out this purpose through two approaches.

(a) *Developer-demonstrator projects* which will be awarded generally to the public or private agencies, organizations, groups, or individuals which have already developed, with Federal funds, an exemplary program, product, or practice approved for dissemination by the JDRP. The contract recipient will receive funds to:

(1) Develop promotional descriptive materials about the approved program,

(2) Refine, produce, and package instructional, management, and training materials for use in replicating the program;

(3) Share these materials and other information regarding the program, in conjunction with recipients of "Facilitator" contracts described below, with local educational agencies and schools which consider replicating the programs; and

(4) Provide training and technical assistance to these adopters which will install and use the program.

(b) *Facilitator projects*, each of which will be awarded to one or more public or private agencies, organizations, groups, or individuals within a State or combination of adjoining States. The contract recipient will receive funds to:

(1) Engage in widespread dissemination of information to as many local school systems and schools as possible within its State or area in order to acquaint these systems and schools with the exemplary programs which have been approved for diffusion by the Joint Dissemination Review Panel;

(2) Provide technical assistance to interested local educational agencies, and schools within their State or area in considering how this program might relate to and benefit their educational needs and program activities; and

(3) Provide for necessary linkages and arrangements between local educational agencies and schools which decide to install a Network program and the appropriate Developer-Demonstrator.

As the title of the Network suggests, the National Diffusion Network is designed to promote installation of exemplary programs approved by the JDRP throughout the Nation. Developer-Demonstrator contractors will be funded to provide information, training, and technical assistance in all parts of the Nation with regard to a specific program or product. Each Facilitator contractor will concern itself with schools in a particular State or otherwise limited geographic region cutting across contiguous States. It will be a purpose of the Network program to award a substantial number of these Facilitator contracts which will collectively cover all or most of the Nation, subject of course to the quality of proposals received and limitations in available funds. It is not expected that it will be possible to cover all parts of the Nation under the Facilitator category in the initial year of funding under this part.

National Diffusion Network projects operated during FY 1976 with funds awarded late in FY 1975 pursuant to the authority of section 306 of the Elementary and Secondary Education Act. Because the section 306, ESEA authorization has since expired, funds have been appropriated in Fiscal Year 1977 for the Network pursuant to the authority of section 422(a) of the General Education Provisions Act (GEPA), an authority vested in the Commissioner of Education to disseminate information about federally supported education programs. Whereas section 306, ESEA authorized grant awards by the Commissioner, section 422(a) of the GEPA authorizes only contracts. For this reason, awards under this part will be by way of contracts in accordance with the procedures and the requirements of Federal and HEW procurement regulations. (41 CFR Chapters 1 and 3). This part sets forth the general requirements and standards for the program.

Prior recipients of funds under the Network may compete for a contract award pursuant to this part to continue Network activities. Their proposals will be reviewed on the same basis, and under the same evaluation criteria, as a proposal from an agency or institution not previously funded under the Network.

The development of the National Diffusion Network Program has benefited from public participation in the decision-making process. During the past three years, State and local educational personnel, a representative group of Developer-Demonstrator and Facilitator project personnel, and other professionals in the area of dissemination have assisted in developing the National Diffusion Network and have participated in the implementation and operation of the Network.

II. SUMMARY OF COMMENTS AND RESPONSES

Pursuant to section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), interested parties were given thirty days to comment on the proposed regulations. Copies of the Notice of Proposed Rulemaking were distributed to each Chief State School Officer, to each ESEA, Title IV State Coordinator, and to each Developer-Demonstrator and Facilitator project director participating in the National Diffusion Network. A total of twenty-five written responses were received, from nine network participants, five national organizations, three universities, two Federal agencies and from six State educational agencies. A summary of the comments and objections received and the responses of the Office of Education follow:

SUBPART A—GENERAL PROVISIONS

Section 193.1 *Scope and purpose.* a. *Comment.* Several commenters suggested that the regulations include provisions for private profit-making agencies as well as non-profit agencies to be eligible for a Network contract.

Response. A change has been made in §§ 193.11 and 193.21 to include the awarding of contracts to public or private agencies, organizations, groups, or individuals.

b. *Comment.* A commenter suggested including provisions for the establishment of a central collection, assembly, and distribution of National Diffusion Network materials to the Network participants.

