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TUESDAY, JANUARY 11, 1977



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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

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

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
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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.

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Title 3—The President

Executive Order 11952 • January 7, 1977

Conforming the Foreign Service and Civil Service Retirement and Disability Systems

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Section 805 of the Foreign Service Act of 1946, as added by Section 503 of Public Law 94–350 (90 Stat. 835; 22 U.S.C. 1065), and as President of the United States of America, in order to conform the Foreign Service Retirement and Disability System to certain amendments to the Civil Service Retirement and Disability System, it is hereby ordered as follows:

SECTION 1. (a) The enactment (subsequent to January 1, 1974) of the following laws has affected a provision of general applicability in the Civil Service Retirement and Disability System (subchapter III, chapter 83 of Title 5 of the United States Code) or otherwise affected current or former participants, annuitants, or survivors under that System which, immediately prior to the enactment of such laws, had been substantially identical to a corresponding provision of law affecting participants, former participants, annuitants or survivors under the Foreign Service Retirement and Disability System:

(1) Section 1 of Public Law 93–260, approved April 9, 1974 (88 Stat. 76).

(2) Section 1 of Public Law 93–273, approved April 26, 1974 (88 Stat. 93).

(3) Section 2 of Public Law 93–273, approved April 26, 1974 (88 Stat. 93).

(4) Public Law 93–474, approved October 26, 1974 (88 Stat. 1438).

(5) Public Law 94–166, approved December 23, 1975 (89 Stat. 1002).

(b) The provisions of the laws cited in subsection (a) above are extended, as provided by Section 805 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1065), to the Foreign Service Retirement and Disability System in accordance with the provisions of this Order, which provisions shall modify, supersede, or render inapplicable all inconsistent prior provisions of law.

SEC. 2. (a) In accord with Section 1 of Public Law 93–260, Section 804(b) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1064(b)), is deemed to be amended by striking out "two years" wherever it appears and inserting in lieu thereof "one year". This amendment shall apply only in the cases of participants, former participants, or annuitants who died on or after April 9, 1974 but no annuity shall be paid or recomputed, by virtue of this amendment, for any period prior to May 1, 1974.

(b) In accord with Section 1 of Public Law 93–273, and notwithstanding any other provision of Section 821 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076), said Section 821 shall be deemed to be amended to provide for the payment of a minimum annuity as follows:

(1) The monthly rate of an annuity payable, under said Section 821, to an annuitant, or to a survivor annuitant other than a child, shall not be less than the smallest primary insurance amount, including any cost of living increase added to that amount, authorized to be paid from time to time under Title II of the Social Security Act (42 U.S.C. 401 *et seq.*).

(2) The monthly rate of an annuity payable, under said Section 821, to a surviving child shall not be less than the smallest primary insurance amount, including any cost of living increase added to that amount, authorized to be paid from time to time under Title II of the Social Security Act (42 U.S.C. 401 *et seq.*), or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under Title II of the Social Security Act (42 U.S.C. 401 *et seq.*), a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost of living increase added to that amount, authorized to be paid from time to time under Title II of the Social Security Act (42 U.S.C. 401 *et seq.*).

(4) The provisions of this subsection apply to all annuities, whether commenced before, on, or after August 1, 1974, but no increase in any annuity shall be paid or recomputed under this subsection for any period prior to August 1, 1974.

(c) In accord with Section 2 of Public Law 93–273, Section 821 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076), shall be deemed to be amended to provide an increase in annuities, which have been computed on the highest five consecutive years of service, as follows:

(1) An annuity payable to a former participant which is based on a separation occurring prior to October 20, 1969, is increased by $240.00.

(2) In lieu of any increase based on an increase under paragraph (1) of this subsection, an annuity to the surviving spouse of a participant or annuitant which is based on a separation occurring prior to October 20, 1969, is increased by $132.00.

(3) The provisions of this subsection shall not apply to annuities payable under Section 523(c) of Public Law 94–350 (90 Stat. 847, 22 U.S.C. 1076 note), or any similar prior provision of law, to the surviving spouse of a participant or annuitant.

(4) The monthly rate of an annuity resulting from an increase under this subsection shall be considered as the monthly rate of annuity payable under Section 821 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076), for purposes of computing the minimum annuity as provided in subsection (b) of this Section.

(5) The provisions of this subsection apply to all annuities, whether commenced before, on, or after August 1, 1974, but no increase in any annuity shall be paid or recomputed under this subsection for any period prior to August 1, 1974.

(d) In accord with Public Law 93–474, Section 221 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076), shall be deemed to be amended to provide for the recomputation of annuities for nonmarried annuitants, as follows:

(1) An annuity which is reduced under Section 821(b)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076(b)(1)), or any similar prior provision of law shall, for each full month during which a retired participant is not married, be recomputed and paid as if the annuity had not been so reduced. Upon remarriage of the retired participant, the annuity shall be reduced by the same percentage reductions which were in effect at the time of retirement or, if such percentage reductions were subsequently adjusted pursuant to law, by the percentage reductions last made pursuant to law.

(2) The provisions of this subsection apply to all annuities, whether commenced before, on, or after November 1, 1974, but no increase in any annuity shall be paid or recomputed under this subsection for any period prior to November 1, 1974.

(e) In accord with Public Law 94–166, Section 864 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1104), is deemed to be amended by adding a subsection (a) and conforming the present Section as subsection (b), to read as follows:

"Sec. 864 (a) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from such annuity for such purposes as the Secretary in his sole discretion considers appropriate.

"(b) None of the moneys mentioned in this title shall be assignable, either in law or equity, except under the provisions of subsection (a) of this Section or Section 634(c), or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws."

Gerald R. Ford

THE WHITE HOUSE,
January 7, 1977.

[FR Doc.77–1098 Filed 1–7–77;4:43 pm]

Executive Order 11954 • January 7, 1977

Federal Property Review

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including section 205(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(a)), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Federal Property Council (hereinafter referred to as the Council) is hereby reconstituted in the Executive Office of the President. The Council shall consist of the Director of the Office of Management and Budget, who shall be its Chairman, the Chairman of the Council of Economic Advisers, the Chairman of the Council on Environmental Quality, and such other members as the President may from time to time specify.

(b) Whenever requested by the Administrator of General Services or the Director of the Office of Management and Budget, the Council shall review the reports made by the Administrator of General Services pursuant to section 4 of this order, with particular attention to resolving conflicting claims on, and alternate uses for, any property described in those reports, consistent with laws governing Federal real property. The Council shall submit such recommendations and cause such reports to be submitted to the President as may be appropriate.

SEC. 2. All Executive agencies shall periodically review their real property holdings and conduct surveys of such property in accordance with standards and procedures determined by the Administrator of General Services pursuant to section 206 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 487), and this order.

SEC. 3. The Administrator of General Services shall issue standards and procedures, conduct surveys, and cause surveys to be conducted, to ensure that the real property holdings of Executive agencies shall continually be evaluated with special emphasis on the identification of properties that are not utilized, are under utilized, or are not being put to optimum use. The Administrator shall consult with appropriate Executive agencies in order to (a) identify real property that is excess or surplus to the needs of the Executive agencies, and (b) make such real property available for its most beneficial use under the various laws of the United States affecting such property.

SEC. 4. The Administrator of General Services shall report to the Director of the Office of Management and Budget with respect to any property or portion thereof which has not been reported excess to the requirements of the holding agency and which, in the judgment of the Administrator, is not utilized, is under utilized, or is not being put to optimum use, and which he recommends should be reported as excess property.

SEC. 5. The Director of the Office of Management and Budget shall review Federal real property policies and the objectives of the Executive branch of the Government; and shall review the reports made by the Administrator of General Services pursuant to section 4 of this order, as well as other reports relating to Federal real property. The Director shall submit such recommendations and cause such reports to be submitted to the President as may be appropriate.

SEC. 6. Executive Order No. 11724 of June 25, 1973, is hereby superseded.

Gerald R. Ford

THE WHITE HOUSE,
January 7, 1977.

[FR Doc.77-1100 Filed 1-7-77;4:45 pm]

rules and regulations

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

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

Title 5—Administrative Personnel

CHAPTER IV—ADVISORY COMMITTEE ON FEDERAL PAY

PART 1410—RULES AND REGULATIONS TO IMPLEMENT THE PRIVACY ACT OF 1974

Records of Individuals; Determinations and Access

On May 14, 1976, there were published in the FEDERAL REGISTER (40 FR 19973–19974) proposed regulations which set forth the procedures by which an individual could determine whether the Advisory Committee on Federal Pay maintained a system of records which included a record pertaining to the individual, and methods by which the individual could gain access to the record pertaining to him or her for the purpose of review, amendment, and/or correction. Interested parties were given the opportunity to submit comments regarding the proposed regulations by June 14, 1976. No comments were received and the proposed regulations are adopted without amendment this 3rd day of January, 1977.

JEROME M. ROSOW,
Chairman.

Title 5 of the CFR is amended by adding a new Chapter IV—Advisory Committee on Federal Pay, consisting of the following Part 1410 to read as follows:

PART 1410—RULES AND REGULATIONS TO IMPLEMENT THE PRIVACY ACT OF 1974

Sec.

1410.1 Purpose and scope.
1410.2 Definitions.
1410.3 Procedures for access of an individual to his or her own records in a record system.
1410.4 Times, places and requirements for the identification of the individual making a request.
1410.5 Grant to an individual of access to his or her own records.
1410.6 Access to the accounting of disclosures from records.
1410.7 Request for correction or amendment to the record.
1410.8 Agency review of request for correction or amendment of the record.
1410.9 Appeal of an initial adverse agency determination on correction or amendment of the record.
1410.10 Disclosure of record to a person other than the individual to whom the record pertains.
1410.11 Fees.

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

§ 1410.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Advisory Committee on Federal Pay (hereafter known as the Committee) 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.

§ 1410.2 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" includes maintain, collect, use or disseminate;

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

(d) The term "system of records" means a group of any records under the control of the Committee 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.

§ 1410.3 Procedures for access of an individual to his or her own records in a record system.

An individual shall submit a request to the Administrative Assistant of the Committee, Suite 205, 1730 K Street NW., Washington, D.C. 20006, in person or in writing, to determine if a system of records named by the individual contains a record pertaining to the individual, or if the Committee maintains any systems of records which pertain to the individual. The individual shall submit a request to the Administrative Assistant of the Committee which states the individual's desire to review his or her record. Individuals who require assistance in identifying systems of record, or in preparing requests identifying systems of record for access, or who need assistance in requesting amendments, may address such requests to the Administrative Assistant of the Committee, Suite 205, 1730 K Street NW., Washington, D.C. 20006.

§ 1410.4 Times, places and requirements for the identification of the individual making a request.

An individual making a request to the Administrative Assistant of the Committee pursuant to Section 1410.3 shall present the request at the Committee offices, Suite 205, 1730 K Street NW., Washington, D.C. 20006, on any business day between the hours of 8:15 a.m. and 4:45 p.m., or in writing. The individual submitting the request should present himself or herself at the Committee's offices with a form of identification which will permit the committee to verify that the individual is the same individual as contained in the record requested, such as a valid driver's permit, employee identification card, or Medicare card, or a signed statement from the individual asserting his or her identity and stipulating that he or she understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to $5,000. If the individual seeks access by mail, the Committee will require similar identification as required of those persons requesting access to records in person, or by identifying data such as name, date of birth, or system personal identifier (if known to the individual). Requests for access to systems of record will be acknowledged within ten days of receipt. The acknowledgement will indicate whether or not access can be granted and, if so, that it will be within a 30-day period unless, for good cause shown, the Committee is unable to do so.

§ 1410.5 Grant to an individual of access to his or her own records.

Upon verification of identity either in person or in written form to the Administrative Assistant of the Committee, Suite 205, 1730 K Street NW., Washington, D.C. 20006, and in accordance with the identification provisions of § 1410.4, the Committee shall grant access to the individual the information contained in the record which pertains to that individual. The individual may be accompanied for the purpose by a person of his or her choosing. Upon request of the individual to whom the record pertains, all information in the accounting of disclosures will be made available. If, for any unforeseen circumstances, or in an unusual situation when it may be necessary to deny a person access, the individual will be advised of the reasons therefor, and his or her right to judicial review under 5 U.S.C. 552a(f)(4).

§ 1410.6 Access to the accounting of disclosures from records.

The Privacy Act requires that with some limited exceptions individuals may request access to a list of those to whom records about them have been disclosed. Individuals seeking access to the accounting of disclosures from records pertaining to them should follow the same procedures as established above for access to the records themselves (see §§ 1410.3, 1410.4, 1410.5).

§ 1410.7 Request for correction or amendment to the record.

The individual should submit a request to the Administrative Assistant of the Committee which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with the provisions of § 1410.4.

§ 1410.8 Agency review of request for correction or amendment of the record.

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

(a) Make any correction or amendment or 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 to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Committee for the individual to request a review of that refusal. Corrections or amendments will be sent to prior recipients of the record in question, to the extent that the Committee has an accounting of the disclosure of the record of that information.

§ 1410.9 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Administrative Assistant of the Committee to correct or to amend his or her record may submit a request for a review of such refusal to the Chairman of the Advisory Committee on Federal Pay, Suite 205, 1730 K Street NW., Washington, D.C. 20006. The Chairman will, not later than thirty working days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Chairman extends such thirty day period. If, after his or her review, the Chairman also refuses to correct or to amend the record in accordance with the request, the individual may file with the Committee a concise statement setting forth the reasons for his or her disagreement with the refusal of the Committee and may seek judicial review of the Chairman's determination under 5 U.S.C. 552a(g)(1)(A). A copy of the corrected record or statement of dispute will be provided to prior recipients of the information in question, to the extent that the Committee has an accounting of the disclosure of that information.

§ 1410.10 Disclosure of record to a person other than the individual to whom the record pertains.

The Committee 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, except as required or permitted under 5 U.S.C. 552a(b).

§ 1410.11 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page for any copying charges in excess of $25.00. In cases of indigency, the Committee may waive such fees. In cases where copying charges exceed $25.00, advance payment will be required.

[FR Doc.77-821 Filed 1-10-77;8:45 am]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 8]

PART 726—BURLEY TOBACCO

Subpart—Burley Tobacco, 1971–72 and Subsequent Marketing

RECONSTITUTIONS, AVERAGE MARKET PRICE, AND RATE OF PENALTY

This amendment (1) eliminates the requirement that yields for individual tracts during the base period (1966–70) be used in establishing current yields when the farm is divided by the contribution method and such farm was a separate farm during one or more of the base years, (2) removes restrictions on transferring of quotas on federally-owned land, (3) removes requirements that a dealer or buyer obtain prior approval from the Director, PO Division, before being exempt from keeping regular records and making reports on MQ-79, and (4) incorporates the average market price received by producers for 1975–76 marketing and the penalty rate for the 1976–77 marketing year.

Since county offices are now accepting reconstitutions which will be effective for crop year 1977 and tobacco markets are in the process of opening, it is essential that these regulations be made effective at the earliest possible date. It is hereby found and determined that compliance with the notice of proposed rulemaking and public participation procedure in 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, this amendment shall become effective without regard to such procedure.

The following changes and additions to 7 CFR Part 726 are made:

1. The table of contents is amended by revising § 726.55, § 726.60, and § 726.61 to read as follows:

Sec.

* * * * *

726.55 Determining farm yields for old farms.

* * * * *

726.60 Determination of yields for divided farms.

726.61 Determination of quotas for reconstituted farms.

* * * * *

2. Section 726.55 is revised to read as follows:

§ 726.55 Determining farm yields for old farms.

The farm yield for an old farm shall be the same yield as was in effect for such farm in the immediate preceding year but the yield shall not exceed 3,500 pounds per acre.

3. Section 726.56 is amended by revising paragraph (b) to read as follows:

§ 726.56 Determining preliminary farm marketing quotas.

* * * * *

(b) *Determination.* The preliminary farm marketing quota shall be the farm marketing quota established for the preceding year.

4. Section 726.57 is revised to read as follows:

§ 726.57 Determining farm marketing quotas and effective farm marketing quotas.

(a) *Farm marketing quotas.* The farm marketing quota shall be determined by multiplying the current year's preliminary farm marketing quota by the national factor for the current year plus permanent quota adjustments.

(b) *Effective farm marketing quotas.* The effective farm marketing quota shall be the farm marketing quota plus or minus temporary quota adjustments.

5. Section 726.60 is revised to read as follows:

§ 726.60 Determination of yields for divided farms.

(a) *Contribution method.* Where a tract is separated from the parent farm and the tobacco marketing quota is divided by the contribution method, the farm yield shall be determined as follows:

(1) Where a farm yield was established for the tract prior to the time the tract became part of the parent farm, such yield shall be the farm yield for the tract.

(2) Where the tract is one for which a farm yield has never been established, the farm yield shall be the same as the farm yield for the parent farm.

(b) *Where the contribution method is not used.* When a farm is divided and the quotas are divided by any method other than the contribution method, the farm yield for such tract shall be the same as the farm yield established for the parent farm.

6. Section 726.61 is revised to read as follows:

§ 726.61 Determination of quotas for reconstituted farms.

(a) Farm marketing quotas shall be reconstituted pursuant to the provisions of Part 719 of this chapter. Where a farm is being divided, other basic data shall be apportioned among the divided tracts the same as the farm marketing quota.

(b) Where carryover tobacco produced on a parent farm is marketed after the effective date of a reconstitution, such marketing shall be charged to the divided tracts in the same ratio (1) as the marketing quotas are established for the divided tracts or (2) as the county committee determines that (i) the proceeds from such marketing are received by the owner or operator of one or more of the divided tracts or (ii) the owners of the divided tracts agree.

§ 726.64 [Amended]

7. Section 726.64 is amended by deleting the last sentence of paragraph (e).

8. Section 726.68 is amended by reserving paragraph (j) to read as follows:

§ 726.68 Transfer of burley tobacco farm marketing quotas by lease or by owner.

* * * * *

(j) [Reserved].

* * * * *

9. Section 726.86 is amended by revising paragraph (c) to read as follows:

§ 726.86 Rate of penalty.

* * * * *

(c) (1) *Average market price.* The average market price as determined by the Crop Reporting Board for the marketing year specified was:

AVERAGE MARKET PRICE

Marketing year:	*Cents per pound*
1970–71	72.2
1971–72	80.9
1972–73	79.2
1973–74	92.9
1974–75	113.7
1975–76	105.5

(2) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the marketing year specified shall be:

RATE OF PENALTY

Marketing year:	*Cents per pound*
1971–72	54
1972–73	61
1973–74	59
1974–75	70
1975–76	85
1976–77	79

10. Paragraph (a) of § 726.95 is amended to read as follows:

§ 726.95 Dealers exempt from keeping regular records and making reports on MQ–79 and season report for dealers.

(a) Any dealer or buyer who acquires tobacco in the form in which tobacco ordinarily is sold by farmers and resells five percent or less of any such tobacco shall not be subject to the requirements of § 726.94 except for the requirements which relate to the reporting or nonauction purchases from producers and the requirements of paragraph (d) of § 726.94. A dealer or buyer whose resales in the form ordinarily sold by farmers exceed five percent of its purchases as a direct result of order buying for another dealer for a service fee may report under paragraph (b) of this section in lieu of § 726.94 (except for requirements which relate to nonauction purchases from producers and requirements of paragraph (d) of § 726.94).

* * * * *

(Secs. 301, 312, 313, 314, 316, 318, 319, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 46, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 80 Stat. 120, as amended, 52 Stat. 63, as amended, 65, as amended, 66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 85 Stat. 23; (7 U.S.C. 1301, 1312, 1313, 1314, 1314b, 1314d, 1314e, 1363, 1372–1375, 1377, 1378). Pub. L. 92–10.)

Effective date: January 11, 1977.

Signed at Washington, D.C., on January 4, 1977.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

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PART 730—RICE

Subpart—Rice Program for Crop Years 1976–1977

This subpart, which prescribes the conditions under which rice producers may qualify for 1976 and 1977 program benefits, is issued pursuant to the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949, as amended by the Rice Production Act of 1975, Pub. L. 94–214, 90 Stat. 181. The regulations in 7 CFR 730.1 through 730.87, Subpart—Rice Marketing Quota Regulations for 1967 and Subsequent Crop Years, and Subpart—Regulations for Determination of Acreage Allotments for 1974 and Subsequent Crops of Rice, are revised to read as follows effective as to 1976 and subsequent corp years. The material previously appearing in these subparts remains in full force and effect as to prior crop years.

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AUTHORITY: Sec. 101, 63 Stat. 1051 (7 U.S.C. 1441); sec. 352, 385, 52 Stat. 60, 52 Stat. 68 (7 U.S.C. 1352, 1385); sec. 101, 90 Stat. 181 (7 U.S.C. 428c note).

Subpart—Rice Program for Crop Years 1976–1977

§ 730.1 General.

(a) The regulations in this subpart provide terms and conditions for the rice programs for the 1976 and 1977 crops of rice, respectively, under which producers on farms for which a rice allotment is applicable may qualify for payments authorized under the program.

(b) Producers who meet the eligibility requirement in § 730.19(c) may qualify for payments.

(c) In accordance with the Rice Production Act of 1975 and the regulations in Part 795 of this chapter, as amended, the total amount of payments which a person shall be entitled to receive annually under the rice program shall not exceed $55,000.

(d) In accordance with the regulations in Part 796 of this chapter, payments are prohibited to program participants who harvest or knowingly permit to be harvested for illegal use marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by them.

(e) The program is applicable in the States of Arizona, Arkansas, California, Florida, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

§ 730.2 Definitions.

In the regulations in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meaning assigned to them herein unless the content or subject matter otherwise requires.

(a) "Annual nonconserving crop" means any annual crop intended for harvest or utilized in any feed form except for the following:

(1) Grasses, regardless of use, including sweet sorghum, millet, and sudan grass.

(2) Legumes, other than peas or beans produced for seed, grain, or processing.

(3) Immature small grains (other than barley or wheat) destroyed by any means or used for other than grain.

(b) "Current year" means the calendar year in which the rice crop with respect to which payment may be made under this subpart would normally be harvested.

(c) "Farm administrative area" means: Each of the States of Arkansas, Mississippi, Missouri, North Carolina, Oklahoma, and the farm administrative area within the State of Louisiana consisting of the parishes of Union, Lincoln, Jackson, Winn, Grant, Rapides, Avoyelles, St. Landry, St. Martin, Iberia, St. Mary, and all parishes within the State west of such parishes, in which farm allotments are established on the basis of past production of rice on the farm.

(d) "Feed grain program" means the program authorized under Title V of the Agricultural Act of 1970, Part 775 of this chapter, as amended.

(e) "Producer administrative area" means: Each of the States of Arizona, California, Florida, South Carolina, Tennessee, Texas, and the producer administrative area within the State of Louisiana consisting of the parishes of Morehouse, Ouachita, Caldwell, LaSalle, Catahoula, Concordia, West Feliciana, Pointe Coupee, Iberville, Assumption, Terrebonne, and all parishes within the State east of such parishes, in which producer allotments are established on the basis of past production of rice by the producers.

(f) "Rice acreage" means any acreage planted to rice and any acreage of volunteer rice that is harvested, excluding any acreage of sweet, glutenous, or candy rice such as Mochi Gomi.

(g) "Rice operator" means a person who has operational control over the production of a specific acreage of rice, managerial responsibility for making day to day decisions involving the planting, harvesting, and marketing of that rice, and who shares in the crop or crop proceeds.

(h) "Rice planted and considered planted acreage" means the rice acreage defined in paragraph (f) of this section and:

(1) Any acreage which the county committee determines was not planted to rice because of drought, flood, or other natural disaster or condition beyond the control of the operator;

(2) Any acreage credited as rice acreage (except for new farms) under the provisions of Part 719 of this chapter, as amended;

(3) Any allotment acreage temporarily transferred from a farm or producer allotment: *Provided*, That acreage transferred from a producer allotment is allocated to a farm.

(4) Any allotment acreage temporarily released to the county committee.

(5) Any other acreage which is planted to annual nonconserving crops or which the county committee determines was not planted because of drought, flood, or other natural disaster or condition beyond the control of the operator, excluding acreage of allotment crops within the applicable allotment, and which is not used to protect cotton, feed grain, or wheat allotments: *Provided*, That such nonconserving crops shall not be considered as planted to rice for purposes of § 730.6(b)(4)(iii); and

(6) An acreage (except for new farms) equal to the amount that a rice allotment is reduced for the current year as provided in § 730.6(c)(2).

(i) "Upland cotton program" means the program authorized under Title VI of the Agricultural Act of 1970, Part 722 of this chapter, as amended.

(j) "Wheat program" means the program authorized under Title IV of the Agricultural Act of 1970, Part 728 of this chapter, as amended.

(k) In the regulations in this subpart and in all instructions, forms, and documents in connection therewith, all other words and phrases shall have the meanings assigned to them in the regulations governing reconstitution of farms and allotments, Part 719 of this chapter, as amended.

§ 730.3 Administration.

(a) The program will be administered under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service (ASCS) and shall be carried out in the field by Agricultural Stabilization and Conservation State and county committees (herein called "State and county committees") and the ASCS Data Systems Field Office.

(b) State and county committees, the ASCS Data Systems Field Office, and representatives and employees thereof do not have authority to modify or waive any of the provisions of the regulations in this subpart, as amended or supplemented.

§ 730.4 Rule of fractions.

Fractions shall be rounded in accordance with Part 793 of this chapter.

§ 730.5 National rice allotment.

The national rice allotment for 1976 and for 1977 is 1.8 million acres.

§ 730.6 Farm and producer allotments.

(a) *How obtained.* The national allotment is apportioned to farms in farm administrative areas and to producers in producer administrative areas on the basis of the farm and producer allotments established for the preceding year, adjusted to reflect any reserve established by the State committee for new farms or new producers, appeals, and corrections, to reflect adjustments authorized by the Deputy Administrator for crop rotation practices, and to reflect permanent adjustments made as required or permitted in this subpart.

(b) *New rice allotment*—(1) *Written application.* Each year, the county committee, with the approval of the State committee, shall establish a rice allotment (herein called "new rice allotment") for each eligible farm or producer for which an allotment is requested in writing by February 15 of the current year. Each request shall be made by the farm owner or current year rice operator on Form MQ–25, Application for New Farm or Producer Allotment or Quota, which shall contain data necessary to enable the county committee to determine whether the conditions of eligibility prescribed in paragraph (b)(2) of this section have been met.

(2) *Eligibility requirements for owner or rice operator.* Eligibility for a new rice allotment shall be conditioned upon the following:

(i) *Allotment.* The farm or rice operator does not otherwise qualify for a rice allotment.

(ii) *Interest in another rice allotment.* The owner or rice operator does not for the current year own, have an ownership interest in, or operate rice allotment acreage on any other farm in the United States with a rice allotment.

(iii) *Availability of equipment and facilities.* The rice operator has adequate equipment and other facilities, including irrigation water, readily available for the successful production of the crop on the farm.

(iv) *Income requirement.* The rice operator expects to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products from farming.

(A) *Computing operator's income.* The following shall be considered in computing operator's income:

(*1*) *Income from farming.* Income from farming shall include the estimated return from the production of the requested allotment and from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s), but shall exclude payments authorized under the rice program.

(*2*) *Income from nonfarming.* Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments and unemployment compensation.

(*3*) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(B) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(C) *Operator a corporation.* If the operator is a corporation, it must have no major corporate purpose other than ownership or operation of the farm. Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(D) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided the county committee determines that the rice operator's income, from both farm and nonfarm sources,

will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that such determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making such determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(v) *Producer allotment sold by rice operator or reduced to zero at his request.* A rice operator in a producer administrative area is not eligible for a new rice allotment if his allotment was:

(A) Transferred by sale in the previous 5 years beginning with the year in which the transfer became effective.

(B) Reduced to zero at his request within 3 years from the date the request for a new allotment is considered.

(3) *Farm eligibility requirements in a farm administrative area.* Additional eligibility requirements for a new rice allotment for a farm are as follows:

(i) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for the production of rice.

(ii) *Allotment reduced to zero at the farm owner's request.* At least 3 years must have elapsed from the date the rice allotment is reduced to zero at the farm owner's request, as authorized in paragraph (c) of this section, to the date the request for a new rice allotment is considered.

(iii) *Eminent domain.* A farm which includes land acquired by an agency having the right of eminent domain for which the total rice allotment was pooled pursuant to Part 719 of this chapter, as amended, which is subsequently returned to agricultural production, shall not be eligible for a new rice allotment for a period of 3 years from the date the former owner was displaced.

(iv) *Entire allotment designated by owner for a reconstitution.* A farm which includes land which has no allotment because the owner did not designate an allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter, as amended, shall not be eligible for a new rice allotment for a period of 3 years beginning with the year in which the reconstitution became effective.

(v) *Entire allotment permanently transferred by sale or transfer.* The farm from which the rice allotment was permanently transferred in the previous 5 years beginning with the year in which the transfer became effective, is not eligible for a new rice allotment.

(4) *Limitations*—(i) *Rice acreage planned.* The county committee shall limit the new rice allotment to the smaller of the allotment requested or the rice acreage planned for the current year.

(ii) *Reserve.* The total new rice allotments approved in a farm or producer administrative area shall not exceed the acreage available for new rice allotments within a reserve established for that purpose and for appeals and corrections by the State committee of not more than one percent of the sum of the reserve and the total old rice allotments in the administrative area.

(iii) *Current year rice acreage.* Notwithstanding any other provision of this subpart, if the rice planted and considered planted acreage for the year a new rice allotment is established is less than 90 percent of the allotment, the allotment for such year shall be reduced to the acreage planted and considered planted to rice and payments computed on the basis of such reduced allotment.

(5) *Cancellation of new allotment.* A new rice allotment shall be cancelled under the following circumstances:

(i) If a new rice allotment is established and it is later determined by the county committee that the applicant unknowingly furnished incomplete or inaccurate information, the allotment shall be cancelled effective for the next crop year. If it is determined that the applicant knowingly furnished incomplete or inaccurate information and the State committee concurs in the county committee determination, the allotment shall be cancelled as of the date issued.

(ii) If a new producer allotment is established for a rice operator, and it is later determined by the county committee that the applicant has not continued as a rice operator for the current crop year, the allotment shall be cancelled as of the date issued.

(c) *Reduced allotments.* Notwithstanding any other provisions of this subpart, rice allotments shall be reduced as follows:

(1) *Permanent reductions.* (i) The allotment shall be reduced to the extent:

(A) Requested in writing by the owner of the farm or by the producer for whom an allotment is established, not later than the date established by the State committee.

(B) Acreage of cropland on the farm in farm administrative areas is permanently removed from agricultural production, as determined by the county committee.

(C) It exceeds the farm cropland in farm administrative areas.

(ii) If the current year's rice planted and considered planted acreage is less than 90 percent of the allotment, the allotment for the succeeding year shall be reduced by the percentage by which the planted and considered planted acreage is less than the allotment for the current year, but such reduction shall not exceed 20 percent of the rice allotment. If the rice planted and considered planted acreage is zero for 2 consecutive years, the allotment shall be reduced to zero. However, no allotment shall be reduced or lost through failure to plant if all producers elect by September 1 of the current year to limit the acres for deficiency payment to the rice planted and considered planted acreage as provided in § 730.21(f).

(2) *Reductions for current year in farm administrative areas.* The following reductions shall be made by reducing the smallest allotment first and continuing in order of the size of the allotment, unless the operator requests in writing that the reduction be in a different order.

(i) Reduce feed grain, wheat, rice, and upland cotton allotments each year to the extent the sum of allotments for all commodities, as adjusted by transfer, release, and reapportionment, exceeds the farm cropland.

(ii) Reduce feed grain, wheat, and rice allotments each year to the extent the sum of feed grain, wheat, and rice allotments, as adjusted by transfer, release, and reapportionment, exceeds the cropland which, under normal conditions, could reasonably be expected to produce an allotment crop.

(d) *Division of partnership allotments in producer administrative areas.* If a partnership is dissolved, the partnership's allotment shall be divided among the partners in such proportion as they agree upon in writing or if they are unable to agree, proportionate to their interest in the partnership.

(e) *Succession of interest in producer allotment in case of death.* A deceased producer's allotment shall be apportioned in whole or in part among his heirs or devisees according to the extent to which they may continue, or have continued, his farming operations, if satisfactory proof of such succession of farming operations is furnished the county committee.

§ 730.7 Release and reapportionment of rice allotment.

(a) *Conditions under which allotments cannot be released.* The following allotments shall not be released in whole or in part.

(1) New rice allotments.

(2) A farm allotment for any farm for which the farm owner has filed a written objection at the office of the county committee prior to the release.

(3) Allotments pooled under Part 719 of this chapter for which an application for transfer has been filed.

(b) *Allotments which may be released and reapportioned.*—(1) *Release of allotments for the current year only.* Except as provided in paragraph (a) of this section, all or any part of the allotment for the current year may be voluntarily released in writing to the county committee by the applicable closing date. The release shall be made by the farm operator or producer to whom a producer allotment is issued, except that allotments pooled under Part 719 of this chapter may be released only by the displaced owner.

(2) *Permanent release of allotment.* Except as provided in paragraph (a) of this section and except for pooled allotment, all or any part of the allotment for the current year may be permanently released in writing to the county commit-

tee by the farm owner and operator or producer to whom a producer allotment is issued, by the applicable closing date.

(c) *Application for reapportioned allotment.* To be eligible for a reapportioned allotment, a written request by the farm operator or owner in a farm administrative area or be a rice operator in a producer administrative area shall be filed with the county committee by the applicable closing date.

(d) *Reapportionment by county committee.* Reapportionment shall be limited to allotments released only for the current year and allotments released permanently beginning in the current year. They shall be reapportioned to eligible farms or applicants in the same county in amounts determined by the county committee to be fair and reasonable pursuant to the standards and guidelines in paragraph (e) of this section.

(e) *Standards and guidelines for reapportionment.* (1) The reapportionment of an allotment to a member of the community or county committee or his employee, or to any farm owned, operated, or controlled by such member or employee, shall be approved by a representative of the State committee.

(2) An allotment shall not be reapportioned to a farm or rice operator from which or from whom an allotment was transferred in the current or prior year in accordance with § 730.8: *Provided*, That exceptional cases may be approved by a representative of the State committee, as when the transferer will not benefit from the reapportioned allotment or the transfer was temporary and the allotment has been returned to the farm or rice operator for the current year.

(3) The State committee shall establish and make available to interested parties other standards and guidelines that assure uniform consideration of land, labor, water, and equipment available for rice production, crop rotation practices, and soil and other physical factors affecting rice production.

(f) *Closing dates.* The State committee shall establish and publicize closing dates for the entire State or for areas consisting of one or more counties in the State, taking into consideration normal planting dates. No closing date for an area shall be later than the date rice planting normally becomes general in that area. The State committee may accept releases or applications for reapportionment which are filed late for reasons beyond the producer's control.

§ 730.8 General allotment transfer provisions—sale, lease, or by owner.

(a) All or part of a farm or producer base acreage allotment may be transferred but only within the same administrative area.

(b) Transfers by sale are permanent.

(c) Transfers by lease are for the term of the lease which shall not extend beyond 1977.

(d) Transfers by an owner to any other farm owned or controlled by him in the same farm administrative area may be either permanent or for a term of years designated by the owner which shall not extend beyond 1977.

§ 730.9 Record of transfer.

(a) *Filing record of transfer.*—(1) *Sale or lease.* (i) In producer administrative areas, the record of transfer (herein called "Form 375") shall be signed by the producer for whom the allotment is established and by the producer to whom the allotment is transferred. The signatures shall be witnessed by any State or county committee member or employee.

(ii) In farm administrative areas, Form 375 shall be signed by the owner, and operator if different, of the farm for which the allotment is established and by either the owner or operator of the receiving farm. The signature of either the owner or operator of each farm shall be witnessed by any State or county committee member or employee.

(iii) The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in other similar situations or may be unduly inconvenienced may be waived, provided the county office mails Form 375 for the required signature.

(2) *By owner in farm administrative area.* The owner of any farm for which an allotment is or will be established for the year in which the transfer is to take effect is eligible to file a record of transfer of such allotment from the farm to another farm owned or controlled by such owner in the same administrative area. The county committee shall approve a transfer under this subparagraph requested on a nonpermanent basis to a farm controlled but not owned by the applicant only if such applicant will be the operator of the farm to which transfer is to be made for each of the years for which the transfer is requested. However, if the county committee determines that the applicant is prevented from remaining the operator of such farm for which such transfer has been approved due to conditions beyond his control, the transfer shall remain in effect. Conditions beyond his control shall include but are not limited to death, incompetency, or bankruptcy of such person.

(b) *Filing period.* Form 375 may be filed during the period beginning on the date allotments are initially mailed to operators and ending on the date established by the State committee as provided in § 730.7(f). The State committee may accept a Form 375 filed after the closing date upon a finding that the producer was prevented from filing by such date for reasons beyond his control.

(c) *Filing place.* Form 375 shall be filed with the county committee that has administrative control over the rice allotment to the transferred.

§ 730.10 Amount of allotment transferable.

(a) *General.* All or part of the rice allotment may be transferred.

(b) *No transfer of reapportioned acreage.* Reapportioned allotments shall not be transferred.

(c) *No transfer of new rice allotment.* New rice allotments shall not be transferred.

(d) *Transfer of pooled allotments.* Allotments pooled under Part 719 of this chapter may be permanently transferred during the 3-year life of the pooled allotment or for a term of years not to exceed the remaining years of such 3-year period.

§ 730.11 Additional conditions and limitations.

(a) *Consent of lienholder.* No transfer of a farm allotment shall be made from a farm subject to a mortgage or other lien unless the transfer is agreed to in writing by the lienholder, except that such consent of lienholder shall not be required in the case of a temporary transfer for a 1-year period by lease or by owner.

(b) *Limitation on transfers to and from a farm or producer.* Allotments shall not be transferred to and from a farm or to and from a producer in the same year.

(c) *Additional limitation on permanent transfers.* No permanent transfers by sale or by owner shall be made from any farm or from any producer allotment to which an allotment was permanently transferred by sale or by owner within the three immediately preceding crop years.

§ 730.12 County committee action.

(a) *Approval of transfers.* The county committee shall approve allotment transfer when all eligibility requirements for transfer are met. If the transfer is made between counties, the approval of both county committees shall be required. No allotment transfer shall be effective until county committee approval is obtained.

(b) *Cancellation, withdrawal, or revision of transfer agreement.*—(1) *Cancellation.* The county committee shall cancel the transfer if it determines that one or more of the eligibility requirements for transfers were not met.

(2) *Withdrawal or minor revisions.* Where the county committee determines that it is clearly in the best interest of all the producers and that effective operation of the program will not be impaired, the county committee may permit withdrawal or minor revisions of transfers upon written request by all parties to the transfer: *Provided*, That (i) temporary transfers may be withdrawn or revised during any year of the agreement before rice is planted, and (ii) permanent transfers may be withdrawn or revised only during the first year of the agreement before rice is planted.

§ 730.13 Allocation of producer allotments to farms.

(a) In order to obtain program benefits, producer allotments not released to the county committee must be allocated to farms.

(b) Applications for allocating allotments to farms must be filed by May 1 of the current year, in accordance with instructions issued by the Deputy Ad-

ministrator. Applications may be accepted as timely filed after May 1 if the county committee, with the concurrence of the State executive director, determines from the facts and circumstances that the producer's failure to file previously or his reason for changing an application is because of an error on the part of an employee of the county or State committee, or because of physical reasons beyond the producer's control.

(c) Allotments may be allocated only by a rice operator on the farm or by an owner of the farm and subject to the following conditions:

(1) Rice operators may allocate allotment acreage initially issued to them or that they acquire by sale, lease, or reapportionment.

(2) Farm owners may allocate allotment acreage initially issued to them or which they have purchased, provided they:

(i) Contribute land suitable for rice production that is sufficient to produce the allocated acreage, and

(ii) Share in the rice crop or crop proceeds.

§ 730.14 Transfer of farm rice acreage affected by a natural disaster.

(a) *General authority.* The State committee shall determine when a county is affected by a natural disaster or other condition beyond the control of producers, which prevents the timely planting or replanting of rice in the county. The county committee shall post in the county office a notice of any such determination affecting the county and, to the extent practicable, shall give general publicity in the county to such determination.

(b) *Application for transfer.* The owner or rice operator on a farm in a county designated for any year under paragraph (a) of this section may file a written application for transfer of rice acreage within the farm rice allotment acreage for such year to another farm in the same county or nearby county in the same administrative area if such acreage cannot be timely planted or replanted because of the natural disaster or condition beyond the producer's control. The application shall be filed with the county committee for the county in which the farm affected by such disaster or condition is located. If the application involves a transfer to a nearby county, the county committee for the nearby county shall be consulted before action is taken by the county committee receiving the application.

(c) *Amount of transfer.* The acreage to be transferred shall not exceed the smaller of (1) the farm allotment established or allocated under this subpart less such acreage planted to rice and not destroyed by the natural disaster, or (2) the acreage requested to be transferred.

(d) *County committee approval.* The county committee shall approve the transfer if it finds that the following conditions have been met:

(1) All or part of the allotment from which the acreage is to be transferred could not be timely planted or replanted because of the natural disaster or condition beyond the producer's control.

(2) One or more producers of rice on the farm from which the acreage is to be transferred will be a bona fide rice producer on the farm to which the acreage is to be transferred and will share in the rice crop or crop proceeds in the manner customary in the area.

(e) *Cancellation of transfer.* If a transfer is approved under this section and it is later determined that the conditions in paragraph (d) of this section have not been met, the county committee, with approval of the State committee or its representative, shall cancel the transfer.

(f) *Planting credit.* Any acreage transferred under this section shall be deemed planted on the farm from which transferred for the purpose of determining the planted and considered planted acreage. However, the yield established for the farm to which the acreage is transferred shall apply to such acreage for program payment and loan purposes.