Response. No change has been made in the regulation. It is intended that the Division of Educational Replication within the U.S. Office of Education will act as a central coordinating unit for the Network.

c. *Comment.* A suggestion was made to expand the Network to include programs

validated through use of the State Identification, Validation, and Dissemination (IVD) procedures, a State review process for identifying and validating exemplary, Federally funded ESEA, Title III programs.

Response. No change has been made in the regulations. The Office of Education recognizes the Identification, Validation, and Dissemination (IVD) process as a procedure which has been used by States to identify and validate outstanding programs and practices for diffusion and replication within the State in which the program was developed. It also recognizes the contributions that the IVD process has made to improving the quality of evaluation designs primarily for programs and practices developed with ESEA, Title III funds. The policy of the Office of Education, however, is that only those programs, products and practices which have been examined for effectiveness by the Joint Dissemination Review Panel and approved for dissemination may receive funds as Developer-Demonstrators. The JDRP serves as a quality control mechanism to ensure that Federal funds do not support dissemination of programs or products for which there is no evidence of effectiveness. IVD validated programs and practices may be submitted to the JDRP and if approved are eligible to receive funds as Developer-Demonstrators and to participate in the National Diffusion Network.

Section 193.2 *Definitions.* a. *Comment.* Several commenters requested a statement to be included in the definitions providing for early childhood education programs and adult education programs approved for diffusion by the JDRP.

Response. These suggestions have been incorporated in the regulations.

b. *Comment.* A commenter raised several questions and made suggestions concerning procedures used by the Joint Dissemination Review Panel. The Commenter, however, did not suggest that changes be made in the regulation.

Response. A copy of the commenter's letter has been sent to the Chairman of the Joint Dissemination Review Panel and to the Commissioner of Education for consideration and possible modification of present procedures.

SUBPART B—DEVELOPER-DEMONSTRATOR PROJECTS

Section 193.11 *Eligibility for awards.* a. *Comment.* A commenter suggested that the Network should include programs developed with State or local funds if approved for dissemination by the Education Division's JDRP.

Response. No change has been made in the regulations. The authorizing legislation which supports the Network, section 422(a) of the General Education Provisions Act, limits the programs that may be disseminated by the NDN to those programs that were developed with Federal funds.

b. *Comment.* Several comments were received requesting that a Developer-Demonstrator project be able to transfer operation to an agency other than the one at the original developer site.

Response. Changes have been made in § 193.11 of the regulation to incorporate this suggestion.

Section 193.12 *Project activities. Comment.* A commenter asked that the National Diffusion Network provide funds for replicators of Developer-Demonstrator programs.

Response. No change has been made in the regulation. Developer-Demonstrator Projects and Facilitator Projects provide training and technical assistance to adopters and in some cases, where funds permit, may also provide some additional travel and supplies for adopters. Adopting schools, however, are expected to pay for all operational costs associated with the program from funds from other sources.

Section 193.14 *Funding criteria. Comment.* Several commenters proposed that the regulations include provisions to enable potential adopters to visit an adopter site of the program in addition to the originating site.

Response. A change has been made in § 193.14(c) of the regulations to provide for an adopter site to be used for observation as long as the site meets the basic specifications of the original project.

Section 193.21 *Eligibility for awards. Comment.* A commenter suggested that the regulations should emphasize a State-based facilitator rather than a facilitator project which serves segments of a State, or more than one State.

Response. No change in the regulation is deemed necessary. In general, the Office of Education expects to fund Facilitators which serve a single State. Some States, however, because of regional arrangements within a State have in the past found that more than one facilitator within a State was desirable. Also, two States in the past chose to enter into an arrangement which provided for a single facilitator to serve the two States. The regulation is flexible enough to accommodate situations of this type on the same basis as a single State project.

Section 193.22 *Project activities.* a. *Comment.* A commenter proposed collaboration between Facilitators and other State agencies dealing in dissemination activities.

Response. No change in the regulations is deemed necessary. Even though collaboration between Facilitators and other State agencies is not required, points are given in the criteria for collaboration with other State agencies having dissemination objectives and responsibilities. Federal requirements on this do not seem appropriate.

b. *Comment.* Several commenters proposed that technical assistance be provided an adopter site during the implementation phase.

Response. A new paragraph (g) has been added to § 193.22 to provide for such technical assistance.

c. *Comment.* Several commenters requested that Facilitator funds be made available to adopters to cover costs associated with the adoption of a Developer-Demonstrator program when circumstances warrant assistance.

Response. A change has been made by adding § 193.25 which provides that Facilitators may assist adopters with the purchase of educational materials and provide funds for technical assistance to install a Developer-Demonstrator program.

d. *Comment.* Commenters requested that all Joint Dissemination Review Panel approved programs be included in the National Diffusion Network for dissemination and not be limited just to those programs receiving funds as Developer-Demonstrator Projects.

Response. A change has been made in the regulations. All approved JDRP programs will be included for purposes of providing information by Facilitators in the Netwoirk. Only those JDRP approved programs which are funded as Developer-Demonstrators, however, will be able to provide training and technical assistance to potential adopters.

Section 193.23 *Proposal requirements. Comment.* A comment was received requesting that national nonprofit organizations be able to operate Facilitator projects which are national in scope, as opposed to those which are local or regional in scope.

Response. No change has been made in the regulation. Based upon previous experience with the National Diffusion Network, the Office of Education does not believe that a single Facilitator serving all States can provide the numerous personal interactions with local school districts and private nonprofit schools in all States which are necessary for: (a) Matching local needs with possible solutions, and (b) providing training and other technical assistance during the installation process. Past experience indicates that Facilitators which serve a single State or a region within a State can provide these personal interactions. The Office of Education hopes to develop a self sustaining capacity within each State. This capacity would be lost if Facilitators were funded to serve the nation.

Section 193.24 *Funding criteria. Comment.* Several commenters felt that the value placed on item (f) entitled "Prior experience" penalized States not currently having a Facilitator but who desire to respond to a request for proposal.

Response. The prior experience criterion has been deleted.

III. *Other changes.* (a) Minor changes have been made to correct clerical errors or technical inconsistencies in subparts B and C.

(b) Additional items have been included to reflect the relationship that cost has to the funding of a proposal and to establish a basis for programmatic and financial reporting.

(c) Other changes have been made based upon recommendations of the Office of Education Grant and Procurement Division to assure that the regulations conform to contract requirements.

(d) Amendments have been made to § 193.24 to clarify that the Commissioner in awarding Facilitator contracts, will seek to cover as many States as possible.

IV. *Adoption of regulations.* After considering all comments, the Commissioner hereby adopts the proposed regulations which were published in the FEDERAL REGISTER on October 18, 1976, with the noted changes, as set forth below.

V. *Effective date.* Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission subject to the provisions therein concerning Congressional action and adjournment.

NOTE.—The Office of Education 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.

(Catalog of Federal Domestic Assistance No. 13.574, National Diffusion Network-Dissemination)

Dated: December 29, 1976.

JOHN W. EVANS,
(Acting) U.S. Commissioner of Education.

Approved: December 29, 1976.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Subpart A—General Provisions

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193.22 Project activities.
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193.25 Allowable costs.

AUTHORITY: Sec. 422(a) of the General Education Provisions Act (20 U.S.C. 1231a); Pub. L. 94-439 (1976); H.R. Rep. No. 94-1219 at 67 (1976).

Subpart A—General Provisions

§ 193.1 Scope and purpose.

(a) *Scope.* The regulations in this part govern contract awards with funds appropriated for purposes of the National Diffusion Network pursuant to section 422(a) of the General Education Provisions Act. Contract awards under this part are subject to applicable provisions contained in 41 CFR Chapters 1 and 3.

(b) *Purpose.* The purpose of this part is to provide for the award of contracts to public or private agencies, organizations, groups, or individuals, to promote the widespread installation in public and private nonprofit elementary and secondary schools, early childhood education programs and education programs for adults who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, of rigorously evaluated, exemplary educational programs, products, or practices already developed with Federal support. (References hereinafter to "schools" shall include public and private nonprofit schools and programs providing education at these levels.) The program will be designed to acquaint schools throughout the Nation with exemplary, Federally funded programs and, if the schools decide to adopt these programs, to assist them in doing so through the provision of information, technical assistance, and training.

§ 193.2 Definitions.

The following definitions shall apply to the terms used in this Part:

(a) "Joint Dissemination Review Panel" or "JDRP" refers to the panel of that name within the Education Division of the Department of Health, Education, and Welfare, and composed of employees of the Office of Education, the National Institute of Education, and the Office of the Assistant Secretary for Education, which reviews educational programs, products, and practices submitted to it by employees of the Education Division for effectiveness and approves them for national dissemination.