(g) *Closing dates.* The closing date for filing applications for transfers with the county committee shall be the end of the normal planting period as determined by the State committee. Notwithstanding such closing date requirement, the county committee may accept applications filed after the closing date upon a determination by the county committee that the failure to timely file an application was the result of conditions beyond the control of the applicant and a representative of the State committee approves such determination.

§ 730.15 Farm and rice operator yields.

(a) *Determining yields.* The per acre yield shall be the average yield for the farm (for the rice operator in a producer administrative area) determined on the basis of the actual yields per harvested acre for the 3 preceding years: *Provided,* That the actual yields shall be adjusted by the county committee in accordance with instructions issued by the Deputy Administrator for abnormal yields in any year caused by a natural disaster or other condition beyond the producer's control.

Other provisions are:

(1) For years with no acreage, a yield shall be assigned based on yields established for similar operations.

(2) The actual yield in 1976 and 1977 shall be considered to be zero if either an acreage report or a production report is not filed.

(3) For reconstituted farms:

(i) Determine the actual yield on the farm as constituted in the first year of the 3-year base period.

(ii) If the farm is subsequently divided, assign the farm yield determined for that year to each tract or assign yields which when weighted for all tracts, do not exceed the farm yield determined for that year.

(iii) Repeat steps one and two as necessary for the other 2 base years.

(iv) Compute for each year a yield extension for each tract in the farm as constituted for the current year by multiplying the acreage apportioned to the tract times the yield assigned for that year, total the extensions for all tracts, and divide by the total acreage used to compute the extensions to determine the actual yield for each base year.

(b) *Yield reduction.* For the purpose of determining eligibility for and amount of low yield payment as provided in § 730.23(b), the established yield for the farm shall be reduced in accordance with instructions issued by the Deputy Administrator to reflect any reduction in the current year yield which is due to causes other than a natural disaster or condition beyond the control of the producer, such as a change in farming practices.

§ 730.16 Payment rates.

Payment rates shall be established separately for deficiency payments and for disaster payments.

(a) *Deficiency payment rates.* The per pound deficiency payment rate for each crop of rice shall be the amount by which the higher of (1) the national weighted average market price received by farmers for rice during the first 5 months of the marketing year for such crop beginning August 1 or (2) the national average loan rate established for such crop is less than the established price of $0.08 per pound in the case of the 1976 crop adjusted to reflect any change during the period beginning February 16, 1976 and ending July 31, 1976, in the index of prices paid by farmers for production items, interest, taxes, and wage rates, and the established price for the 1976 crop adjusted to reflect any changes during the 12-month period immediately preceding July 31, 1977, in such index in the case of the 1977 crop; *Provided,* That any increase that would otherwise be made in the established price for the 1976 and 1977 crops to reflect a change in the index of prices paid by farmers may be further adjusted to reflect any change in (i) the national average yield per acre of rice for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre for the three calendar years preceding the year previous to the one for which the determination is made. The established price for the 1976 program is $0.0825 per pound.

(b) *Disaster payment rate.* The disaster payment rate for rice shall be equal to the larger of the deficiency payment rate or one-third of the established price. The disaster payment rate for the 1976 program year is $0.0275 per pound.

§ 730.17 Notice of allotments and yields.

Each producer for whom a producer allotment is established and each operator for whom a farm allotment is established shall be notified in writing of the allotment and established yield per

acre and any revision required under this subpart: *Provided*, That the notice shall not be mailed to any producer who has filed a written request that he not be furnished the notice but it shall be filed with the producer's request in the county office. The producer may withdraw his request at any time; however, during the period a request is in effect, the producer shall be considered as having been timely and correctly notified of the contents of this notice.

§ 730.18 Reconstitution of farms.

Farms shall be reconstituted and rice allotments established therefor in accordance with Part 719 of this chapter, as amended. Yields shall be determined in accordance with § 730.15.

§ 730.19 Requirements for program participation.

(a) *General.* A person is eligible for the program if he is a producer on a farm which meets the requirements of paragraph (b) of this section and he fulfills the requirements of paragraph (c) of this section.

(b) *Farm requirements.* (1) For disaster payments, a Claim for Prevented Planting (herein called "Form 574–1") or an Application for Disaster Credit (herein called "Form 574") shall be filed by the operator of an eligible farm with the office of the county committee having jurisdiction over the county where the farm is located. He shall also file (i) a Record of Acreages, Production and Disposition (herein called "Form 658") and (ii) a Summary of Production (herein called "Form 575–1") when the information thereon is needed for program administration. These forms shall be filed within the period authorized and according to instructions issued by the Deputy Administrator.

(2) Land owned by the Federal Government shall be ineligible for participation in the program if it is occupied without a lease, permit, or other right of possession.

(3) Producers on a farm acquired for future development for purposes other than agricultural production shall not be eligible for participation in the program unless the county committee determines that the farm is actively engaged in the production of crops for harvest other than hay, sod, ornamentals, or timber.

(c) *Producer eligibility requirements.* (1) The producer must be a person who as landowner, landlord, tenant, or sharecropper shares in the rice produced in the current year (or the proceeds therefrom) on a farm meeting the requirements of paragraph (b) of this section or would have shared in the crop if rice had been produced on such farm in the current year.

(2) A minor will be eligible to participate in the program only if (i) the right of majority has been conferred on him by court proceedings; (ii) a guardian has been appointed to manage his property and the applicable documents are signed by the guardian; or (iii) a bond is furnished under which a surety guarantees to protect the Commodity Credit Corporation from any loss incurred for which the minor would be liable had he been an adult. Notwithstanding the foregoing, payment may be made to a minor after December 31 of the current year upon a determination by the county committee that the minor has met the requirements of the program.

§ 730.20 Determination of compliance.

(a) Determination of the acreage devoted to rice and other annual nonconserving crops shall be made in accordance with Part 718 of this chapter, as amended.

(b) A representative of the county committee or the State committee or any authorized representative of the Secretary shall have the right at any reasonable time to enter a farm, concerning which representations have been made on any forms filed under the program, in order to measure the acreage planted to rice and other annual nonconserving crops, to examine any records pertaining thereto, and otherwise to determine the accuracy of a producer's representation and the performance of his obligations under the program.

§ 730.21 General payment provisions.

(a) *Issuance.* Payments of any amounts due the producers on a farm shall be made only after they sign an Application for Payment (herein called "Form 516"), and the payments are approved by the county committee or by an authorized representative thereof. A Form 516 signed after May 1 of the year following the current year shall not be accepted by the county committee unless prior approval of the State committee is obtained.

(b) *Failure to fully comply.* Except as otherwise provided herein and in Part 791 of this chapter, as amended, payment shall not be made for a farm or to a producer when there is failure to comply fully with the regulations contained in this subpart, and in Part 718 of this chapter.

(c) *Payment due producer.* Subject to the provisions of the payment limitation regulations in Part 795 of this chapter, as amended, the total earned payment due each eligible producer under the program shall be determined by multiplying the total earned payment for the farm by the producer's share of such payment.

(d) *Payment declined.* If a producer declines to accept all or any part of his share of the payment computed for a farm in accordance with the provisions of this section, such payment or portion thereof shall not become available for any other producer on the farm.

(e) *Idle farms.* Producers on a farm not used for the commercial production of crops or livestock on cropland, or from which only sod, ornamentals, or timber are harvested, shall not be eligible for program payments when the rice allotment is preserved with vegetative cover as authorized by the regulations in Part 719 of this chapter, as amended.

(f) *Allotment protection.* Producers otherwise eligible for payment may elect by September 1 of the current year to limit the acres for deficiency payment to the rice planted and considered planted acreage in order to protect the rice allotment from reduction due to failure to plant.

(g) *Unearned payments.* Payments to any producer which exceed the total payment he earns under the program with respect to any farm shall be refunded to the Commodity Credit Corporation, and, if for any reason such earned payment is zero, he shall pay interest at the rate of 6 percent per annum on the amount of the refund from the issue dates of the sight drafts to the dates the payments are refunded. The provisions of the foregoing sentence requiring the payment of interest when no payment is earned shall not apply if the producer earns any rice, feed grain, wheat, or upland cotton payments for the farm or receives an unearned payment through no fault of his own.

§ 730.22 Deficiency payments.

(a) Deficiency payments shall be determined by multiplying the applicable farm or rice operator's allotment acreage by the yield established as provided in § 730.15 and by the per pound rate determined in accordance with § 730.16(a): *Provided*, That no deficiency payment shall be made for any part of the allotment times the yield for which a disaster payment is made.

(b) Deficiency payments will be made to producers as soon as practicable after December 31 of the current year.

§ 730.23 Disaster payments.

Producers may qualify for disaster payments only when the county committee determines that prevented planting or a low yield as hereinafter described in this section occurs because of drought, flood, or other natural disaster or condition beyond the control of the producer. Disaster payments shall be made as soon as practicable after the disaster is reported, the extent of the crop loss is determined, and payment is approved.

(a) *Prevented planting.* (1) The acreage for prevented planting payments shall be determined by grouping the farm's feed grain, rice and wheat allotments together and shall equal the smaller of:

(i) For rice, the acreage of rice the producer is prevented from planting;

(ii) The amount that the sum of feed grain, rice and wheat allotments exceeds the total acreage of annual nonconserving crops, excluding (a) acreage within the applicable allotment of commodities other than feed grains, rice and wheat, (b) acreage disregarded for low yield purposes according to paragraph (b)(1)(i) of this section, (c) barley or wheat acreage designated solely for grazing or nongrain use in accordance with instructions issued by the Deputy Administrator, (d) failed feed grain, upland cotton, or wheat acreage which could have been replanted but was not, and (e) barley or

wheat acreage planted to a variety bred to produce no grain.

(2) Prevented planting payments shall be determined by:

(i) Crediting the acreage for payment first to the underplanting of the allotment for the crop with the highest per acre payment rate and continuing in order of the size of the payment rate, but limiting the acreage credited to feed grains to the total feed grain underplanting.

(ii) Reducing the acreage otherwise credited to each crop by the acreage of that crop excluded according to paragraphs (a) (i) (ii) (b) through (e) of this section.

(iii) Multiplying the acreage credited to rice by the yield established as provided in § 730.15 and by the rate determined in accordance with § 730.16(b).

(b) *Low yields.* (1) For the purpose of determining eligibility for low yield payments and the total acreage on which such payments will be made, the "disaster allotment" for rice means the effective allotment adjusted downward to the extent it is underplanted. *Provided*, That the planted acreage to be considered for this purpose shall exclude:

(i) Failed rice acreage which could have been replanted but was not, and

(ii) Rice acreage designated solely for wildlife use in accordance with instructions issued by the Deputy Administrator.

(2) For low yield payment purposes, the county committee shall disregard the production from the excluded acreage as well as production from acreage in excess of the disaster allotment which is mechanically destroyed without feed benefit prior to the time most of the rice in the area has headed.

(3) A farm shall not be deemed to have suffered a loss which qualifies it for a low yield payment unless the current year production of rice is less than two-thirds the result obtained by multiplying the disaster allotment by the yield established for the farm. The yield for a farm in a producer administrative area shall be established for disaster payment purposes by multiplying each rice operator's allotment acreage he plants on the farm by his yield established as provided in § 730.15, totaling the results obtained for all rice operators on the farm, and dividing by the total allotment acreage they planted.

(4) The rice production from acreage not harvested shall be appraised and added to the actual production for the purpose of determining eligibility for and amount of low yield payments, in accordance with instructions issued by the Deputy Administrator.

(5) Any rice acreage destroyed without opportunity for appraisal for which the production was not excluded in paragraph (b)(2) of this section shall be charged with the established yield.

(6) Low yield payments shall be determined by multiplying the disaster allotment by the yield established for the farm, subtracting the determined production therefrom, and multiplying the result by the per pound rate determined in accordance with § 730.16(b).

§ 730.24 Division of payments and additional provisions relating to tenants and sharecroppers.

The regulations relating to the division of payments and additional provisions relating to tenants and sharecroppers in Part 794 of this chapter, as amended, shall apply to rice.

§ 730.25 Successors-in-interest.

(a) In the case of the death, incompetency, or disappearance of any person who had an interest as a producer of rice or would have had an interest as a producer if rice had been planted, the payment due him shall be made to his successor as determined in accordance with the regulations in Part 707 of this chapter, as amended.

(b) When any person who had an interest as a producer of rice or would have had an interest as a producer if rice had been planted (herein called "predecessor") is succeeded on the farm by another producer (herein called "successor"), the payment to the predecessor and successor shall be divided between them on such basis as they agree is fair and equitable. If such persons are unable to agree to a division of the payment, a fair and equitable division shall be determined by the county committee.

(c) In any case where any payment due any successor producer has previously been paid to the producer who filed Form 516, such payment shall not be paid to the successor producer unless it is recovered from the producer to whom it has been paid or payment is authorized by the Deputy Administrator.

§ 730.26 Misrepresentation and scheme or device.

(a) A producer who is determined by the county committee or the State committee to have erroneously represented any fact affecting a program determination shall not be entitled to payments under the program for the farm with respect to which the representation was made and shall refund to the Commodity Credit Corporation the payments received by him with respect to such farm.

(b) A producer who is determined by the State committee or the county committee with the approval of the State committee, to have knowingly (1) adopted any scheme or device which tends to defeat the purpose of the program, (2) made any fraudulent representation, or (3) misrepresented any fact affecting a program determination shall not be entitled to payments for any farm under the program and shall refund to the Commodity Credit Corporation all payments received by him with respect to the program.

(c) The provisions of this section shall be applicable in addition to any liability under criminal and civil fraud statutes.

§ 730.27 Setoffs and assignments.

(a) *Producer indebtedness.* The regulations issued by the Secretary governing setoffs and withholdings, Part 13 of this chapter, as amended, shall be applicable to this program.

(b) *Assignments.* Any producer who may be entitled to any payment may assign his rights thereto in accordance with the regulations governing assignment of payment as set forth for other programs in Part 709 of this chapter, as amended.

§ 730.28 Appeals.

A producer may obtain reconsideration and review of determinations made under this subpart in accordance with the Appeal Regulations, Part 780 of this chapter, as amended.

§ 730.29 Performance based upon advice or action of county or State committee.

The provisions of Part 790 of this chapter, as amended, relating to performance based upon action or advice of an authorized representative of the Secretary shall be applicable to this subpart.

§ 730.30 Supervisory authority of State committee.

The State committee may take any action required by these regulations which has not been taken by the county committee. The State committee may also (a) correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this subpart, or (b) require a county committee to withhold taking any action which is not in accordance with the regulations of this subpart.

§ 730.31 Delegation of authority.

No delegation herein to a State or county committee shall preclude the Administrator, ASCS, or his designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

§ 730.32 Recordkeeping.

Records of all rice purchased, acquired or received, are to be kept by warehousemen, mill or elevator operators, processors, and buyers in accordance with instructions issued by the Deputy Administrator. Producer's records of evidence tending to show program performance need not to be retained for more than 2 years after the end of the program year as provided by Part 708 of this chapter.

Since these regulations apply to 1976 and planting has occurred, it is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest.

Effective date: These regulations shall become effective on January 10,1977.

Signed at Washington, D.C., on January 5, 1977.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-892 Filed 1-10-77;8:45 am]

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

PART 959—ONIONS GROWN IN SOUTH TEXAS

Expenses and Rate of Assessment

This document authorizes the South Texas Onion Committee to spend not more than $113,324 for its operations during the fiscal period ending July 31, 1977, and to collect one and one-half cents ($0.015) per 50-pound container of onions, or equivalent quantity, handled by first handlers under the program.

The committee is the administrative agency established under Marketing Agreement No. 143 and Order No. 959, both as amended, regulating the handling of onions grown in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Notice was published in the December 9, 1976, FEDERAL REGISTER (41 FR 53807) regarding the proposals. It afforded interested persons an opportunity to submit written comments not later than December 28, 1976. None was received.

After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular period shall apply to all assessable onions from the beginning of such period.

The regulation follows:

§ 959.217 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1977, by the South Texas Onion Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $113,324.

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be one and one-half cents ($0.015) per 50-pound container of onions, or equivalent quantity, handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending July 31, 1977, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

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

Dated: January 5, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-879 Filed 1-10-77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—GUARANTEED LOANS

[FmHA Instruction 440.1]

PART 1845—FmHA EMERGENCY LIVESTOCK LINE OF CREDIT GUARANTEES

Extension of Guarantees

Section 1845.13 of Part 1845, Title 7, Code of Federal Regulations (40 FR 30623) is amended to add paragraph (h) which clarifies the requirements with respect to approving an extension of an emergency livestock line of credit guarantee issued prior to December 20, 1976. Such approval having been made possible by the Emergency Livestock Act as amended by Pub. L. 94–517.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. However, this document is being published without notice of proposed rulemaking since such notice would delay approval of new EL advances to indebted borrowers causing possible financial losses, and therefore, is contrary to the public interest.

Accordingly, § 1845.13 is amended to add paragraph (h) which reads as follows:

§ 1845.13 EL line of credit limitations and special provisions.

* * * * *

(h) *Extension of guarantees.* New loan advances to be made after December 31, 1976, will not be automatically covered by "line of credit" guarantees issued before December 20, 1976, under terms of the Emergency Livestock Credit Act of 1974, as amended by Pub. L. 94–35. Any advance(s) under these guarantees after December 31, 1976, requires an extension of the guarantee.

(1) When lenders desire to continue making new advances to borrowers indebted under a guarantee issued prior to December 20, 1976, it will not be necessary to issue a new Form FmHA 449.27: *Provided,* The lender will certify in writing that:

(i) The borrower meets eligibility requirements including a statement that he (the lender) is unable to extend the additional credit without a guarantee,

(ii) The outstanding balance is current,

(iii) Collateral for the new advance(s) will be sufficient to meet EL security requirements,

(iv) The borrower has reasonable repayment ability for the overall guaranteed indebtedness, and

(v) The advance(s) will be within the terms of the existing "line of credit ceiling" previously approved by FmHA.

(2) For cases meeting the criteria stated in paragraphs (h)(1) (i), (ii), (iii), (iv), and (v) of this section the County Supervisor will change the date "December 31, 1976," in the second line of item "a" of the existing contract of guarantee to "September 30, 1978," and initial the change. If the County Supervisor questions the proposal and needs supporting information in addition to that previously furnished by the lender, he will obtain it before initialing the change in the contract guarantee.

(3) When a lender desires to make advance(s) above the previously approved line of credit ceiling, or when the advance(s) will not be within the limits of the "Line of Credit Agreement," or the line of credit loan advances are not paid current, the above method will not be used. In such cases it will be necessary for the lender to prepare a completely new guarantee request with all the supporting forms and information required by this Part 1845 for a contract of guarantee on a new line of credit. If the loan approval official determines that all the requirements for a new guarantee are met, the existing line of credit will be refinanced by the new line of credit, and a new contract of guarantee will be issued. To complete the transaction, the lender must surrender the previous contract of guarantee to the County Supervisor who will mail it to the Finance Office with a new Form FmHA 449–31. The County Supervisor will indicate in his transmittal letter to the Finance Office that the previous contract is being replaced and that the Finance Office records should be adjusted to reflect only the new line of credit guarantee.

Effective date. This document shall become effective on January 11, 1977.

(Sec. 10, Pub. L. 93–357 as amended; delegation of authority by the Secretary of Agriculture (7 CFR 2.23); delegation of authority by Assistant Secretary of Rural Development (7 CFR 2.70))

Dated: January 3, 1977.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.77-950 Filed 1-10-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Emergency Amendment Adopting Special Rule No. 1 for Subpart F; Correction as to Written Comment Procedures

In FR Doc. 76-38499 appearing at 1037 in the FEDERAL REGISTER of January 5,

1977, the following correction should be made:

On page 1037, column 1, at line 34, the text is corrected by changing the designation of the Box for the filing of written comments to JY.

MICHAEL F. BUTLER,
General Counsel.

JANUARY 6, 1977.

[FR Doc.77-932 Filed 1-6-77;3:07 pm]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-117, Amdt. 8]

PART 378a—ONE-STOP-INCLUSIVE TOUR CHARTERS

Elimination of Certain Post-Tour Reports

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., January 6, 1977.

Section 378a.50(c) of the Board's Special Regulations (14 CFR 378a.50(c)) currently requires that every direct air carrier and tour operator or foreign tour operator operating One-stop-inclusive Tour Charters (OTC's) jointly file a monthly report, set forth in Appendix C to Part 378a, indicating the number of OTC's listed on the prospectus that were not performed, the number that were performed, and for each tour that was operated indicating the direct air carrier, the month the services were performed, the flight number, points of enplanement and deplanement, and the numbers of passengers enplaned or deplaned at such points.

By ER-949, 41 F.R. 12282, March 25, 1976, and ER-950, 41 F.R. 12281, March 25, 1976, the Board adopted amendments to Parts 217 and 249 of its Economic Regulations (14 CFR Parts 217 and 249) that changed CAB Form 41, Schedule T-6 and CAB Form 217. Those forms set forth the reporting requirements for civilian charters performed by certificated route and supplemental air carriers, and by foreign direct air carriers.

As revised, they require quarterly reports containing substantially the same information as is contained in the monthly reports required under § 378a.50 (c). The receipt of this OTC information on a quarterly basis is now sufficient to meet the Board's needs. CAB Form 41, Schedule T-6, and CAB Form 217 are in the form most useful to the Board; unlike the reports required under § 378a.50(c) they are adaptable to computerized printouts that save valuable staff time in compiling studies from post-tour reports.

The Board has therefore decided to elminate the reporting requirements set forth in § 378a.50(c). Appendix C, *Reporting Form*, will be revoked and reserved. Because this amendment creates no significant additional burden for any member of the public, and because public benefit will be derived from putting it into effect without delay, it is found for good cause that notice and public procedure thereon are unnecessary and that it may become effective January 11, 1977.

Although § 371.50(b) of the advance booking charter (ABC) rule contains reporting requirements that are parallel to those of § 378a.50(c), the Board has decided not to eliminate those requirements at this time. ABC operations are just beginning, and the Board finds it desirable to receive the subject information on a monthly basis so as to enable us to monitor their effects on scheduled service.

In light of the foregoing, the Civil Aeronautics Board hereby amends Part 378a of its Special Regulations (14 CFR Part 378a), effective January 11, 1977, as set forth below.

1. The table of contents is amended by deleting and reserving the reference to Appendix C, *Reporting Form*, so that the table of contents reads as follows:

* * * * *

APPENDIX B—PASSENGER NAME LISTS

APPENDIX C—[RESERVED]

* * * * *

2. Section 378a.50 is revised by revoking paragraph (c), deleting the reserved paragraph (a), and by deleting the letter (b) from the remaining paragraph, so that the section reads:

§ 378a.50 Charter trip reporting.

The direct air carrier shall promptly notify the Board (Supplementary Services Division, Bureau of Operating Rights) regarding any charters covered by a Prospectus filed under § 378a.28, or a Statement of Authorization issued pursuant to § 378a.106, that are later canceled.

APPENDIX C—[RESERVED]

3. Part 378a is amended by revoking and reserving Appendix C, *Reporting Form*.

(Secs. 204, 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766 (49 U.S.C. 1324, 1377))

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-948 Filed 1-10-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-24]

PART 6—AIR COMMERCE REGULATIONS

Presidio-Lely International Airport At Presidio, Texas

On September 9, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 38187), which proposed to amend § 6.14(e) of the Customs Regulations (19 CFR 6.14(e)) by adding the Presidio-Lely International Airport at Presidio, Texas, to the list of designated airports for private aircraft arriving from areas south of the United States. No comments were received regarding the proposal.

Accordingly, the list of designated airports set forth in § 6.14(e) of the Customs Regulations (19 CFR 6.14(e)) is amended by inserting "Presidio, Texas" and "Presidio-Lely International Airport" directly after "Nogales, Arizona" and "Nogales International Airport," respectively.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 1109, 79 Stat. 799, as amended (19 U.S.C. 66, 1624, 49 U.S.C. 1509))

Effective date. This amendment shall become effective on or before February 10, 1977.

VERNON D. ACREE,
Commissioner of Customs.

Approved: January 3, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.77-953 Filed 1-10-77;8:45 am]

[T.D. 77-25]

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

Withdrawal of Supplies for Vessels

On June 8, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 22952), which proposed to amend paragraph (e) of § 10.59 of the Customs Regulations (19 CFR 10.59(e)) to require that Customs Form 5125, Application for Withdrawal of Bonded Stores for Fishing Vessel and Certification of Use, be submitted in triplicate, rather than in duplicate as is presently required. The additional copy shall be submitted to the district director at each Customs port along with the original and shall be retained by the withdrawer as evidence of consumption of stores on board or proper landing under Customs supervision.

Interested persons were given 30 days from the date of publication of the notice to submit data, views, or arguments with respect to the proposed amendment. No comments were received and it has been determined that the proposed amendment should be adopted as set forth in the notice of proposed rulemaking.

Accordingly, paragraph (e) of § 10.59 of the Customs Regulations (19 CFR 10.59(e)) is amended as set forth below:

§ 10.59 Exemption from Customs duties and internal revenue tax.

* * * * *

(e) Vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over may be allowed to withdraw distilled spirits (including alcohol), wines, and beer conditionally free under section 309 of the Tariff Act of 1930, as amended, if the district director is satisfied from the quantity requested, in the light of (1) whether the vessel is employed in substantially continuous fishing activities, and (2) the vessel's complement, that none of the withdrawn articles is

intended to be removed from the vessel in, or otherwise returned to, the United States without the payment of duty or tax. Such withdrawal shall be permitted only after the approval by the district director of a special written application, in triplicate, on Customs Form 5125, of the withdrawer, supported by a bond on Customs Form 7603 executed by the withdrawer. Such application shall be filed with Customs Form 7506 or 7512,[57] as the case may be. The original and the triplicate copy or the application, after approval, shall be stamped with the withdrawal number and date thereof and shall be returned to the withdrawer for use as prescribed below. Approval of each such application shall be subject to the condition that the original and the triplicate copy shall be presented thereafter by the withdrawer or the vessel's master to the district director within 24 hours (excluding Saturday, Sunday, and holidays) after each subsequent arrival of the vessel at a Customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the articles until the district director is satisfied that all of them have been consumed on board, or landed under Custom's supervision, and takes up the original application. (The withdrawer shall retain the triplicate copy as evidence of consumption on board or landing under Customs supervision.) The approval shall be subject to the further conditions that any such withdrawn article remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the district director for the port or place of arrival shall deem necessary and that failure to comply with the conditions upon which a conditionally free withdrawal is approved shall subject the total quantity of withdrawn articles to the assessment and collection of an amount equal to the duties and taxes that would have been assessed on the entire quantity of supplies withdrawn had such supplies been regularly entered, or withdrawn, for consumption.

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

Effective date: This amendment shall become effective February 10, 1977.

VERNON D. ACREE,
Commissioner of Customs.

Approved: January 3, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.77-952 Filed 1-10-77;8:45 am]

[T.D. 77-23]

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

PART 142—SPECIAL PERMITS FOR IMMEDIATE DELIVERY PRIOR TO ENTRY

Importations by Agencies and Offices of the United States Government

Sections 10.103, 10.104, and 10.105 of the Customs Regulations (19 CFR 10.103, 10.104, 10.105) presently contain provisions relating to importations made by or for the account of agencies and offices of the United States Government. These sections provide that, with certain exceptions, importations made by or for the account of an agency or office of the United States Government are subject to duty. These sections also set forth immediate delivery procedures for certain specified governmental agencies, waiving the bond otherwise required in support of the immediate delivery application, and provide for the entry or withdrawal from warehouse for consumption by any agency or office of American goods returned. These sections do not contain provisions for the temporary importation of articles for United States Government agencies, although it has been Customs practice to permit all United States Government agencies the privilege of waiving the bond which is normally required for temporary importations made under the procedures set forth in § 10.31 et seq. of the Customs Regulations (19 CFR 10.31 et seq.). The Customs Service has also extended to Government offices and agencies generally the privilege of waiving the bond otherwise required in support of an application for immediate delivery.

Accordingly, in order to incorporate in Part 10 of the Customs Regulations (19 CFR Part 10) the current practice of extending to all United States Government agencies and offices the privilege of waiving the bond otherwise required in support of an immediate delivery application, to set forth provisions for temporary importations by agencies and offices of the United States Government, and to clarify other aspects of importations by United States Government agencies, the sections under the heading "United States Government Importations" are revised as set forth below. A conforming change is also made to § 142.4 of the Customs Regulations (19 CFR 142.4) to indicate that the bond otherwise required by that section in suport of an immediate delivery application may not be required in the case of an application filed under § 10.101 of the Customs Regulations.

Part 10 of the Customs Regulations is amended by revising the sections under the heading "United States Government Importations" to read as follows:

UNITED STATES GOVERNMENT IMPORTATIONS

Sec.
10.100 Entry, examination, and tariff status.
10.101 Immediate delivery.
10.102 Duty-free entries.
10.103 American goods returned.
10.104 Temporary importation entries for United States Government agencies.
10.105 [Reserved]

AUTHORITY: R.S. 251, as amended, secs. 448, 623, 624, 46 Stat. 714, as amended, 759, as amended, (19 U.S.C. 66, 1448, 1623, 1624).

UNITED STATES GOVERNMENT IMPORTATIONS

§ 10.100 Entry, examination, and tariff status.

Except as otherwise provided for in §§ 10.101, 10.102, 10.104, 141.83(c)(8), 141.102(d), or elsewhere in this chapter, importations made by or for the account of any agency or office of the United States Government are subject to the usual Customs entry and examination requirements. In the absence of express exemptions from duty, such as are contained in item 830.00, 831.00, 832.00, 833.00, 834.00, 835.00, 836.00, or other items in the Tariff Schedules of the United States (19 U.S.C. 1202) providing for free entry, such importations are also subject to duty.

§ 10.101 Immediate delivery.

(a) *Shipments entitled to immediate delivery.* Shipments consigned to or for the account of any agency or office of the United States Government, or to an officer or official of any such agency in his official capacity, shall be regarded for purposes of these regulations as shipments the immediate delivery of which is necessary within the purview of section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)).

(b) *Immediate delivery applications.* The shipments described in the preceding paragraph may be released upon the filing of immediate delivery applications on Customs Form 3461 as set forth in Subpart A of Part 142, of this chapter. Such applications may be limited to particular shipments or may cover all shipments imported by the Government agency making the application. They may be approved for specific periods of time or for indefinite periods of time, provided in either case they are supported by blanket carrier's certificates and stipulations as provided for in paragraph (c) of this section.

(c) *Blanket carrier's certificates and stipulations.* Before the release of a shipment under an imediate delivery permit, evidence of the right of the applicant to make entry for the articles shall be furnished the district director in accordance with the provisions of §§ 141.11 and 141.12 of this chapter. A blanket carrier's certificate and release order on Customs Form 7529 may be accepted by a district director for all shipments for the same consignee which may be brought to a port by a carrier during any period stated on the form.

(d) *Bond.* No bond shall be required in support of an immediate delivery application provided for in this section if a stipulation in the form as set forth below is filed with the district director in connection with the application:

I, ----------, ----------, a duly authorized
(Title)
representative of the ----------

(Name of United States Government department or agency)

stipulate and agree on behalf of such department or agency that all applicable provisions of the Tariff Act of 1930, as amended, and the regulations thereunder, and all other laws and regulations, relating to the release and entry of merchandise will be observed and complied with in all respects.

(Signature)

(e) *Timely entries required.* If proper entries for consumption for importations

released under these regulations are not filed within a reasonable time, appropriate steps shall be taken to insure the prompt filing of such entries.

§ 10.102 Duty-free entries.

(a) *Invoice or declaration.* No invoice or other declaration of the shipper shall be required for shipments expressly exempt from duty as provided in item 830.00, 831.00, 832.00, 833.00, 834.00, 835.00, 836.00, or other items in the Tariff Schedules of the United States (19 U.S.C. 1202) providing for free entry. However, the importing Government agency or office shall present any invoice, memorandum invoice, or bill pertaining to the merchandise in its possession or available to it, or, if no such invoice or bill is available, a pro forma invoice prepared in accordance with § 141.85 of this chapter, setting forth adequate information for examination and determination of the dutiable status of the merchandise. In addition, the district director shall only admit articles free of duty under item 832.00, 833.00, or 834.00, Tariff Schedules of the United States (19 U.S.C. 1202), upon the receipt of a certificate executed in the manner and form described in paragraph (b) of this section.

(b) *Certification.* One of the following certificates executed by a duly authorized officer or official of the appropriate Government agency or office is required for free entry of articles under item 832.00, 833.00, or 834.00, Tariff Schedules of the United States (19 U.S.C. 1202). The certificates may be printed, stamped, or typewritten on the Customs entry or withdrawal form, Customs Form 7501 or 7506, or on a separate paper attached to the entry or withdrawal form filed by the Government agency or office, provided the certification is clearly and unmistakably identified with the articles covered by the entry or withdrawal.

(1) *Articles for military departments, item 832.00, TSUS.* I certify that the procurement of this material constituted an emergency purchase of war material abroad by the Department of the (name of military department), and it is accordingly requested that such material be admitted free of duty pursuant to item 832.00, Tariff Schedules of the United States.

(Name)

(Title), who has been designated to execute free-entry certificates for the above-named department.

(Grade or Rank) (Organization)

(2) *Articles for the General Services Administration, item 833.00, TSUS.* Pursuant to item 833.00, Tariff Schedules of the United States, I hereby certify that the above-described materials are strategic and critical materials procured under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b).

(Name)

(Title), General Services Administration, who has been duly authorized to execute the above certificate.

(3) *Articles for the Energy Research and Development Administration, item 834.00, TSUS.* I certify to the Secretary of the Treasury that the above-described materials are source materials purchased abroad, the admittance of which is necessary in the interest of the common defense and security, in accordance with item 834.00, Tariff Schedules of the United States.

(Name)

(Title), who has been authorized to execute free-entry certificates for the Energy Research and Development Administration.

(c) *Release of shipments.* Shipments for which free entry has been or will be claimed under item 832.00, 833.00, or 834.00 of the Tariff Schedules of the United States (19 U.S.C. 1202), shall be released after only such examination as is necessary to identify them.

(d) *Entry in Government name.* All materials for which free entry is claimed under item 832.00, 833.00, or 834.00 of the Tariff Schedules of the United States (19 U.S.C. 1202), shall be entered, or withdrawn from warehouse, for consumption in the name of the Government department whose representative executes the certificate set forh in § 10.102(b) unless exemption from this requirement is specifically authorized by the regional commissioner of Customs.

§ 10.103 American goods returned.

(a) *Certificate required.* Articles entered, or withdrawn from warehouse, for consumption in the name of an agency or office of the United States Government (with the exception of military scrap belonging to the Department of Defense) may be admitted free of duty under item 800.00, Tariff Schedules of the United States (19 U.S.C. 1202), upon the filing of a certificate on the letterhead of the agency or office in the following form in lieu of other entry documentation:

I hereby certify:

1. That the following articles imported in the ---------- at the port of
(Name of Carrier)

---------- on ----------
(Port) (Date)

consist of returned products which are the growth, produce, or manufacture of the United States, and have been returned to the United States without having been advanced in value or improved in condition by any process of manufacture or other means, and that no drawback has been or will be claimed on such articles, and that the articles currently belong to and are for the further use of ----------
(Agency or Office)

Number of containers	Bill of lading No.[1]	General description of articles

[1] If shipment arrives in the United States on a commercial carrier.

2. That the shipment does not contain military scrap.

3. That the shipment is entitled to entry under item 800.00 of the Tariff Schedules of the United States free of duty.

4. That I am a military installation transportation officer having knowledge of the facts involved in this certificate.

or

I am an officer or official authorized by ---------- to execute this certificate.
(Agency or Office)
(Whichever is applicable.)

(Name)

(Rank and branch of service or Agency or Office)

(b) *Combined certificate when articles are intermingled.* When articles claimed to be free under item 800.00 and other articles claimed to be free under item 832.00, 833.00, or 834.00 of the Tariff Schedules of the United States (19 U.S.C. 1202), are intermingled in a single shipment in a manner which precludes separation for the purpose of making claims for free entry under the separate categories, all the articles may be covered by a combined certificate which follows the requirements of § 10.102(b) and paragraph (a) of this section.

(c) *Execution of certificate.* The certificate required by paragraph (a) of this section may be executed by any military installation transportation officer having knowledge of the facts or by any other officer or official specifically designated or authorized to execute such certificates by the importing Government agency or office. If the merchandise arrived on a commercial carrier, the entry shall be supported by evidence of the right to make it.

§ 10.104 Temporary importation entries for United States Government agencies.

The entry of articles brought into the United States temporarily by an agency or office of the United States Government and claimed to be exempt from duty under Schedule 8, Part 5C, Tariff Schedules of the United States (19 U.S.C. 1202), shall be made on Customs Form 7501. No bond shall be required if the agency or office files a stipulation in the form set forth in § 141.102(d) of this chapter. In those cases in which the provisions of Schedule 8, Part 5C, Tariff Schedules of the United States (19 U.S.C. 1202), are not met, however, the district director will proceed as if a bond had been filed to cover the particular importation. Articles temporarily imported by

a Government agency or office under this section are entitled to immediate delivery under the procedures set forth in § 10.101.

Footnotes 95, 96, 97 and 98, to § 10.103 are deleted.

§ 10.105 [Reserved]

§ 10.105 is deleted and reserved for future use.

(R.S. 251, as amended, secs. 448, 623, 624, 46 Stat. 714, as amended, 759, as amended (19 U.S.C. 66, 1448, 1623, 1624))

The first sentence of § 142.4 is amended to read as follows:

§ 142.4 Bond.

Except as provided in § 10.101(d) of this chapter, no special permit for immediate delivery shall be issued until there has been filed a bond, with an approved corporate surety, of one of the following types:

* * * * *

(R.S. 251, as amended, secs. 448, 623, 624, 46 Stat. 714, as amended, 759, as amended (19 U.S.C. 66, 1448, 1623, 1624))

Because these amendments merely relax present requirements and involve only agencies or offices of the United States Government, and require no public initiative, notice and public procedure thereon is found to be unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. These amendments shall be effective on January 11, 1977.

VERNON D. ACREE,
Commissioner of Customs.

Approved: January 4, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.77-954 Filed 1-10-77;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Decoquinate; Correction

In FR Doc. 76-34959 appearing at page 53002 in the FEDERAL REGISTER for Friday, December 3, 1976, in § 558.195 *Decoquinate* (21 CFR 558.195) in the table in paragraph (g)(1) on page 53003, the entry for decoquinate 27.2 grams per ton (0.003 pct.) in combination with roxarsone 11 to 45 grams per ton (0.0012–0.005 pct.) is corrected to read "Roxarsone 11 to 45 (0.0012–0.005 pct.) plus Bacitracin 12 to 50."

Dated: January 5, 1977.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.77-895 Filed 1-10-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7460]

PART 154—TEMPORARY REGULATIONS IN CONNECTION WITH THE AIRPORT AND AIRWAY REVENUE ACT OF 1970

Temporary Regulations Relating to Tax-Free Sales of Liquid for Use by Certain Aircraft Museums.

This document contains amendments to the Temporary Regulations in Connection With the Airport and Airway Revenue Act of 1970 (26 CFR Part 154) to implement one provision of the Act of October 17, 1976 (Pub. L. 94-530, 90 Stat. 2487).

The Act of October 17, 1976, provides, among other things, that, under Treasury regulations, the retailers excise tax on certain fuels is not to apply to liquid sold for use or used after September 30, 1976, by an aircraft museum in an aircraft or vehicle that is owned by the museum and used exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

This document amends the regulations so that present rules relating to registration, exemption certificates, etc. in the case of other exempt sales of aviation fuel will also apply to exempt sales to such museums.

ADOPTION OF REGULATIONS

In order to prescribe temporary rules for tax-free sales of liquid for use by an aircraft museum in an aircraft or vehicle owned by such museum and used exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II, as permitted by the Act of October 17, 1976 (Pub. L. 94-530, 90 Stat. 2487), the Temporary Regulations in Connection With the Airport and Airway Revenue Act of 1970 (26 CFR Part 154) are amended as follows:

PARAGRAPH 1. Section 154.1 is amended by revising the section title and the introductory material, by adding a new subsection (h) to section 4041, by redesignating the present subsection (h) as subsection (i), and by revising the historical note. These revised and added provisions read as follows:

§ 154.1 Statutory provisions; imposition of tax; noncommercial aviation; additional tax; exemption for use by certain aircraft museums; registration.

Section 4041 (c), (d), (h), and (i) of the Internal Revenue Code of 1954, as added by section 202(a) of the Airport and Airway Revenue Act of 1970 and the Act of October 17, 1976 (Pub. L. 94-530, 90 Stat. 2487):

Sec. 4041. *Imposition of tax.* * * *

(h) *Exemption for use by certain aircraft museums*—(1) *Exemption.* Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under this section on any liquid sold for use or used by an aircraft museum in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C) of this subsection.

(2) *Definition of aircraft museum.* For purposes of this subsection, the term "aircraft" [*sic*] means an organization—

(A) Described in section 501(c)(3) which is exempt from income tax under section 501(a),

(B) Operated as a museum under charter by a State or the District of Columbia, and

(C) Operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

(i) *Registration.* * * *

[Sec. 4041 (c), (d), (h), and (i) as added by sec. 202(a), Airport and Airway Revenue Act 1970 (84 Stat. 237), and Act of Oct. 17, 1976 (Pub. L. 94-530, 90 Stat. 2487)]

PAR. 2. Section 154.1-1 is amended (1) by striking out "section 4041(h)" from the first sentence of paragraph (d)(5) and substituting "section 4041(i)" in lieu thereof, and (2) by revising the last two sentences of paragraph (a)(1) to read as follows:

§ 154.1-1 Tax-free sales and purchases of fuel under section 4041(c); registration.