(20 U.S.C. 1221b, 1221c, 1221e.)

(b) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(20 U.S.C. 881(f).)

(c) "State" means in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 881(j).)

§ 193.3 Award procedures.

Awards under this part shall be in the form of competitive contracts and shall be governed by the applicable provisions of Federal and Department procurement regulations contained in 41 CFR Chapters 1 and 3.

§§ 193.4—193.10 [Reserved]

Subpart B—Developer-Demonstrator Projects

§ 193.11 Eligibility for awards.

(a) A proposal for a Developer-Demonstrator project may be submitted by any public or private agency, organization, group, or individual that has developed, with Federal support, an exemplary educational program, product, or practice which has been previously approved for dissemination by the Joint Dissemination Review Panel (JDRP).

(b) If the agency which developed the program approved by the JDRP does not apply for a Developer-Demonstrator Project, another agency, organization, group or individual may apply for a Developer-Demonstrator Project award for the JDRP approved program, if the program continues to be operated at the original site and is available for potential adopter visitation and observation, and if the staff which will perform the project activities is composed substantially of staff members who originally developed and operated the project.

§ 193.12 Project activities.

A Developer-Demonstrator Project contract will be awarded for the purpose of carrying out the following activities:

(a) Disseminating information on a nationwide basis, in conjunction with recipients of Facilitator Awards under Subpart C, about the exemplary educational program previously approved by the JDRP;

(b) Developing materials about the approved program to be used by recipients of Facilitator contracts under Subpart C, and local educational agencies, and schools before a local educational agency or school decides to adopt the approved program;

(c) Refining, producing, and packaging instructional, management, and training materials related to the approved program for use with local educational agencies and schools after they have decided to adopt the program;

(d) Providing training and technical assistance to local educational agencies and schools which decide to adopt the approved program in planning for, initiating, and carrying out the program;

(e) Participating in workshops and meetings arranged for by the Commissioner to share information among Network contractors and provide technical assistance to them; and

(f) Evaluating the effectiveness of the diffusion and adoption process including evaluating the data received from the adopter on the effectiveness of program installation.

(20 U.S.C. 1231a; Pub. L. 94-439 (1976); H.R. Rep. No. 1129 at 67 (1976).)

§ 193.13 Proposal requirements.

A proposal for a Developer-Demonstrator Contract award under this subpart must meet the following requirements, in addition to such other require-

ments as may be set forth in applicable contract documents. The proposal must:

(a) Identify and describe the specific program, product, or practice to be disseminated and document that the program, product, or practice was developed with Federal support and has been approved for dissemination by the Joint Dissemination Review Panel;

(b) Provide for the carrying out of all of the project activities described in § 193.12 and describe the strategies to be used in carrying out these activities;

(c) Set forth a management and an evaluation plan for the project;

(d) Document that the program, product, or practice remains in current use at the site at which it was developed and explain the manner and nature of the current use;

(e) Provide for quarterly reports of such data as is required to measure progress during the project, and a final report due ninety days after the completion of the project, including in the final report recommendations for improving future activities.

(f) Document, if the offeror is other than the original developer of the JDRP approved program, that the program will continue to operate at the original site and be available for visitation by potential adopters and that staff members who originally developed and operated the JDRP approved program will provide training and technical assistance to potential adopters and will participate in other program activities.

§ 193.14 Funding criteria.

In evaluating proposals for Developer-Demonstrator Projects, the Commissioner will apply the following criteria:

(a) *High quality.* (17 points). The extent the proposed project is designed to achieve high quality (beyond meeting minimum requirements) with respect to each of the project activities described in § 193.12;

(b) *Management.* (13 points). The quality of the management and evaluation plans described in the proposal;

(c) *Access to developer site.* (9 points). The extent the proposal provides for access of potential adopters who may wish to visit the ongoing project at the original site and, at the option of the contract recipient, at any additional adopter site in which the program meets the basic specifications of the program at the original site;

(d) *Personnel.* (20 points). Adequacy of educational background and experience of proposed staff members to perform the requirements specified in the RFP including items such as: educational training, experience in the development and operation of a JDRP approved program, and related education and experience in dissemination and staff training.

(e) *Facilities and resources.* (9 points). Adequacy of facilities and other resources;

(f) *Innovative strategies.* (9 points). The extent the proposal provides for innovative dissemination strategies which may be worthy of replication by other Network projects; and

(g) *Cost effectiveness.* (9 points). The cost effectiveness of the project with respect to the number of States, schools, and students to be served.