(a) *Purpose of this section.* (1) * * * This section sets forth rules, as authorized by section 4041(i) and other provisions of the Internal Revenue Code, under which aircraft fuel that is used, in whole or in part, in other than noncommercial aviation may be purchased tax free when delivered by a seller into a fuel supply tank of an aircraft. In addition, the provisions of this section apply to sales or purchases of fuel, delivered into a fuel supply tank of an aircraft, which are exempt from the tax under section 4041(c) by reason of section 4041(f) (relating to exemption for farm use), section 4041(g)(1) (relating to exemption for use as supplies for vessels or aircraft), section 4041(g)(2) (relating to State and local government exemption), section 4041(g)(4) (relating to exemption for nonprofit educational organizations), and section 4041(h) (effective October 1, 1976, and relating to exemption for use by certain aircraft museums).

* * * * *

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 (d) of that section.

(Secs. 4041(h), 7805, Internal Revenue Code of 1954 (90 Stat. 2487, 68A Stat. 917; (26 U.S.C. 4041 (h), 7805)).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: January 5, 1977.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc.77-1025 Filed 1-10-77;8:45 am]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7453]

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

Temporary Regulations Relating to Disclosures of Return Information by Internal Revenue Officers and Employees for Investigative Purposes

Correction

In FR Doc. 76-38384 appearing on page 56795 in the issue for Thursday, December 30, 1976, in the 8th line of § 404.6103 (k)(6)-1 (c) should have read "of 1954, including enforcement of any".

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 511—WAGE ORDER PROCEDURE FOR PUERTO RICO, THE VIRGIN ISLANDS, AND AMERICAN SAMOA

Compensation of Committee Members

Pursuant to authority in section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp. p. 1004), I hereby amend 29 CFR 511.4 to read as set forth below. The purpose of this amendment is to increase the compensation of each member of an industry committee from $114 to $122 for each day spent in the work of the committee.

As this amendment concerns only a rule of agency practice, and is not substantive, notice of proposed rule making, opportunity for public participation, and delay in effective date are not required by 5 U.S.C. 553. It does not appear that such participation or delay would serve a useful purpose. Accordingly, this revision shall be effective immediately.

§ 511.4 Compensation of committee members.

Each member of an industry committee will be allowed a per diem of $122 for each day actually spent in the work of committee, and will, in addition, be reimbursed for necessary transportation and other expense incident to traveling in accordance with Standard Government Travel Regulations then in effect. All travel expenses will be paid on travel vouchers certified by the Administrator or his authorized representative. Any other necessary expenses which are incidental to the work of the committee may be incurred by the committee upon approval of, and shall be paid upon certification of, the Administrator or his authorized representative.

(Sec. 5, 52 Stat. 1062, as amended; 29 U.S.C. 205)

Signed at Washington, D.C. this 5th day of January, 1977.

RONALD J. JAMES,
Administrator,
Wage and Hour Division.

[FR Doc.77-963 Filed 1-10-77;8:45 am]

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Vermont; Approval of Plan Supplements

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On October 16, 1973, a notice was published in FEDERAL REGISTER (38 FR 28658) of the approval of the Vermont plan and the adoption of Subpart U of Part 1953 containing the decision and describing the plan. By letters dated January 30, July 1, and June 17, 1976, from Louis Lavin, Commissioner, Vermont Department of Labor and Industry to Edwin J. Riley, Jr., Assistant Regional Administrator for Federal and State Operations (Region I), the State of Vermont submitted evaluation change, State initiated change and developmental change supplements (See Subparts D, E and B of 29 CFR Part 1953) which fulfill the corresponding commitments in Vermont's developmental schedule, as outlined in 29 CFR 1952.273.

2. *Description of the supplements.* (a) Standards Advisory Council. In accordance with item (f) of the State's developmental schedule, the Vermont advisory committee was established in January 1974, and commenced operations on June 12, 1974. This committee, under the title Safety Advisory Council, functions in the capacity as both a Standards Board and an Advisory Board.

(b) Enforcement Program. The health and safety enforcement program in the State of Vermont, including enforcement of the State's occupational safety and health standards and regulations, was implemented on November 12, 1973.

(c) Review Board Operations. The Vermont Occupational Safety and Health Review Board has been in operation since October 1973, under rules and regulations formally promulgated on February 4, 1974, and approved on December 16, 1974 (39 FR 44201, December 23, 1974).

(d) Recordkeeping. Recordkeeping and reporting requirements were implemented for both the private and public sectors on November 12, 1973.

(e) Coordination Between State Safety and Health Divisions. Written procedures for coordination between Vermont's Division of Occupational Safety and Division of Occupational Health were formulated in June 1975, and revised in September 1975. These procedures include the courses of interaction between the divisions on such items as administrative policies, standard enforcement, and voluntary compliance.

(f) Corrections in Vermont Regulations. These amendments and changes to Vermont Occupational Safety and Health Administration Regulations 1903, 1904, and 1905 reflect minor clerical corrections.

3. *Location of the plan and its supplements for inspection and copying.* A copy of these supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Directorate of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Technical Data Center, Room N-3620, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1804, John F. Kennedy Building, Boston, Massachusetts 02203; Department of Labor and Industry, State Office Building, Montpelier, Vermont 05602.

4. *Public participation.* Under § 1953.2 (c) of this chapter, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Vermont plan supplements described above are consistent with commitments contained in the approved plan, and are substantially similar to parallel Federal Regulations and procedures. Accordingly, it is found that further public comment and notice is unnecessary.

5. *Decision.* After careful consideration, the Vermont plan supplements outlined above are hereby approved under 29 CFR Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart U of 29 CFR Part 1952 is hereby amended to reflect the completion of a developmental step.

Sections 1952.274(c)(d) are added as follows:

§ 1952.274 Completed developmental steps.

* * * * *

(c) In accordance with 29 CFR 1952.273(f), the Vermont Standards Advisory Council was established in January 1974.

(d) In accordance with 29 CFR 1952.273(g), the following developmental steps have been implemented.

(1) The health and safety enforcement program in the State of Vermont including enforcement of the State's occupational safety and health standards and regulations, was implemented on November 12, 1973.

(2) The Vermont Occupational Safety and Health Review Board has been in operation since October 1973, under rules and regulations formally promulgated on February 4, 1974, and approved on December 16, 1974 (39 FR 44201, December 23, 1974).

(3) Recordkeeping and reporting requirements, as approved on October 1, 1973, (38 FR 28658), were implemented for both the private and public sectors on November 12, 1973.

(4) Written procedures for coordination between Vermont's Division of Occupational Safety and Division of Occupational Health were formulated in June 1975, and revised in September 1975.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 4th day of January 1977.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.77-958 Filed 1-10-77;8:45 am]

Title 31—Money and Finance: Treasury

SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY

PART 1—DISCLOSURE OF RECORDS

Regulations Governing Fees; Correction

In the FEDERAL REGISTER of November 22, 1976, at page 51396, there was published the adoption, in final form, of amendments to the Department of the Treasury's regulations, at 31 CFR Part 1, governing fees for services rendered in connection with the disclosure of records. As so published the amendment to 31 CFR 1.6(g)(3)(i) lent itself to the interpretation that there would be no fee imposed for any record search unless such search consumed in excess of one hour. That was not intended. Rather it was and is intended that a search fee be imposed if the search consumes one hour or more. The language of 31 CFR 1.6(g)(3)(i) has therefore been corrected to make this clear. No other change has been made to the amendments published on November 22, 1976. Nevertheless, the entire text of such amendments are republished hereby for clarity.

§ 1.6 [Amended]

In consideration of the foregoing, the notice of the adoption of final rules published on November 22, 1976, is hereby corrected to read as follows:

1. 31 CFR 1.6(g)(1)(i) and (g)(3)(i) are amended to read as follows:

(g) * * *

(1) *Duplication.* (i) photocopies, per page up to 8½" by 14", $0.10 each, except that no charge will be imposed for copying 10 pages or less when less than one hour is consumed in locating the records requested.

* * * * *

(3) *Search services.* (i) The fee charged for services of personnel involved in locating records shall be $5.00 for each hour or fraction thereof, except that no charge shall be imposed for a search consuming less than one hour.

3. 31 CFR 1.6(g)(3)(ii) is amended by changing $3.50 to read $5.00.

The Department further finds that notice and public procedure concerning this correction is unnecessary under 5 U.S.C. 553(d)(3), inasmuch as the correction of text is for clarification only and the overall effect of the amendments is to lower the cost of the public for services in connection with disclosure of records. Consequently, the correction and the amendments themselves are made effective immediately.

Dated: January 6, 1977.

HENRY C. STOCKELL, Jr.,
Acting General Counsel.

[FR Doc.77-925 Filed 1-10-77;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 0—STANDARDS OF ETHICAL CONDUCT AND RELATED RESPONSIBILITIES

Statement of Employment and Financial Interest Acceptance of Honorariums

As provided by Pub. L. 94-283 (90 Stat. 475), enacted May 11, 1976, the acceptance by an officer or employee of any branch of the Federal Government of any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his or her spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article, or honorariums aggregating more than $25,000 in any calendar year is prohibited. Section 0.735-12(c) is amended to extend this prohibition to provide that employees of the Veterans Administration may not engage in outside employment or other activities not compatible with full and proper discharge of their Government employment. Also amended is § 0.735-16(a) which gives special emphasis to the intent of Executive Order 11222 (30 FR 6469) that it is the responsibility of all employees to pay Federal, State or local taxes. The list of positions which requires incumbents of the positions to file statements of employment and financial interests is also amended. In addition editorial changes have been made to reflect agency policy of using precise terms denoting gender.

Compliance with the provisions of § 1.12 of this Chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary since the amendment is merely internal procedure and practice.

1. In § 0.735-12, paragraphs (b), (c), (d)(5), (e) and (f) are revised to read as follows:

§ 0.735-12 Outside employment, activity or compensation.

* * * * *

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his or her services to the Government. This does not apply to employees working without compensation. (18 U.S.C. 209)

(c) Employees are encouraged to engage in teaching, lecturing, and writing not prohibited by law, Executive Order 11222, part 735 of the Civil Service Regulations (5 CFR Part 735), the conduct regulations of this part or other agency policy. An employee shall not, however:

(1) Engage, with or without compensation, in teaching, lecturing or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or of the Board of Examiners for the Foreign Service, that depends on information obtained as a result of his or her Government employment, except when that information has been made available to the general public or will be made available on request, or when the Administrator gives written authorization for the use of nonpublic information on the basis that the use is in the public interest;

(2) If he or she is a Presidential appointee covered by section 401(a) of Executive Order 11222, receive compensation, an honorarium, or anything of monetary value for any consultation, lecture, discussion, writing or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his or her agency, or which draws substantially on official data or ideas which have not become part of the body of public information.

(3) Accept any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his or her spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article, or honorariums aggregating more than $25,000 in any calendar year. (Pub. L. 94-283 (90 Stat. 475), Federal Election Campaign Act Amendments of 1976)

(d) Employees are not prevented from:

* * * * *

(5) Taking part as a citizen of his or her community in civic, charitable, religious and other community efforts.

(e) Employees are encouraged to take part in service organization activities that do not conflict with, or give the appearance of conflicting with, Veterans Administration employment. Thus, an employee may hold an office or position at any level, provided that the combination of Veterans Administration position and service organization position cannot be construed as giving advantage to that organization, and if the employee agrees to disqualify himself or herself from taking part in any activities directed at the Veterans Administration, its policies, procedures or programs, or claims for benefits administered by the Veterans Administration. An employee may not act as a service officer preparing and presenting claims against the Government. Each employee is responsible for assuring that his or her intended actions are proper and, when in doubt, shall use the interpretation and advisory service established by § 0.735-3. As used in this paragraph, a service organization is an organization usually composed of ex-servicemen, which presents claims from veterans and their dependents for benefits under laws administered by the Veterans Administration.

(f) An employee who engages in any outside work while on sick leave is required to report that fact to his or her supervisor.

* * * * *

2. In § 0.735–13, paragraphs (a), (b) and (c) are revised to read as follows:

§ 0.735–13 Financial interests.

(a) An employee shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her Government duties and responsibilities.

(b) An employee shall not engage directly or indirectly, in a financial transaction as a result of, or primarily relying on, information obtained through his or her Government employment.

(c) An employee called upon to participate in an official capacity in any matter in which the employee, spouse, minor child, outside business associate, or person with whom he or she is negotiating for employment, has a financial interest, should disqualify himself or herself or make full disclosure of the financial interest to the appointing officer (appropriate personnel officer). The employee should take no further action pending receipt of a written determination that no conflict exists.

* * * * *

3. In § 0.735–14, the introductory portion of paragraph (a) preceding subparagraph (1) is revised to read as follows:

§ 0.735–14 Use of Government property.

* * * * *

(a) Each employee shall protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him or her.

* * * * *

4. In § 0.735–15, paragraph (a) is revised to read as follows:

§ 0.735–15 Disclosure or misuse of information.

(a) An employee shall not, except as provided in § 0.735–12(c), directly or indirectly use for the purpose of furthering a private interest, or allow such use of, official information obtained through or in connection with his or her Government employment which has not been made available to the general public.

* * * * *

5. In § 0.735–16, paragraph (a)(1) is revised to read as follows:

§ 0.735–16 Indebtedness.

(a) An employee shall pay each just financial obligation in a proper and timely manner (E.O. 11222, May 8, 1965 and 5 CFR 735).

(1) For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court or one imposed by law such as Federal, State, or local taxes, and "in a proper and timely manner" means in a manner which the Veterans Administration determines does not, under the circumstances, reflect adversely on the Government as his or her employer.

* * * * *

6. In § 0.735–73, paragraph (e) is revised to read as follows:

§ 0.735–73 Employees required to submit statements.

* * * * *

(e) The following positions, which are classified at GS–13 or above except as otherwise indicated, are considered to meet the criteria of paragraph (a), (b), (c) or (d) of this section and have not been excluded under § 0.735–74; all appointees to these positions must file statements of employment and financial interests, except where an individual position in an included category may be exempted under § 0.735–74(a):

LIST OF POSITIONS REQUIRING FILING OF STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS

Deputy Administrator
Associate Deputy Administrator
Assistant Deputy Administrator
Chief Medical Director
Chief Benefits Director
General Counsel
Chief Data Management Director
Manager, Administrative Services
Controller
Assistant Administrator for Construction
Chairman and Members, Contract Appeals Board
Assistant Manager, Administrative Services, Central Office
Director, Central Office Building and Supply Service
Assistant Director, Central Office Building and Supply Service
Director, Central Office Publications Service
Assistant Director, Central Office Publications Service
Deputy Assistant Administrator for Construction
Director, Program Control and Analysis Staff (Construction)
Area Projects Directors (Construction)
Director of Architecture and Engineering
Director of Planning and Development (Construction)
Chairman, Architect-Engineer Evaluation Board (Construction)
Utilities Contracting Officer
Director, Research Staff (Construction)
All Service Directors in Office of Construction
Resident Engineers (Construction) with authority to issue change orders, GS–11 and above
Deputy Chief Data Management Director
Director, Field Operations Service (DDM)
Chief, Equipment Planning and Evaluation Division (DDM)
Center Directors, Department of Data Management
Deputy Chief Medical Director
Executive Assistant to Deputy Chief Medical Director
Assistant Chief Medical Director for Policy and Planning
Associate Deputy Chief Medical Director for Operations
Deputy for Operations
Executive Assistant to Chief Medical Director
Director, Operations Review and Analysis Staff
Director, Resources Staff
Director, Regionalization and Sharing Staff
Director, Management Support and Facilities Staff
Director, Planning Service
Assistant Chief Medical Director for Extended Care
Director, Health Services Research and Development Service
Deputy Director, Health Services Research and Development Service
Associate Directors, Health Services Research and Development Service
Deputy Assistant Chief Medical Director for Academic Affairs
Deputy Assistant Chief Medical Director for Extended Care
Assistant Chief Medical Director for Professional Services
Deputy Assistant Chief Medical Director for Clinical Services
Deputy Assistant Chief Medical Director for Clinical Support Services
Director, Dietetic Service
Director, Medical Service
Director, Nuclear Medicine Service
Director, Nursing Service
Director, Pathology Service
Director, Pharmacy Service
Director, Rehabilitation Medicine Service
Director, Mental Health and Behavioral Sciences Service
Deputy Director (Prosthetics Division), Surgical Service
Director, Radiology Service
Director, Surgical Service
Assistant Chief Medical Director for Administration
Director, Spinal Cord Injury Service
Director, Building Management Service
Director, Engineering Service
Director, Manpower Grants Service
Assistant Chief Medical Director for Academic Affairs
Assistant Chief Medical Director for Dentistry
Assistant Chief Medical Director for Research and Development
Director, Veterans Canteen Service
Deputy Director, Veterans Canteen Service
Field Directors, Veterans Canteen Service
Supervisory Buyers, Merchandising Division, Veterans Canteen Service
Director, Supply Service
Supply Management Officers (Class Title) GS–13 and up
Supply Management Representatives (Class Title) GS–13 and up
Contract Specialists (Class Title) GS–13 and up
Chiefs, Supply Services, All Field Stations, GS–11 and above
Chiefs, Business Services Divisions, DM&S Field Stations, GS–10 and above
Directors of Field Stations, DM&S
Assistant Directors of Field Stations, DM&S
Chiefs of Staff, DM&S Field Stations
Deputy Chief Benefits Director
Director, Education and Rehabilitation Service
Director, Compensation and Pension Service
Director, Loan Guaranty Service
Deputy Director, Loan Guaranty Service
Field Directors, Area Field Offices
Directors, DVB Field Stations
Assistant Director for Insurance, VAC, Philadelphia
Assistant Directors, DVB Centers
Loan Guaranty Officers, Field Stations
Assistant Loan Guaranty Officers, Field Stations
Chiefs, Construction and Valuation Sections (Field Stations), GS–11 and above
Chiefs, Loan Processing Sections (Field Stations), GS–11 and above
Chiefs, Property Management Sections (Field Stations), GS–11 and above
Director, National Cemetery System
Executive Assistant to the Director, National Cemetery System.
Deputy Director, National Cemetery System.
Director, Headstone Service.

Director, Cemetery Service.
Chief, Contract and Special Audit Division (Planning and Evaluation).
Director, Contract Compliance Service.
Deputy Director, Contract Compliance Service.
Supervisory Equal Opportunity Specialists (Contract Compliance).
Equal Opportunity Specialists (Contract Compliance).

* * * * *

7. In § 0.735–75, paragraph (b) is revised to read as follows:

§ 0.735–75 Time and place for submission of employees' statements; reviewing officials.

An employee required to submit a statement of employment and financial interests under this part shall submit that statement to the Reviewing Official: Station head for field positions; department, staff office, or National Cemetery System head, as appropriate, for all other positions (including station heads); Administrator for the heads of departments, staff offices, and National Cemetery System, and all positions in the Office of the Administrator. The statement shall be submitted not later than:

* * * * *

(b) Thirty days after his or her entrance on duty, but not earlier than 90 days after the effective date, if appointed after that effective date.

8. Sections 0.735–78 and 0.735–79 are revised to read as follows:

§ 0.735–78 Information not known by employees.

If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his or her behalf.

§ 0.735–79 Information not required.

An employee is not required to submit in a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and developmental or related work involving grants of money from or contracts with the Government are deemed "business enterprises," and an employee shall include them in his or her statement of employment and financial interests or supplementary statement.

9. In § 0.735–81, paragraphs (a), (c) and (d) are revised to read as follows:

§ 0.735–81 Reviewing statements of interest.

(a) Whenever the reviewing official, with the aid of the deputy counselor, determines from the statement of employment and financial interests, supplement, or other information that there may be a conflict of interest or appearance of conflict of interest between the interest of an employee or special Government employee and the performance of his or her services for the Government, he or she shall disclose the existence of the possible conflict to the selecting official for the position involved.

* * * * *

(c) Where the reviewing official thereafter decides that no conflict-of-interest problem exists, the matter will be documented and considered settled. Where the reviewing official finds that such a problem does exist, he or she shall refer the information to the deputy counselor (legal) having jurisdiction.

(d) Where the deputy counselor (legal) decides that no conflict-of-interest problem exists, the matter will be documented and considered settled. Otherwise, he or she shall refer the information to the Administrator for final decision and remedial action, through the Counselor for the Veterans Administration, furnishing a copy to the department concerned.

(E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104.)

These amendments were approved by the Civil Service Commission on November 9, 1976, and are effective January 11, 1977.

Approved: January 5, 1977.

By direction of the Administrator.

ODELL W. VAUGHN,
Deputy Administrator.

[FR Doc.77-907 Filed 1-10-77;8:45 am]

PART 17—MEDICAL

STATE HOME FACILITIES FOR FURNISHING NURSING HOME CARE

Facilities for Veterans: Maximum Number of Beds

Appendix A is revised to establish the maximum number of beds allowed by 38 U.S.C. 5034(1) to provide adequate nursing home care to veterans residing in each State.

Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose. This amendment merely adjusts the bed quotas in each State to reflect the current veteran population.

Immediately following § 17.176, Appendix A is revised to read as follows:

APPENDIX A (SEE § 17.171)

STATE HOME FACILITIES FOR FURNISHING NURSING HOME CARE

The maximum number of beds, as required by 38 U.S.C. 5034(1), to provide adequate nursing home care to veterans residing in each State is established as follows:

State	Veteran population[1]	Number of beds
Alabama	421,000	1,053
Alaska	41,000	103
Arizona	300,000	750
Arkansas	261,000	653
California	3,267,000	8,168
Colorado	357,000	893
Connecticut	461,000	1,153
Delaware	79,000	198
District of Columbia	104,000	260
Florida	1,192,000	2,980
Georgia	623,000	1,558
Hawaii	94,000	235
Idaho	101,000	253
Illinois	1,557,000	3,893
Indiana	722,000	1,805
Iowa	372,000	930
Kansas	309,000	773
Kentucky	409,000	1,023
Louisiana	449,000	1,123
Maine	147,000	368
Maryland	615,000	1,538
Massachusetts	868,000	2,170
Michigan	1,188,000	2,970
Minnesota	549,000	1,373
Mississippi	244,000	610
Missouri	698,000	1,745
Montana	101,000	253
Nebraska	198,000	495
Nevada	92,000	230
New Hampshire	124,000	310
New Jersey	1,099,000	2,748
New Mexico	136,000	340
New York	2,513,000	6,283
North Carolina	616,000	1,540
North Dakota	63,000	158
Ohio	1,493,000	3,733
Oklahoma	397,000	993
Oregon	366,000	915
Pennsylvania	1,752,000	4,380
Rhode Island	151,000	378
South Carolina	325,000	813
South Dakota	78,000	195
Tennessee	532,000	1,330
Texas	1,611,000	4,028
Utah	145,000	363
Vermont	63,000	158
Virginia	649,000	1,623
Washington	589,000	1,473
West Virginia	235,000	588
Wisconsin	579,000	1,448
Wyoming	47,000	118

[1] Estimate as of June 30, 1976.

SOURCE: Reports and Statistics Service, Office of the VA Controller. (Based on last available Bureau of the Census data.)

(72 Stat. 1114 (38 U.S.C. 210)).

This VA Regulation is effective January 3, 1977.

Approved: January 3, 1977.

By direction of the Administrator,

ODELL W. VAUGHN,
Deputy Administrator.

[FR Doc.77-721 Filed 1-10-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT LIMITATIONS AND GUIDELINES

[FRL 668-7]

PART 455—PESTICIDE CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

Extension of Comment Period and Notice of Availability

On November 1, 1976 the Environmental Protection Agency published a notice of interim final rulemaking (41 FR 48088) establishing effluent limitations and guidelines for the pesticide chemicals manufacturing point source category, based upon use of best practicable control technology currently available.

The due date for comments provided in the notice was December 30, 1976.

The Agency anticipated that the document entitled "Development Document for Interim Final Effluent Limitations Guidelines for the Pesticide Chemicals Manufacturing Point Source Category," which contains information on the analyses undertaken in support of the regulations, would be available to the public throughout the comment period. Production difficulties delayed the availability of this document. Copies of the document are now available and have been forwarded to those persons having submitted written requests to the Environmental Protection Agency. A limited number of additional copies are available for distribution from the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460. Attention: Distribution Officer, WH-552.

Accordingly, the date for submission of comments is hereby extended to February 10, 1977.

Dated: December 30, 1976.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-903 Filed 1-10-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amendment E-201]

PART 101-28—STORAGE AND DISTRIBUTION

Warehousing and Self-Service Stores

This regulation provides current policy and procedures concerning efficient management of warehousing activities and establishment of self-service stores.

The table of contents for Part 101-28 is amended by deleting §§ 101-28.100 through 101-28.101-22, 101-28.204 through 101-28.208, 101-28.305-3, 101-28.305-4, and 101-28.308 and by adding or revising the following entries:

Subpart 101-28.1 [Reserved]

Subpart 101-28.2—Interagency Cross-Servicing in Storage Activities

101-28.202-1 Request for services.
101-28.202-2 Cancellation of cross-servicing arrangements.
101-28.202-3 Cross-servicing rates.
101-28.202-4 Reimbursement for services.
101-28.203-2 [Reserved]
101-28.203-3 [Reserved]

Subpart 101-28.3—Self-Service Stores

101-28.302 Self-service stores.
101-28.304 Establishment of self-service stores.
101-28.305-1 Initiation and scheduling.
101-28.305-2 Findings and determinations.
101-28.307 Responsibility for operation.

The text of Subpart 101-28.1 is deleted and the subpart is reserved as follows:

Subpart 101-28.1 [Reserved]

Subpart 101-28.2—Interagency Cross-Servicing in Storage Activities

1. Section 101-28.201(b) is revised as follows:

§ 101-28.201 Applicability.

* * * * *

(b) The provisions of this Subpart 101-28.2 do not apply to ocean terminals, Government storage activities financed under industrial funds, activities concerned with the storage and handling of bulk fuels (petroleum products), and storage functions performed by GSA for the Federal Preparedness Agency.

2. Sections 101-28.202 and 101-28.202-1 through 101-28.202-4 are revised as follows:

§ 101-28.202 GSA/DOD Cross-Servicing Agreement.

An agreement between GSA and DOD has established procedures to be followed in the cross-servicing of storage and warehousing services between Government agencies. Copies of the agreement, containing a listing of minimum services to be provided, responsibilities of agencies operating storage facilities, responsibilities of requesting agencies, and agency contact points to determine storage availability, may be obtained from the General Services Administration (FFN), Washington, D.C. 20406.

§ 101-28.202-1 Request for services.

Requests for storage and warehousing services shall be in accordance with the procedures set forth in the GSA/DOD cross-servicing agreement. Arrangements incident to the furnishing of services, specific limitations, terms, and conditions shall be agreed to directly by the activities concerned.

§ 101-28.202-2 Cancellation of cross-servicing arrangements.

(a) Accepted requests may be canceled by the requesting agency prior to delivery of supplies, material, and equipment to the storage activity when logistical developments make cancellation necessary or cancellation is in the best interest of the Government. The agency which accepted the request shall be informed of the cancellation in writing as soon as possible.

(b) Cancellation of arrangements in facilities to be inactivated or disposed of by an operating agency may be made as provided for in the GSA/DOD agreement. Also, after supplies, material, and equipment have been received at a storage activity, cancellation may be made when unforeseen emergencies arise which justify such cancellation. Advice of these necessary cancellations shall be in writing to the agency owning the material sufficiently in advance to allow the owning agency the maximum amount of time to make other arrangements for their property.

(c) When a facility in which cross-servicing is being accomplished is to be transferred from an operating agency to another agency, the operating agency shall inform the agency owning the property at least 90 days before the transfer. The agency owning the property shall negotiate with the agency gaining the facility for continued cross-servicing of the property at the facility. The agency gaining the facility shall continue the cross-servicing arrangements unless they are contrary to the best interest of the Government.

§ 101-28.202-3 Cross-servicing rates.

Normally, charges for services rendered will be based upon the standard rates established by the agency for internal use. However, special rates may be negotiated to cover actual or estimated costs for large, bulk lots of material when the applicable rates appear inequitable, subject to the approval of the appropriate program official for the civilian agency, and the Assistant Secretary of Defense (I&L) when DOD is involved.

§ 101-28.202-4 Reimbursement for services.

Reimbursement for services rendered shall be made promptly after receipt of billing. The frequency for billing and reimbursement shall be established by the activity providing warehousing and storage services; however, billing and reimbursement shall be made not less frequently than quarterly nor more frequently than monthly.

3. Section 101-28.203 is revised as follows:

§ 101-28.203 Definitions.

As used in this Subpart 101-28.2, the following term shall apply.

§ 101-28.203-1 Government storage activity.

A Government activity or facility utilized for the receipt, storage, and issue of supplies, materials, and equipment, including storage of reserve or excess stocks or intransit storage. The activity may be either Government owned or leased, and it may be either Government operated or contract operated.

§ 101-28.203-2 [Reserved]

§ 101-28.203-3 [Reserved]

§ 101-28.203-4 Contact point.

The point within the headquarters of a military service or civilian agency to which requests should be forwarded. Coordination necessary with various organizational elements within a military service or civilian agency shall be accomplished by the contact point.

4. Sections 101-28.204 through 101-28.208 are deleted.

Subpart 101-28.3 is revised to read as follows:

Subpart 101-28.3—Self-Service Stores

§ 101-28.300 Scope of subpart.

This subpart provides policy, procedures, and guidelines for the establishment of self-service stores and for Federal agency participation in the services provided.

§ 101-28.301 Applicability.

This subpart is applicable to all executive agencies assigned space in a building for which GSA has responsibility for its operation and maintenance in addition to space management.

§ 101–28.302 Self-service stores.

Self-service stores are established by the General Services Administration and provide expeditious and convenient distribution facilities in support of Federal agencies for common-use administrative, custodial, and maintenance supplies, forms, and other selected items. Modern self-service merchandising techniques, with simplified billing methods, are utilized for the benefit of using activities. Limited mail-order and buying service and advice on methods and sources of items not stocked in the self-service stores are provided at these outlets upon request.

§ 101–28.303 Use of self-service stores.

Self-service stores are immediate sources of supply for executive agencies which are occupants of buildings in which the stores are located and are available for use by other Federal activities in the vicinity. Supplies purchased in these stores comply with requirements for use of GSA sources set forth in § 101–26.301. Articles stocked in self-service stores are for official use only and may be purchased only by holders of valid shopping plates. Agencies and activities to which GSA has issued shopping plates shall be responsible for the acquisition, control, and use of the items purchased to ensure that these purchases are used in the best interest of the Government.

§ 101–28.304 Establishment of self-service stores.

GSA, in conjunction with other appropriate agencies, will conduct studies to determine the feasibility of activating a self-service store and the extent of services required. The studies shall be conducted in accordance with the provisions of § 101–28.305.

§ 101–28.305 Feasibility studies.

§ 101–28.305–1 Initiation and scheduling.

GSA may initiate feasibility studies to determine whether self-service stores should be established in existing or proposed new Federal buildings or leased space or in a complex of Federal and/or leased buildings. Studies will be based on the size and type of agencies and the number of Federal personnel occupying or scheduled to occupy the space, and the total Federal population in the immediate vicinity, under the provisions of § 101–5.104. All studies will be scheduled by the appropriate GSA Regional Administrator and coordinated with potential user activities in the area of the proposed location.

§ 101–28.305–2 Findings and determinations.

(a) The study data, including any objections or limitations submitted or expressed by the agencies involved in the study, will be accumulated, analyzed, and summarized by the GSA regional office and submitted with findings and recommendations to the Commissioner, Federal Supply Service, for transmittal to the Administrator of General Services. In accordance with the provisions § 101–5.104–7, the Administrator will determine whether the establishment of the self-service store meets the criteria for increased economy, efficiency, and service of the agencies to be served.

(b) The appropriate Regional Administrator will inform the affected agencies of the Administrator's decision. If approval is announced, additional information will be furnished, as appropriate, including:

(1) Location of the proposed self-service store and approximate date of activation;

(2) Categories of items to be stocked or otherwise made available;

(3) Services which will be available, including technical supply assistance and procurement service; and

(4) Instructions for obtaining supply service.

§ 101–28.306 Consolidation of functions.

After it has been determined to establish a self-service store, the appropriate GSA regional office will:

(a) Arrange for transfer to GSA, without reimbursement, all available equipment which will become excess by reason of the establishment of the self-service store; dispose of any equipment transferred which is not needed; and provide, when necessary, for transfer of inventory.

(b) Not assign space in a building for the operation of a supply outlet which would duplicate the functions and services performed in connection with items handled through a self-service store.

(c) Activate the self-service store in sufficient time to preclude interruption of supply services to agencies.

§ 101–28.307 Responsibility for operation.

The appropriate GSA region will be responsible for the operation of the self-service store.

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

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.

Effective date. January 11, 1977.

Dated: January 4, 1977.

JACK ECKERD,
Administrator of General Services.

[FR Doc.77–826 Filed 1–10–77;8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RSOR–3; Notice 5]

PART 218—RAILROAD OPERATING RULES

Blue Signal Protection of Workmen

On November 2, 1976, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 48126) stating that the Federal Railroad Administration (FRA) was considering several amendments to the blue signal protection provisions of Part 218. The amendments were intended to clarify the existing rules with respect to certain questions raised as to the applicability of the standards to train and yard crews and to operations within locomotive servicing facilities and car repair areas. In addition, the NPRM proposed specific regulatory language to respond to the provision of the Federal Railroad Safety Authorization Act of 1976 (Pub. L. 94–348) which required the Secretary to issue regulations to assure that all manually operated switches providing access to tracks on which railroad employees are working on, under, or between rolling equipment will be lined against movement and secured with an effective locking device. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments before December 6, 1976, and by appearing at a public hearing on November 23, 1976 in Washington, D.C., and a number of comments were received.

One commenter raised a preliminary point taking issue with FRA's determination that the portion of the proposed rules having to do with the locking of manually operated switches did not require an evaluation of the regulatory impact in accordance with the policies of the Secretary of Transportation since that provision was required by statute. This commenter expressed the opinion that "the only instance in which implementary rulemaking proceedings do not require evaluation of regulatory impact is that rare case wherein Congress leaves no discretion." The FRA does not agree entirely with this narrow interpretation of the policies established by the Secretary. The purpose of the regulatory impact evaluation required by the Secretary's policies is to assure that all of the potential costs and benefits of a proposed rulemaking action are adequately assessed and considered by the rulemaking entity in an effort to improve the effectiveness of the proposed regulation and minimize its impact upon affected parties. In this instance, where a statute requires the issuance of a rule on a particular matter, the Secretary does not have the discretion to withhold rulemaking action even if it were shown that the possible benefits of the rule did not outweigh its potential costs. The result or impact of the rulemaking at hand is in effect prescribed in legislation while FRA is granted discretion only as to how the prescribed result of the rule might be most reasonably achieved through regulation. Accordingly, the comprehensive regulatory impact evaluation normally required of all proposed rulemaking actions is not required by the Secretary's policies in this case. FRA has consulted with the Office of the Secretary on this matter and received concurrence in this interpretation.

Nevertheless, FRA feels, and the Office of the Secretary concurs, that an appropriate application of the Secretary's poli-

cies in this instance is to assess the relative costs of alternative means of achieving the results of the statutorily mandated rules in an effort to develop an effective and reasonable implementing regulation. Therefore, in the rulemaking action at hand, FRA has analyzed the costs of alternative regulations it might adopt and believes that this final rule does not impose any unreasonable costs in excess of those necessary to comply with the minimum requirements of the statute.

Another commenter criticized FRA for not having evaluated the inflationary impact of the switch locking requirements and stated that it believed the provision requiring all manually operated switches to be locked whenever workmen were working on, under or between rolling equipment was extreme and unjustified. DOT Order 2050.4 definies what actions are to be considered major proposals for purposes of determining whether an inflationary impact analysis must be undertaken pursuant to Executive Order 11821. For purposes of regulations which impact upon a single industry, the threshold level at which a particular action is to be considered "major" is an action which will result in increased expenses of $50 million in one year, or $75 million in any two consecutive years. The FRA's analysis of the costs of this rule shows that the impact on the industry will not reach this threshold level.

The same commenter also stated that the switch locking requirement could not be justified in view of its operating experience. Since the switch locking requirement is prescribed by statute, the FRA does not have the discretion to make an independent analysis as to whether or not the railroad industry's accident experience provides adequate justification for the proposed rule. Rather, the agency must issue a rule which complies with the statutory mandate. Through the provisions permitting the use of locked derails as an alternative to a locked manually operated switch, the FRA believes that the proposed rules provide the broadest degree of flexibility which is possible within the meaning and intent of the statutory requirement. This flexibility should alleviate the more burdensome or costly impacts.

Another general comment submitted in response to the NPRM expressed concern over the relationship between the blue signal provisions of Part 218 and OSHA and hazardous materials regulations which also require the display of a blue signal when railroad cars are spotted for loading or unloading at an industrial site. This commenter stated that operating difficulties would result because FRA regulations prohibit movement onto a track containing blue flag equipment. A carrier would be required to locate a qualified employee of the industrial customer in order to remove the blue signals before the track could be switched. This commenter requested clarification which would allow cars to be spotted on a track occupied by equipment under industrial blue flag protection, provided such cars are stopped short of the protected equipment.

The FRA has reviewed the OSHA and hazardous materials regulations and discovered that the scope of the problem is restricted. OSHA regulations pertaining to a blue flag requirement presently apply to pulp, paper and paperboard mills only. Hazardous materials regulations require application of a blue flag only during the loading and unloading operation while the connection is engaged.

The provisions of the blue flag rules included in Part 218 were intended to apply to blue flags applied by railroad employees for the protection of railroad employees. The blue flags to which this commenter referred are applied by inrailroad employees. While the FRA recognizes that these operations may require a greater degree of coordination between the railroad and the industrial customer, safety requires some precaution for the protection of the industrial employees who are working around the equipment. If the switch which provides access to the industrial siding is not locked and blue flagged, the train crew can assume that the track is clear and may enter the siding. Once on the siding, if it is discovered that there is equipment under blue flag protection on the same track, the train crew may not set out cars so as to cover up the blue flag and must remove them from the siding if the blue flag cannot be removed. Because these industrial blue flags are required to be displayed under limited conditions—during loading and unloading or on certain lading—FRA does not believe that these standard precautions will prove unnecessarily burdensome.

A final general comment on the existing blue flag regulation as well as the proposed changes included in the NPRM was submitted by a terminal operator who alleged that the existing and proposed rules would totally disrupt operations causing long delays to trains and inefficient utilization of its facility. This commenter expressed the belief that blue signal protection was designed primarily for freight operations and did not take into consideration the switching and servicing of occupied passenger equipment.

The blue signal regulation issued by FRA, and the amendments proposed in the NPRM, were intended to provide protection to railroad employees who are required to work on, under or between rolling equipment. An employee may be just as severely injured by the unexpected movement of passenger equipment as he would be by a similar movement of freight equipment. Therefore, the FRA does not believe there is a reasonable basis to exempt passenger terminal operations from the scope of this rule.

This particular commenter has also filed a petition for waiver of the regulatory provisions governing certain aspects of its operation. The FRA believes that this is the appropriate method by which to address the special problems of an individual carrier or a particular operation. Through the waiver procedure, the facts can be established, the safety of alternate procedures can be evaluated and specific conditions can be designed to assure the safety of railroad workmen on a case by case basis.

With respect to the proposed amendment of the definition of "workmen" contained in § 218.5, one commenter expressed the opinion that the extension of blue flag protection to train and yard crews under certain conditions would be unduly restrictive. On the other hand, several commenters complained of abuse of the original exclusion by the reassignment of work from mechanical department employees, who must be provided protection, to train and yard crews who were exempted. Through investigation of complaints, the FRA found that such abuses were occurring. The FRA has, therefore, concluded that the additional amplification provided in the NPRM was necessary. Where train or yard crew personnel are assigned to inspect, test, repair or service equipment which is not part of the train or yard movement to which they are assigned as operating crew members, the exemption will not apply and protection in accordance with Part 218 must be provided.

Two commenters expressed concern with the definition of an "effective locking device" which was proposed in § 218.5 (d). One commenter suggested that it may not be technically possible to develop a "tamper-proof" locking device, and that it would be more appropriate and consistent for FRA to require a "tamper-resistant" device, as well as a "vandal resistant" one as was proposed in paragraph (d)(1). The FRA's intent was to assure that the device could not be inadvertently or easily removed by unauthorized personnel, be they railroad employees or non-railroad employees. The use of the consistent language suggested by the commenter will convey this intent, and FRA has decided to make such a change. Therefore, the "effective locking device" must be both vandal resistant and tamper resistant.

One commenter disagreed with the interpretation which FRA has made of the statutory requirement for an "effective locking device". This commenter alleged that the congressional intent to provide an "effective locking device" would be satisfied by the existence of an operating rule prohibiting the movement of the switch. The FRA cannot agree with this commenter's interpretation of the congressional intent.

Operating rules prohibiting unauthorized personnel from moving a switch which is protected by a blue flag are presently in effect, and Congress was well aware of the recent issuance of FRA's blue flag regulation. The inclusion of this "locking" requirement in the statute is clear evidence that Congress believed some additional protection is necessary. The FRA believes that the Congress intended to mandate the use of a device which would secure the switch in a position that assures the safety of the employees working on the equipment. In

drafting the proposed rules, the FRA intended to require the use of the padlock type of device which has long been used by the industry, with specific locks for various crafts or uses. Such locks will assure the type of security intended by Congress and are of sufficient strength and intricacy so as to prevent vandalism by non-railroad employees or tampering by railroad employees of crafts other than the craft which routinely applies the lock.

This commenter also suggested that FRA should permit a test period during which non-padlock switch "locking" devices could be used as an option. At the end of such a test, FRA could then decide whether such devices could be accepted as an alternative to the switchstand padlock. The FRA believes that the proposed provision is the minimum which would comply with the statutory mandate since the traditional switch lock will assure that the switch is secured. This provision must be issued within 180 days of the enactment of the statute. Under the authority of the Federal Railroad Safety Act, FRA could institute a "test" program to determine the effectiveness of other devices which we believe might possibly meet the minimum statutory standard. Such a test would have to be conducted in a controlled environment and under controlled conditions. The FRA is not, at this point, prepared to undertake such a test, since the use of the switch padlock does not depart from already established and recognized industry practice.

Section 218.23(a) as proposed provided that rolling equipment could not be placed on a track where it would block or reduce the view of the blue signal. One exception was specifically provided for movements into a locomotive servicing area in compliance with § 218.25(f). One commenter suggested that an additional exception should be clearly stated. This commenter properly interpreted the proposed rules as permitting the use of a derail in accordance with § 218.25(b) to divide a long track into two work areas. Without a specific provision, this commenter questioned whether equipment could be placed on such a track from the opposite ends, since any such movement would block or reduce the view of the blue flag displayed at the locked derail. It was the intent of FRA to permit this type of operation, and § 218.23(a) has been modified to clearly state this intent. A long track may thus be used as two separate work areas, provided the derail is employed as required in § 218.25(b).

Another commenter suggested that an exception be included in the provisions of § 218.25(a) which refer to the display of blue signals on track other than humpyard track. This commenter felt that provision should be made to enable a train to be worked on the main line in a terminal when there was a change of crew. In addition, he felt the rule should permit the set out of a block of cars and the pick up of a block of cars without the use of blue signals. Activities involved in each of these operations may include inspection and testing of the equipment involved. These are specific activities which were intended to be included within the protection of the blue signals when workmen are required to be positioned on, under, or between the equipment where there is the danger of personal injury should the equipment be moved. Any exclusion such as that suggested would significantly weaken the effectiveness of the rule in protecting workmen who are exposed to this danger of personal injury. Therefore, FRA does not believe such a change is in the interest of safety and will not make the suggested amendment.

One commenter took exception to the the proposed language of § 218.25(a) which would require the blue signal to be displayed at the entrance to the track, rather than at the ends of the equipment. The existing blue signal regulations (49 CFR 218.25(a)) provide that the blue signal can be displayed either at each end of the equipment or at the entrance to the track. Several questions have been raised as to the proper display of signals. The FRA believes that this wording clarifies the original version and removes any ambiguity as to the proper location for the signal. With the signal at the entrance to the track, the likelihood of a blind movement onto a track occupied by workmen will be greatly reduced, thus further assuring the effectiveness of the regulation.

A commenter complained about what was characterized as the "redundancy" of the proposed rule in that both a lock and a blue signal are required at the manually operated switch. This provision of the regulation was intended to provide a visible warning of and locked protection for the workmen directly assigned to inspect, test, repair or service railroad rolling equipment. While the FRA recognizes that this commenter has identified a valid issue in relation to the redundancy of the lock and signal requirements, it is not an issue which was appropriately focused in this proceeding so as to provide adequate opportunity for public comment. Therefore, FRA believes any change at this time would be beyond the scope of this proceeding. We will, however, initiate a new proceeding in the immediate future to address this issue directly.

One commenter requested a clarification of the preamble discussion concerning the locking of manual switches to divert movements away from the ends of equipment under blue signal protection. The discussion referred to an exception for crossover switches which are occupied by equipment under blue signal protection. It is the intent of the regulation that any crossover switch which is occupied by rolling equipment which is under blue signal protection, as well as the next switch on the crossover providing access to the track, must be lined against movement through the crossover and the unoccupied switch be effectively locked. In this particular situation, however, a blue signal need not be displayed at either end of the crossover. Such a procedure will avoid taking multiple tracks out of service when only a single track is occupied by workmen, and at the same time will not jeopardize the safety of the workmen involved. A new § 218.23(d) has been added to clearly state this exception to the general rule for the display of blue signals.

Finally, a commenter suggested that the proposed § 218.25(b) provision for the use of a locked derail in lieu of a locked switch be revised to require that the derail be located at least 150 feet from the end of the closest car under blue signal protection. Such a provision would reduce the likelihood of collision with another car or cars if a derail should occur. The FRA believes that this suggestion has merit since 150 feet will provide a buffer zone and, in the event of a movement through the derail, it would allow sufficient distance for the movement to be stopped short of the protected equipment. The appropriate change has been made in § 218.25(b).

Due to the addition of a new provision in § 218.27(a) a previous crossreference located in § 218.29, remotely-controlled switches, was discovered to be inaccurate. Therefore, this final rule includes a revision of § 218.29(a) so as to refer properly to § 218.27(a)(4) rather than § 218.27(a)(3). In addition, this subsection includes a requirement that remotely-controlled switches governing movement to a track on which workmen are working be locked with an "effective locking device". FRA does not intend to apply the definition of an "effective locking device" in § 218.5(d) to devices used to secure remotely-controlled switches, and has amended the definition to clearly limit its application to manually operated switches and derails.

In consideration of the foregoing, Part 218 of Title 49 of the Code of Federal Regulations is amended as follows:

1. By revising § 218.5(a) and adding a new (d) to read as follows:

§ 218.5 Definitions.

As used in this part—

(a) "Workmen" means railroad employees assigned to inspect, test, repair or service railroad rolling equipment, or their components including brake systems. Train and yard crews are excluded, except when assigned to perform such work on railroad rolling equipment that is not part of the train or yard movement they have been called to operate.

* * * * *

(d) "Effective locking device" when used in relation to a manually operated switch or a derail means one which is:

(1) Vandal resistant;

(2) Tamper resistant; and

(3) Locked and unlocked only by the class or craft of employee applying the lock.

2. By revising § 218.23 (a) and (b) and adding a new (d) to read as follows:

§ 218.23 Blue Signal Display.

(a) A blue signal displayed in accordance with § 218.27 signifies that workmen are on, under, or between the equip-

ment and that it may not be coupled to nor moved except as provided for in § 218.25 (f), (g) and (h). Other rolling equipment may not be placed on the same track so as to block or reduce the view of the blue signals except as provided in § 218.25(f) or when a derail is used in compliance with § 218.25(b) to divide a track into separate work areas.

(b) A blue signal displayed at one or both ends of a track signifies that workmen are on, under, or between rolling equipment on the track and that other rolling equipment may not enter the track, except as provided for in § 218.25(f).

* * * * *

(d) Whenever one switch of a crossover is located beneath rolling equipment which is under blue signal protection as provided in § 218.25 or § 218.27, the next switch on the crossover providing access to the track must be lined and locked against movement to that crossover. A blue signal need not be displayed at either crossover switch.

3. By revising § 218.25(a), redesignating (b) and (c) as (c) and (d), and adding new (b), (e), (f), (g), and (h) to read as follows:

§ 218.25 Workmen on a track other than a hump-yard track.

(a) When workmen are on, under, or between rolling equipment on a track other than a hump-yard track, a blue signal must be displayed at each entrance to the track and each manually operated switch, including any crossover switch, providing access to the track on which such equipment is located must be lined against movement to that track and secured by an effective locking device which may not be removed except by the class or craft of workmen performing the work.

(b) A derail capable of restricting access to that portion of a track on which such equipment is located will fulfill the requirements of a manually operated switch in compliance with this section when positioned at least 150 feet from the end of the rolling equipment to be protected by the blue signal and when locked with an effective locking device in a derailing position. A blue signal must be displayed at each such derail.

* * * * *

(e) Workmen may work on, under, or between a locomotive on designated locomotive servicing area tracks under the exclusive control of mechanical forces after—

(1) The manually operated switches providing entrance to and departure from the designated locomotive servicing area are lined for movement to another track and secured by an effective locking device; and

(2) A blue signal has been placed at or near each of those switches; and

(3) A blue signal has been attached to the controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive.

(f) A locomotive may not be moved onto or off a designated locomotive servicing area track under the exclusive control of mechanical forces unless the blue signal is first removed—

(1) From the entrance switch to the area and the locomotive which is placed on the track is stopped short of coupling to another locomotive; or

(2) From the controlling locomotive to be moved and from the area departure switch, before the locomotive is removed from the track.

(g) A locomotive protected by blue signals may be moved on a track within the designated locomotive servicing area under the exclusive control of mechanical forces when operated by an authorized employee under the direction of the employee in charge of the workmen after the blue signal has been removed from the controlling locomotive to be repositioned and the workmen on the track have been notified of the movement.

(h) Rolling equipment protected by blue signals on car-shop repair tracks, which are under the exclusive control of car department forces, may be repositioned with a car mover when operated by an authorized employee under the direction of the employee in charge of the workmen after the workmen on the track have been notified of the movement.

4. By revising § 218.27 to read as follows:

§ 218.27 Workmen on hump-yard track.

(a) Workmen may not work on, under, or between rolling equipment on a hump-yard track unless—

(1) Each manually operated switch, including crossover switches providing access to that track is lined against movement to that track and secured by an effective locking device; and

(2) A blue signal has been placed at or near each manually operated switch; or

(3) A derail capable of restricting access to that portion of a track on which such equipment is located will fulfill the requirements of a manually operated switch in compliance with this section when positioned at least 150 feet from the end of the rolling equipment to be protected by the blue signal and when locked with an effective locking device in a derailing position. A blue signal must be displayed at each such derail.

(4) The person in charge of the workmen has notified the operator of the remotely-controlled switches of the work to be performed, and has been informed by the operator that each remotely-controlled switch providing access to the track has been lined against movement to that track and locked as prescribed by § 218.29(a).

5. By revising § 218.29(a) to read as follows:

§ 218.29 Remotely-controlled switches.

(a) After the operator of the remotely-controlled switches has received the notification required by § 218.27(a)(4), he must line each remotely-controlled switch against movement to that track and apply an effective locking device to the lever, button, or other device controlling the switch before he may inform the employee in charge of the work to be performed that protection has been provided.

* * * * *

(Sec. 202, 84 Stat. 971, 45 U.S.C. 431 and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n))

This amendment is effective July 1, 1977.

Earlier compliance with these regulations is authorized as of the date of publication of this notice (1-11-77).

Issued in Washington, D.C. on January 5, 1977.

ASAPH H. HALL,
Administrator.

[FR Doc.77-1043 Filed 1-10-77;8:45 am]

[Docket No. RSRM-1, Notice 2]

PART 221—REAR END MARKING DEVICE—PASSENGER, COMMUTER AND FREIGHT TRAINS

On November 17, 1976, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 50701) stating that the Federal Railroad Administration (FRA) was proposing regulations in response to the provisions of the Federal Railroad Safety Authorization Act of 1976 (Pub. L. 94-348, "the Act") concerning highly visible markers on the rear car of all passenger, commuter and freight trains.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments before December 17, 1976, and by appearing at a public hearing on December 3, 1976, in Washington, D.C., and a number of comments were received.

GENERAL COMMENTS

Two commenters raised a preliminary issue based upon FRA's determination that this rulemaking proceeding does not require an evaluation of the regulatory impact of the proposed rules in accordance with the policies of the Department of Transportation as stated in the FEDERAL REGISTER (41 FR 16200, April 16, 1976) since the issuance of these regulations is required by statute. In addition, these commenters questioned the apparent absence of consideration of the inflationary impact as required by Executive Order No. 11812 and of the environmental impact required by section 102 (2)(c) of the National Environmental Policy Act of 1969.

The basic position stated by these commenters with respect to the Secretary's regulatory impact policies, is that, notwithstanding the exemption of regulations expressly mandated by statute, the only instance in which a statutorily mandated rulemaking proceeding is exempt from the impact evaluation procedure required by the Secretary's policies is where the agency has no discretion

in issuing the rules. The FRA does not agree entirely with this narrow interpretation of the policies established by the Secretary. The purpose of the regulatory impact evaluation required by the Secretary's policies is to assure that all of the potential costs and benefits of a proposed rulemaking action are adequately assessed and considered by the rulemaking entity in an effort to improve the effectiveness of the proposed regulation and minimize its impact upon affected parties. In this instance, where a statute requires the issuance of a rule on a particular matter, the Secretary does not have the discretion to withhold rulemaking action even if it were shown that the possible benefits of the rule did not outweigh its potential costs. The result or impact of the rulemaking at hand is in effect prescribed in legislation while FRA is granted discretion only as to how the prescribed result of the rule might be most reasonably achieved through regulation. Accordingly, the comprehensive regulatory impact evaluation normally required of all proposed rulemaking actions is not required by the Secretary's policies in this case. FRA has consulted with the Office of the Secretary on this matter and received concurrence in this interpretation.

Nevertheless, FRA feels, and the Office of the Secretary concurs, that an appropriate application of the Secretary's policies in this instance is to assess the relative costs of alternative means of achieving the results of the statutorily mandated rules in an effort to develop an effective and reasonable implementing regulation. In this instance, FRA has adopted a performance specification for rear end markers that is based upon the minimum visibility requirements necessary to assure compliance with the statute. The least costly design which the Administrator determines will meet this specification will be acceptable under the regulation. Accordingly, FRA believes that this final rule does not impose any unreasonable costs in excess of the minimum costs necessary to comply with the minimum requirements of the statute.

With respect to the inflationary impact evaluation required by Executive Order No. 11821 and Office of Management and Budget Circular A-107, the FRA does not believe that the rules included in the NPRM constitute a "major proposal" within the scope of the inflationary impact process. Department of Transportation Order DOT 2050.4 establishes the threshold for determining what constitutes a major proposal. For purposes of a regulation that applies to a single industry, that threshold is $50 million in a single fiscal year or $75 million in any two consecutive fiscal years. Assuming that approximately 20,000 cars will need to be retrofitted to meet the standards established in this Part for highly visible marking devices, the cost per car would have to exceed $2,500 in order to reach the $50 million threshold level for inflationary impact. That per car cost far exceeds the FRA's estimates of the per-car costs that will be incurred to meet the prescribed performance standards. We have received no evidence in any of the comments submitted of an industry wide cost impact in excess of the threshold amounts. An additional analysis has been made with respect to the final rule to the extent that it differs from the NPRM. Once again, FRA's estimates are that the costs to the industry resulting from compliance with this rule will not reach the threshold level and therefore, the inflationary impact procedures do not apply to this proceeding.

With respect to consideration of the environmental impact of the proposed regulations, the FRA has performed a general environmental assessment of the potential effects of safety regulatory actions and has determined that, as a class, they do not constitute major Federal actions significantly affecting the quality of the human environment. Furthermore, the FRA does not believe that the particular rules included within this Part will have a foreseeably significant impact upon the quality of the human environment, and neither commenter who raised this issue suggested any evidence that such impact does or might in fact exist.

One commenter took exception to the basic concept of the proposed regulation, and also noted that other parties at the public hearing had expressed opposition to final promulgation of the proposal. This commenter suggested that the FRA should issue a regulation in this proceeding which simply restates the statutory language, and that a cooperative effort between the railroads, railroad labor organizations and the FRA be undertaken to "arrive at a reasoned solution to a common problem." The FRA does not agree with this commenter that the mere promulgation of the statutory language within the specified time period would satisfy the congressional mandate. The inclusion of the regulatory directive is a clear indication that the Congress intended the FRA to utilize its expertise in railroad safety to define further what marking devices are necessary to accomplish the congressional intent to enhance the visibility of the rear end of trains. The FRA believes that it can fully comply with the statutory mandate only by the issuance of substantive rules which respond to and implement the congressional intent. Nevertheless, while FRA is issuing this rule in accordance with its statutory mandate, we will welcome at any time a specific proposal meeting the statutory test that constitutes a "reasonable solution" to the problem of the marking of the rear car of trains.

SUBPART A

One commenter suggested that the language of § 221.1 defining the scope of this part be amended to incorporate the statutory term "highly visible" in modifying the term "marking devices". The FRA agrees that the provisions of this part are intended to define requirements for "highly visible marking devices" in response to the Act, and has amended this section as suggested by the commenter.

One commenter raised a question in relation to section 211.3 which proposed the limits of the application of the provisions of this Part. This commenter expressed the opinion that all train movements should be included per se, and that exceptions should be made on the basis of specific waiver proceedings which can address the issues on a case-by-case basis. In the proposed rules, the FRA included specific exclusions for trains consisting of historical equipment, trains operating within installations and rapid transit railroads.

The statutory mandate provided the Secretary with the authority to determine what rules, regulations, orders or standards "may be necessary" to accomplish the intended results. The FRA may determine that certain operating situations do not involve the potential safety hazards which the provisions of the Act were intended to reduce. Therefore, we believe that an express exclusion of those types of operations is fully justified and well within the intent and spirit of the Act.

FRA has modified slightly the exclusion included in the NPRM for trains consisting of historical equipment in order to state more clearly the intended scope of the exclusion. It was FRA's intent to exclude railroads that operate only that type of historical equipment, and not to exclude the occasional operation of such equipment by carriers that are also engaged in providing regular passenger or freight service.

Other commenters also expressed views concerning the exclusions proposed in the NPRM. One of these stated that the provisions of this Part should apply to rapid transit railroads. As stated in the NPRM (41 FR 50703), the FRA believes that inclusion of rapid transit operations in this proceeding would extend the proceeding beyond the statutory mandate inasmuch as rapid transit operations were not specifically identified in the statute. For this reason, FRA has maintained the rapid transit exclusion in the final rule.

Several commenters questioned the rationale of requiring rear end marking devices on the trailing end of trains which operate on smaller railroads where there is normally no following train movement. These commenters argued that without a following movement there is no possibility of a rear end collision. Therefore, rear end marking devices would not add to safety and would, in fact, be an unnecesary expense. Several other commenters expressed the same view with respect to branch line operations on the properties of larger carriers.

While the FRA has the authority to make determinations as to the justification for excluding given operations from the applicability of Part 221, this authority must be exercised narrowly so as not to compromise the safety intended by the statutory mandate. The FRA be-

lieves that an exclusion for railroads on whose property only one train is operated at any given time is justified inasmuch as the threat of rear end collisions is virtually nonexistent. A new subsection has been added to provide such an exclusion for railroads which operate only one train at a time.

FRA does not believe, however, that branch line operations should be treated in the same manner as operations on railroads having only one train operating at a given time since these branch line operations often include the use of equipment which must operate on main lines as well as on low density branch lines. Other bases were suggested for exemption of light density operations such as "absolute block" systems, or separation based on time or distance specified in operating rules or other operating controls. We do not believe that an adequate case has been shown for exemption of these operations per se. The established waiver procedure is available, and FRA believes this process to be the proper method for assuring that exemption of any particular operation is made on sound grounds. It should be emphasized that FRA believes this waiver authority must also be exercised judiciously so as to assure that the intent of the regulations will not be compromised. A railroad requesting a waiver must, therefore, demonstrate a similar degree of protection against rear end collisions.

Several questions were raised as to the meaning of some of the definitions included in section 211.5 of the NPRM. One commenter stated that the definition of a "train" should clearly exclude self-propelled maintenance-of-way and high rail inspection equipment. The intent of the regulation is to reach line-haul train operations. It was not intended to include the operation of the various types of work or maintenance-of-way equipment which might also be self-propelled, and for purposes of this Part, such equipment shall not be considered to be a "train".

Another commenter expressed the opinion that work and wreck trains ought to be expressly excluded from the definition of a "train" for purposes of this Part. The FRA does not believe that such movements should be excluded from the requirement for rear end marking devices. Both work and wreck train operations occupy main lines during prolonged periods of time under all types of weather conditions and varying degrees of visibility. We intend the definition to be read broadly enough to include work and wreck train movements.

There was disagreement among commenters as to the exclusion of yard and transfer movements from the definition of a "train". Some wanted a clearer definition of what was meant by "transfer movement", while another believed that transfer movements should not be excluded at all. By this provision, FRA intended to exclude movements of individual cars and cuts of cars within yard limits which have traditionally not been considered "train" movements. All movements within yard limits are subject to the controls of Rule 93 with respect to speed and being able to "stop short" of obstructions on the track. Because yard movements characteristically involve frequent pick up and set out of cars, a requirement that a permanently marked car be maintained at the rear of the movements, or that portable marking devices be switched to the rear car as cars are picked up or set out, would be unduly burdensome and is not warranted by the safety purpose of this regulation.

The FRA now recognizes that the inclusion of the term "transfer movement" was confusing and may have resulted in the extension of the exclusion beyond its intended limits. The FRA believes that the exclusion must be restricted to movements within yard limits, where adequate protection is provided by the fact that all movements are made subject to the same strict operating restrictions, that is, operating at the prescribed speed for that track and prepared to stop short of an obstruction.

Another question was raised concerning the definition of "locomotive" included in § 221.5(c) of the NPRM. This commenter questioned whether this definition was intended to include that equipment which draws its power from third-rail or catenary systems. The definition was designed and intended to be broad enough to take within its scope all self-propelled equipment designed for moving other equipment in usual line-haul train operations regardless of its power source.

One commenter stated that the definition of a "train order" should be expanded to include a radio transmission used to communicate directions to a train crew. The FRA recognizes that the transmission of "train order" type directives by radio is a common practice within the railroad industry and has expanded the definition accordingly. It should be noted that FRA published an NPRM that proposed uniform procedures for the use of radio in railroad operations, including the transmission of train orders by radio (40 FR 33682). These procedures when issued will govern radio transmission of train orders.

One commenter expressed the opinion that the proposed § 221.11 concerning State regulation implied that States cannot enforce more stringent requirements than those issued by FRA. The language of this section was derived directly from the Act. Under the general provisions of the Federal Railroad Safety Act of 1970 (45 U.S.C. 434), any regulation issued by the FRA automatically preempts all State laws, rules, regulations, orders or standards concerning the same subject matter. The intent of this section of the proposed regulation was to incorporate the statutory provision which will, in effect, act as an exception to that general provision on preemption of State jurisdiction. It will allow a State to continue to enforce any State law, rule, regulation, order or standard which was in effect on July 8, 1976, and which requires lighted markers on freight trains. The only restriction on such State regulations is that they may not be enforced if they would cause a railroad to be in violation of the Federal rules prescribed in this Part.

Subpart B

Subpart B of the NPRM contained the requirements which FRA was proposing in response to the statutory mandate for "highly visible markers". These proposed rules included performance standards for lighted marking devices on passenger and commuter trains and for retro-reflective marking devices on freight trains. Virtually all commenters took issue with the FRA's definition of what devices constitute highly visible markers as well as the decision to use a clear weather testing standard to define marking device performance under night or inclement weather conditions, although the bases for disagreement differed from commenter to commenter.

In view of the several major issues raised by the many commenters who submitted views on Subpart B, the FRA has decided to make significant changes in the provisions which define what devices constitute "highly visible markers" in compliance with the statute.

After analysis of the options for "highly visible markers", and consideration of the many issues raised by the commenters, the FRA has decided to revise the requirements for marking devices which were proposed in this Part. Instead of defining two separate systems of marking devices, one for passenger and commuter trains, and one for freight trains, FRA has determined what are the minimum requirements to satisfy the "highly visible" standard on a day with restricted visibility, although retaining the statutory requirement that the rear end markers on passenger and commuter trains must be lighted notwithstanding the availability of other types of markers which could meet these minimum requirements. This performance standard has been developed with reference to inclement weather conditions, rather than extrapolating inclement weather performance from clear weather conditions as was proposed in the NPRM.

The basic premise that forms the foundation of the logic upon which this revised standard was developed remains the same as that expressed in the NPRM. That is that "highly visible markers" must be defined in relation to the operating environment in which they will be used as warning devices. The FRA continues to believe that marking devices such as those contemplated by the statute must be regarded as backup safety systems to the present systems of signals and operating rules. Under those present systems, whenever two trains are in a situation in which the following train may overtake the leading train, the following train should be operating at restricted speed taking into account prevailing weather conditions, prepared to stop short of another train, and the crew

should be in an alerted condition, looking for an obstruction on the track.

Given this restricted speed, FRA has reviewed several comments as well as other data on stopping distances which can be expected for trains. Due to the range of factors involved (speed, tonnage, train make-up, braking capability, grade) these estimates vary. FRA has considered these factors and, for purposes of this rule, has determined that 1000 feet is a reasonable distance within which an alerted train crew could normally stop a train moving at restricted speed. Based upon this determination, and assuming a day of ¼ mile restricted visibility, which would approximate the visibility under heavy rain, snow or fog conditions, the FRA has further determined that a marking device must have a minimum intensity of 100 candela, or 100 effective candela for flashing lights, in order to be "highly visible" for purposes of this rule. FRA has expressed this minimum intensity for "highly visible" marking devices in terms of a performance standard. This standard may be met by use of any device or system, lighted or non-lighted, which meets the intensity and other performance standards and is approved by the Administrator. FRA is aware that existing types of lighted systems will meet the requirements. FRA to date has not determined specific types or combinations of non-lighted materials which could meet this visibility standard during inclement daylight hours. Because of the statutory deadline for issuance of a substantive rule, this minimum performance standard must be issued in advance of additional testing. A railroad wishing to use such a non-lighted device will have to demonstrate to the Administrator that the device, be it retroreflective, fluorescent, or a combination, will meet the performance standard. For purposes of such a demonstration, the Administrator will assume an external light source with the intensity and beam width of the high beam of a locomotive headlight at a distance of 1000 feet from the device. FRA intends to supplement this final rule promptly with an appendix listing all approved devices, and from time to time thereafter will add to the appendix any additional devices approved by the Administrator as meeting the required performance standard.

The final performance specification includes a location requirement of at least 48 inches above top of rail as proposed in the NPRM. FRA has decided to retain this requirement although one commenter expressed the opinion that marking devices should be mounted as high as possible on the rear car. While FRA believes that marking devices will generally be mounted on the upper half of the car, we have decided that this provision is justified in order to permit mounting of a device on the coupler of the rear car, if a caboose is not used as the rear car of the train.

There were also questions concerning the NPRM provision specifying the range of acceptable colors for marking devices. The acceptable color range for the marking devices has been redefined in terms of the red-orange-amber range of the spectrum. These colors have been chosen over others suggested by some commenters because of their traditional use in safety systems as indications of warning or hazards.

Several commenters expressed the opinion that whatever standards are issued as final rules, they should be flexible enough to incorporate a number of existing devices which were alleged to be "highly visible". FRA recognizes that some degree of flexibility will be beneficial in encouraging the development of improved and more efficient marking devices. For this reason the rule has been written in terms of a general standard setting a minimum performance requirement. FRA has decided not to require the use of any specific type of material as proposed in the NPRM, so as not to preclude the use of any device which meets the performance specifications. Thus, the fullest range of lighted and non-lighted devices, including strobe lights, is available provided they meet the visibility, illumination and color specifications. In addition, since this is a minimum standard, nothing in this Part should be construed as preventing the use of additional systems to further enhance conspicuity.

One commenter criticized the proposed rules as being inadequate since they spoke only of visibility in terms of tangent track, and did not take into consideration curves, cuts, hills, or other obstructions to visibility along the right-of-way. FRA has considered the problem posed by curves and other obstructions, and has concluded that a marking device will not be in the line of sight of the crew on a following train and cannot be said to be "highly visible" under such conditions. This commenter suggested that a lighted marking device would be "highly visible" since the light would reflect or "bounce" off trees, buildings or other objects along the right-of-way so as to alert the crew of the following train before the rear car is actually in the line of sight. The FRA believes that reliance on this type of "reflection" with anything other than strobe lights is far too speculative to be considered "highly visible" as was intended by the statute. FRA does not believe there is a reasonable assurance that such reflections would alert the crew since they would often be so dim or would not be readily distinguishable from the myriad of other primary and secondary light sources existing in the wide variety of railroad operating environments. If a light of such high intensity as to be highly visible in most such situations were prescribed, it would in many other situations also constitute such a distraction as actually to become a potential safety hazard.

FRA's research demonstrates that strobe lights may be alerting in curved territory without adverse effects when used to indicate an emergency condition—that the lead train has stopped or slowed down below prescribed speed in an area with restricted visibility. This alerting effect is diminished if such lights are used continuously rather than as an emergency warning. Such an emergency provision has not been incorporated into the minimum requirements of this Part because the FRA believes that to do so would exceed the scope of the statutory mandate. We believe that the Congress intended these regulations to respond to normal operating condition at night and in restricted visibility and thus required the prescribed marking devices to be in operation in all such conditions. Nowhere in the Act is there a requirement to devise special emergency procedures. Any railroad may, of course, choose to utilize strobes as such an additional emergency warning system in areas of restricted visiblity to indicate a stopped or slow train.

Several commenters raised a number of issues having to do with questions of reliability of the marking devices. The FRA has decided to address the reliability question by including an inspection requirement. Lighted markers need not be activated, nor non-lighted markers displayed on a clear day. Section 221.13 (b) defines the conditions of darkness and inclement weather under which marking devices must be displayed. Inspection of the devices must be made by the train crew at each crew change location to assure that lighted systems are working, that non-lighted systems are clean and in good condition, or that portable systems are working and available on the train for display in accordance with these regulations should visibility conditions require. Section 221.15 (b) sets forth this inspection requirement.

Several commenters also raised questions concerning procedures to be used if lighted marking devices failed, when a portion of a train needed to be moved after a derailment, or when other defective equipment could only be moved at the rear of a train. The FRA believes that each of these conditions constitutes an operational emergency which justifies special consideration in these rules. For this reason, such movements will be allowed to be made without the display of marking devices prescribed in this Part, but only as far as the next forward location at which the devices can be repaired or other devices can be substituted, or where the defective equipment moving at the rear of the train can be repaired.

A question was also raised concerning the requirement of the NPRM calling for dual power sources and wiring in parallel. Commenters expressed the opinion that these requirements resulted in an unnecessary redundancy in that they, in effect, provided a back-up to what was already identified as a back-up system. There also appeared to be some question as to whether FRA intended to permit the use of a battery power source. The FRA recognizes merit in the argument that providing a back-up system to what is essentially already a back-up system may result in additional costs

which are unnecessary to accomplish the purpose of the regulation. Since an inspection requirement has been added to the rule, a reasonable degree of reliability of lighted devices can be expected, and, in the event of a malfunction, further operation is restricted by the provision that the train may only move to the next forward repair point. Under these conditions, the FRA does not believe that stringent power source requirements are necessary, and has eliminated those provisions of the NPRM. Railroads using lighted marking devices may choose whatever power source they believe to be the most effective in relation to the specific lighting system, be it generator or battery.

A further question in relation to lighted systems concerns the acceptability of flashing devices. This commenter noted the economics in battery life which can be realized with a flashing system. The FRA agrees that flashing lights can be used to fulfill the requirement for "highly visible" marking devices. For purposes of this regulation, FRA has prescribed an effective candela intensity and an acceptable range of flash rates so as to assure alerting effect and at the same time avoid undesirable side effects caused by too rapid a flash. The range is expressed in terms of flashes per second so as to assure an evenely distributed flashing effect.

One commenter raised an issue with respect to the proposed compliance date of December 31, 1977 stating that this date did not provide adequate time for modification of existing equipment. The FRA believes that the final rule incorporated in this notice provides a broad enough range of choices between lighted and non-lighted devices, as well as among various types of lighted devices so as to reduce the burden of retrofit. While we recognize that some systems existing today will need modifications, the majority of locomotives and cabooses already are equipped with hardware capable of being upgraded to meet the prescribed visibility requirements. In addition, removable or portable devices such as battery operated lights may also be used. Furthermore, we believe that the postponement of an effective date for compliance with the rules would not be in keeping with the spirit or intent of the Act. After weighing all the concerns expressed and the intent of the Act, the FRA believes the one year retrofit period provided in section 221.13(a) to be a reasonable one.

Other commenters inquired as to whether the locomotive headlight shining to the rear could be considered a "highly visible marker" when an engine was running light, or was used as a helper at the rear of a train. The FRA recognizes that there are operating conditions in which it is common to place a locomotive at the rear of a train such as in push-pull operations or helper operations in mountainous territory. In addition, unusual operating conditions may require a locomotive to be operated light on the main track outside of yard limits. Traditionally, an illuminated headlight has been used to indicate that a locomotive is occupying the track. In addition, the majority of locomotives are also equipped with classification lights which can display a variety of colors and which are presently used under some conditions to show red to the rear. The FRA believes that the use of the locomotive headlight shining to the rear, or of the classification lights, provided the latter meet the color and illumination requirements of the performance standard would constitute "highly visible" marking devices within the meaning of the Act and this regulation. These options for compliance have been provided in § 221.15.

Several commenters expressed the concern that train crews come to rely upon seeing the "highly visible markers" and would become lax in their compliance with operating rules and signal indications. The FRA does not believe that the mere existence of marking devices will result in widespread disregard of longstanding operating practices. Compliance of train crews with the requirements of the operating rules will continue to be an obligation of the carrier. The FRA believes that continued compliance can be assured through adequate rules instruction and proper efficiency testing programs.

In light of the foregoing, Title 49 CFR is amended by the addition of a new Part 221 as set forth below:

Subpart A—General

Sec.
221.1 Scope.
221.3 Application.
221.5 Definitions.
221.7 Civil penalty.
221.9 Waivers.
221.11 State Regulation.

Subpart B—Marking Devices

221.13 Marking device display.
221.15 Marking devices.
221.17 Movement of defective equipment.

AUTHORITY: Section 202, 84 Stat. 971, 45 U.S.C. 431 and Section 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Subpart A—General

§ 221.1 Scope.

This part prescribes minimum requirements governing highly visible marking devices for the trailing end of the rear car of all passenger, commuter and freight trains. So long as these minimum requirements are met, railroads may adopt additional or more stringent requirements for rear end marking devices.

§ 221.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to passenger, commuter and freight trains when operated on a standard gage main track which is part of the general railroad system of transportation.

(b) This part does not apply to:

(1) A railroad that operates only trains consisting of historical or antiquated equipment for excursion, educational, or recreational purposes;

(2) A train that operates only on track inside an installation which is not part of the general railroad system of transportation;

(3) A rapid transit railroad that operates only on track used exclusively for rapid transit passenger service in a metropolitan or suburban area;

(4) A railroad that operates only one train at any given time.

§ 221.5 Definitions.

As used in this part:

(a) "Train" means a locomotive unit or locomotive units coupled, with or without cars, involved in a railroad operation conducted on a main track. It does not include yard movements.

(b) "Commuter train" means a short haul passenger train operating on track which is part of the general railroad system of transportation, within an urban, suburban or metropolitan area. It includes a passenger train provided by an instrumentality of a State or political subdivision thereof.

(c) "Locomotive" means a selfpropelled unit of equipment designed for moving other equipment in revenue service and includes a selfpropelled unit designed to carry freight or passenger traffic, or both.

(d) "Main track" means a track, other than an auxiliary track, extending through yards or between stations, upon which trains are operated by timetable or train order or both, or the use of which is governed by a signal system.

(e) "Train order" means mandatory directives issued as authority for the conduct of a railroad operation outside of yard limits.

(f) "Red-orange-amber color range" means those colors defined by chromaticity coordinates, as expressed in terms of the International Commission on Illumination's 1931 Colormetric System, which lie within the region bounded by the spectrum locus and lines defined by the following equations:

$$X+Y=.97 \text{ (white boundary)}$$
$$Y=X-.12 \text{ (green boundary)}$$

(g) "Administrator" means the Federal Railroad Administrator, the Deputy Administrator, or any official of the Federal Railroad Administration to whom the Administrator has delegated his authority under this Part.

(h) "Effective intensity" means that intensity of a light in candela as defined by the Illuminating Engineering Society's Guide for Calculating the Effective Intensity of Flashing Signal Lights, November, 1964.

§ 221.7 Civil penalty.

Any railroad that operates a train to which this part applies in violation of any requirements prescribed in this part is liable to a civil penalty of at least $250, but not more than $2500, for each violation. Each day of each violation constitutes a separate offense.

§ 221.9 Waivers.

(a) A railroad may petition the Federal Railroad Administrator for a waiver

of compliance with any requirement prescribed in this Part.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by Part 211 of this chapter.

(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, he may grant the waiver subject to any condition he deems necessary. Notice of each waiver granted, including a statement of the reasons therefor, will be published in the FEDERAL REGISTER.

§ 221.11 State regulation.

Notwithstanding the provisions of this part, a State may continue in force any law, rule, regulation, order, or standard that was in effect on July 8, 1976, relating to lighted marking devices on the rear car of freight trains except to the extent that such law, rule, regulation, order, or standard would cause such cars to be in violation of this part.

Subpart B—Marking Devices

§ 221.13 Marking device display.

(a) After December 31, 1977, each train to which this part applies that occupies or operates on a main track shall be equipped with marking devices loacted on the trailing end of the rear car of the train as prescribed in this subpart.

(b) The marking devices prescribed in this subpart shall be displayed continuously during the hours between one hour before sunset and one hour after sunrise, and during all other hours when weather conditions so restrict visibility that the end silhouette of a standard box car cannot be seen from ½ mile on tangent track by a person having 20/20 corrected vision.

(c) The centroid of the marking device must be located at a minimum of 48 inches above top of rail.

§ 221.15 Marking devices.

(a) Passenger, commuter and freight trains shall be equipped with at least one marking device which the Administrator approves as having an intensity of not less than 100 candela nor more than 1000 candela (or an effective intensity of not less than 100 candela nor more than 1000 candela for flashing lights) as measured at the center of the beam.

(1) a horizontal beam with a minimum arc width of fifteen (15) degrees each side of the vertical center line, and a vertical beam with a minimum arc width of five (5) degrees each side of the horizontal center line as defined in terms of the 50 candela intensity points;

(2) a color defined by the red-orange-amber color range; and

(3) if a flashing light is used, a flash rate of not less than once every 1.3 seconds nor more than once every .7 seconds.

(b) Marking devices used on passenger and commuter trains in compliance with paragraph (a) of this section shall be lighted under the conditions prescribed in § 221.13(b).

(c) When a locomotive is operated singly, or at the rear of a train, highly visible marking devices may be provided by the use of:

(1) at least one marking device which complies with paragraph (a) of this section;

(2) at least one illuminated red or amber classification light on the rear of the locomotive, provided it complies with paragraph (a) of this section; or

(3) the rear headlight of the locomotive illuminated on low beam.

(d) After December 31, 1977, marking devices displayed in compliance with this part shall be inspected by the train crew at each crew change point to assure that they are in proper operating condition.

§ 221.17 Movement of defective equipment.

(a) Whenever the marking device prescribed in this part becomes inoperative en route, the train may be moved to the next forward location where the marking device can be repaired or replaced.

(b) Defective rolling equipment which, because of the nature of the defect, can be placed only at the rear of a train for movement to the next forward location at which repairs can be made need not be equipped with marking devices prescribed in this part.

(c) When a portion of a train has derailed, and a portable marking device is not available, the remainder of the train may be moved to the nearest terminal without being equipped with the marking device prescribed in this part.

This part is effective on February 15, 1977. Earlier compliance with these regulations is authorized as of the date of publication of this notice.

Issued in Washington, D.C., on January 6, 1977.

ASAPH H. HALL,
Administrator.

[FR Doc.77-1044 Filed 1-10-77;8:45 am]

Title 50—Wildlife and Fisheries

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

SUBCHAPTER G—PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Grade Standards for Fishery Products; Recodification

The Inspection and Certification Regulations and U.S. Grade Standards for Fishery Products contained in Part 260 through Part 279 of 50 CFR are being recodified. The recodification will (1) improve the organization and presentation of grade standards for fishery products and (2) facilitate subsequent amendments thereto.

It is the general policy of the Department of Commerce to allow time for interested parties to participate in the rulemaking process. However, the changes are editorial in nature and, therefore, the public rulemaking process is waived and the recodification will become effective on January 11, 1977.

This recodification is made pursuant to 16 U.S.C. 742e; D.O.O.25-5A, subsection 3.01K(a); and D.O.O.25-5B, section 12.

Accordingly, the newly designated Parts 260 through 279 together with the old counterparts of 50 CFR are set forth below.

New Part Numbers	*Old Part Numbers*
Part 260—Inspection and Certification	Part 260, § 260.1-260.201.
Subpart A—Inspection and Certification of Establishments, and Fishery Products for Human Consumption.	
Subpart B—Inspection and Certification of Fish Meal Establishments and Products.	No corresponding part and section.
Subpart C—Inspection and Certification of Establishments, and Fishery Products as Food for Animals.	Do.
Part 261—United States Standards for Grades Whole or Dressed Fish.	Part 275, § 275.1-275.5.
Subpart A—United States Standards for Grades of Whole or Dressed Fish § 261.100-149.	
Subpart B—United States Standards for Grades of Frozen Headless Dressed Whiting § 261.150-199.	Part 271, § 271.1-271.25.
Part 262—United States Standards for Grades of Fish Steaks.	No corresponding part and section.
Subpart A—[Reserved]	Do.
Subpart B—United States Standards for Grades of Frozen Halibut Steaks §§ 262.150-199.	Part 265, §§ 265.1-265.25.
Subpart C—United States Standards for Grades of Frozen Salmon Steaks §§ 262.200-249.	Part 268, §§ 268.1-268.31.
Part 263—United States Standards for Grades of Fish Fillets.	No corresponding part and section.
Subpart A—(Reserved)	Do.
Subpart B—United States Standards for Grades of Frozen Cod Fillets §§ 263.150-199.	Part 267, §§ 267.1-267.31.
Subpart C—United States Standards for Grades of Frozen Flounder and Sole Fillets §§ 263.200-249.	Parts 274, §§274.1-274.25.
Subpart D—United States Standards for Grades of Frozen Haddock Fillets §§ 263.250-299.	Part 264, §§ 264.1-264.31.
Subpart E—United States Standards for Grades of Frozen Ocean Perch and Pacific Ocean Perch Fillets §§ 263.300-349.	Part 269, §§ 269.1-269.31.
Part 264—United States Standards for Grades of Frozen Fish Blocks and Products Made Therefrom.	No corresponding part and section.
Subpart A—United States Standards for Grades of Frozen Fish Blocks §§ 264.100-149.	Part 263, §§ 263.1-263.25.