§ 193.15 Allowable costs.

Allowable costs under awards pursuant to this part will be determined in accordance with the cost principles described in 41 CFR Parts 1–15, and may include the costs of employing a small staff to carry out the activities described in § 193.12.

§§ 193.16—193.20 [Reserved]

Subpart C—Facilitator Projects

§ 193.21 Eligibility for awards.

A proposal for a Facilitator Project may be submitted by a public or private agency, organization, group or individual located in the State or region to be served.

§ 193.22 Project activities.

A Facilitator Project contract will be awarded for carrying out the following activities directed to local educational agencies and schools in the State or combination of adjoining States to be served under the project:

(a) Informing local educational agencies and schools about exemplary programs in the National Diffusion Network (i.e., those programs which have been approved for diffusion by the Education Division's Joint Dissemination Review Panel);

(b) Assisting local educational agencies and schools in determining the appropriateness of National Diffusion Network programs for their schools in terms of their assessed needs;

(c) Arranging for potential adopters to visit Demonstrator sites when appropriate;

(d) Arranging for Developer-Demonstrators to train staff members in public and private schools which want to install one or more of the Network programs;

(e) Coordinating the provision of the services described in paragraphs (a) through (d) of this section to local agencies and schools on the most cost-effective basis;

(f) Participating in workshops and meetings arranged for by the Commissioner to share information among Network contractors and provide technical assistance to them; and

(g) Providing technical assistance to adopters after programs have been installed.

§ 193.23 Proposal requirements.

A proposal for a Facilitator contract under this subpart must meet the following requirements, in addition to such other requirements as may be set forth in the applicable request for proposal. The proposal must:

(a) Identify the State, region within a State, or combination of adjacent States to be served under the project (The area to be served as a result of any contract will be negotiated after the technical evaluation);

(b) Provide for the carrying out of all of the project activities described in § 193.22 and describe the strategies to be used in carrying out these activities;

(c) Document, by attaching to the proposal a letter from each Chief State School Officer or through other appropriate documentation, that the Chief State School Officer for each State to be served by the project has been consulted in the development of the proposal;

(d) Set forth a management and an evaluation design for the project;

(e) Provide for quarterly reports on such data as are required to measure progress during the project, and a final report ninety days after the completion of the project, including in the final report recommendations for improving future activities.

§ 193.24 Funding criteria.

(a) Awards will cover as many States as possible with consideration given to the number of children within the State, and the quality and nature of services to be provided as evaluated based upon criteria in this section.

(b) In evaluating proposals for Facilitator Projects, the Commissioner will apply the following criteria:

(1) *High quality.* (17 points). The extent the proposed project is designed to achieve high quality (beyond meeting minimum requirements) with respect to each of the project activities described in § 193.22;

(2) *Management and evaluation.* (13 points). The quality of the management and evaluation plans described by the proposal;

(3) *Personnel.* (20 points). Adequacy of educational background and experience of proposed staff members to perform the requirements specified in the RFP including: education and experience in educational administration and management, dissemination and diffusion, and related experience as change agents or linkers.

(4) *Facilities and resources.* (9 points). Adequacy of facilities and other resources;

(5) *Innovation.* (9 points). The extent the proposal provides for innovative dissemination strategies which may be worthy of replication by other Facilitator projects;

(6) *Consultation during proposal development.* (12 points). The extent the offeror has, in the development of the proposal, consulted with State and local educational agencies, private elementary and secondary schools, and other educational resources in the State or States to be served by the project;

(7) *Consultation during project operation.* (12 points). The extent the proposal provides for consultation by the contractor, in the carrying out of the project, with State and local educational agencies, private elementary and secondary schools, and other educational resources in the State or States to be served by the project.

(8) *Cost effectiveness.* (9 points). Cost effectiveness of the project with respect to the number of schools, programs, and students to be served.

§ 193.25 Allowable costs.

Allowable costs under awards pursuant to this part will be determined in accordance with the cost principles described in 41 CFR Parts 1–15, and may include the costs of employing a small staff to carry out the activities described in § 193.22. Depending upon the availability of funds, allowable costs may include assistance to adopters with the purchase of educational materials and technical assistance related to the installation of the program.

[FR Doc.77-365 Filed 1-4-77;8:45 am]