Subpart B—Proposed Interim United States Standards for Grades of Frozen Minced Fish Blocks §§ 264.150–199.	Proposed Part 278 (40 F.R. 11729, March 13, 1975), §§ 278.1–278.6.
Subpart C—United States Standards for Grades of Frozen Raw Fish Portions §§ 264.200–249.	Part 279, §§ 279.1–279.25.
Subpart D—United States Standards for Grades of Frozen Raw Breaded Fish Sticks §§ 260.250–299.	Part 277, §§ 277.1–277.25.
Subpart E—United States Standards for Grades of Frozen Raw Breaded Fish Portions §§ 264.300–349.	Part 266, §§ 266.1–266.25.
Subpart F—United States Standards for Grades of Frozen Fish Sticks §§ 264.350–399.	Part 261, §§ 261.1–261.25.
Subpart G—United States Standards for Grades of Frozen Fried Fish Portions §§ 264.400–449.	§§ 276.1–276.25.
Part 265—United States Standards for Grades of Crustacean Shellfish Products.	No corresponding part and section.
Subpart A—United States Standards for Grades of Frozen Raw Headless Shrimp §§ 265.100–149.	Part 272, §§ 272.1–272.31.
Subpart B—United States Standards for Grades of Frozen Raw Breaded Shrimp §§ 265.150–199.	Part 262, §§ 262.1–262.25.
Part 266—United States Standards for Grades of Molluscan Shellfish Products.	No corresponding part and section.
Subpart A—United States Standards for Grades of Frozen Raw Scallops §§ 266.100–266.149.	Part 273, §§ 273.1–273.25.
Subpart B—United States Standards for Grades of Frozen Fried Scallops §§ 266.150–199.	Part 270, §§ 270.1–270.25.
Parts 267–279—[Reserved]	

Dated: January 4, 1977.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

[FR Doc.77-731 Filed 1-10-77;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.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 272]

[Amdt. No. 92]

FOOD STAMP PROGRAM

Extension of Comment Period

A proposed amendment to the Food Stamp Program Regulations was published in the FEDERAL REGISTER on November 16, 1976, 41 FR 50454. The proposal was for the purpose of (1) requiring firms which are authorized to accept food coupons to update any or all of the information submitted on original applications for authorization; (2) providing that failure by an authorized firm to update information on its original application may result in the withdrawal of a firm's approval to participate in the program; (3) specifying that authorized firms shall not impose expiration dates on the redemption of credit slips or tokens issued to recipients by such firms; (4) more specifically detailing procedures which authorized wholesale food concerns shall follow in accepting coupons for redemption from authorized retail food stores and meal services; (5) providing that retailers, wholesalers, and meal services may respond to letters of charges of violations within 10 days of their receipt date; (6) providing that FNS shall not be liable for losses or thefts of food coupons from authorized firms.

In order to give interested parties an adequate opportunity to comment on these proposed changes, the Department has decided to extend the comment period until January 16, 1977.

(78 Stat. 703, as amended; (7 U.S.C. 2011–2026))

Dated: January 5, 1977.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, National Archives Reference Services)

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.77-893 Filed 1-10-77;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1421]

LOAN AND PURCHASE PROGRAM FOR 1977-CROP RICE

Proposed Determinations

Notice is hereby given that the Department of Agriculture proposes to make determinations and issue regulations relative to a loan and purchase program for 1977-crop rice.

Such regulations are necessary to carry out the loan and purchase program for 1977 and include, but are not limited to, determinations regarding (1) premiums and discounts for grades, classes, other qualities, and location differentials, (2) CCC minimum resale price, (3) storage requirements, (4) commodity eligibility and (5) such other provisions as may be necessary to carry out this program.

Prior to issuing the related regulations, consideration will be given to any recommendations, views and comments received not later than February 10, 1977. Recommendations, views and comments should be submitted in writing to the Director, Grains, Oilseeds and Cotton Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741 South Building, 14th and Independence Avenue SW., Washington, D.C.

Signed at Washington, D.C., on January 5, 1977.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-849 Filed 1-10-77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 564]

[No. 77-7]

SETTLEMENT OF INSURANCE

Withdrawal of Proposed Amendment Relating to Insurance of Pension Funds

JANUARY 5, 1977.

The Federal Home Loan Bank Board, by Resolution No. 74-999, dated September 25, 1974, proposed to amend paragraph (c)(1) of § 564.2 of the Rules and Regulations for Insurance of Accounts (12 CFR 564.2(c)(1)) for the purpose of providing separate insurance coverage for non-vested interests in pension and other trusteed employee benefit funds. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on October 10, 1974 (39 FR 36494-36495), with an invitation to interested persons to submit written comments by November 11, 1974.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board considers it desirable to withdraw the proposed amendment for further study.

Accordingly, the Board hereby withdraws from consideration the proposed amendment to Part 564 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 564) contained in said Resolution No. 74-999.

(Secs. 401, 402, 403, 405, 48 Stat. 1255, 1256, 1257, 1259, as amended (12 U.S.C. 1724, 1725, 1726, 1728). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-1007 Filed 1-10-77;8:45 am]

[12 CFR Parts 523 and 545]

[No. 77-11]

FEDERAL HOME LOAN BANK SYSTEM; FEDERAL SAVINGS AND LOAN SYSTEM

Proposed Amendments Relating to Savings Deposits in Other Institutions

JANUARY 5, 1977.

SUMMARY

The following summary of the amendments proposed by this Resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the regulations.

I. *Present Regulations*—prohibit investment by Federal associations in savings accounts and savings deposits of other institutions.

II. *Proposed Amendments*—would remove such prohibition regarding savings deposits in commercial banks and qualify such deposits in insured banks as liquid assets and short-term liquid assets to the extent time deposits are already so qualified.

III. *Reason for Proposal*—to provide for more flexible investment and liquidity.

The Federal Home Loan Bank Board considers it desirable to propose to amend § 523.10 of the Regulations for the Federal Home Loan Bank System (12 CFR 523.10) and § 545.9-2 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.9-2) for the purpose of providing for more flexible investment and liquidity.

Present § 545.9-2 prohibits investment by a Federal association in the savings accounts or savings deposits of other institutions and defines a "savings account" as any withdrawable monetary interest of an investor in any savings and loan, building and loan, or homestead association or cooperative bank and a "savings deposit" as any deposit in a bank that is not a demand deposit or a time deposit. Such prohibition, when it became effective May 17, 1965, was con-

sistent with the Federal Reserve Board's then current regulations which prohibited savings deposits in member banks by corporations operated for profit, but those regulations were modified, effective November 10, 1975, to allow corporate deposits in limited amounts. The Federal Home Loan Bank Board perceives no further need to prohibit investment by Federal associations in savings deposits in commercial banks and therefore proposes to revise § 545.9–2 to remove such prohibition.

Consistent with such revision, and in accordance with its authority under section 5A of the Federal Home Loan Bank Act to create more meaningful and flexible liquidity, the Board proposes to qualify savings deposits in commercial banks as liquid assets and short-term liquid assets to the extent time deposits are already so qualified. The Board also proposes to substitute the more descriptive term "unsecured day(s) funds" for the term "Federal funds" throughout paragraph (h)(3) of § 523.10 in conformity with the language of paragraph (g)(4) thereof.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street, N.W., Washington, D.C. 20552, by February 11, 1977, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address.

Accordingly, the Board hereby proposes to amend § 523.10 and § 545.9–2 to read as set forth below.

§ 523.10 Definitions.

For the purposes of this section, § 523.11, and § 523.12:

* * * * *

(g) The term "liquid assets" means the total of cash, accrued interest on unpledged assets which qualify as liquid assets under this paragraph, or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to repurchase agreement), as long as principal and interest on such assets are not in default:

* * * * *

(4) Time and savings deposits in an insured bank, including time deposits held subject to a repurchase agreement and loans of unsecured day(s) funds (Federal funds or similar unsecured loans to insured banks) to an insured bank if:

(i) The total of all savings and time deposits, including loans of unsecured day(s) funds of the same member, in the same bank does not exceed the greater of (a) one-fourth of 1 percent of the total deposits of such bank (calculated on the basis of total deposits of such bank as shown by its last published statement of condition preceding the date each deposit is made or acquired by a member), or (b) $40,000;

* * * * *

(iii) Except for loans of unsecured day(s) funds, such time deposits are (a) negotiable and have remaining periods to maturity of not more than 1 year, (b) not negotiable and have remaining periods to maturity of not more than 90 days, or (c) not withdrawable without notice and the notice periods do not exceed 90 days;

* * * * *

(h) The term "short-term liquid assets" means the total of cash, accrued interest on unpledged assets which qualify as liquid assets under paragraph (g) of this section, or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to a repurchase agreement):

* * * * *

(3) Savings deposits and time deposits, including loans of unsecured day(s) funds, which qualify as liquid assets pursuant to the provisions of paragraph (g)(4) of this section and, in the case of such time deposits, except for loans of unsecured day(s) funds, are (i) negotiable and have remaining periods to maturity of not more than 6 months, (ii) not negotiable and have remaining periods to maturity of not more than 90 days or (iii) not withdrawable without notice and the notice periods do not exceed 90 days;

* * * * *

§ 545.9–2 Prohibition against investments in other institutions.

(a) No Federal association shall invest in the savings accounts of any other institution.

(b) For purposes of this section, the term "savings accounts" means the withdrawable monetary interest of an investor in any savings and loan, building and loan, homestead association, cooperative bank, or savings bank.

(Sec. 5A, 47 Stat. 727, as added by Sec. 1, 64 Stat. 256, as amended, Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1437); Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR 1941–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77–1006 Filed 1–10–77;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. RM77–1]

EQUITY FOR NATURAL GAS PIPELINE COMPANIES AND PUBLIC UTILITIES

Just and Reasonable Rate of Return

JANUARY 4, 1977.

On December 16, 1976, the City of Gardner, Kansas, and the City of Falmouth, Kentucky, filed a late notice of intention to respond to the Notice of Proposed Rulemaking in the captioned docket, issued October 15, 1976, and published October 22, 1976 (41 FR 46618). By Notice issued December 9, 1976, the Commission extended the comment period to and including February 28, 1977; therefore, the admission of these parties will in no way delay the proceedings.

Upon consideration, notice is hereby given that the City of Gardner, Kansas, and the City of Falmouth, Kentucky, are permitted to become parties to the captioned rulemaking proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–854 Filed 1–10–77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Proposed Change in Customs Region IX Consolidating Customs Ports of Ashtabula, Ohio, and Conneaut, Ohio, Into One Customs Ports of Entry

In order to provide better Customs service to carriers, importers, and the public in the Cleveland, Ohio, Customs district (Region IX), it is considered desirable to consolidate the ports of Ashtabula and Conneaut, Ohio, into one Customs port of entry to be known as the Ashtabula/Conneaut Customs port of entry.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 12 (41 FR 47970), it is hereby proposed to establish a consolidated Ashtabula/Conneaut Customs port of entry in the Cleveland, Ohio, Customs district (Region IX).

The geographical limits of the proposed consolidated port of entry will include all of the territory within the corporate limits of Ashtabula and Conneaut, Ohio, as well as all the territory located between Ohio State Route 531, also known at Lake Road, and Lake Erie from the western city limits of Conneaut to the eastern city limits of Ashtabula.

Data, views or arguments with regard to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To ensure consideration of such communications they must be received on or before February 10, 1977.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) at the Regulations Division,

Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

Dated: January 3, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.77-956 Filed 1-10-77;8:45 am]

[19 CFR Part 113]

CUSTOMS BONDS

Proposed Amendment to Customs Regulations Increasing Minimum Amount of Proprietor's Warehouse Bond, Customs Form 3581 From $5,000 to $10,000, Rescinded

On November 5, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 51445), which proposed to amend § 113.14(a) of the Customs Regulations (19 CFR 113.14(a)) to increase the minimum amount of the Proprietor's Warehouse Bond from $5,000 to $10,000. The purpose of the amendment was to provide a more adequate protection to secure the payment of reimbursable costs or the revenue due the United States in view of the substantial increase in both the quantity and value of imported merchandise since 1921 when the minimum amount of $5,000 was established.

However, after consideration of the issue, it has been determined that the public interest would not be served by proceeding with the proposed amendment at this time.

Accordingly, the notice is hereby rescinded.

VERNON D. ACREE,
Commissioner of Customs.

Approved: January 3, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.77-955 Filed 1-10-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 18]

[Docket No. 76N-0175]

MILK

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

Correction

In FR Doc. 76-31203 appearing on page 46873 in the issue for Tuesday, October 26, 1976, on page 46874, in § 18.20 (e)(1)(v), the second line should have read "eners" when stabilizers are added to increase the viscosity".

[21 CFR Parts 1, 369, 500, 701, 740, 801]

[Docket No. 76N-0460]

FLUOROCARBONS AND OTHER HALOCARBONS IN FOODS, DRUGS, ANIMAL DRUGS, BIOLOGICAL PRODUCTS, COSMETICS, AND MEDICAL DEVICES

Notice of Intent to Propose Rules; Request for Information

Correction

In FR Doc. 76-34835, appearing at page 52070 in the issue for Friday, November 26, 1976, make the following changes:

1. In the 15th line from the bottom of the second column, "halogews", should read "halogens".

2. In the 5th line of the second full paragraph of the 3rd column, the chemical formula "(CH_2CC_l)", should be "(CH_2CCl_2)".

3. Wherever the word "strateosphere" appears in this document, it should actually be "stratosphere".

[21 CFR Part 701]

[Docket No. 76P-0405]

COSMETIC INGREDIENT LABELING

Establishing of Names of Fluorocarbons (Halocarbon) Propellant Ingredients

Correction

In FR Doc. 76-34834, appearing at page 52078 in the issue of Friday, November 26, 1976, make the following changes:

1. The next to the last line of the third full paragraph in the second column should read "chlorofluorocarbon 22," "hydrochlorofluorocarbon 142B," and "hydrofluoro-.

2. In the table in § 701.3 on page 52079, the 5th line should read as follows:

1,2-dichloro-1,1,2,2-tetrafluoroethane ------ $CClF_2CClF_2$ --------- Chlorofluorocarbon 114

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 201]

[FRL 669-6]

RAILROAD NOISE EMISSION STANDARDS

Special Local Determinations; Extension of Docket Closure Date

Pursuant to the authority of section 17(c) of the Noise Control Act of 1972, 42 U.S.C. section 4916(c), the Environmental Protection Agency published a notice of proposed rulemaking in the FEDERAL REGISTER on November 29, 1976, (41 FR 52317), to amend the Interstate Railroad Noise Emission Regulations, 40 CFR Part 201, by adding a new Subpart D concerning special local determinations for waiver by the EPA Administrator of the preemption of certain State and local railroad noise regulations.

The Federal railroad noise regulations of 40 CFR Part 201 were published by the Agency on January 14, 1976, as required by section 17(a) of the Noise Control Act. The purpose of the proposed amendments is to clarify the preemptive effect of section 17(c)(1) of the Act, and to provide procedures for the implementation of the waiver authority of section 17(c)(2) of the Act.

The notice of November 29, 1976, solicited public participation in the development of the proposed amendments, and allowed 45 days for official written comment, i.e. until January 13, 1977. By this notice the Environmental Protection Agency extends the official comment period to January 27, 1977, in response to a request by the affected industry.

Written comments should identify the regulatory docket number and be submitted with five copies to: Director, Standards and Regulations Division, Office of Noise Abatement and Control (AW-471), Attention: Docket No.: 76-10, U.S. Environmental Protection Agency, Washington, D.C. 20460.

All comments submitted will be available for public inspection during normal business hours at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460.

Dated: January 6, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc.77-1027 Filed 1-10-77;8:45 am]

[40 CFR Part 202]

[FRL 669-5]

INTERSTATE MOTOR CARRIER NOISE EMISSION STANDARDS

Special Local Determinations; Extension of Docket Closure Date

Pursuant to the authority of section 18(c) of the Noise Control Act of 1972, 42 U.S.C. section 4917(c), the Environmental Protection Agency published a notice of proposed rulemaking in the FEDERAL REGISTER on November 29, 1976, (41 FR 52320), to amend the Interstate Motor Carrier Noise Emission Regulations, 40 CFR Part 202, by adding a new Subpart C concerning special local determinations for waiver by the EPA Administrator of the preemption of certain State and local motor carrier noise regulations.

The Federal motor carrier noise regulations of 40 CFR Part 202 were published by the Agency on October 29, 1974, as required by section 18(a) of the Noise Control Act. The purpose of the proposed

amendments is to clarify the preemptive effect of section 18(c)(1), of the Act, and to provide procedures for the implementation of the waiver authority of section 18(c)(2) of the Act.

The notice of November 29, 1976, solicited public participation in the development of the proposed amendments, and allowed 45 days for official written comment, i.e. until January 13, 1977. By this notice the Environmental Protection Agency extends the official comment period to January 27, 1977, in response to a request by a member of the affected industry.

Written comments should identify the regulatory docket number and be submitted with five copies to: Director, Standards and Regulations Division, Office of Noise Abatement and Control (AW-471), Attention: Docket No.: 76-11, U.S. Environmental Protection Agency, Washington, D.C. 20460.

All comments submitted will be available for public inspection during normal business hours at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460.

Dated: January 6, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc.77-1026 Filed 1-10-77;8:45 am]

[40 CFR Part 260]

[FRL 669-2]

ENVIRONMENTAL RADIATION PROTECTION CRITERIA AND STANDARDS FOR RADIOACTIVE WASTES

Notice of Proposed Rulemaking and Public Workshops

Notice was given (41 FR 53363, December 6, 1976) that the U.S. Environmental Protection Agency intends to develop environmental radiation protection standards for high-level radioactive waste to assure protection of the public health and the general environment. This development will focus initially on two major outputs: general environmental protection criteria for all radioactive waste and numerical standards for high-activity, long-lived radioactive waste. These criteria and standards will be developed under the broad authorities transferred to the Agency from the former Atomic Energy Commission and the former Federal Radiation Council by Reorganization Plan No. 3 of 1970.

PROCEDURE TO BE FOLLOWED

The Agency will develop its general environmental protection criteria and the numerical standards for high-level waste over the next year. During the period, there will be frequent interactions with the public through workshops, public availability of draft documents, and public hearings. Through these mechanisms, information and viewpoints will be sought on social and policy issues as well as technical background. The following opportunities for public involvement are currently planned, listed in the general sequence they are expected to occur.

1. Requests for viewpoints and technical information (41 FR 235, December 6, 1976) to assist the Agency in developing general environmental protection criteria applicable to all radioactive waste and numerical standards for high activity, long-lived radioactive waste.

2. Public workshops of about three days duration each to: (a) Define key terms associated with the waste problem, and examine the basic concepts for criteria selection, and (b) consider available information on the risks with wastes and the long-term implications of radioactive waste management and/or disposal. Special emphasis will be given to the social and policy questions.

3. A draft criteria document announced for public review and comment.

4. Proposed criteria for environmental protection for radioactive wastes for public review and comment.

5. Public hearings on proposed environmental protection criteria.

6. Public availability of a technical document analyzing expected environmental impacts from disposal of high-level radioactive wastes.

7. Public review of a Draft Environmental Impact Statement and proposed standard for high-level radioactive waste.

8. Public hearings on the proposed standard for high-level radioactive waste.

ANNOUNCEMENT OF WORKSHOP ON ENVIRONMENTAL PROTECTION CRITERIA

The EPA plans to hold a workshop entitled, "Issues Pertinent to Development of Environmental Protection Criteria for Radioactive Wastes," on February 3-5, 1977, at the Sheraton Inn/International Conference Center, Reston, Virginia. A second workshop is tentatively scheduled for early March in Albuquerque, New Mexico. No fee will be charged for attendance at either workshop although advance registration is requested. Most of the first day will consist of a plenary session during which invited speakers will provide their opinions on key issues in each of the topical areas. The speakers have been selected to provide a well-balanced approach to the working sessions. Additionally, if any individual or member of the organization wishes to present a formal statement, the Agency will accept a written statement of no more than 1000 words submitted no later than January 25, 1977. There has been limited time allotted for oral presentation of these formal statements on the afternoon of February 3, 1977. Selection for oral presentation (limited to 10 minutes) will be on a first-come basis; however, all submitted statements will be included in the published proceeding of the workshop. The remaining day and a half will be devoted to smaller participative working sessions, each addressing a specific issue. Each working group will be expected to prepare a summary report on the issue, including minority or dissenting opinions, for inclusion in the record. The topical areas are:

1. *Topic 1: Approaches to Criteria Development:* This session will describe the various methodologies by which one may approach the question of setting criteria which would govern the management and disposal of radioactive wastes, including specific subjects for criteria development. Radioactive wastes would be treated in the broad context.

2. *Topic 2: Risk Considerations of Radioactive Waste:* This session will describe the actual risks involved with the various kinds of radioactive wastes. The description will deal with radioactive wastes in general and the various conditions wherein the wastes may potentially affect a member of the public.

3. *Topic 3: Long-Term Implications of Radioactive Waste:* This session will place in perspective the long-term implications of radioactive wastes, particularly high-level waste. Emphasis will be on questions of institutional dependence and longevity and dose commitments to future generations, and the bearing these considerations will have on the waste management criteria.

Address. Statements, comments, information, or other requests should be addressed to: Manager, Waste Environmental Standards Program (AW-460), Office of Radiation Programs, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Dated: January 4, 1977.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.77-904 Filed 1-10-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 250]

MEDICAL ASSISTANCE PROGRAM

Reimbursement for Medical Services, Supplies, and Equipment

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposal amends regulations on reimbursement for noninstitutional services under the Medicaid program, title XIX of the Social Security Act.

Under current regulations (45 CFR 250.30(b)(4)), payments for noninstitutional services (other than individual practitioner services) may be made up to a ceiling established on the basis of "prevailing charges in the locality for comparable services under comparable circumstances." Payments under Medicare (title XVIII) and other third-party insurers are among the criteria to be considered in determining the reasonableness of prevailing charges.

The purpose of this proposed change is to revise these upper limits under Medicaid to be the reasonable charge recognized under Medicare. Procedures for determining reasonable charges under title XVIII are specified in 20 CFR 405.501-511. In addition, the Medicare

program will publish from time to time more specific limitations relating to particular services, supplies, and equipment, which will apply under Medicaid as well.

Authority for the proposal is based on sections 1902(a) (4) and (30), and 1903 (i) (1) of the Social Security Act which require that:

1902(a) A State plan for medical assistance must * * * (4) provide (a) such methods of administration * * * as are found by the Secretary to be necessary for the proper and efficient operation of the plan * * *;

* * * * *

(30) Provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan * * * as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments * * * are not in excess of reasonable charges consistent with efficiency, economy, and quality of care;

* * * * *

1903(i)(1) Payment under the preceding provisions of this section shall not be made * * *

(1) With respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under the fourth and fifth sentences of section 1842(b)(3).

The fourth sentence pertains to physicians' services. The fifth sentence of section 1842 (b)(3) states:

In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under the circumstances specified by the Secretary.

The Department has reason to believe that an upper limit for payment of medical services, supplies, and equipment which is based on prevailing charges in the locality for comparable services is not sufficient to assure that payment for such services will not be "in excess of reasonable charges consistent with efficiency, economy, and quality of care." This belief is based on investigations of the laboratory industry in several States which found practices such as the following being used to obtain Medicaid patient referrals:

1. Laboratories "renting" space at highly excessive rates in sites owned by physicians.

2. Laboratories supplying physicians with free equipment, personnel, and billing services.

3. Laboratories paying consultant fees to "salesmen" for brokering Medicaid business to the laboratory.

To mitigate such practices, to assure that payment does not exceed reasonable charges consistent with efficiency and economy and quality of care, and to meet statutory requirements, rules are proposed which will limit payment for medical services (including laboratory services), medical supplies, and equipment (including equipment servicing), to the reasonable charge recognized under Part B, title XVIII.

Medicare has recently issued a notice of proposed rulemaking (See 41 FR 40495, September 20, 1976) which implements requirements of section 1842 (b)(3) of the Social Security Act. These regulations provide for (1) application of the lowest charge level provisions of section 1842(b)(3) to selected medical services, supplies, and equipment; (2) imposition of ceiling amounts for injection services plus the cost of ingredients and supplies used in providing such services; and (3) use of a negotiated rate for diagnostic laboratory services.

A proposed list of specific laboratory services and items of durable medical equipment which would initially be subject to the lowest charge level criteria was also published in the FEDERAL REGISTER. (See 41 FR 40533, September 20, 1976) The list included the following:

Commonly Performed Laboratory Services (with identifying codes as listed in the 1964 edition of the California Relative Value Studies).

(1) Cholesterol, Blood Test (8652).
(2) Complete Blood Count (8628).
(3) Hemoglobin (8622).
(4) Hematocrit (8681).
(5) Prothrombin Time (8712).
(6) Sedimentation Rate (8718).
(7) Blood Sugar (Glucose) (8722).
(8) Cytologic Study (Papanicolaou type) (8911).
(9) Urinalysis (8936).
(10) Blood Uric Acid (8747).
(11) Blood Urea (8745).
(12) Leukocyte Count (8624).

Durable Medical Equipment.
(1) Standard Wheelchair
(2) Standard Hospital Bed

As more items, services, and equipment (including equipment servicing) are brought under the lowest charge level provision, notices with respect to such coverage will be published in the FEDERAL REGISTER by Medicare, and State Medicaid agencies will be informed.

Thus, under the proposed regulations the Medicaid upper limits for noninstitutional services not elsewhere covered in 45 CFR 250.30 would be:

(a) The lowest charge levels at which such services are widely and consistently available in a locality, according to specific notices for the Medicare program published in the FEDERAL REGISTER. These lowest charge levels represent "reasonable charges" under Part B of title XVIII for such services and items;

(b) For all others, the reasonable charge under Medicare (Part B, title XVIII), as determined according to the principles set forth in 20 CFR 405, 501–511.

Prior to the adoption of the proposed regulations, consideration will be given to written comments, suggestions, or objections thereto received by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013, on or before February 25, 1977. In order to assure prompt handling of comments, please refer to MSA–185–P. Agencies and organizations are requested to submit their comments in duplicate.

Such comments will be available for public inspection in Room 5225 of the Department's offices at 330 C Street, SW., Washington, D.C., beginning approximately two weeks after publication of this Notice in the FEDERAL REGISTER, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202–245–0950). Answers to specific questions can be obtained by calling James Houdek, 202–245–0256.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

NOTE.—The Social and Rehabilitation Service has determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order No. 11821 and OMB Circular A–107.

Dated: December 2, 1976.

ROBERT FULTON,
Administrator,
Social and Rehabilitation Service.

Approved: December 29, 1976.

DAVID MATHEWS,
Secretary.

Section 250.30(b)(4), Part 250, Chapter II, Title 45 of the Code of Federal Regulations, is revised as set forth below:

§ 250.30 Reasonable charges.

* * * * *

(b) *Upper limits* * * *

* * * * *

(4) *Other noninstitutional services, including laboratory services.* The upper limit for payment of medical services, supplies, and equipment shall be the reasonable charge recognized under Part B, title XVIII.

* * * * *

[FR Doc.77-852 Filed 1-10-77;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.

CIVIL AERONAUTICS BOARD

[Dockets Nos. 28213, 28955, 29373, 29431, 29512, 29618, 29984]

JAPANESE AIRFREIGHT FORWARDER OPERATIONS

Superceding Previous Notice of Prehearing Conference

Notice is hereby given of the revision of the Notice of Prehearing Conference, 41 FR 56683, December 29, 1976, issued in the above matters to show the correct Docket Numbers. Otherwise the notice stands. The prehearing conference in all of the above-docketed cases is scheduled to be held before the undersigned Judge on January 26, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, 1875 Connecticut Avenue, NW, Washington, D.C.

The Bureau, on or before January 11, 1977, shall submit to each party (one copy) and to the Judge (four copies) of (1) the proposed statement of issues as to said party's application; (2) proposed stipulations; (3) proposed requests for information and evidence; and (4) the proposed hearing date. Each party other than the Bureau will respond by January 21, 1977, as to any requested data with which it differs or with which it will be unable to comply, and will explain all objections.

It is contemplated that these cases will be heard in one consolidated hearing.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

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

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc.77-947 Filed 1-10-77;8:45 am]

[Docket No. 27701]

PACIFIC GROUP FARES INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 1, 1977, at 9:30 a.m. (local time) in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 4, 1977.

ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc.77-946 Filed 1-10-77;8:45 am]

[Docket No. 27914]

TOURIST ENTERPRISES CORPORATION "ORBIS" D/B/A ORBIS POLISH TRAVEL BUREAU, INC., AND D/B/A PARGIELLO SERVICES, INC.

Prehearing Conference

Notice is hereby given that a further prehearing conference in this proceeding is assigned to be held on February 4 1977 at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

Parties are instructed to submit one copy to each party and four copies to the Judge of revised (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; and (4) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before January 13, 1977, and other parties on or before January 24, 1977. The submissions of other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

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

RONNIE A. YODER,
Administrative Law Judge.

[FR Doc.77-945 Filed 1-10-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ADELPHI UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00528. Applicant: Adelphi University, South Avenue, Garden City, New York 11530. Article: Flow Jet Mixer. Manufacturer: Funken and Co., Ltd., Japan. Intended use of article: The article is intended to be used for the study of the emulsification of water in fuel oils, Nos. 2, 4, and 6. The stability of these emulsions, as well as their micro structure will be studied. Experiments will also be conducted on the viscosity of these emulsions. In addition, the article will be used for the training of Ph. D. candidates on the use of these emulsions, as well as the participation of undergraduate students.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 76-00435 which was denied without prejudice to resubmission on August 13, 1976 for informational deficiencies. The foreign article provides a technique of centrifuging a liquid as it flows across a high-speed rotating conical surface after which the atomized liquid, with high tangential and radial velocities, is mixed with a second liquid which is falling by gravity in a nearby liquid (annular) column. The National Bureau of Standards advises in its memorandum dated December 9, 1976 that (1) the specification of the article described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the article described above is pertinent to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-846 Filed 1-10-77;8:45 am]

COLORADO SCHOOL OF MINES

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00525. Applicant: Colorado School of Mines, Golden, Colorado 80401. Article: Electron Microscope, Model EM 400, with High Tilt (±60°) Goniometer Stage. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to evaluate changes in the micro and fine structure produced by corrosion experiments, mechanical testing and heat treatment of thin metal foils. Sections will be removed from various test speciments and electrolytically polished to render them suitable for transmission electron microscopy. Correlations relating mechanical properties and/or material deformation behavior to the observed fine structures will be made. The article will also be used in a course for advanced undergraduates to introduce students to the techniques of specimen preparation electron optics and the contrast mechanisms operating during the examination of thin foils by transmission electron microscopy.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (August 19, 1976).

Reasons: The foreign article provides a goniometer stage with ±60° degree eucentric tilt and 7 Angstroms point to point resolution guaranteed, accelerating voltages up to 120 kilovolts, and a wide magnification range (50× to 320,000× in 32 steps). The National Bureau of Standard's advises in its memorandum dated December 9, 1976 that (1) the specifications of the article described above are pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was available at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-844 Filed 1-10-77;8:45 am]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION; NATIONAL OCEAN SURVEY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00531. Applicant: NOAA-National Ocean Survey, U.S. Department of Commerce, National Oceanic & Atmospheric Admin., Rockville, Md. 20852. Article: Stereoviewer, Model AS-11A-1 Modified. Manufacturer: Ottico Meccanica Italiana, Italy. Intended use of article: The article is a photogrammetric instrument designed to generate in digital and graphical form accurate delineations and positions of topographic, cultural and near offshore surface and subsurface features from stereomodels formed from aerial photographs. It will be internally combined into a fully analytical plotter system comprised of a two-stage stereoscopic viewer, a coordinatograph table, an electronic controller and peripherals, and interfaces for electronically coupling the coordinatograph and viewer to the electronic controller. The system is to be used for research and development of advanced techniques for compiling and editing data from aerial photographs. Typical software investigations to be pursued are photogrammetric bathymetry, photogrammetric geodesy, tidal current surveying, on-line strip adjustment and many other photogrammatric studies. In addition, research and development for classified activities will be conducted.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 30, 1976).

Reasons: The foreign article provides (1) two independently movable stages which provide a mensuration area no smaller than 10 x 19 inches, (2) continuously variable magnification over a minimum range of 1 to 6x with the capability of stereoviewing any type photograph from any source at up to 6x image scale differences between any two photographs and (3) a stereoviewer which will retain constant size measuring mark throughout the zoom magnification range. The National Bureau of Standards advises in its memorandum dated December 10, 1976 that the specifications of the article described above are pertinent to the applicant's intended use. NBS further advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was available at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-845 Filed 1-10-77;8:45 am]

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS TASK GROUP 15, COMPUTER SYSTEMS SECURITY

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 1 (Supp. V, 1975), notice is hereby given that the Federal Information Processing Standards Task Group 15 (FIPS TG-15), "Computer Systems Security," will hold a meeting from 9:00 a.m. to 4 p.m. on Wednesday, February 16, 1977 in Room B-27, Building 225 at the National Bureau of Standards in Gaithersburg, Maryland.

The purpose of this meeting will be to continue discussion of the development of guidelines in the management and technological areas of information processing security.

The meeting will be open to the public. To the extent that the meeting time and agenda permit, interested persons may make oral statements and participate in the discussions. Written statements or inquiries may be addressed to Miss Susan K. Reed, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (phone: 301-921-3861).

Dated: January 5, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc.77-886 Filed 1-10-77;8:45 am]

LAW ENFORCEMENT EQUIPMENT

Availability of Voluntary Performance Standards

The National Bureau of Standards announces the availability of voluntary performance standards for equipment used by law enforcement agencies, and for equipment purchased by the general public for the detection and deterrence of burglary. In addition to the 24 standards which have been published by the Law Enforcement Assistance Administration (LEAA), NBS has prepared two user guidelines, 25 technical reports, and several reference materials for use by forensic science laboratories. The publications cover such items as protective equipment, communications equipment, door and window security, night vision equipment, burglar alarm systems, weapon and bomb detectors, patrol cars, and emergency warning devices. These documents are available from either the LEAA National Criminal Justice Reference Service, Washington, D.C. 20531, or the Superintendent of Documents,

U.S. Government Printing Office, Washington, D.C. 20402.

Requests for lists of the standards and for any specific information should be addressed to the Law Enforcement Standards Laboratory, Room B150, Building 221, National Bureau of Standards, Washington, D.C. 20234. This work is supported by LEAA's National Institute of Law Enforcement and Criminal Justice.

Dated: January 5, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc.77-837 Filed 1-10-77;8:45 am]

NATIONAL BUREAU OF STANDARDS VISITING COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. I (Supp. V, 1975), notice is hereby given that the National Bureau of Standards Visiting Committee will meet on Monday, February 14, 1977, from 8:30 a.m. to 4:30 p.m. in Lecture Room B, Administration Building, National Bureau of Standards, Gaithersburg, Maryland, and Tuesday, February 15, 1977, from 8:30 a.m. to 11:30 a.m. in the 11th Floor Conference Room, Administration Building, National Bureau of Standards, Gaithersburg, Maryland.

The NBS Visiting Committee is composed of five members prominent in the fields of science and technology and appointed by the Secretary of Commerce.

The purpose of the meeting is to review the efficiency of the Bureau's scientific work and the condition of its equipment in order to assist the Committee in reporting to the Secretary of Commerce as required by law.

The public is invited to attend and the Chairman will entertain comments or questions at an appropriate time during the meeting. Any persons wishing to attend the meeting should inform Ms. Elaine D. Bunten, Office of Programs, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-3131.

ERNEST AMBLER,
Acting Director.

JANUARY 5, 1977.

[FR Doc.77-831 Filed 1-10-77;8:45 am]

Economic Development Administration

ARTVOGUE OF CALIFORNIA

Petition for Determination of Eligibility to Apply for Trade Adjustment Assistance

A petition by Artvogue of California, 560 Mission Street, San Francisco, California 94105, a producer of men's shirts, was accepted for filing on January 3, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-908 Filed 1-10-77;8:45 am]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Gulf of Mexico Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Gulf Council will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to Alabama, west coast of Florida, Louisiana, Mississippi and Texas. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This is the fifth in a series of organizational meetings of the Council. The meeting will be held Wednesday, Thursday and Friday, February 2, 3 and 4, 1977, in the Fortress Room of the Fort Brown Motor Hotel, 1900 East Elizabeth Street, Brownsville, Texas. The meeting will convene at 1:30 p.m. on February 2 and adjourn at about noon on February 4, 1977. The daily sessions will start at 8:30 a.m. and adjourn at 5:00 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Management Plans.
2. Personnel and Administration Categories.
3. Other Business.

This meeting is open to the public and there will be seating for a limited number of public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about January 25, 1977:

Mr. Paul D. Fulham, Special Assistant to the Regional Director, National Marine Fisheries Service, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing the Special Assistant to the Regional Director at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: January 3, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-936 Filed 1-10-77;8:45 am]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the New England Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The New England Fishery Management Council will have authority effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This meeting of the Council will be held on February 1 and 2, 1977, from 10 a.m. to 5 p.m., and 9 a.m. to 3 p.m. respectively, at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Massachusetts.

PROPOSED AGENDA

1. Discussion of Canadian boundary issue.
2. Review of foreign permit applications, if any.
3. Other fisheries management business.

This meeting is open to the public and there will be seating for approximately 30 public members available on a first-come, first-serve basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. Interested members of the public should contact: Mr. Donald G. Birkholz, National Oceanic and Atmospheric Administration National Marine Fisheries Service, State Fish Pier, Gloucester, Mass. 01930 on or about 10

days before the meeting to receive information on changes in the agenda, if any.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Birkholz at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: January 6, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-937 Filed 1-10-77;8:45 am]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the New England Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The New England Fishery Management Council will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This meeting of the Council will be held on January 25 and 26, 1977, from 10 a.m. to 5 p.m., and 9 a.m. to 3 p.m., respectively, at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Massachusetts.

PROPOSED AGENDA

1. Discussion of foreign fee schedules and fishing regulations.
2. Status of emergency management plans.
3. Review of foreign permit applications, if any.
4. Staff recruitment and operations.
5. Other matters related to fisheries management.

This meeting is open to the public and there will be seating for approximately 30 public members available on a first-come, first-serve basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. Interested members of the public should contact:

Mr. Donald G. Birkholz, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, State Fish Pier, Gloucester, Massachusetts.

on or about 10 days before the meeting to receive information on changes in the agenda, if any.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Birkholz at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: January 6, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-935 Filed 1-10-77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Amendment to Notice of Public Meeting

Notice is hereby given of a change in the convening and adjournment of the meeting January 25-27, 1977, 9 a.m. to 5 p.m., in the Polk Room at the Howard Johnson's Motor Lodge, Motor Inn Plaza, Lake Buena Vista, Florida, of the South Atlantic Fishery Management Council which was published in the FEDERAL REGISTER January 6, 1977, Volume 42, Number 4.

The meeting will now convene at noon on January 25 and at 9 a.m. on January 26 and 27. The meeting will adjourn each day at 5 p.m. with the exception of January 27 at which time the meeting will adjourn at noon. An additional item to the proposed agenda is also added, "3. Review of foreign fishing applications, if any." The location remains unchanged.

Dated: January 5, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-934 Filed 1-10-77;8:45 am]

TRANSFER OF A FISHING VESSEL TO A COMPANY UNDER FOREIGN CONTROL

Receipt of Application for Approval

Notice is hereby given that on November 26, 1976, the Maritime Administration of the Department of Commerce received an application from Robert G. Earl, 1537 E. Roy Road, Freeland, Washington 98249, for approval of the sale of the 32.1' registered length vessel *Honey B.*, O.N.560373, and three undocumented vessels (*Jenny Wren*, WN-485-W, *Polly Ann II*, WN-176-W, and an unnamed vessel, WN-175-W) to Pacific Sea-Pro, Inc., 2321 58th Avenue E., Tacoma, Washington 98404. Such approval is required by sections 9 and 37 of the Shipping Act, 1916, as amended (46 U.S.C. 808,835), because 100 percent of the stock of Pacific Sea-Pro, Inc., a U.S. corporation, is owned by Mrs. Sachiko Otsuha, a Japanese citizen, and the contemplated sale of the vessels, therefore, would be to a company under foreign control. Pacific Sea-Pro, Inc., has informed the National Marine Fisheries Service that the vessels will be operated primarily for horse clam and geoduck.

The Maritime Administration is the Federal agency responsible for the approval or disapproval of applications submitted pursuant to sections 9 and 37 of the Shipping Act. However, the Maritime Administration customarily solicits the views of the National Marine Fisheries Service before deciding on an application relating to a fishing vessel, and has sought the views of the Service with regard to this application. Accordingly, the Service solicits the written comments of interested persons in regard to this application.

Such comments should be addressed to the Director, National Marine Fisheries Service, Washington, D.C. 20235, and received no later than February 10, 1977. All communications received by such date will be considered before action is taken with respect to this application. No public hearing is contemplated at this time.

Dated: January 4, 1977.

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

[FR Doc.77-919 Filed 1-10-77;8:45 am]

WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Western Pacific Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Western Pacific Council will have authority, effective March 1, 1977, over fisheries within the conservation zone adjacent to the State of Hawaii, American Samoa and Guam. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The meeting will be held on February 1, 2, 3, and 4, 1977, in the Marianas Room of the Guam Hilton Hotel, Agana, Guam. The daily sessions will commence at approximately 9 a.m. and adjourn at 5 p.m.

PROPOSED AGENDA

1. Administrative report.
2. Review of budget estimates.
3. Status of preliminary fishery management plans.
4. Proposed regulations and fees for foreign fishing in the region.
5. Review of foreign fishery applications, if any.
6. Fishery problems of the Marianas.
7. Review of fishery development priorities in the western Pacific.
8. Other matters related to fisheries management.

This meeting is open to the public and there will be seating for approximately

30 public members on a first-come, first-serve basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact:

Mr. Wilvan G. Van Campen, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1596, Honolulu, Hawaii 96813.

on or about 10 days before the meeting.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by submitting them to Mr. Van Campen at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: January 6, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-938 Filed 1-10-77;8:45 am]

COMMISSION OF FINE ARTS

MEETING

JANUARY 5, 1977.

The Commission of Fine Arts will meet in open session on Tuesday, January 25, 1977 at 10 a.m. in the Commission offices at 708 Jackson Place NW., Washington, D.C. 20005 to discuss various projects affecting the appearance of Washington, D.C.

Other meetings of the Commission during 1977 are scheduled for 22 February, 22 March, 26 April, 24 May, 28 June, 26 July, 23 August, 27 September, 25 October 22 November, and 27 December, 1977.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

CHARLES H. ATHERTON,
Secretary.

[FR Doc.77-920 Filed 1-10-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 663-2]

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Waiver of Federal Preemption

I. INTRODUCTION

On July 23, 1976, the Environmental Protection Agency (EPA), by notice published in the FEDERAL REGISTER (41 FR 30383), announced a public hearing pursuant to section 209(b) of the Clean Air Act, as amended (hereinafter the "Act") (42 U.S.C. 1857f-6a(b)). That hearing was called to consider a request by the State of California that the Administrator waive application of section 209(a) of the Act with respect to a number of actions taken to revise California's motor vehicle emissions control program. Section 209(b) of the Act requires the Administrator to grant such waiver, after opportunity for a public hearing, unless he finds that the State of California 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 Act. State standards and enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within that time frame. In addition, in those instances where the same vehicles or engines are subject to both Federal and California standards, the California standards and accompanying enforcement procedures are deemed not to be consistent with section 202(a) if any testing required to demonstrate compliance of a vehicle or engine with the California standard would not satisfy a comparable testing requirement for demonstrating compliance with the applicable Federal standard.

The public hearing was held in Los Angeles, California, on August 25 and 26, 1976, and the following three issues were addressed:

(i) Exhaust emission standards and test procedures for 1978 model year medium duty vehicles;

(ii) Application of the fuel evaporative emission standard and test procedure (SHED test) to 1978 and subsequent model year medium duty vehicles and heavy duty vehicles; and

(iii) Fill pipe and opening specifications for 1977 and subsequent model year gasoline-powered motor vehicles. The record was kept open until September 10, 1976, for the submission of written material, data or arguments by interested persons.

This decision will deal solely with the first item above, exhaust emission standards and test procedures for 1978 model year medium duty vehicles. The second item is still under consideration and a decision will be published as soon as a determination has been made. A decision on the third item, fill pipe and opening specifications, has recently been published in the FEDERAL REGISTER.

With respect to California's exhaust emission standards and test procedures for 1978 model year medium duty vehicles, I have determined that I cannot make the findings required for denial of the waiver under section 209(b), and therefore I am compelled to grant the requested waiver of Federal preemption. The record of the hearing and the other information available time clearly indicate that California requires standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions, that the requisite technology is currently available, and that there appears to be adequate lead time to permit the application of this technology to 1978 model year medium duty vehicles. For the 1978 model year the EPA will accept the data used to successfully certify any medium duty vehicle under the California test procedure as demonstrating that the engine in such vehicle complies with applicable Federal standards, and a Federal certificate for this engine will be issued on this basis.

II. BACKGROUND

The need for better methods for determining emissions from vehicles in the 6000 to 8500 pound gross vehicle weight class has long been recognized by both the Federal government and California. On February 12, 1976, the EPA published a Notice of Proposed Rulemaking (41 FR 6279) to expand the light duty truck class by changing the upper weight limit from 6,000 to 8,500 pounds GVWR. These regulations were recently promulgated in final form, with the expanded light duty truck definition applicable to 1979 and subsequent model years. On March 31, 1976, the California Air Resources Board (CARB) established a new classification of motor vehicles known as "medium duty vehicles." On the same day the CARB adopted exhaust emission standards and test procedures for these medium duty vehicles for the 1978 model year. The California test procedures were subsequently amended on June 30, 1976.

A medium duty vehicle is defined by the CARB as a subset of the heavy duty vehicle class, and is any motor vehicle (except a passenger car) with a gross vehicle weight rating (GVWR) of between 6000 and 8500 pounds. The California exhaust emission standards applicable to these vehicles for the 1978 model year are 0.9 grams per vehicle mile (g/m) hydrocarbons (HC), 17 g/m carbon monoxide (CO), and 2.3 g/m oxides of nitrogen (NO_x). The testing will be performed on a chassis dynamometer, under a procedure which is basically the same as the Federal light duty truck procedure.

As noted above, according to the CARB definition, medium duty vehicles are a subset of the California heavy duty ve-

hicle class. If the medium duty vehicle category had not been established, these vehicles would continue to be classified as heavy duty vehicles, and would therefore be regulated by having engine exhaust emissions measured on an engine dynamometer under the heavy duty engine test procedure. The medium duty vehicle category was established in recognition of the fact that the majority of vehicles between 6,000 and 8,500 pounds GVWR are used more for personal transportation than for transporting goods, and are consequently driven in an urban environment similar to light duty trucks. As a result, the emissions characteristics of these vehicles would be more appropriately measured and regulated under the light duty truck procedure rather than the heavy duty engine procedure.

As stated above, Federal regulations have recently been promulgated for 1979 and subsequent model years to expand the light duty truck class by changing the upper weight limit from 6000 to 8500 pounds GVWR. The new EPA definition of light duty truck, however, does not include vehicles which have an actual curb weight of greater than 6000 pounds, because EPA has determined that a substantial portion of vehicles with curb weights greater than 6000 pounds are commercial, and not personal transportation vehicles. As a result the expanded Federal light duty truck class does not encompass every vehicle in CARB's medium duty vehicle class (i.e., those vehicles whose curb weight is greater than 6000 pounds and whose GVWR is between 6000 and 8500 pounds). This Federal expanded light duty truck class, though, is only applicable to 1979 and subsequent model years. With regard to the 1978 model year, therefore, all vehicles within the CARB medium duty vehicle class will be heavy duty vehicles for Federal purposes, and thereby subject to Federal heavy duty engine regulations.

III. Discussion

Stringency. In order for California to receive a waiver for its medium duty vehicle standards, it must "require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions." In this instance the applicable Federal standards are the Federal heavy duty engine standards. The Federal standards currently applicable to 1978 model year heavy duty engines are 16 grams per brake horsepower-hour (g/bhp-h) HC plus NOx (as NO_2), and 40 g/bhp-h CO, as measured under the engine dynamometer procedure.

California standards are considered to be more stringent if they may result in some further reduction in air pollution over what would be achieved with the Federal standards. It is difficult to quantitatively compare the 1978 model year California and Federal standards applicable to vehicles in the 6000 to 8500 pound GVWR class, due to the radically different test procedures involved in determining compliance with these standards. However, it is generally agreed that the California standards will require manufacturers of medium duty vehicles to use additional emission control hardware over what was required to meet the Federal standards. Specifically, manufacturers will be adding catalytic converters and exhaust gas recirculation in order to meet the California requirements. See Transcript of Public Hearing on California's Request for Waiver of Federal Preemption with Respect to Medium Duty Vehicles, Application of SHED Test Procedure, and Fill Pipe and Opening Specifications, August 25 and 26, 1976, at 52, 128, 135 (hereinafter "Tr."). The emission control hardware is required to reduce emissions in operating modes embodied in the CARB's medium duty test procedure (including the driving cycle) that are not emphasized in the engine dynamometer test procedure. In addition, data gathered by the CARB indicate that exhaust emission reductions over that obtained under the Federal standards will be achieved under the California medium duty standards, as a result of the application of additional emission control technology. See Tr. at 174–75. The only manufacturer who questioned the relative stringency of the California standards was the American Motors Corporation (AMC). See Tr. at 149. However, in response to EPA's Notice of Proposed Rulemaking concerning expansion of the light duty truck class, AMC stated in their comments dated April 9, 1976, that additional emission control devices and systems (catalytic converters, transmission controlled spark, and in some cases air injection) would have to be installed on vehicles between 6000 and 8500 pounds GVWR in order to meet the proposed Federal standards of 1.7 g/m HC, 18 g/m CO, and 2.3 g/m NOx.

Based upon all the information available to me, and the technical judgment of my staff, I conclude that the California 1978 model year medium duty vehicle exhaust emission standards are more stringent than applicable Federal standards.

Technology and Lead Time. The technology required to meet the California standards is currently available, and includes the use of oxidation catalysts, air pumps and exhaust gas recirculation. See Tr. at 12, 87, 128, 135–36. The question is whether there is sufficient lead time available to apply this technology to 1978 model year medium duty vehicles and certify these vehicles for sale in California.

The question of lead time will be discussed with respect to the California medium duty vehicle standards alone, and will not consider the time required for a single engine configuration to meet both the Californa standards as tested in a vehicle on a chassis dynamometer, and the Federal heavy duty engine standards as tested on an engine dynamometer. In order to simultaneously meet the Federal and California standards, the information provided by various manufacturers at the hearing indicates that there is insufficient lead time to apply the requisite technology to 1978 model year vehicles. See Tr. at 39, 40–41, 51–53, 104. Information provided by the Ford Motor Company explained the complexity of the "cross testing" that would be required to design a vehicle that would meet both the California standards on the vehicle dynamometer test cycle and the Federal standards on the engine dynamometer test cycle. See Tr. 54–60. Furthermore, as will be discussed later, the Congressional intent behind section 209(b) concerning whether the California standards and accompanying enforcement procedures are "consistent with section 202(a)" strongly implies that a manufacturer should not be subjected to a testing requirement to determine compliance with California standards which does not satisfy a comparable testing requirement for demonstrating compliance with applicable Federal standards. In this case, EPA intends to accept the California test data for the purposes of issuing Federal certificates of conformity.

With regard to the lead time necessary to meet the California requirements, two actions taken by the CARB reduce the lead time burden for various manufacturers. On June 30, 1976, the CARB adopted certain changes to the certification vehicle selection process. The purpose of these changes is to minimize the certification effort and lead time problems by reducing the need for special medium duty durability vehicles, provided that the medium duty and light duty truck emission control systems are essentially the same. See Tr. at 13. As stated by representatives of the Ford Motor Company, these changes permit "carryover" and "carry-up" of California light duty truck engine codes into the medium duty class, and use of carry-over light duty truck deterioration factors. The changes also limit certification and quality audit testing to high volume transmission/inertia weight/axle combinations of unique medium duty engine codes. See Tr. at 37. These amendments will permit Ford to significantly reduce the number of unique, new engine codes or calibrations which will have to undergo certification testing. See id. The General Motors Corporation and the American Motors Corporation, however, stated that they would not be able to take advantage of the carryover and carry-up provisions. See Tr. at 130–31, 152–53.

The second action taken by the CARB to eliminate lead time problems for certain manufacturers was to provide an exemption from the 1978 model year medium duty vehicle requirements to any manufacturer who did not produce any 1977 model year light duty vehicles for sale in California. See Tr. at 29–31. At the present time International Harvester is the only manufacturer who is expected to take advantage of this exemption. See Tr. at 30. Since the requisite technology to meet the medium duty standards generally consists of the application of existing light duty truck

technology, the purpose of the CARB exemption provision was to reduce the lead time problem for a manufacturer who has not had experience with emission control hardware on light duty trucks.

In light of these actions taken by California and due to the fact that the EPA will accept California certification data for Federal purposes,[1] it appears that there is sufficient lead time for manufacturers to meet the California requirements by the 1978 model year. Statements made by the Ford Motor Company indicate that although Ford agrees with this conclusion, they nevertheless expect there to be a two month delay in the start of 1978 model year medium duty vehicle production. See Tr. at 39, 46.[2] The General Motors Corporation indicated that based upon the actions taken by the CARB, and assuming that EPA will accept California data for Federal purposes, they expect to be able to certify a full line of 1978 model year medium duty vehicles for sale in California, in spite of the fact that General Motors will not be able to take advantage of the carryover and carry-up provisions discussed earlier. However, General Motors further stated that compromises would have to be made in areas of development testing other than emissions, such as fuel economy. See Tr. at 116–23, 126–27. The Chrysler Corporation stated that they expect to market nearly a full line of 1978 medium duty vehicles in California, although there would have to be some compression of their model line offerings and there is insufficient time to permit a normal development and certification program. See Tr. at 138–40. The American Motors Corporation initially stated that there was insufficient time to purchase the required test equipment and undertake the necessary development and certification programs in order to market the medium duty vehicles they would otherwise expect to sell in California (this amounts to a total of approxiately 3000 units). See Tr. at 150–51. However, upon being questioned with regard to this statement, American Motors stated that if the waiver were granted, they would market a single line of Jeep vehicles for sale in California. See Tr. at 155–56. From all the statements made by various manufacturers at the hearing, it appears that there is sufficient lead time to permit manufacturers to meet the California 1978 model year medium duty vehicle exhaust emission standards and to certify a sufficient variety of medium duty vehicles to satisfy the basic market demand in California.

With regard to the cost of compliance with the medium duty vehicle exhaust emission standards for the 1978 model year, the CARB has estimated that the incremental cost of applying the necessary additional emission control hardware (beyond that already in use to comply with the current heavy duty engine standards) will be $100 per vehicle. See CARB Staff Report 76–6–2 "Public Hearing to Consider Proposed Changes to Regulations Regarding Approval of 1978 and Subsequent Model Light-Duty Trucks and Heavy-Duty Engines," March 31, 1976, at 9. Very little cost information was provided at the EPA hearing. None of the manufacturers at the EPA hearing indicated any disagreement with the CARB estimates. Although there may be some additional costs due to the development and certification programs required to be undertaken by the manufacturers, no specific cost information was provided.

Based upon all the information available to me, I cannot conclude that with respect to medium duty vehicles, the technology required to meet the California exhaust emission standards and test procedures cannot be applied to the 1978 model year.

Objections to Granting the Waiver. Certain manufacturers objected to the California medium duty vehicle exhaust emission standards and test procedures on the grounds that these requirements are not consistent with section 202(a) of the Clean Air Act. See Tr. at 76–77, 92–96, 137–38, 150. These manufacturers argued that it would be inconsistent with section 202(a) to require a single vehicle or engine to undergo both vehicle dynamometer certification testing to meet the California medium duty vehicle requirements, and engine dynamometer certification testing to meet the Federal heavy duty engine standards. As a result, the manufacturers contend that under the criteria of section 209(b) of the Act the waiver request must either be denied, or EPA must be willing to accept California medium duty vehicle certification data for Federal purposes. As mentioned above, I have decided that for the 1978 model year EPA will accept the data used to successfully certify any medium duty vehicle under the California test procedure as demonstrating that the engine in such vehicle complies with applicable Federal standards, and a Federal heavy duty engine certificate for this engine will be issued on this basis.[3]

Various manufacturers also objected to section 18 (formerly section 15) of the California medium duty vehicle exhaust emission standards and test procedures, which provides an exemption from the 1978 model year medium duty vehicle requirements to any manufacturer who did not produce any 1977 model year light duty vehicles for sale in California. See Tr. at 29–31, 39–40, 69–71, 90–92. In order for a manufacturer to take advantage of this exemption, the manufacturer must demonstrate to the CARB that there is inadequate lead time to apply or purchase the hardware needed to meet the 1978 standards, and must state that an additional year of lead time will allow such hardware to be applied or purchased. Objections to this exemption provision were raised both on grounds of being inconsistent with section 202(a), and on constitutional grounds as being in violation of the equal protection guarantees of both the United States and California Constitutions. See Tr. at 69–71, 90–92.

I have determined that I cannot agree with the manufacturers' position. Concerning the constitutional claim, regardless of the validity of this argument, the EPA waiver hearing is not the proper forum in which to raise it. *Cf.* 41 FR 44209, 44212 (October 7, 1976) (motorcycle exhaust emission waiver). Questions concerning the constitutionality of the California regulations are beyond the scope of my review under section 209(b).

With regard to whether the exemption provision is inconsistent with section 202(a), the concept of consistency with section 202(a) only involves EPA inquiry into the burden that compliance with the California requirements will have on the affected manufacturers. Similarly, questions as to whether EPA could adopt this exemption provision at the Federal level are beyond my scope of review in a California waiver situation.

The authority of California to adopt and enforce regulations arguably includes that administrative flexibility to exempt from or waive applicability of the requirements for whatever purpose is appropriate to California. The mere inclusion of an exemption provision should have no bearing on this inherent flexibility. As was noted in the previous waiver decision for fill pipe standards, the inclusion of an exemption provision was strongly supported by the manufacturers.

Findings. Having given due consideration to the record of the public hearing, all material submitted for the record, and other relevant information, I hereby make the following findings.

1. The State of California had, prior to March 30, 1966, adopted standards

[1] Automatic issuance of a Federal Certificate of Conformity for an engine family which includes medium duty vehicles certified for sale in California will occur only if all California requirements have been met. This may not always be the case. For example, if in a single engine family a manufacturer elects to qualify for sale in California only three discrete engine codes, and desires to sell nationwide (except in California) additional engine codes in that same family, he will have to qualify the entire engine family, including those additional engine codes, for a Federal Certificate of Conformity under either the currently existing Federal heavy duty engine certification procedures, or optionally under the 1979 light duty truck procedures at the level of the 1978 light duty truck standards. The latter option has been provided to the industry, for other purposes, under the new 40 CFR 86.078–1(b). If such additional qualification is necessary, EPA will accept to the degree relevant under Federal procedures data from any vehicle that was tested for the purpose of obtaining the California certificate.

[2] Ford also conditioned their estimates on certain changes being required to California's evaporative emission testing program for medium duty vehicles (SHED test). California's medium duty SHED waiver request is currently under consideration, and the concerns raised by Ford will be discussed in the forthcoming SHED waiver decision.

[3] This presumption of compliance with Federal standards includes the smoke standard applicable to Diesel heavy duty engines.

(other than crankcase emission standards) for the control of emissions from new motor vehicles.

2. The California exhaust emission standards for 1978 model year medium duty vehicles are more stringent than applicable Federal standards, which are the Federal heavy duty engine standards.

3. Compelling and extraordinary conditions continue to exist in the State of California. The State oxidant pollution problem remains the worst in the nation. The testimony of the representatives of the CARB revealed that unless a virtual shutdown of Los Angeles is assumed, no current projections indicate that compliance with the ambient air quality standards can be achieved for California's South Coast Air Basin, a region which contains five percent of the nation's population.

4. With respect to 1978 model year medium duty vehicles, I cannot find that the California exhaust emission standards and test procedures, and accompanying enforcement procedures, are not consistent with section 202(a) of the Clean Air Act. Taking into account the cost of compliance, I find that the requisite technology is currently available and that there appears to be adequate lead time to permit the application of this technology so as to achieve compliance with the California requirements by the 1978 model year.

IV. Decision

Based upon the above discussion and findings, I hereby waive application of section 209(a) of the Act to the State of California with respect to its exhaust emission standards and test procedures for 1978 model year medium duty vehicles, as found in section 1959 of Title 13, California Administrative Code, adopted March 31, 1976, as amended June 30, 1976, and "California Exhaust Emission Standards and Test Procedures for 1975 Through 1978 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended June 30, 1976.[1] For the 1978 model year EPA will accept the data used to successfully certify any medium duty vehicle under the California test procedures as demonstrating that the engine in such vehicle complies with applicable Federal standards, and Federal certificates of conformity for this engine will be issued on this basis.

A copy of the above standards and procedures, as well as the record of the hearing and those documents used in arriving at this decision, is available for public inspection during normal working hours (8 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 standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, Sacramento, California 95814.

Dated: January 4, 1977.

JOHN QUARLES,
Acting Administrator.

[FR Doc.77-820 Filed 1-10-77;8:45 am]

[1] Although this decision deals solely with medium duty vehicles, an implicit waiver is included for the June 30 test procedure amendments as they relate to 1978 model year light duty trucks.

[FRL 663-7]

MANAGEMENT ADVISORY GROUP TO THE MUNICIPAL CONSTRUCTION DIVISION

Renewal and Name Change

Pursuant to section 7(a) of the Office of Management and Budget Circular No. A-63, Transmittal Memorandum No. 1, dated July 19, 1974, it is hereby determined that renewal of the Management Advisory Group to the Municipal Construction Division (formerly the Technical Advisory Group to the Municipal Construction Division) is in the public interest in connection with the performance of duties imposed on the Agency by law. The charter which continues the Management Advisory Group to the Municipal Construction Division through December 1, 1977, unless otherwise sooner terminated, will be filed at the Library of Congress.

JOHN QUARLES,
Acting Administrator.

JANUARY 4, 1977.

[FR Doc.77-905 Filed 1-10-77;8:45 am]

[FRL 668-6; OPP-00040]

STATE-FEDERAL FIFRA IMPLEMENTATION ADVISORY COMMITTEE (SFFIAC)

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a two-day meeting of the State-Federal FIFRA Implementation Advisory Committee (SFFIAC) will be held from 8:30 a.m. to 4:30 p.m. on Thursday, January 27, and from 8:30 a.m. to approximately 12:30 p.m. on Friday, January 28. The meeting will be held in Room 3906-3908 of the Environmental Protection Agency, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

This will be the sixth meeting of the full Committee. A complete agenda has not, as yet, been developed. However, the agenda will contain items relating to implementation of key sections of the amended Federal Insecticide, Fungicide, and Rodenticide Act. A considerable portion of the available time will also be devoted to Regional reports and to reports by the chairmen of the five Working Groups responsible to SFFIAC. In addition, the chairman of the Working Group on Training, responsible primarily to the Extension Committee on Organization and Policy, will present his report.

The meeting will be open to the public. All communications regarding this meeting should be addressed to P. H. Gray, Jr., SFFIAC Executive Secretary, Operations Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. (202) 755-7014.

Dated: January 5, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-906 Filed 1-10-77;8:45 am]

FEDERAL MARITIME COMMISSION

AMERICAN EXPORT LINES, INC. AND UNITED STATES LINES, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 31, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discriminations or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

James N. Jacobi, Esq., Kurrus and Ash, 1055 Thomas Jefferson Street, N.W., Washington, D.C. 20007.

Agreement 10276 would permit American Export Lines, Inc., Farrell Lines Incorporated and United States Lines, Inc., to interchange "* * * cargo containers, chassis, trailers and/or related equipment * * *" as circumstances may require in accordance with the terms of the agreement.

Dated: January 4, 1977.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-942 Filed 1-10-77;8:45 am]

PACIFIC/INDONESIAN CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 31, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

H. R. Rollins, Secretary, Pacific/Indonesian Conference, 635 Sacramento Street, San Francisco, California 94111.

Agreement No. 6060-21, entered into by the member lines of the Pacific/Indonesian Conference, modifies the conference agreement by adding language to Article 11 to provide the Conference Secretary with permanent authority to sign on behalf of the Conference membership and file for approval with the Federal Maritime Commission any amendments or additions to the agreement previously approved by the Conference. The additional language reads as follows:

Each of the parties hereto, hereby expressly authorize the Conference Secretary to sign on its behalf and to file for approval with the Agency charged with administering the Shipping Act of 1916, as amended, any amendments to this agreement and to the appendix to this agreement which have been duly adopted by the Conference by the vote and procedures prescribed by this agreement or by the appendix to this agreement. Any person, by the act of becoming a party to this agreement shall thereby authorize the Secretary to sign and file amendments on its behalf as provided hereinabove.

Dated: January 5, 1977.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-941 Filed 1-10-77;8:45 am]

PUERTO RICO PORTS AUTHORITY AND SEA-LAND SERVICE, INC.

Agreement Filed

Notice of agreement filed by:

Gary R. Edwards, Esquire, Ragan & Mason, The Farragut Building, 900 Seventeenth Street, N.W., Washington, D.C. 20006.

Agreement No. T-3199-2, which is between the Puerto Rico Ports Authority (Port) and Sea-Land Service, Inc. (Sea-Land), modifies the parties' basic agreement providing for Sea-Land's preferential rights at and the lease of land adjacent to Berth E, Puerto Nuevo, San Juan, Puerto Rico. The purpose of the modification is to: (a) Correct a miscalculation in the square footage of the parcel to be leased by Sea-Land under the basic agreement; and (b) adjust accordingly the rental Sea-Land is to pay for its share of the facility. The basic agreement is the subject of Federal Maritime Commission Docket No. 76-46, "Agreements Nos. T-3191, et al."

The August 24, 1976, Order of Investigation and Hearing instituting Docket No. 76-46 provides that, in the event that any modification of Agreement No. T-3199 is filed with the Commission, such modification shall be made subject to Docket No. 76-46 for approval, disapproval or modification under the standards of section 15 of the Shipping Act, 1916.

Dated: January 5, 1977.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-939 Filed 1-10-77;8:45 am]

WEST INDIAN COMPANY, LTD.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before January 31, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of consent of assignment filed by:

Donald O'Malley, Director, Tariff & Regulatory Affairs, Interisland Intermodal Lines, Inc., P.O. Box 2110, Jacksonville, Florida 32203.

Agreement No. T-2449-1 provides for the consent of The West Indian Company, Ltd. to an assignment whereby Berwind Lines, Ltd. assigned all its right, title and interest in Agreement No. T-2449 to Interisland Intermodal Lines, Inc., pursuant to paragraph 11 of the basic lease.

Dated: January 5, 1977.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-940 Filed 1-10-77;8:45 am]

FEDERAL MEDIATION AND CONCILIATION SERVICE

ARBITRATION SERVICES ADVISORY COMMITTEE

Meeting

Notice is hereby given that the Federal Mediation and Conciliation Service Arbitration Services Advisory Committee, in accordance with section 10 of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), will meet on Thursday, January 27 and Friday, January 28, 1977 at 9:30 a.m. in the national office at 2100 K Street, Room 411, Washington, D.C.

The agenda is as follows:

1. Regional library of arbitrator awards.
2. Review of roster for comparison with 29 CFR 1404 standards.
3. 1977 arbitrator symposia and arbitration conferences.
4. Current status of Office of Arbitration Services.

This meeting shall be open to the public.

Communications regarding this meeting should be addressed to:

Mr. John Canestraight, Assistant Director, Office of Arbitration Services, Federal Mediation and Conciliation Service, Washington, D.C. 20427.

Signed at Washington, D.C., this third day of January 1977.

JAMES F. SCEARCE,
National Director.

[FR Doc.77-899 Filed 1-10-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-125]

ARKANSAS POWER & LIGHT CO.

Change to Cost of Money Adjustment Clauses

JANUARY 4, 1977.

Take notice that Arkansas Power & Light Company (AP&L) on December 23,

1976, tendered for filing proposed changes in the rates collected under the cost of money adjustment clauses contained in its Rate Schedules B4 and U4 for service to municipalities and rural electric cooperatives, respectively, and in its contracts for service to the City of Jonesboro, Arkansas, and Arkansas Electric Cooperative Corporation (AECC). The proposed changes would decrease revenues from service to all the customers except AECC by approximately $104,244, based on the 12 month period ending October, 1976. Revenues from service to AECC would increase approximately $272,898 during the same time period.

AP&L states that its current long-term embedded debt cost is 7.31%. Under the cost of money adjustment clauses with all customers except AECC, the base cost of long-term debt is 7.67%, calling for a reduction in the load charge for service to these customers of $20.03 per kilowatt of billing load. The base embedded long-term debt cost in the contract for service to AECC is 5.24%, thereby calling for an increase in the rate for service to that customer of $0.20 per kilowatt per month states AP&L. AP&L requests that these changes be made effective retroactively to November 15, 1976. AECC has stated that it does not object to the imposition of the increased charge as of that date.

Copies of the applicable portions of the filing were served upon AP&L's municipal and cooperative customers, Jonesboro, AECC and upon the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-866 Filed 1-10-77;8:45 am]

[Docket No. ER77-109]

DUKE POWER CO.

Supplement to Electric Power Contract

DECEMBER 30, 1976.

Take notice that Duke Power Company tendered on December 13, 1976, a supplement to Duke Power Rate Schedule FPC No. 143 which is to become effective on January 19, 1977. The customer affected by the supplement is Broad River Electric Cooperative, Inc. (customer). Duke Power's contract supplement, agreed to by the customer, provides for increases in designated demand as follows:

	Designated (kilowatts)	
	From	To
Delivery point No.:		
1	1,700	2,000
4	3,600	6,000
5	2,500	2,800

These figures were based on estimates of sales and revenues for the 12 months immediately preceding and for the 12 months immediately succeeding the effective date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-858 Filed 1-10-77;8:45 am]

[Docket No. E-9577]

FITCHBURG GAS AND ELECTRIC CO.

Acquisition of Facilities

JANUARY 3, 1977.

Take notice that on December 23, 1976, the Fitchburg Gas and Electric Company (FG&E) filed an application, pursuant to section 203 of the Federal Power Act, seeking authorization to purchase certain electric facilities now owned by the New England Power Company (NEP).

FG&E is an operating public utility providing electric and natural gas service to the communities of Fitchburg, Ashby, Lunenburg and Townsend and natural gas service only to the communities of Gardner and Westminster. The service area encompasses approximately 170 square miles in Northcentral Massachusetts.

The facilities to be purchased by FG&E consist of two substations, two 13.8 kV feeders, two 69 kV taps and miscellaneous customer metering and service equipment. The above described facilities were constructed by NEP to provide electric service to six industrial customers in and around the City of Fitchburg and to supply FG&E with wholesale electric service. These facilities are currently owned and operated by NEP.

NEP's wholesale service to FG&E over those facilities was terminated in 1972 when FG&E joined the New England Power Pool and made alternative arrangements to meet its requirements. Presently, these facilities serve as an interconnection between FG&E and the rest of the New England Power Pool and also in connection with transmission by NEP under contract of power to FG&E from the Boston Edison Company.

Upon implementation of the purchase and sale agreement, FG&E will own and operate these facilities and will be responsible to provide service to the six industrial customers.

FG&E requests waiver of the filing requirements of 18 CFR 33.1 and 18 CFR 33.3 (relating to filing of exhibits D, G and I). It states that waiver of the above requirements will not affect the content of required substantive information provided. FG&E further states its position that the instant acquisition is not subject to Federal Power Commission jurisdiction, claiming that the facilities involved are solely distribution facilities and hence outside the provisions of the Federal Power Act.

Any person desiring to be heard or to make any protest with reference to such application should, on or before January 17, 1977, file with the Federal Power Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-864 Filed 1-10-77;8:45 am]

[Docket No. ER77-121]

GULF STATES UTILITIES CO.

Filing

JANUARY 4, 1977.

Take notice that on December 20, 1976, in accordance with the agreements between Gulf States Utilities Company (Gulf States) and Sam Rayburn Dam Electric Cooperative, Inc. (Rate Schedule No. 98) and Gulf States and Sam Houston Electric Cooperative, Inc. (Rate Schedule No. 69), Gulf States filed the following change in the Blanchard point of delivery:

DISCONTINUED POINT OF SERVICE:

Delivery Point: Blanchard temporary point.
Effective: December 7, 1976.
Location: North of Livingston, Texas on Line 419.
Voltage: 13.2 KV.

AN ADDITIONAL POINT OF SERVICE:

Delivery Point: Blanchard permanent point.
Effective: November 24, 1976.

Location: 4.7 miles east of the junction of FM 356 and Highway 190 on Line 419.
Voltage: 13.2 KV.
Load: 7,500 KVA.

The Company states that copies of the filing have been mailed to the Sam Rayburn Dam Electric Cooperative, Inc. and to the Sam Houston Electric Cooperative, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-874 Filed 1-10-77;8:45 am]

[Docket No. ER76-716]

INDIANA & MICHIGAN ELECTRIC CO.

Intention To Serve

DECEMBER 30, 1976.

Take notice that Indiana & Michigan Electric Company ("I&M") on December 1, 1976 tendered for filing an unsigned agreement with the City of Richmond, Indiana ("Richmond"). I&M states that the instant filing is made pursuant to the Company's filed FPC Electric Tariff WS, as amended, and filed with the Commission, as amended, on May 28, 1976.

I&M states that the reason for the proposed changes is to place Richmond on Tariff WS upon the termination on December 31, 1976 of the existing agreement with Richmond. I&M requests an effective date for the filing so made of January 1, 1977. In an order issued June 25, 1976 the Commission accepted I&M's proposed changes in its FPC Electric Tariff WS, suspended the same for one month and permitted such changes to become effective, subject to refund on and after July 27, 1976.

I&M states that copies of the filing were served upon the City of Richmond and upon the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-865 Filed 1-10-77;8:45 am]

[Docket No. ES76-60]

IOWA SOUTHERN UTILITIES CO.

Application

JANUARY 3, 1977.

Take notice that on December 21, 1976, Iowa Southern Utilities Company (Applicant) filed an application for an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of $10,000,000 principal amount of First Mortgage Bonds.

Applicant is incorporated under the laws of the State of Delaware with its principal business office at Centerville, Iowa and is engaged in the electric utility business in 24 counties in Iowa.

The Bonds will be dated February 1, 1977 and will mature on or before February 1, 2007 and will bear interest at a rate corresponding to the rate payable on pollution control bonds to be issued by the City of Chillicothe, Iowa for use in the construction of pollution control facilities which will be a part of the Ottumwa Generating Station, a plant jointly owned by Applicant and Iowa Power and Light Company, Iowa Public Service Company and Iowa-Illinois Gas and Electric Company. The Applicant proposes to issue its first Mortgage Bonds as additional security for the repayment of the principal and interest of the City of Chillicothe pollution control bonds which bonds are not general obligation bonds of the City of Chillicothe or in any way guaranteed by or the obligation of the City of Chillicothe, Iowa.

The proceeds from the sale of the pollution control bonds will be used to construct a portion of the pollution control facilities at the Ottumwa Generating Station which the Applicant is required to construct. There will be no proceeds from the First Mortgage Bonds of the Applicant since such bonds will be used for security purposes only.

Any person desiring to be heard or to make any protest with reference to the application should on or before January 19, 1977, filed with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-863 Filed 1-10-77;8:45 am]

[Docket No. E-9485]

KANSAS GAS & ELECTRIC CO.

Refund Report

JANUARY 4, 1977.

Take notice that on December 6, 1976, Kansas Gas & Electric Company (KG&E) tendered for filing a report in compliance with Paragraph C of the Commission's Order Approving Settlement Agreement issued in the captioned docket on July 21, 1976. In its report, KG&E states that on November 24, 1976, it made refunds of all revenues collected in excess of the settlement rates plus interest at 9.7 per annum.

Any person desiring to be heard or to protest said report should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 17, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this report are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-873 Filed 1-10-77;8:45 am]

[Docket No. CP77-98]

MONTANA-DAKOTA UTILITIES CO.

Application

JANUARY 4, 1977.

Take notice that on December 16, 1976, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP77-98 an application pursuant to section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the twelve-month period beginning April 1, 1977, and ending March 31, 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $2,900,000 and that the cost of any single project would not exceed $725,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before Janu-

ary 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, of if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-869 Filed 1-10-77;8:45 am]

[Docket Nos. RP72-154; PGA76-5; RP74-72; DCA76-3; RP73-109 and RP74-95; AP76-1]

NORTHWEST PIPELINE CORP.

Certification of Settlement To the Commission

JANUARY 4, 1977.

Take notice that on December 10, 1976, Northwest Pipeline Corporation (Northwest) submitted a Stipulation and Agreement (Stipulation) in the above-styled proceeding for certification to the Federal Power Commission by the Presiding Administrative Law Judge. The Stipulation, along with the prepared testimony of Tim J. Hausler, Manager of Rates, and Exhibits 1 through 4 sponsored by Mr. Hausley in support thereof, were introduced into the record at the December 10, 1976, hearing. If approved, the proposed Stipulation will resolve all issues in Docket Nos. RP73-109 and RP74-95 (AP76-1) relating to the lawfulness of Northwest's proposed rate increase attributable to advance payments.

On December 13, 1976, the Presiding Administrative Law Judge certified to the Commission the Stipulation, the testimony of Mr. Hausler, and Exhibits 1 through 4.

Any person desiring to comment upon the Stipulation should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 21, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-868 Filed 1-10-77;8:45 am]

[Docket No. ER77-126]

PACIFIC GAS AND ELECTRIC CO.

Tariff Change

JANUARY 4, 1977.

Take notice that on December 27, 1976, Pacific Gas and Electric Company (PG&E) tendered for filing a notice of change in contract provisions increasing charges for certain electric energy exchange services for the United States Bureau of Reclamation (USBR) under its Original Volume No. 4. The proposed effecve date for the contract amendment is December 31, 1976. PG&E states that the proposed contract amendment has been agreed to by USBR in an amendment agreement executed December 22, 1976.

Copies of the filing were served upon the United States Department of the Interior and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-871 Filed 1-10-76;8:45 am]

[Docket No. ER77-124]

PUBLIC SERVICE CO. OF NEW MEXICO

Agreement

JANUARY 4, 1977.

Take notice that Public Service Company of New Mexico (Company) on December 22, 1976 tendered for filing an agreement to provide surplus electric energy to the City of Farmington, New Mexico (Farmington).

This agreement was initiated to permit Company to furnish Farmington with electric energy that is surplus to Company as return energy to be delivered to the United States Bureau of Reclamation Colorado River Storage Project to be credited to the account of Farmington. The Company states that the agreement is to become effective on October 1, 1976 subject to FPC approval and has, therefore, requested a waiver of the notice requirements. The Company further states that the proposed rate for the contract period has been agreed upon by the parties and that copies of the filing have been mailed to the Mayor of the City of Farmington, New Mexico and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commisson's Rules of Practice and Procedure (18 CFR 1.8, and 1.10). All such petitions or protests should be filed on or before January 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-872 Filed 1-10-77;8:45 am]

[Docket No. ER77-122]

PUBLIC SERVICE CO. OF NEW MEXICO

Supplement to Interconnection Agreement

JANUARY 4, 1977.

Take notice that on December 22, 1976, Public Service Company of New Mexico (PNM) tendered for filing a supplement to an Interconnection Agreement (designated PNM Rate Schedule FPC No. 9) with El Paso Electric Company (El Paso). The supplement is in the form of a Service Schedule providing surplus transmission capacity for the delivery of El Paso's electrical energy.

PNM requests waiver of the notice requirement pursuant to § 35.11. PNM states that the proposed rate has been agreed upon by the parties and that copies of the filing have been mailed to El Paso Electric Company and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in acordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file

with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-876 Filed 1-10-77;8:45 am]

[Docket No. ER77-123]

PUBLIC SERVICE CO. OF NEW MEXICO

Supplemental Agreement

JANUARY 4, 1977.

Take notice that Public Service Company of New Mexico (Company) tendered for filing on December 22, 1976 a Supplemental Agreement to a Transmission Service Agreement between Company and the United States Energy Research and Development Administration (ERDA) which will supplement Company's Rate Schedule FPC No. 23 and which provides for transmission service over Company facilities for ERDA power and energy.

This Supplemental Agreement reflects that ERDA has succeeded to all rights and duties of the Atomic Energy Commission under the subject agreement and ERDA's contract with the United States Bureau of Reclamation Colorado River Storage Project (CRSP) for peaking power purchases which require increased transmission capacity. The Company states that the rate for service remains unchanged and that the effective date of the Supplemental Agreement has been established by the parties to be December 1, 1975. The Company has requested a waiver of the notice requirements. Copies of the filing have been mailed to jurisdictional customers and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-875 Filed 1-10-77;8:45 am]

[Docket Nos. ER76-308, and ED76-386]

PUBLIC SERVICE CO. OF NEW MEXICO

Filing

JANUARY 4, 1977.

Take notice that Public Service Company of New Mexico (Company) on December 22, 1976, tendered for filing an agreement to provide power and energy for the Energy Research and Development Administration, Albuquerque, New Mexico. The Company states that the agreement incorporates the charges previously approved by this Commission as Supplement No. 7 to the Company's Rate Schedule FPC No. 10 by order dated September 8, 1976 in Docket Nos. ER76-308 and ER76-386.

The Company states that the electric service agreement was initiated to continue to provide the Energy Research and Development Administration with electric service at Los Alamos, New Mexico. The Company states that it did not submit this agreement in the original filing as it had not been approved by ERDA. ERDA's approval was obtained November 26, 1976, and the Company, therefore, now submits an agreement as approved by ERDA.

The Company states that copies of the filing were served upon the public utility's jurisdictional customer being served under this agreement and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-867 Filed 1-10-77;8:45 am]

[Docket No. CP77-88]

STANDARD PACIFIC GAS LINE INC.

Notice of Application

JANUARY 4, 1977.

Take notice that on December 13, 1976, Standard Pacific Gas Line Incorporated (Applicant), 77 Beale Street, San Francisco, California 94106, filed in Docket No. CP77-88 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the replacement of an 8.9-mile portion of its existing pipeline between its Los Medanos Junction and its Los Medanos Storage Field Tap with facilities of larger capacity, the construction of pressure limiting facilities, and the operation of these facilities at 600 psig, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it was granted authority to operate the subject existing facilities by order of the Commission issued January 24, 1958. Applicant states that it has been engaged in an ongoing replacement program in order to replace those portions of its existing pipeline system which have deteriorated and which no longer meet the safety standards prescribed by the California Public Utilities Commission and the Department of Transportation. It also stated that portions of its pipeline system have been replaced in order to facilitate numerous public and private construction projects. In accordance with this replacement program, it is indicated, pipeline of a heavier wall gauge and in some cases larger diameter have been installed on occasion. It is indicated that the purpose of the replacements proposed herein is to upgrade further portions of the existing pipeline so as to allow for operation at 600 psig rather than the current maximum of 315 psig and to establish a uniform diameter of 26-inches for the whole 8.9 miles of pipeline.

Applicant proposes to replace the following pipeline segments as indicated:

Mile post to mile post	Length (feet)	Diameter (inches)		Pressure (pounds per square inch gage)	
		Existing	Future	Existing	Future
167.5 to 168.1	3,528	26	26	315	600
169.0 to 169.3	1,525	26	26	315	600
174.2 to 174.4	1,427	24	26	315	600
175.6 to 176.2	2,907	22	26	315	600

In addition, Applicant proposes to install pressure limiting facilities at Los Medanos Junction (Mile Post 167.3) and Los Medanos Storage Field Tap (Mile Post 176.2) and to operate its pipeline at 600 psig between those points.

Applicant estimates that the total cost of its proposal would be $1,298,000. Applicant further states that the proposal would be financed by capital contributions from Pacific Gas and Electric Company (Pacific) and Standard Oil Company of California in a ratio of their capital interests in the Applicant or six-sevenths and one-seventh, respectively.

It is stated that the proposed replacement is required to enable Applicant to deliver increased volumes to Pacific for storage at Pacific's Los Medanos gas storage field in Contra Costa County, California.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 24, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and

the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commisson on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-870 Filed 1-10-77;8:45 am]

[Docket No. CP77-108]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Application

DECEMBER 30, 1976.

Take Notice that on December 23, 1976, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), filed an application pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the transportation of natural gas for United Gas Pipe Line Company (United) all as more fully set forth in the application on file with the Commission and open to public inspection.

By its application, Tennessee requests authorization to transport up to 300,000 Mcfd of natural gas for United through Tennessee's Sabine-Kinder pipeline in Calcasieu Parish, Louisiana. The purpose of the proposed transportation is to enable United to receive into its pipeline system gas which will be available to United from the High Island Offshore System (HIOS), upon completion of the facilities authorized in Docket No. CP75-81, et al.

Tennessee proposes to take receipt of such volumes from Transcontinental Gas Pipe Line Corporation (Transco), for the account of United, at a proposed point of interconnection of the facilities of Tennessee and Transco on Tennessee's Sabine-Kinder pipeline located at Tennessee's MP 820 −+15.11 miles near Starks, Calcasieu Parish, Louisiana.

Tennessee proposes to deliver equivalent daily quantities of natural gas to United at various existing delivery points to United in Louisiana and Mississippi.

For the volumes of gas transported and delivered at each delivery point, Tennessee will charge a rate based upon its then effective 100 Mcf-Mile charge, computed on the basis of a 100 percent load factor and utilizing Tennessee's then current system average transmission cost of service applied to the distance in miles between the receipt point and the applicable delivery point.

Tennessee states that it has sufficient existing capacity in its Sabine-Kinder pipeline and in its gas supply area facilities to render the transportation service for United up to the volumes proposed without the need for any additional facilities. Tennessee further states that the proposed service will not impair Tennessee's service to any of its other customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-859 Filed 1-10-77;8:45 am]

[Docket No. RI77-17]

TEXAS ENERGIES, INC.

Petition for Special Relief

JANUARY 3, 1977.

Take notice that on December 9, 1976, Texas Energies, Inc., Suite 306, Bank of the Southwest Building, Amarillo, Texas 79109, filed a petition for special relief in Docket No. RI77-17 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner seeks authorization to charge $1.15 per Mcf for the sale of gas to Panhandle Eastern Pipeline Company from a well located on section 15-33S-33W, in Seward County, Kansas, in consideration for the installation of compression equipment. The subject gas is currently being sold at the rate of 35 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 26, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to the proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-856 Filed 1-10-77;8:45 am]

[Docket No. RI77-16]

TEXAS ENERGIES, INC.

Notice of Petition for Special Relief

JANUARY 3, 1977.

Take notice that on December 9, 1976, Texas Energies, Inc., Suite 306, Bank of the Southwest Building, Amarillo, Texas 79109, filed a petition for special relief in Docket No. RI77-16 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner seeks authorization to charge $1.25 per Mcf for the sale of gas to Panhandle Eastern Pipeline Company from a well located on section 21-33S-29W, in Meade County, Kansas, in consideration for reworking the well and installing compression and artifical lift equipment. The subject gas is currently being sold at the rate of 35 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 26, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must

file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-857 Filed 1-10-77;8:45 am]

[Docket No. RP72-156 (PGA 77-3) and RP 72-64 (DCA 77-1); RP 76-17 (AP 77-1)]

TEXAS GAS TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

DECEMBER 30, 1976.

Take notice that Texas Gas Transmission Corporation, on December 15, 1976, tendered for filing proposed changes in the following sheets:

THIRD REVISED VOLUME NO. 1

Eighteenth Revised Sheet No. 7

ORIGINAL VOLUME NO. 2

Ninth Revised Sheet No. 333
Eighth Revised Sheet No. 362
Ninth Revised Sheet No. 363
Eighth Revised Sheet No. 365

These sheets are being issued to reflect changes in the cost of purchased gas pursuant to Texas Gas' Purchased Gas Adjustment Clause. Also reflected are changes in the costs associated with advance payments and offshore transportation pursuant to the provisions of the Stipulation and Agreement approved by the Commission in Docket No. RP76-17.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-861 Filed 1-10-77;8:45 am]

[Docket No. RP75-74]

TRANSWESTERN PIPELINE CO.

Certification of Settlement Agreement

JANUARY 3, 1977.

Take notice that on December 21, 1976, Presiding Administrative Law Judge Israel Convisser certified to the Commission a proposed settlement agreement in the above-captioned proceeding. In his memorandum of certification, Judge Convisser states that certain issues arising in this proceeding (set forth at pages 8-9 of the agreement) have been reserved for hearing, now scheduled to commence January 18, 1977. The rate of return issue has also been reserved; parties are to file their comments on this issue directly with the Commission.

Any person desiring to file comments or to protest any aspect of the proposed settlement agreement, including comments on the reserved rate of return issue, should file same with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 11, 1977. Reply comments should be filed on or before March 11, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-855 Filed 1-10-77;8:45 am]

[Docket Nos. ER76-303 and ER76-399]

WISCONSIN ELECTRIC POWER CO.; WISCONSIN MICHIGAN POWER CO.

Filing of Settlement Agreement

JANUARY 3, 1977.

Take notice that on December 13, 1976, a Settlement Agreement filed in the captioned proceedings by Wisconsin Electric Power Company and Wisconsin Michigan Power Company was filed with the Commission. According to the companies, based on a Period II test year ended July 1976, the two rates filed in this proceeding produced a total increase of $3,496,000 over the then effective rates filed in Docket No. E-8619. On the same test year basis, the Settlement Agreement would reduce that increase to $2,072,000.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before January 10, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-860 Filed 1-10-77; 8:45 am]

[Docket No. RP72-133; PGA Nos. 77-1 and 77-1a]

UNITED GAS PIPE LINE CO.

Order Accepting for Filing and Suspending Proposed Tariff Sheets, Subject to Conditions

DECEMBER 29, 1976.

On November 15, 1976, United Gas Pipe Line Company (United) tendered for filing Thirty-Fifth Revised Sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1. This proposed sheet reflects an 11.57¢ per Mcf semi-annual purchased gas adjustment (PGA) increase which would allow United to collect approximately $66 million in revenues.[1] United tendered for filing on November 24, 1976, Thirty-Sixth Revised Sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1. This filing reflects an additional 14.11¢ per Mcf PGA increase pursuant to Opinion No. 770-A which would allow United to collect approximately $103 million per year in additional revenues. For the reasons stated below, the Commission shall accept the Thirty-Fifth Revised Sheet and suspend its operation for one day, accept the Thirty-Sixth Revised Sheet, and set forth the conditions upon which this acceptance is granted.

The proposed PGA adjustment tendered by these two filings is based upon a rolled-in systemwide average cost of gas. United's average cost of gas includes emergency purchases at rates in excess of Opinion No. 770-A and certain alleged non-jurisdictional purchases. With regard to the non-jurisdictional purchases, the Commission notes that the justness and reasonableness of these purchases has been raised as an issue in Docket Nos. RP74-20 and RP74-83 and CP76-238. There cases are presently before the Commission pending decision. Accordingly, the inclusion of costs associated with such purchases in the instant filing shall be subject to the final decision on this issue in the cited dockets.

The emergency purchases included in United's average cost of gas for this filing are in excess of the amounts allowed by Opinion No. 770-A. To assist the Commission's review of these emergency purchases to determine what further action is necessary, United shall file and serve on all its customers and interested state commissions within thirty days of the issuance of this order, evidence showing: (1) its need for the gas; (2) availability of other gas supplies; (3) the amount of gas purchased under each transaction; (4) a comparison of the price for each emergency purchase with appropriate market prices in the same or nearby areas; and (5) the relationship between the buyer and seller in each transaction. Upon receipt of this information and after comments concerning this information are received, the Commission shall review the entire matter to determine what further action is necessary and appropriate.

The proposed rate increases tendered for filing by United in this proceeding have not been shown to be just and reasonable and, therefore, they may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, the Commission shall accept United's Thirty-Fifth Revised Sheet No. 4 for filing and suspend its operation for one day and shall accept Thirty-Sixth Revised Sheet No. 4 for filing as of January 2, 1977. Such acceptance is subject to the conditions set forth in this order.

The Commission orders: (A) United's Thirty-Fifth Revised Sheet is hereby ac-

[1] This includes $38.5 million for increased purchased gas costs and $27.5 million in deferred costs.

cepted for filing and the use thereof suspended for one day, that is, until January 2, 1977, at which time it shall be permitted to become effective, subject to refund, pending a final Commission decision in this proceeding.

(B) United's Thirty-Sixth Revised Sheet No. 4 is hereby accepted for filing and is permitted to go into operation on January 2, 1977.

(C) The acceptance ordered in (A) and (B), above, is subject to these conditions: (1) United shall file a downward revision of these rates if it does not incur all anticipated producer increases by January 1, 1977; and, (2) the inclusion of costs related to non-jurisdictional purchases is subject to the outcome of the proceedings in Docket Nos. RP74-20 and RP74-83 and CP76-238.

(D) United shall file and serve on all its customers and interested state commissions evidence relating to the specific issues raised in this order regarding the emergency purchases United seeks to have included in the instant rates.

(E) United shall be permitted to file a revised sheet to be effective January 1, 1977, reflecting only that portion of the proposed adjustment including costs other than those related to emergency purchases at rates in excess of the levels established in Opinion No. 770-A and non-jurisdictional purchases.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-863 Filed 1-10-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1976 No. 51]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending December 18, 1976

ACTIONS OF THE BOARD

Structural adjustment in reserve requirements on demand deposits (Docket No. R-0069).

Regulation Z, Truth in Lending, supplement specifying the procedures and criteria under which States may be granted exemptions under the Fair Credit Billing Act (Docket No. R-0067).

Regulation T, Credit by Brokers and Dealers, notice of proposed rulemaking; credit to exchange specialists in options; the Board requested comment on the proposed amendment through January 17, 1977 (Docket No. R-0054).

Amendment of Board's Rules Regarding Delegation of Authority to delegate to any member of the Board designated by the chairman the authority to approve amendments to notices of charges, proposed orders to cease and desist, and temporary cease-and-desist orders, previously approved by the Board pursuant to the Financial Institutions Supervisory Act (Docket No. R-0068).

Mark Twain Bancshares, Inc., St. Louis, Missouri, Board letter determining to accept the revised financial plan as an alternative to the commitment to make a public equity offering.

Central State Bank, Connersville, Indiana, issuance of subordinated capital notes.

Corpus Christi Bank and Trust, Corpus Christi, Texas, issuance of subordinated capital notes.

Texas Bank & Trust Company of Dallas, Dallas, Texas, issuance of subordinated capital notes.

First Federal Savings and Loan Association of Syracuse, Syracuse, New York, proposed merger with The New York Bank for Savings, New York, New York; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Eastpoint Savings Bank, Eastport, Maine, proposed merger with Bangor Savings Bank, Bangor, Maine, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

First City Bancorporation of Texas, Inc., Houston, Texas, extension of time to March 15, 1977, within which to consummate and complete the opening of Red Bird National Bank, Dallas, Texas.[1]

Deseret Bancorporation, Pleasant Grove, Utah, extension of time to March 19, 1977, within which to acquire shares of the successor by merger to Bank of Pleasant Grove, Pleasant Grove, Utah; State Bank of Lehi, Lehi, Utah; Mountain View Bank, American Fork, Utah, existing banks; and Geneva State Bank of Orem, Orem, Utah, a proposed new bank.[1]

State Bank of Raritan Valley, Raritan, New Jersey, extension of time within which to establish a branch at intersection of Amwell Road and South Branch Road, Hillsborough Township, New Jersey.[1]

Detroit Bank—Troy, Troy, Michigan, extension of time to April 24, 1977, within which to establish branches at the southwest corner of Crooks and Maple Roads, and at the southeast corner of the intersection of Maple and John R. Roads, both of Troy, Michigan.[1]

First Mason Bank, Mason, Ohio, investment in bank premises.[1]

Central State Bank, Muscatine, Iowa, investment in bank premises.[1]

First State Bank, Porter, Indiana, investment in bank premises.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Central State Bank, Muscatine, Iowa. Branch to be established at 401 Grandview Avenue, Muscatine, Muscatine County.[2]

Union Bank & Trust Company, Evansville, Wisconsin. Branch to be established at the corner of North Madison and Mills Streets, Evansville.[2]

Union California Bank, Los Angeles, California. Branch to be established in the vicinity of the intersection of Imperial Highway and the Orange Freeway, City of Brea, Orange County.[2]

* * * * *

To Become a Member of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Bradford Trust Company, New York, New York.[2]

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[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

Northwestern Trust Company, New York, New York.[2]

* * * * *

International Investments and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Citibank Overseas Investment Corporation: Investment—to acquire Trinkaus & Burkhardt (International) S.A., Luxembourg, a de novo Bank.

Marine Midland Western International Corporation: Investment add'l in MM Builders Funds Limited, Canada, increasing its ownership to 100 percent.

Bamerical International Financial Corporation: Investment—to acquire BankAmerica Representacao E Servicos Limitada, Sao Paulo, Brazil.

Security Pacific Overseas Corporation: Investment—add'l in Banco Denasa de Investimento S.A., Brazil, to maintain 20 percent interest.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

DENIED

Gaylord Bankshares, Inc., Gaylord, Kansas, for approval to acquire 80 percent or more of the voting shares of the First National Bank of Gaylord, Gaylord, Kansas.

APPROVED

Boyden Bancorp, Boyden, Iowa, for approval to acquire 81.7 percent of the voting shares of Farmers Savings Bank, Boyden, Iowa.

The First Arabian Corporation, Paris, France, for approval to acquire 77.4 percent or more of the voting shares of Bank of the Commonwealth, Detroit, Michigan.

First Company, Powell, Wyoming, for approval to acquire 80 percent or more of the voting shares of The First National Bank of Powell, Powell, Wyoming.[2]

Osborn Bancshares, Inc., Osborn, Missouri, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of The Bank of Osborn, Osborn, Missouri.[2]

Fredericksburg Financial Corporation, Fredericksburg, Texas, for approval to acquire 81 percent or more of the voting shares (less directors' qualifying shares) of Fredericksburg National Bank, Fredericksburg, Texas.[2]

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

Dakota Bancorporation, Rapid City, South Dakota, for approval to acquire 80 percent of the voting shares of First National Bank of Crosby, Crosby, North Dakota, a proposed new bank.

* * * * *

To Retain Bank Shares Acquired in a Fiduciary Capacity Pursuant to Section 3 of the Bank Holding Company Act of 1956.

APPROVED

First Chicago Corporation, Chicago, Illinois, for approval to retain the shares of Marco Capital Corporation, Wilmington, Delaware and indirectly acquire Marshall County Bank & Trust Company, Plymouth, Indiana.[2]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

WITHDRAWN

Fidelity Union Bancorporation, Newark, New Jersey, notification of intent to engage in lence insurance) at Lebanon Valley Mall, *de novo* activities (casualty and convenience insurance) at Lebanon Valley Mall, Route 422, West Lebanon, Pennsylvania, through its subsidiary, Suburban Finance Company and its subsidiary, Sentry Consumer Discount Company (11/9/76 and 11/22/76).[5]

REACTIVATED

First Pennsylvania Corporation, Philadelphia, Pennsylvania, notification of intent to engage in *de novo* activities (making, acquiring, or servicing for its own account or for the account of others, loans or other extensions of credit in particular commercial lending related to lease transactions and conditional sales financing) at Centre Square West, 16th and Market Streets, Philadelphia, Pennsylvania, through its subsidiary, First Pennsylvania Leasing, Inc. (12/17/76).[5]

PERMITTED

Fidelity Union Bancorporation, Newark, New Jersey, notification of intent to engage in *de novo* activities (making loans in the present maximum amount of $5,000 or less under the provisions of the Pennsylvania Consumer Discount Company Act; and making available to customers, credit life insurance and disability insurance covering the unpaid balance of loans outstanding, and fire and theft insurance to protect household goods held at collateral during the periods of credit extensions) at Lebanon Valley Mall, Route 422, West Lebanon, Pennsylvania, through its subsidiary, Suburban Finance Company and its subsidiary, Sentry Consumer Discount Company (12/16/76).[5]

St. Joseph Bank and Trust Company and St. Joseph Agency, Inc., both of South Bend, Indiana, notification of intent to engage in *de novo* activities (originating, acquiring, selling, and servicing of residential, commercial, and industrial mortgage loans) in the vicinity of 86th and Virginia, Merrillville, Indiana, through its subsidiary, St. Joseph Mortgage Co., Inc. (12/12/76).[5]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including the making of consumer installment loans, purchasing consumer installment sales finance contracts, and making of loans to small businesses; leasing personal property and equipment or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease, from rentals; estimated tax benefits, investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect; the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 20 per cent of the acquisition cost of the property to the lessor and in the case of a lease of not more than 7 years in duration, such additional amount, which shall not exceed 60 per cent of the acquisition cost of the property as may be provided by an unconditioned guarantee by a lessee, independent third party, or manufacturer which has been determined by the lessor to have the financial resources to meet such obligation that will assure the lessor recovery of its investment and cost of financing; acting as insurance agent or broker with regard to credit life and disability insurance relating only to extensions of credit by Rainier Credit Company, secured or unsecured, with the limitation that the initial amount of such insurance issued with respect to any debtors may at no time exceed the amount owed by debtors and with regard to consumer credit related property and casualty insurance on personal property subject to security agreements with Rainier Credit Company) at 10080 North Wolfe Road, Cuperinto, California, through its subsidiary, Rainier Credit Company (12/16/76).[5]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including the making of consumer installment loans, purchasing consumer installment sales finance contracts, and making of loans to small businesses; leasing personal property and equipment or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease, from rentals; estimated tax benefits, investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect; the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 20 per cent of the property to the lessor and in the case of a lease of not more than 7 years in duration, such additional amount, which shall not exceed 60 per cent of the acquisition cost of the property as may be provided by an unconditional guarantee by a lessee, independent third party, or manufacturer which has been determined by the lessor to have the financial resources to meet such obligation that will assure the lessor of recovery of its investment and cost of financing; acting as insurance agent or broker with regard to credit life and disability insurance relating only to extensions of credit by Rainier Credit Company, secured or unsecured, with the limitation that the initial amount of such insurance issued with respect to any debtors may at no time exceed the amount owed by debtors and with regard to consumer credit related property and casualty insurance on personal property subject to security agreements with Rainier Credit Company) at 1241 East Shaw Avenue, Fresno, California, through its subsidiary, Rainier Credit Company (12/16/75).[5]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including the making of consumer installment loans, purchasing consumer installment loans, purchasing consumer installment sales finance contracts, and making of loans to small businesses; leasing personal property and equipment or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease, from rentals; estimated tax benefits, investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect; the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 20 per cent of the acquisition cost of the property to the lessor and in the case of a lease of not more than 7 years in duration, such additional amount, which shall not exceed 60 per cent of the acquisition cost of the property as may be provided by an unconditional guarantee by a lessee, independent third party, or manufacturer which has been determined by the lessor to have the financial resources to meet such obligation that will assure the lessor of recovery of its investment and cost of financing; acting as insurance agent or broker with regard to credit life and disability insurance relating only to extensions of credit by Rainier Credit Company, secured or unsecured, with the limitation that the initial amount of such insurance issued with respect to any debtors may at no time exceed the amount owed by debtors and with regard to consumer credit related property and casualty insurance on personal property subject to security agreements with Rainier Credit Company) at 8888 S.W. Canyon Road, Portland, Oregon, through its subsidiary, Rainier Credit Company (12/16/76).[5]

[5] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Applications Received

To Establish a Domestic Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

United American Bank, Memphis, Tennessee, Branch to be established at 5384 Poplar Avenue, Memphis.

* * * * *

The following was typed in error in H.2 No. 48, the correct listing is below:

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

Citibank N.A.: Branch—two in Liberia, one each in Monrovia and Yekepa.

Wells Fargo Bank, N.A.: Branch—Singapore, Republic of Singapore.

* * * * *

Thirty Day Notice of Intention to Establish an Additional Branch of a Member Bank in a Foreign Country.

Citibank N.A.: Branch—two in Egypt, one each in Alexandria and Port Said.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Manufacturers Bancorp., Inc., Leavenworth, Kansas, for approval to acquire 90.1 percent of the voting shares of The Manufacturers State Bank, Leavenworth, Kansas, Leavenworth, Kansas.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

T.N.B. Financial Corp., Springfield, Massachusetts, for approval to acquire 100 percent of the voting shares of the successor by merger to The First National Bank of Athol, Athol, Massachusetts.

Pacesetter Financial Corporation, Grand Haven, Michigan, for approval to acquire 100 percent of the voting shares of the successor by consolidation to First Security Bank of Grand Blanc, Grand Blanc, Michigan.

Fort Sam Houston BankShares, Incorporated, San Antonio, Texas, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Northern Hills Bank of San Antonio, San Antonio, Texas.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Industrial National Corporation, Providence, Rhode Island, notification of intent to engage in *de novo* activities (consumer finance and insurance agency for any insurance directly related to an extension of credit or provision of other financial services or otherwise sold as a matter of convenience to the purchaser) at 715 W. Oglethorpe Boulevard, Albany, Georgia, through a subsidiary, Southern Discount Company, a subsidiary of Industrial National Corporation (12/13/76).[2]

Citicorp, New York, New York, notification of intent to relocate *de novo* activities (making consumer installment personal loans, purchasing consumer installment sales finance contracts; and acting as broker for the sale of consumer credit related life/accident and health insurance; the insurance which the establishment offers to sell is group credit life/accident and health insurance to cover the outstanding balances of loans to borrowers in the event of their death, or, to make the contractual monthly payments on the loans in the event of the borrowers' disability; individual physical damage insurance on personal property subject to security agreements including liability only when such insurance is sold as part of an insurance package on such property is also offered; the additional activities are as follows: consumer home equity lending secured by real estate, making loans for the account of others such as one-to-four family unit mortgage loans; the offering to sell of level (in the case of single payment loans) term life insurance to cover the outstanding balances of consumer credit transactions, singly or jointly, with their spouses or co-signers in the event of death, or, to make the contractual monthly payments on the consumer credit transactions in the event of the obligators' disability to the extent permissible under applicable State insurance laws and regulations; further, in regard to the sale of credit related insurance, the subsidiary will not act as a general insurance agency) from 221 East Camelback Road, Phoenix, Arizona to Town & Country Shopping Center, 2077 East Camelback Road, Phoenix, Arizona; from 3832 E. Thomas Road, Phoenix, Arizona to Miller Plaza Shopping Center, Scottsdale, Arizona; and from 3826 W. Indian School Road, Phoenix, Arizona to Metro Center Shopping Center, 9961 Metro Parkway West, Phoenix, Arizona, through its subsidiary, Nationwide Financial Services Corporation and its subsidiary, Nationwide Financial Corporation of Arizona (12/14/76).[2]

First Amtenn Corporation, Nashville, Tennessee, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company including secured and unsecured loans to individuals, discounting of installment sales contracts, and secured commercial financing such as dealer floor-plan financing and lease financing; and acting as agent or broker in selling the following types of insurance to borrowing customers: Credit life insurance, accident and health insurance, and property damage insurance on collateral supporting loans made by Atlantic Discount Company, Inc.) at 3375 34th Street North, St. Petersburg, Florida, through a subsidiary, Atlanta Discount Company, Inc. (12/13/76).[2]

First Alabama Bancshares, Inc., Montgomery, Alabama, notification of intent to engage in *de novo* activities (to engage in the activities of leasing personal property and equipment, or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property) at 182 St. Francis Street, Mobile, Alabama, through a subsidiary, First Alabama Leasing, Inc. (12/16/76).[2]

Flagship Banks Inc., Miami Beach, Florida, notification of intent to engage in *de novo* activities (acting as agent for the sale of credit life and credit accident and health insurance and other credit related insurance that is directly related to extensions of credit by the bank holding company and/or its banking and non-banking subsidiaries) at West Bay Street, Davenport, 120 South Lake Shore Way, Lake Alfred, and Jones Avenue at 6th Street, Haines City, all located in Florida, through a subsidiary, Seaforth Inc. (12/13/76).[2]

Commercial National Corporation, Peoria, Illinois, for approval to acquire all of the shares of Commercial National Management Consulting Company, Peoria, Illinois (engaged in providing management consulting advice to nonaffiliated commercial banks with respect to auditing, marketing, mergers and acquisitions, site planning, financial planning, computer applications, capital adequacy, security measures and procedures and personnel evaluation and compensation).

The First National Bancorporation, Inc., Denver, Colorado, notification of intent to engage in *de novo* activities (acting as agent for the sale of credit life, credit accident and health insurance on borrowers who have been extended credit by a bank or bank-related firm which is a member of The First National Bancorporation, Inc. system) at The First National Bank of Montrose, 400 Main Street, Montrose Colorado, through a subsidiary, First Denver Insurance Agency, Inc. (12/17/76).[2]

Fremont Bancorporation, Fremont, California, notification of intent to engage in *de novo* activities (acting as investment or financial adviser including providing portfolio and investment advice to any person) at 39150 Fremont Boulevard, Fremont, California (11/15/76).[2]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate *de novo* activities (making loans, extending credit, servicing loans and other extensions of credit for itself and others and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company including, but not limited to, providing funds and/or credit services in connection with the financing of stock and floor plan inventory of distributors and dealers of consumer products; making available to such dealers at their option and cost, fire, theft, and damage insurance on a monthly reporting basis covering only the outstanding indebtedness on such floor plan inventory) from Office "A", 3800 Union Road to The Cleveway Building Penthouse, Suite 3343, Harlem Road, Cheektowaga, New York, through its indirect subsidiaries, Ariens Credit Corporation (a Pennsylvania Corporation), BA FinanceAmerica Corporation (a New York Corporation), and Hupp Credit Corporation (a Delaware Corporation), subsidiaries of FinanceAmerica Corporation (12/8/76).[2]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate *de novo* activities (making loans, extending credit, and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company including, but not limited to, making consumer installment loans, purchasing installment sales finance contracts, and making loans to small businesses and extensions of credit secured by real or personal property; acting as agent or broker for the sale of credit related life, credit related accident and disability insurance, and credit related property insurance in connection with extensions of credit by FinanceAmerica Corporation) from 4800 Johnson Drive, Mission, Kansas to 3100 South 24th Street, Kansas City, Kansas, through its indirect subsidiary, FinanceAmerica Corporation (a Kansas Corporation), subsidiary of FinanceAmerica Corporation (12/8/76).[2]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate *de novo* activities (making loans, extending credit, and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company including, but not limited to, purchasing installment sales finance contracts on vehicles, mobile homes, pleasure equipment, and home improvements; acting as agent or broker for the sale of credit related life, credit related accident and disability insurance, and credit related property insurance in connection with extensions of credit by FinanceAmerica Credit Corporation) from 2103 Swift, Suite 101, North Kansas City, Missouri to 3100 South 24th Street, Kansas City, Kansas, through its indirect subsidiary, FinanceAmerica Credit Corporation (a Delaware Corporation), subsidiary of FinanceAmerica Corporation (12/8/76).[2]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate *de novo* activities (making loans, extending credit, servicing loans and other extensions of credit for itself and others and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company including, but not limited to, purchasing installment sales finance con-

tract, providing funds and/or credit services in connection with the financing of stock and floor plan inventory of distributors and dealers of consumer products; making available to such dealers at their option and cost, fire, theft, and damage insurance on a monthly reporting basis covering only the outstanding indebtedness on such floor plan inventory) from 5600 W. 95th Street, Overland Park, Kansas, to 3100 South 24th Street, Kansas City, Kansas, through its indirect subsidiaries, Finance-America Private Brands, Inc. (a Pennsylvania Corporation), Ariens Credit Corporation (a Pennsylvania Corporation), Hupp Credit Corporation (a Delaware Corporation), and Mercredit Corporation (a Pennsylvania Corporation), subsidiaries of FinanceAmerica Corporation (12/8/76).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate de novo activities (the origination and acquisition of mortgage loans including development and construction loans on multi-family and commercial properties for its own account or for the sale to others and the servicing of such loans for others) from 4425 East Broadway to 6840 East Broadway, Tucson, Arizona, through its subsidiary, Security Pacific Mortgage Corporation (12/6/76).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit and servicing loans and other extensions of credit for any person) at 572 East Green Street, Pasadena, California, through a newly formed indirect subsidiary to be called Kern Mortgage Company, a subsidiary of Wells Fargo Realty Services, Inc. (12/10/76).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; leasing personal or real property or acting as agent, broker, or adviser in leasing such property where the lease is to serve as the functional equivalent of an extension of credit to the lessee of the property and where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease, from rentals; estimated tax benefits, investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect and the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 20 percent of the acquisition costs of the property to the lessor) at 425 California Street, San Francisco, California; 100 East 42nd Street, New York, New York; 208 South LaSalle, Room 1822, Chicago, Illinois; 1770 St. James Place, Suite 205, Houston, Texas; 2230 E. Imperial Highway, Suite 510, Los Angeles, California; through a newly-formed subsidiary to be called Wells Fargo Equipment Leasing Corporation (12/8/76).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; leasing personal or real property or acting as agent, broker, or adviser in leasing such property where the lease is to serve as the functional equivalent of an extension of credit to the lessee of the property and where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease, from rentals; estimated tax benefits, investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect and the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 20 percent of the acquisition cost of the property to the lessor) at 16600 Sprague Road, Cleveland, Ohio, through its subsidiary, Wells Fargo Leasing Corporation, Wells Fargo Transport Leasing Corporation and a newly-formed subsidiary to be called Wells Fargo Equipment Leasing Corporation (12/8/76).[3]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

Berkshire Hathaway Inc., New Bedford, Massachusetts, notification of intent to acquire directly and indirectly all of the outstanding stock of United National Insurance Company and American Insurance Service, Inc., both of Philadelphia, Pennsylvania, engaged in the business of writing property and casualty insurance (12/17/76).[3]

REPORTS RECEIVED

None

* * * * *

PETITIONS FOR RULEMAKING

Petition from Department of Justice for amendment of the Rules issued pursuant to the Bank Protection Act of 1968 (Docket No. R-0071).

Board of Governors of the Federal Reserve System, January 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-940 Filed 1-10-77;8:45 am]

INDEPENDENT BANK CORP.

Order Approving Acquisition of Bank

Independent Bank Corporation, Ionia, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of the successor by consolidation to Western State Bank, Howard City, Michigan ("Bank"). The bank with which Bank is to be consolidated has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application together with all comments received, including those of the Commissioner of the Financial Institutions Bureau of the State of Michigan, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 51st largest commercial banking organization in Michigan, controls three banks with aggregate deposits of about $74 million,[1] representing less than one percent of the total commercial bank deposits in Michigan. Acquisition of Bank would increase Applicant's share of commercial bank deposits in the State only slightly and would not have a significant effect upon the concentration of banking resources in Michigan.

Bank (deposits of $11.3 million) operates three offices, one in each of three separate banking markets, the Grand Rapids banking market,[2] the Freemont-Newaygo banking market,[3] and the Montcalm County banking market,[4] which are the relevant geographic markets for purposes of analyzing the competitive effects of the proposed acquisition. Bank is the sixteenth largest of seventeen banking organizations operating in the Grand Rapids banking market, the seventh largest of seven banking organizations operating in the Freemont-Newaygo banking market, and the sixth largest of nine banking organizations operating in the Montcalm County banking market, with 0.1, 0.4, and 7.6 percent, respectively, of the total deposits in commercial banks in each market.[5]

Applicant is presently represented in each of the three relevant banking markets. In the Grand Rapids banking market, Applicant's subsidiary bank was formed de novo in 1974, and controls deposits of $2.7 million, representing 0.2 percent of the total deposits in commercial banks in the market. In the Montcalm County banking market, Applicant's subsidiary bank controls deposits of $9.3 million,[6] representing 7.9 percent of the total deposits in commercial banks in the market. In the Freemont-Newaygo banking market, Applicant's subsidiary bank controls deposits of $8.8 million, representing 13.9 percent of the total commercial bank deposits in the market. It is the Board's view that consummation of this proposal would not have any significant adverse effect on existing competition in any relevant market in view of the relative size of

[1] Unless otherwise indicated, banking data are as of December 31, 1975.

[2] The Grand Rapids banking market is approximated by the Grand Rapids Ranally Metro Area ("RMA").

[3] The Freemont-Newaygo banking market is approximated by the southern two-thirds of Newaygo County.

[4] The Montcalm County banking market is approximated by Montcalm County and the two extreme northeastern townships of Kent County which are not included in the Grand Rapids RMA.

[5] Deposits as of June 30, 1975.

[6] Deposits as of June 30, 1975.

these organizations, their small market shares, and the number of remaining banking alternatives in each market. Accordingly, on the basis of the facts of record, the Board concludes that consummation of the proposal would have a slightly adverse effect on competition, but the Board does not regard it as significant and believes that it is outweighed by the convenience and needs factors discussed below.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are satisfactory. Applicant will make available additional experienced financial personnel to assist Bank. Considerations relating to the banking factors are consistent with approval of the application. Application states that its affiliation with Bank would result in Bank's being able to draw upon Applicant's financial and managerial resources and, thus, should provide Bank with assistance in improving the quality of its services to the public, including the addition of data processing services, increased real estate mortgage lending, larger lines of credit, and the daily computation of interest on passbook savings accounts. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application and outweigh in the public interest the slightly adverse competitive effects that might result from consummation of the proposal. Based upon the foregoing and other considerations reflected in the record, it is the Board's judgment that the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective January 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-926 Filed 1-10-77;8:45 am]

[1] Voting for this action: Vice Chairman Gardner and Governors Coldwell and Lilly. Voting against this action: Governor Wallich. Absent and not voting: Chairman Burns and Governors Jackson and Partee.

LAKE VIEW BANCORP, INC.

Order Denying Formation of Bank Holding Company

Lake View Bancorp, Inc., Northbrook, Illinois, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Lake View Trust and Savings Bank, Chicago, Illinois ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a recently chartered, nonoperating corporation organized under the laws of Delaware for the purpose of becoming a bank holding company through acquisition of Bank ($329.7 million in deposits).[1] Upon acquisition of Bank, Applicant would control the 12th largest banking organization in the State of Illinois and would control approximately 0.5 percent of total deposits in commercial banks in the State.

Bank, located approximately 5 miles north of downtown Chicago, is the 11th largest of 196 commercial banks located in the Chicago banking market[2] and holds approximately 0.8 percent of the total commercial bank deposits in the market. The proposed transaction involves the transfer of ownership of Bank from an individual to a corporation owned by the same individual.[3] Applicant's principal, the present owner of Bank, is also the owner and director of two registered bank holding companies and an additional bank.[4] Each of these organizations operates in the Chicago banking market. Given the size of the banks involved and the structure of the market, it is the Board's view that the combination of these entities would have no significant adverse effects on competition.

Moreover, since the subject proposal is essentially a corporate reorganization and Applicant has no subsidiaries, it does not appear that consummation of the proposal would have any adverse effect upon existing or potential competition nor increase the concentration of banking resources, or have any other adverse effect upon any other banks in the relevant market. Thus, the Board concludes that the competitive considerations are consistent with approval of the application.

Under section 3(c) of the Act, the Board is required to consider the financial and managerial resources and future prospects of the proposed bank holding company involved and the bank to be acquired. With respect to the subject application, it appears that the financial and managerial resources and future prospects of Applicant are entirely dependent upon Bank. With respect to the managerial considerations of Applicant, they are regarded as generally satisfactory. In acting on one-bank holding company formations, the Board has been less restrictive than otherwise with respect to financial considerations in cases that involve a current or prospective owner-chief executive establishing a holding company to hold the individual's direct equity interest in the bank. The Board regards such a policy as being in the public interest in order to facilitate management succession on the community level at the nation's many smaller, independent banks. However, the Board has long held that, as a general matter, such a less restrictive policy with respect to financial considerations should not apply to those situations where the individuals are involved in more than a single one-bank holding company, such as those situations involving individuals that are engaged in establishing a series or chain of one-bank holding companies. In such situations, the Board believes that it is more appropriate to analyze such organizations under the standards that are normally applicable in analyzing acquisitions by multibank holding companies. The application of multibank holding company standards in such circumstances appears appropriate because of the interdependence of the banks in a chain of commonly-owned and one-bank holding companies and the distinct possibility that the financial and managerial resources of one or more of the banks in the chain may be used to support the operations of other members in the banking group.[5]

As part of this proposal, Applicant would assume the debt that its principal incurred in his acquisition of Bank's shares. Thus, Applicant proposes to incur a high level of acquisition debt, $27.6 million, which it expects to service over a 12-year period through Bank dividends that would appear to be in excess of half of Bank's projected annual net income, as well as through cash payments made

[1] All banking data are as of December 31, 1975.

[2] The Chicago banking market, the relevant geographic market for purposes of analyzing the competitive effects of the proposed transaction, is approximated by all of Cook and DuPage Counties and the southern portion of Lake County.

[3] Prior to the sale of Bank to William N. Lane, Applicant's principal, Bank was owned by N L Industries, Inc., New York, New York ("NL"), a diversified manufacturing company, which became a bank holding company by virute of the 1970 Amendments to the Act. On May 5, 1972, NL filed an irrevocable declaration to divest its interest in Bank by year-end 1980. Sale of Bank to Applicant's principal is intended to comply with that commitment.

[4] Northbrook Bancorp, Inc., which controls Northbrook Trust & Savings Bank, Northbrook, Illinois ($54.9 million in deposits) and Northwestco, Inc., which controls Northwest National Bank of Chicago ($312.4 million in deposits); and Pioneer Bank and Trust Co., Chicago, Illinois ($303.5 million in deposits).

[5] See Board Order dated January 15, 1974, denying the application of B H Co., Inc., Hardin, Montana (60 Fed. Res. Bull. 123 (1974)); Board Order dated October 17, 1975, approving the application of Commercial Bankshares, Inc., Grand Island, Nebraska (61 Fed. Res. Bull. 807 (1975)); and Board Order dated June 14, 1976, denying the application of Nebraska Banco, Inc., Ord, Nebraska (62 Fed. Res. Bull. 638 (1976)).

by Bank and retained by Applicant to the extent that they represent savings from filing consolidated tax returns. The projected earnings for Bank, in the Board's view, would not provide Applicant with the necessary financial flexibility to meet its annual debt servicing requirements as well as any unexpected problems that might arise at Bank. Moreover, if Bank's rate of growth approaches the growth rate of banks in its market area,[6] total capital funds of Bank as related to its total assets would become insufficient because of Applicant's inability to augment Bank's capital due to its substantial debt servicing requirements.

Furthermore, the Board notes with concern the highly leveraged condition of the two other one-bank holding companies owned by Applicant's principal as well as the high level of debt incurred by Applicant's principal in acquiring Pioneer Bank and Trust Co., Chicago, Illinois. It is also noted that the terms of the loan used to finance the purchase of Bank's shares are dependent upon a compensating balance provided by Bank, an action which the Board regards as an improper use of Bank funds. On the basis of the foregoing and other facts of record, the Board is of the view that it would not be in the public interest to approve the formation of a bank holding company with an initial debt structure that could result in the weakening of Bank's overall financial condition. Accordingly, the Board concludes that the considerations relating to the banking factors weigh against approval of the application.

As stated previously, the proposed formation of Applicant merely represents a restructuring of Bank's ownership. No significant changes in Bank's operations or in the services offered to Bank's customers are contemplated. Consequently, considerations relating to the convenience and needs of the community to be served are consistent with, but lend no weight toward approval of the application.

On the basis of all of the circumstances concerning this application, the Board concludes that the financial considerations involved in this proposal present adverse circumstances bearing upon the financial resources and future prospects of both Applicant and Bank. Such adverse factors are not outweighed by any procompetitive effects or by benefits that would result in serving the convenience and needs of the community. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[7] effective January 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-927 Filed 1-10-77;8:45 am]

[6] Applicant has projected Bank's annual growth in assets over the debt-retirement period at 4.5 per cent. The Board notes that over the last ten years the other banks in the market area of Bank have experienced an average compound rate of asset growth of 11.2 per cent.

MARION NATIONAL CORP.

Order Approving Formation of Bank Holding Company

Marion National Corporation, Marion, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 28.29 percent (or more) of the voting shares of Marion National Bank of Marion, Marion, Indiana ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a closely held Indiana corporation, is engaged in the business of owning, holding and selling various securities for its own account. Upon consummation of the proposed transaction, Applicant would cease making investments that would otherwise be impermissible under the Act and would engage only in the business, pursuant to section 4(c)(5) of the Act, of holding and investing in shares which are of the kinds and amounts eligible for investment by national banking associations under the provisions of section 5136 of the Revised Statutes (Paragraph Seventh, 12 U.S.C. 24).

Bank holds deposits of $59.3 million[1] and is the largest of nine banks in the relevant market,[2] controlling approximately 31 percent of the total deposits in commercial banks in the market. Upon acquisition of Bank, Applicant would control approximately 0.33 percent of the total commercial bank deposits in the State of Indiana.

This proposal represents a distribution of shares of Bank currently held by the estate of John L. Bell, Sr. and is essentially a reorganization of Bank's present ownership into corporate form. Thus, consummation of the proposal would have no adverse effect on existing or potential competition and would not increase the concentration of banking resources in any relevant market. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant and Bank are regarded as satisfactory. The future prospects of Applicant are dependent upon those of Bank, which are regarded as favorable. Accordingly, considerations relating to banking factors are consistent with approval.

Although consummation of the transaction would have no immediate effect on area banking needs, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective January 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-928 Filed 1-10-77;8:45 am]

[7] Voting for this action: Vice Chairman Gardner, and Governors Wallich, Coldwell, and Lilly. Absent and not voting: Chairman Burns, and Governors Jackson and Partee.

[1] All banking data are as of December 31, 1975.

[2] The relevant market is approximated by Grant County.

MICHIGAN NATIONAL CORP.

Acquisition of Bank

Michigan National Corporation, Bloomfield Hills, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Michigan National Bank-Farmington, Farmington Hills, Oakland County, Michigan, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 28, 1977.

Board of Governors of the Federal Reserve System, January 5, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-929 Filed 1-10-77;8:45 am]

PEOPLES BANKING CORP.

Acquisition of Bank

Peoples Banking Corporation, Bay City, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by consolidation to First National Bank of Lapeer, Lapeer, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

[3] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell and Lilly. Absent and not voting: Chairman Burns and Governors Jackson and Partee.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 1, 1977.

Board of Governors of the Federal Reserve System, January 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-930 Filed 1-10-77;8:45 am]

TRUST COMPANY OF GEORGIA

Order Approving Acquisition of Bank Holding Company and its Nonbank Subsidiary and Activities

Trust Company of Georgia ("Applicant"), Atlanta, Georgia, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(5) of the Act (12 U.S.C. 1842(a)(5)) to acquire through merger Central Bankshares Corporation ("Corporation"), Jonesboro, Georgia, a one-bank holding company that owns all the voting shares of Central Bank and Trust Company ("Bank"), Jonesboro, Georgia. As part of the proposed transaction Applicant would acquire all the voting shares of Corporation's nonbank subsidiary, Central Bankshares Equity Corporation ("Equity"), Jonesboro, Georgia, and would acquire direct ownership and control of the leasing activities now engaged in directly by Corporation, for which acquisitions Applicant has applied for Board approval under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)). Both the leasing activities of Corporation and the activities of Equity, which is engaged in making loans secured principally by second mortgages on single-family residences, have been determined by the Board by regulation to be activities permissible for bank holding companies under section 4(c)(8) of the Act.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with sections 3 and 4 of the Act (41 FR 46650, 46651). The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act and the considerations specified in section 4(c)(8) of the Act.

Applicant, the third largest banking organization in Georgia, directly controls Trust Company Bank, Atlanta, Georgia, which has deposits of $796 million, and indirectly controls five other banks with aggregate deposits of approximately $400 million.[1] The aggregate deposits of Applicant's six subsidiary banks represent about ten percent of the total deposits in commercial banks in the State. Acquisition of Bank, through merger of Corporation into Applicant, would increase Applicant's share of the commercial bank deposits in the State by 0.14 percent and would not have a significant effect upon the concentration of banking resources in Georgia or alter Applicant's statewide ranking.

Bank is the 25th largest of 36 banking organizations in the Atlanta banking market[2] and holds deposits of $13.7 million, representing approximately 0.2 percent of the total deposits in commercial banks in the market. Trust Company Bank, Applicant's lead bank, and Security National Bank, Applicant's acquisition of which the Board recently approved, also operate in the Atlanta banking market. Together they comprise the third largest banking organization in the market with approximately 14 percent of the total deposits in commercial banks in the market. Trust Company Bank has 37 branches in DeKalb and Fulton Counties; Security National Bank has two branches, in Cobb County; and Bank has 4 branches in Clayton County and one limited banking office there. Although it appears that consummation of the proposed transaction would eliminate some existing competition between Bank and certain of Applicant's subsidiary banks, the Board notes that the competition that would be eliminated is not of a significant magnitude and that numerous independent banking organizations would remain in the Atlanta market following the merger. In addition, Georgia law prohibits Applicant from branching into or acquiring a de novo bank in Clayton County, and Bank, as the smallest of the six commercial banks in Clayton County, is the smallest vehicle that is available to Applicant as a means of entry into that county. Accordingly, Applicant's acquisition of Bank through this proposal is regarded as a foothold entry into Clayton County. In view of the foregoing, the Board concludes that the proposed merger would have only a slightly adverse effect on banking competition.

The financial and managerial resources of Corporation, Applicant, and their respective subsidiaries, and their future prospects are regarded as generally satisfactory, and considerations relating to banking factors are consistent with approval of the application. Applicant intends to offer services not now available to customers of Bank and to improve other services presently offered by Bank. Following consummation of the acquisition, Bank would make available to its customers reduced minimum deposits on time certificates of deposit and a more favorable method of compounding interest on passbook savings accounts. In addition, Applicant will assign a trust expert to improve the range and efficiency of Bank's trust services; will cause Bank to apply for new branches and for expansion of the services offered at an existing Bank office; and will increase the capabilities of Bank's existing 24-hour tellers. Considerations relating to convenience and needs of the community to be served accordingly lend some weight toward approval of the application to acquire Corporation's interest in Bank, sufficient to outweigh the slightly adverse effects on banking competition that might result from consummation of this proposal.

With respect to the nonbanking activities of Corporation and Applicant, consummation of this proposal would eliminate some direct competition in three nonbanking activities, but the Board concludes that the effect of eliminating Corporation's nonbanking competition in the Atlanta banking market would be negligible. Corporation and Applicant's lead bank both engage in leasing activities in the market, but Corporation has not actively engaged in leasing, and has only two relatively small leases on its books. Applicant's lead bank and its mortgage banking subsidiary originate permanent loans secured by mortgages on residential real property in the Atlanta banking market, and together accounted for 1.1 percent of such mortgages recorded in 1975. Bank has also engaged in this activity, but on an extremely limited scale, and originated no such mortgages in 1975. Finally, both Bank and Equity presently compete with Applicant's subsidiaries in the origination of loans secured by second mortgages on residential real property, but in 1975 Bank and Equity together originated only $500,000 in such loans, which is an insignificant part of the market's second mortgage originations. There is no evidence in the record indicating that acquisition by Applicant of these nonbanking activities would result in an undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest. To the contrary, Equity and Corporation's leasing business, through affiliation with Applicant, may be expected to be better able to obtain funds as necessary, and to draw on Applicant's expertise in nonbanking fields, resulting in the provision of more accessible and competitive leasing and mortgage lending service to the community, and the Board regards such considerations as being in the public interest.

Based on the foregoing and other considerations reflected in the record,[3] it is the Board's judgment that considerations affecting the competitive factors under section 3(c) of the Act and the balance of the public interest factors set forth in section 4(c)(8) of the Act both favor approval of Applicant's proposal.

Accordingly, the applications are approved for the reasons summarized above. The merger shall not be consummated before the thirtieth calendar day following the effective date of this Order or later than three months after the ef-

[1] All banking and market data are as of December 31, 1975. On December 7, 1976, the Board approved Applicant's acquisition of an additional bank, Security National Bank, Smyrna, Georgia, which holds deposits of $17.4 million.

[2] The Atlanta banking market is approximated by Fulton, DeKalb, Cobb, Gwinnett, Clayton, Douglas, Henry, and Rockdale Counties.

[3] Dissenting Statement of Governor Coldwell filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

fective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority. The approval of Applicant's nonbanking applications is subject to the conditions prescribed in § 225.4 of Regulation Y and to the authority of the Board to require reports by, and make examinations of, holding companies and their subsidiaries, and to require such modifications or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,* effective January 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-931 Filed 1-10-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

AIR FORCE ROTC ADVISORY PANEL

Meeting

DECEMBER 29, 1976.

The Air Force ROTC Advisory Panel will hold a meeting on January 26-27, 1977, from 8:30 a.m. to 5 p.m. at Maxwell Air Force Base, Building 800, Montgomery, Alabama.

The purpose of the meeting is to review the status of Air Force ROTC and to discuss related management improvement programs.

Meeting is open.

For further information, contact Executive Secretary, AFROTC Advisory Committee, 697-3055.

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

[FR Doc.77-1052 Filed 1-10-77;8:45 am]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

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:

TUESDAY, FEBRUARY 8, 1977

The entire meeting commencing at 0830 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. Subject matter is to work on a study of specialized intelligence data requirements.

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

JANUARY 5, 1977.

[FR Doc.77-944 Filed 1-10-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on January 4, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed SEC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 31, 1977, and should 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, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

SECURITIES AND EXCHANGE COMMISSION

SEC is requesting an extension no change clearance of its voluntary "Annual Asset Letter" which requests one element of information from all active registered investment companies. The letter requests the amount of the company's total assets as of June 30, except that if a company is an open-end investment company the amount shown should be the total net assets. If the company is a unit investment trust it is requested to state by "yes" or "no" whether it has investments in securities of a registered investment company. SEC estimates there are approximately 1200 potential respondents and reporting burden to be 5 minutes per annual response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-888 Filed 1-10-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regulations; Temporary Reg. F-406]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a telephone rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201 (a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Tennessee Public Service Commission in a proceeding involving an application for increased intrastate revenues by the South Central Bell Telephone Company.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: January 3,1977.

JACK ECKERD,
Administrator of General Services.

[FR Doc.77-838 Filed 1-10-77;8:45 am]

[Federal Property Management Regulations; Temporary Reg. F-407]

SECRETARY OF THE TREASURY

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of the Treasury to represent the interests of the Department of the Treasury in proceedings before the New Jersey Board of Public Utility Commissioners involving telephone monitoring restrictions.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of the Treasury to represent the interests of the Department of the Treasury before the New

*Voting for this action: Vice Chairman Gardner, Governors Wallich and Lilly. Voting against this action: Governor Coldwell. Absent and not voting: Chairman Burns and Governors Jackson and Partee.

Jersey Board of Public Utility Commissioners involving review of the standards for restrictions on telephone monitoring (Docket No. 752-110).

b. The Secretary of the Treasury may redelegate this authority to any officer, official, or employee of the Department of the Treasury.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: December 30, 1976.

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

[FR Doc.77-827 Filed 1-10-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

NATIONAL ADVISORY FOOD AND DRUG COMMITTEE

Agenda Items

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of December 21, 1976 (41 FR 55587), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the National Advisory Food and Drug Committee scheduled for January 24 and 25, 1977, has set up an agenda as follows: Report of Subcommittee on Antibiotics in Animal Feeds; planning of committee business on drained weight proposal, blending issue, and other matters; National Advisory Food and Drug Committee priority choices; and consideration of research grant proposals.

Dated: January 3, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-894 Filed 1-10-77;8:45 am]

[Docket No. 76N-0471; NDA 16-899]

PARKE, DAVIS & CO.

Azaribine Tablets; Opportunity for Hearing On Proposal to Withdraw Approval of New Drug Application

This notice proposes to withdraw approval of the following new drug application (NDA) and offers opportunity for hearing on the question whether the drug has been shown to be safe for use in the treatment of psoriasis. Hearing requests are due February 10, 1977.

NDA 16-899; Triazure Tablets containing azaribine; formerly marketed by Parke, Davis & Co., Joseph Campau at the River, Detroit, MI 48232.

The NDA for Triazure was approved in February 1975 for use in the treatment of extensive, severe, recalcitrant psoriasis which has failed to respond to topical forms of therapy, with labeling that included a boxed warning concerning the reported incidence of thromboembolic events identified during the drug's investigational phase. The approval was conditioned upon the firm's conducting a postmarketing Phase IV study. The primary purpose of the Phase IV study was to acquire a definitive estimate of the drug-related incidence of thromboembolism in patients on Triazure and to determine, if possible, whether predisposing factors were important in judging patient risk. Marketing of the product was initiated in August 1975.

Progress reports on the Phase IV study were submitted on January 30, 1976, and April 26, 1976. No serious adverse reactions were reported up to January 1976 but by April there were four serious adverse reactions, two of which were thrombotic in nature. On August 6, 1976, Parke, Davis representatives presented a summary of the adverse reactions which had occurred up to that time. In the controlled Phase IV study, 65 patients had been reported, about half on control medication and half on Triazure therapy. There were two serious thrombotic events in the patients in the Phase IV trial, both in patients in the treated group. Most importantly, six reports of serious thrombotic episodes were reported in the estimated 500 to 1,000 patients taking the drug other than in the Phase IV study. In the studies conducted during the investigational phase almost half of the thromboembolic episodes were venous thrombophlebitis of the calf and were not striking in severity. Only three cases of peripheral arterial thrombosis and five cases of myocardial infarction were reported, and several of these patients had pre-existing arterial disease. In contrast, all but one of the eight cases reported postmarketing were arterial and severe and some occurred in highly unusual sites such as the arm or the toe. The unusual location of these thromboses, as well as the fact that both cases in the Phase IV study were in the treated group, strongly suggested that these episodes were drug related and their severity was alarming. Parke, Davis has withdrawn the drug from the market.

The Director of the Bureau of Drugs concludes that the occurrence of very serious thromboembolic events associated with the use of azaribine in the treatment of psoriasis outweighs the benefit that can be derived from its use.

Therefore, notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application and all amendments and supplements thereto on the ground that new evidence of clinical experience, not contained in the application or not available until after the application was approved, evaluated together with the evidence available when the application was approved, shows that the drug is not shown to be safe for use under the conditions of use on the basis of which the application was approved.

If the applicant or any other person subject to this notice elects to avail himself of the opportunity for a hearing, the shall file on or before February 10, 1977, (1) a written notice of appearance and request for hearing, and (2) the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedure and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing, and approval of the application will be summarily withdrawn.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the fact of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during working hours, Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: December 29, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-896 Filed 1-10-77;8:45 am]

National Institutes of Health

ALLERGY AND IMMUNOLOGY SUBCOMMITTEE OF THE NATIONAL ADVISORY ALLERGY AND INFECTIOUS DISEASES COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Allergy and Immunology Subcommittee of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, January 26, 1977, in Building 31, Conference Room 7A24, Bethesda, Maryland. This meeting is being held in conjunction with the regular meeting of the Allergy Council on January 27-28, 1977. While the Subcommittee meeting is closed, persons interested may attend open portions of the Council meeting.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Public Law 92-463, the meeting will be closed to the public from 7:00 p.m. until adjournment, for the review, discussion, and evaluation of individual initial pending, supplemental, and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of Council members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, Bethesda, Maryland, telephone (301) 496-5717, will furnish rosters of Council members, a summary of the meeting, and other information pertaining to the meeting.

Dated: January 5, 1977.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-881 Filed 1-10-77;8:45 am]

DIVISION OF RESEARCH GRANTS

Workshop

Notice is hereby given of a Workshop on Fetal Endocrinology to be held following meetings by the Human Embryology and Development Study Section and the Endocrinology Study Section at the Vacation Village Hotel, Mission Bay, San Diego, California, February 17, 1977, from 1:00 p.m. to adjournment and February 18, 1977, from 8:30 a.m. to 6:00 p.m.

Further information may be obtained from Dr. Samuel Moss, Executive Secretary, Human Embryology and Development Study Section, Westwood Building, Room 221, telephone 301/496-7597, and Mr. Morris M. Graff, Executive Secretary, Endocrinology Study Section, Westwood Building, Room 333, telephone 301/496-7346.

This workshop will be open to the public. Attendance by the public will be limited to space available.

Dated: December 20, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-884 Filed 1-10-77;8:45 am]

DIVISION OF RESEARCH GRANTS

Workshop

Notice is hereby given of a Workshop on Human Gait Research Sponsored by the Applied Physiology and Bioengineering Study Section, Children's Hospital Health Center, San Diego, California 92103, March 9, 1977, from 9:00 a.m. to 6:00 p.m.

Further information may be obtained from Mrs. Ileen E. Stewart, Executive Secretary, Applied Physiology and Bioengineering Study Section, Westwood Building, Room 318, telephone 301/496-7581.

This workshop will be open to the public. Attendance by the public will be limited to space available.

Dated: December 20, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-885 Filed 1-10-77;8:45 am]

NATIONAL ADVISORY RESEARCH RESOURCES COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources, February 3-5, 1977, Conference Room No. 9, Building 31, National Institutes of Health, Bethesda, Maryland 20014.

The meeting will be open to the public from 9:00 to 10:30 a.m. on Thursday, February 3, for administrative matters. On Friday, February 4, Council members will divide into five subgroups and will meet entirely in open session from 9:00 a.m. to 5:00 p.m. in Rooms 31/8A30, 31/Conf. Rm. 9, 31/5B03A, 31/5B03B, and 31/5A16 to discuss various sections of the report, "Assuring the Resources for Biomedical Research, An Evaluation of the Scientific Mission of the Division of Research Resources (DRR), NIH."

On Saturday, February 5, the Council will reconvene as a whole in open session in Building 31, Conference Room No. 6 to discuss the entire report and to make recommendations to the Director, DRR. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Public Law 92-463, the meeting of the Council will be closed to the public on February 3 from 10:30 a.m. to adjournment on that day for the review, discussion and evaluation of individual initial pending, supplemental and renewal research grant applications. The closed portion of the meeting will involve solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B39, Building 31, Bethesda, Maryland 20014, (301) 496-5545, will provide information pertaining to the meeting. Dr. James F. O'Donnell, Deputy Director, Division of Research Resources, National Institutes of Health, Room 5B03, Building 31, Bethesda, Maryland 20014 (301) 496-6611, will furnish substantive information.

(Catalog of Federal Domestic Assistance Program Nos. 13.306; 13.333; 13.337; 13.371; 13.375; National Institutes of Health.)

Dated: January 5, 1977.

SUZANNE L. FREMEAU,
Committe Management Officer,
National Institutes of Health.

[FR Doc.77-886 Filed 1-10-77;8:45 am]

NATIONAL CANCER INSTITUTE

Open Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

CHEMICAL SELECTION SUBGROUP OF CLEARINGHOUSE ON ENVIRONMENTAL CARCINOGENS

Dates: February 2, 1977; 8:30 a.m.—adjournment.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To consider criteria and procedures to be used in selecting chemicals for carcinogenicity studies and to review chemicals nominated for test.
Executive Secretary: Dr. James M. Sontag.
Address: Building 31, Room 3A16, National Institutes of Health.
Phone: 301/496-5108.

EXPERIMENTAL DESIGN SUBGROUP OF CLEARINGHOUSE ON ENVIRONMENTAL CARCINOGENS

Dates: February 3, 1977; 8:30 a.m.—adjournment.
Place: Building 31A, Conference Room 4, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To consider criteria and procedures to be used in designing carcinogenicity studies.
Executive Secretary: Dr. James M. Sontag.
Address: Building 31, Room 3A16, National Institutes of Health.
Phone: 301/496-5108.

PRESIDENT'S CANCER PANEL

Dates: February 8, 1977; 9:30 a.m.—adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To discuss the impact of cancer centers on host academic institutions. To hear reports from the Acting Director, National Cancer Institute and the Chairman, President's Cancer Panel.
Executive Secretary: Dr. Richard A. Tjalma.
Address: Building 31, Room 11A46, National Institutes of Health.
Phone: 301/496-5854.

EXECUTIVE SUBGROUP OF CLEARINGHOUSE ON ENVIRONMENTAL CARCINOGENS

Dates: February 28, 1977; 8:30 a.m.—adjournment.
Place: Building 31A, Conference Room 5, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To discuss the operation, function and objectives of the Subgroup.
Executive Secretary: Dr. James M. Sontag.
Address: Building 31, Room 3A16, National Institutes of Health.
Phone: 301/496-5108.

Dated: December 20, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-882 Filed 1-10-77;8:45 am]

Office of Education

CAREER EDUCATION PROGRAM

Closing Date for Receipt of Applications for Fiscal Year 1977

Notice is hereby given that pursuant to the authority contained in section 402 and section 406(f)(1) of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1851-53 and 1865(f)(1)) applications are being accepted from State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, associations, institutions, and indivduals for grants and assistance contracts to support projects to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models (including models in which handicapped children receive appropriate career education either by participation in regular or modified programs with nonhandicapped children or where necessary in specially designed programs for handicapped children whose handicaps are of such severity that they cannot benefit from regular or modified programs). Notice is also hereby given that pursuant to the authority contained in section 402 and section 406(f)(2) of Pub. L. 93-380 (20 U.S.C. 1851-53 and 1865(f)(2)) applications are being accepted from State educational agencies for grants and assistance contracts to support projects for developing State plans for the implementation of career education programs in the local educational agencies of the States.

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, Grants and Procurement Management Division, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.554. 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 the closing date 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, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Application routing.* All applicants must furnish an information copy of their application to the State educational agency of the State within which the applicant is located. This information copy must be submitted to the State Coordinator of Career Education, as designated by the Chief State School Officer, concurrently with the submission of the application to the U.S. Office of Education. The application submitted to the U.S. Office of Education must contain a statement that this has been accomplished. State educational agencies wishing to submit advice and comment on any application originating within their State may do so by forwarding such advice and comment to the Office of Career Education, U.S. Office of Education, Room 3100, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. 20202.

D. *Application instructions and forms.* Applications must be prepared and submitted in accordance with instructions and forms which may be obtained from the Office of Career Education, U.S. Office of Education, Room 3100, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. 20202.

E. *Program information.* (1) It is anticipated that grants and assistance contracts will be awarded in each of the categories specified in 45 CFR 160d.5, with the total amount of the awards in each category being approximately as follows: (a) incremental improvements in K-12 career education programs—$300,000, (b) demonstrations in such settings as the senior high school—$100,000, the community college—$100,000, adult and community education agencies—$100,000, and institutions of higher education—$100,000, (c) demonstrations for such special segments of the population as handicapped—$500,000, gifted and talented—$250,000, minority youth—$100,000, and low income youth—$100,000, and to reduce sex stereotyping in career choices—$100,000, (d) demonstrations of the training and retraining of persons for conducting career education programs—$1,100,000, and (e) communication of career education philosophy, methods, program activities, and evaluation results to career education practitioners and to the general public—$1,025,000. It is expected that a total of about 38 awards will be made in the above categories and that the average amount per award will be approximately $100,000. All of these will be new awards; no funds are reserved for continuation awards. Projects are normally one year in duration.

(2) It is anticipated that grants and assistance contracts will be awarded for the State plan projects specified in 45 CFR 160d.13, with the total amount of the awards for this category being approximately $2,500,000. It is expected that up to 56 awards will be made in this category and that the average amount per award will be approximately $45,000. All of these will be new awards; no funds are reserved for continuation awards. Projects are normally one year in duration.

(3) In addition to the grants and assistance contracts awarded pursuant to this notice, it is anticipated that approximately $3,760,000 worth of procurement contracts in career education will be awarded during Fiscal Year 1977. Requests for proposals for these procurement contracts will be published in the Commerce Business Daily at a later date.

F. *Applicable regulations.* The regulations applicable to the Career Education Program are:

(1) The Office of Education's General Provisions Regulations, which were published in the FEDERAL REGISTER on November 6, 1973, as amended (45 CFR Parts, 100, 100a, and appendices).

(2) The regulation for the Special Projects Act, which was published in the

FEDERAL REGISTER on July 15, 1976 (45 CFR Part 160, especially Part III in the Appendix thereof).

(3) The regulation for the Career Education Program, which was published in the FEDERAL REGISTER on May 13, 1976 (45 CFR Part 160d).

(20 U.S.C. 1851–1853 and 1865.)

(Catalog of Federal Domestic Assistance Number 13.554; Career Education Program.)

Dated: December 10, 1976.

EDWARD AGUIRRE,
Commissioner of Education.

[FR Doc.77-823 Filed 1-10-77;8:45 am]

EMERGENCY SCHOOL AID

Closing Date for Receipt of Applications

Under the authority of section 708(a) Of the Emergency School Aid Act (Title VII of Pub. L. 92–318, as amended; 20 U.S.C. 1601–1619), the Commissioner invites applications for assistance from local educational agencies and from other public and private nonprofit organizations, as appropriate, for—

(1) Special arts projects (see 45 CFR 185.91 to 185.91–3);

(2) Special mathematics projects (see 45 CFR 185.92 to 185.92–4);

(3) Special student concerns projects (see 45 CFR 185.93 to 185.93–4); and

(4) Other special projects to be conducted by (a) public agencies in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, and (b) local educational agencies in support of voluntary plans described in section 706(a)(1)(D) of the statute and 45 CFR 185.11(b)(4) (providing for enrollment of nonresident children). (See 45 CFR 185.94 to 185.94–4.) Other special project applications will be invited by future notice of closing date.

Applications must be received by the United States Office of Education Application Control Center in Washington, D.C., on or before March 7, 1977.

A. *Applications sent by mail.* Applications sent by mail should be addressed as follows: United States Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202; Attention: 13.532D (for special arts projects); Attention: 13.532E (for special mathematics projects); Attention: 13.532F (for special student concerns projects); or Attention: 13.532C (for other special projects).

An application sent by mail will be considered to have been received on time if: (1) The application was sent to the appropriate office by registered or certified mail not later than March 2, 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 the closing date by the appropriate United States Office of Education mail room. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail room 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.* Hand delivered applications must be taken to the United States Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time, except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information.* (1) It is anticipated that $7,750,000 will be awarded to support projects submitted in response to this notice, as follows: (a) Special arts projects, $1,500,000; (b) Special mathematics projects, $750,000; (c) Special student concerns projects, $1,200,000; and (d) Other special projects, $4,300,000.

Additional special student concerns projects submitted in response to this notice may be funded as other special projects if the Commissioner determines that these projects will make substantial progress toward meeting the purposes of the statute.

The balance of the sums appropriated by Pub. L. 94–439 for section 708(a) of the statute will be awarded to support projects submitted in response to other notices of closing date.

(2) In last year's funding cycles: (a) Fifteen awards in an average amount of $94,475 were made for special arts projects; ten of these awards were made to applicants which received assistance for this purpose in fiscal year 1975;

(b) Two awards in an average amount of $475,000 were made for special mathematics projects; both awards were made to applicants which received assistance for this purpose in fiscal year 1975;

(c) Seven awards in an average amount of $201,931 were made for special student concerns projects; six of these awards were made to applicants which received assistance for this purpose in fiscal year 1975; and

(d) Of 41 additional awards made for special projects, five, in an average amount of $513,734, were made for projects in jurisdictions other than States and seven, in an average amount of $194,567, were made for projects in support of voluntary plans to enroll nonresident children. Seven of these twelve awards were made to applicants which received special projects assistance in fiscal year 1975.

(D) *Project periods.* Grant awards made pursuant to this notice will be for projects beginning no earlier than July 1, 1977 and ending no later than June 30, 1978, except that awards for special student concerns projects will be made for projects beginning no earlier than July 1, 1977 and ending no later than May 30,1979.

E. *Resubmitted applications.* As required by section 710(d)(2) of the Emergency School Aid Act (20 U.S.C. 1609(d)(2)), applications from local educational agencies which are not approvable in whole or in part will be returned to applicants for modification and resubmission, within a reasonable period of time, at the applicants' option.

F. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the following regulations: (1) Regulations relating generally to programs under the Emergency School Aid Act (45 Code of Federal Regulations, Part 185) and, in particular, to special projects under that statute (Subpart J of that Part); and (2) The Office of Education General Provisions regulations (45 Code of Federal Regulations, Parts 100, 100a, and appendices), except to the extent that these regulations are inconsistent with 45 CFR Part 185.

G. *Program information and forms.* Information and application forms may be obtained from the Special Projects Branch, Equal Educational Opportunity Programs, Room 2017, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Dated: December 27, 1976.

(Catalog of Federal Domestic Assistance Number 13.532, Emergency School Aid—Special Projects.)

(20 U.S.C. 1601–1619.)

JOHN W. EVANS,
Acting Commissioner of Education.

[FR Doc.77-824 Filed 1-10-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Public Hearing

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 National Advisory Council on Bilingual Education will be held from 9:00 a.m. to 4:30 p.m. on Thursday, January 27 and from 8:15 a.m. to 4:45 p.m. on Saturday, January 29 in the Hindsman Conference Room of the Southwest Educational Development Laboratory, 211 East 7th Street, Austin, Texas. On Friday, January 28, 1977, the Council will hold public hearings from 9:00 a.m. to 4:30 p.m., in the fifth floor conference room.

The National Advisory Council on Bilingual Education is established pursuant to section 732(a) of the Bilingual Education Act (20 U.S.C. 880b–11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

The meetings shall be open to the public. The proposed agenda includes:

JANUARY 27, 1977

Approval of minutes; Reports from Standing Committees and Program Delegate; Issue Papers; Presentation of work statement on future Issue Papers; New Business; and Consideration of proposed legislative changes due in May, 1977.

JANUARY 28, 1977

Consonant with the Council's charge to provide advice on matters relating to the ad-

ministration of the aforementioned Act, testimony will be heard on the following topics: (1) Maintenance vs. Transitional Bilingual Education; (2) Service vs. Demonstration vs. Start-Up Costs; (3) Serving Diverse Language Groups; and (4) Research Needs.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis; (2) Witnesses shall limit their testimony to twenty minutes. Ten to fifteen minutes of formal presentation followed by five to ten minutes of questioning from Council members; (3) Two or more persons from the same organization shall designate one person to speak for the group; (4) Witnesses shall present a written synopsis of their oral presentation. Witnesses who do not provide such a synopsis will be heard after all who have written synopsis are heard; (5) Witnesses who have testified at previous hearings will be heard after all others; (6) Witnesses may address the Council in either English or in their native language. The Written synopsis of the oral presentation must be submitted in English. Witnesses who have chosen to give testimony in their native language may submit their written synopsis in that language in addition to their synopsis in English; and (7) All testimony shall be tape recorded.

JANUARY 29, 1977

Meeting of the following subcommittees: Budget: review of FY 1977 Budget; Legislation: Proposed legislative changes; Nov. 1 Report to Congress: review of 1977 Annual Report schedule; Public Hearings: previous day's hearings; and Non-Spanish Minority Languages: outline and content of issue paper.

In the event that the tentative agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Records shall be kept of all meetings and shall be available for public inspection in Room 421, Reporter's Building, 300 7th Street, SW., Washington, D.C. 20202.

Signed at Washington, D.C., on January 6, 1977.

JOHN C. MOLINA,
Director,
Office of Bilingual Education.

[FR Doc.77-959 Filed 1-10-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEW MEXICO

Proposed Withdrawal and Reservation of Lands for Military Purposes

The United States Army, Corps of Engineers, on behalf of the Department of the Army, filed application NM-29537 on December 31, 1976, for the withdrawal of lands described below from settlement, sale, location, or entry under the public land laws, including the mining and the mineral leasing laws. The applicant desires the lands for military purposes in connection with the McGregor Range (Fort Bliss) air support and other compatible uses.

Until February 10, 1977, all persons who wish to submit comments, suggestions, or objections, in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 (hereinafter referred to as the Act), an opportunity for a public hearing is hereby afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, within the 30-day period allowed. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The lands involved are presently segregated from the operation of the public land laws by virtue of withdrawals effected by Public Land Orders No. 1470 of August 21, 1957, and No. 1547 of November 7, 1957, which withdrawals will expire on August 20, and November 6, 1977, respectively. Under section 204(b) of the Act the segregation will remain in effect for a period of 2 years from date of publication of this notice unless the Congress approves the withdrawal prior to that date, in which case the segregation would be continued in accordance with the legislation.

The authoried officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration of the Secretary of the Interior who will submit a legislative proposal to the Congress of the United States for its consideration to determine whether the lands will be withdrawn as requested by the applicant agency.

The lands involved in the application are described below. The total acreage of the area has been furnished by the Corps of Engineers and is delineated on a map designated M1-1-0005, approved 11 June 1956, a copy of which is on file in Case No. NM-29537, New Mexico State Office, Bureau of Land Management.

All correspondence in connection with this withdrawal should be directed to the Bureau of Land Management, Department of the Interior, Chief, Division of Technical Services, P.O. Box 1449, Santa Fe, New Mexico 87501.

NEW MEXICO PRINCIPAL MERIDIAN

T. 26 S., R. 6 E.,
- Sec. 1, N½SE¼ lying south and east of the Southern Pacific Railway right-of-way;
- Sec. 25, S½N½ and E½SE¼;
- Sec. 26, S½NE¼ and S½SE¼;
- Sec. 35, N½NE¼;
- Sec. 36, lots 5, 6, 7, 8 and N½N½.

T. 24 S., R. 7 E.,
- Secs. 12, 13, 14 and 23, those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 24 and 25;
- Secs. 26, 27 and 34, those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 35 and 36.

T. 25 S., R. 7 E.,
- Secs. 1 and 2;
- Sec. 3, E½ and that part of the W½ lying east of the Southern Pacific Railway right-of-way;
- Secs. 4 and 9, those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 10, 11, 12, 13 and 14;
- Sec. 15, that part lying east and south of the Southern Pacific Railway right-of-way;
- Sec. 20, NE¼NE¼;
- Sec. 21, NW¼NW¼;
- Sec. 23;
- Sec. 24, N½, SW¼, E½SE¼ and SW¼SE¼;
- Secs. 25, 26 and 27;
- Sec. 28, S½S½;
- Sec. 30, that part lying east of the Southern Pacific Railway right-of-way;
- Sec. 31, lots 5, 6 and 7;
- Sec. 32, lots 1, 2, 3, 4, N½ and N½S½;
- Sec. 34, lots 1, 2, NE¼ and N½SE¼;
- Sec. 35, lots 1, 2, 3, 4, N½ and N½S½;
- Sec. 36, lots 1, 2, 3, 4, N½ and N½S½.

T. 26 S., R. 7 E.,
- Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
- Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
- Sec. 3, lots 1, 2, S½NE¼ and SE¼;
- Sec. 6, lots 3, 6 and SE¼NW¼;
- Sec. 10;
- Sec. 11, E½ and NW¼;
- Secs. 12 and 13;
- Sec. 14, E½ and SW¼;
- Sec. 15, NE¼, N½NW¼, SE¼NW¼ and SW¼SW¼;
- Secs. 16 and 17;
- Sec. 18, lots 3, 4, E½ and E½SW¼;
- Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
- Secs. 23, 24, 25, 26, 27 and 28;
- Sec. 29, N½;
- Sec. 30, lots 1, 2, NE¼ and E½NW¼;
- Sec. 31, lots 2, 3, 4 and 5;
- Sec. 32, lots 1, 2, 3, 4 and N½N½;
- Sec. 33, lots 1, 2, 3, 4 and N½N½;
- Sec. 34, lots 1, 2, 3, 4 and N½N½;
- Sec. 35, lots 1, 2, 3, 4 and N½N½;
- Sec. 36, lots 1, 2, 3, 4 and N½N½.

T. 22 S., R. 8 E.,
- Secs. 13, 23 and 24, those parts lying east of the Southern Pacific Railway right-of-way;
- Sec. 25, lots 1 to 16, inclusive;
- Sec. 26, lots 1, 2, 6 and that part of S½ lying east of the Southern Pacific Railway right-of-way;
- Secs. 34 and 35, those parts lying east of the Southern Pacific Railway right-of-way;
- Sec. 36.

T. 23 S., R. 8 E.,
- Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
- Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
- Secs. 3, 9 and 10, those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 11, 12, 13, 14 and 15;
- Secs. 16, 20 and 21, those parts lying east and south of the Southern Pacific Railway right-of-way;

Secs. 22, 23, 24, 25, 26, 27 and 28;
Secs. 29, 31 and 32, those parts lying east and south of the Southern Pacific Railway right-of-way;
Secs. 33, 34, 35 and 36.

T. 24 S., R. 8 E.,
Sec. 1, lots 1, 2, 3, 4, SE¼NE¼, S½NW¼ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Secs. 6 and 7, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 8 to 14, inclusive;
Sec. 15, N½, N½S½, SE¼SW¼ and S½SE¼;
Secs. 16 and 17;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 to 36, inclusive.

T. 25 S., R. 8 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32, 33, 34, 35 and 36.

T. 26 S., R. 8 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 26, inclusive;
Sec. 27, E½, E½W½, W½NW¼ and NW¼SW¼;
Sec. 28, N½N½, NE¼SW¼ and NW¼SE¼;
Sec. 29, N½, N½S½, S½SW¼ and SW¼SE¼;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, 5, N½NE¼ and NE¼NW¼;
Sec. 33, lot 4 and NW¼NW¼;
Sec. 34, N½NE¼ and NE¼NW¼;
Sec. 35, lots 1, 2, 3, 4 and N½N½;
Sec. 36, lots 1, 2, 3, 4 and N½N½.

T. 19 S., R. 9 E.,
Sec. 2, lots 1 to 12, inclusive and S½;
Secs. 3 and 10, all those parts lying east of the Southern Pacific Railway right-of-way;
Sec. 11, W½;
Sec. 12, E½;
Secs. 13 and 14;
Secs. 15 and 22, all those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 23, 24, 25 and 26;
Secs. 27 and 34, all those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 35 and 36.

T. 20 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Secs. 3 and 10, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 11, 12, 13 and 14;
Secs. 15 and 21, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 22 to 27, inclusive;
Secs. 28 and 33, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 34, 35 and 36.

T. 21 S., R. 9 E.,
Sec. 1, lots 1 to 12, inclusive and S½;
Sec. 2, lots 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12 and S½;
Sec. 3, lots 1 to 12, inclusive and S½;
Secs. 4 and 9, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 10 to 15, inclusive;
Sec. 16, E½;
Sec. 21, that part lying east of the Southern Pacific Railway right-of-way;
Secs. 22, 23, 24 and 25;
Sec. 26, NE¼, W½, N½SE¼ and SE¼SE¼;
Sec. 27;
Secs. 28, 32 and 33, those parts lying east of the Southern Pacific Railway right-of-way;
Sec. 34, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 35, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 36, lots 1, 2, 3, 4, N½ and N½S½.

T. 22 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Secs. 5 and 8, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 9 to 14, inclusive;
Sec. 15, E½, E½NW¼, NW¼NW¼ and SW¼;
Secs. 16 and 17;
Sec. 18, that part lying east of the Southern Pacific Railway right-of-way;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 and 21;
Sec. 22, E½;
Secs. 23, 24, 25 and 26;
Sec. 27, E½;
Secs. 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 and 33;
Sec. 34, E½;
Secs. 35 and 36.

T. 23 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, S½NE¼ and SE¼;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 8;
Sec. 9, W½NE¼ and W½;
Sec. 10, E½, NW¼NW¼, SE¼NW¼ and SW¼;
Secs. 11 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20, 21 and 22;
Sec. 23, N½, SW¼, E½SE¼ and SW¼SE¼;
Secs. 24 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 to 36, inclusive.

T. 24 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8, 9 and 10;
Sec. 11, W½NE¼, SE¼NE¼, W½ and SE¼;
Sec. 12, SW¼SW¼;
Secs. 13 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 26, inclusive;
Sec. 27, W½NE¼, SE¼NE¼, W½ and SE¼;
Secs. 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 to 36, inclusive.

T. 25 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8, 9 and 10;
Sec. 11, W½NE¼, SE¼NE¼, W½ and SE¼;
Sec. 12, SW¼SW¼;
Secs. 13 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 26, inclusive;
Sec. 27, W½NE¼, SE¼NE¼, W½ and SE¼;
Secs. 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 to 36, inclusive.

T. 26 S., R. 9 E.,
Sec. 1, NE¼, W½ and W½SE¼;
Secs. 2, 3 and 4;
Sec. 5, E½;
Sec. 6, lots 1, 2, 3, 4 and E½W½;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 16, inclusive;
Sec. 17, N½ and SW¼;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 20, W½;
Sec. 21, E½ and SW¼;
Secs. 22 and 23;
Sec. 24, N½, N½S½, SE¼SW¼ and S½SE¼;
Secs. 25 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, 5, N½NE¼ and NE¼NW¼;
Sec. 32, lots 1, 2, 3, 4 and N½N½;
Sec. 33, lots 1, 2, 3, 4 and N½N½;
Sec. 34, lots 1, 2, 3, 4 and N½N½;
Sec. 35, lots 1, 2, 3, 4 and N½N½;
Sec. 36, lots 1, 2, 3, 4 and N½N½.

T. 19 S., R. 10 E.,
Sec. 7, W½ and S½SE¼;
Sec. 8, SW¼SW¼;
Sec. 9, SW¼;
Sec. 10, E½;
Sec. 11;
Sec. 12, W½ (unsurveyed);
Sec. 13, lots 1, 2, 3, 4 and W½;
Sec. 14, NE¼ and S½;
Secs. 15 and 16;
Sec. 17, W½W½;
Secs. 18 to 22, inclusive;
Sec. 23, E½ and SW¼;
Sec. 24, lots 1, 2, 3, 4 and W½;
Sec. 25, lots 1, 2, 3, 4 and W½;
Secs. 26 to 34, inclusive;
Sec. 36, lots 1, 2, 3, 4 and W½.

T. 20 S., R. 10 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, S½NE¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4 and E½;
Secs. 8 and 9;
Secs. 11 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4 and E½;
Sec. 19, lots 1, 2, 3, 4 and E½;
Secs. 22 to 27, inclusive;
Sec. 30, lots 1, 2, 3, 4 and E½;
Secs. 32 to 36, inclusive.

T. 21 S., R. 10 E.,
Sec. 1, lots 1 to 12, inclusive and S½;
Sec. 2, lots 1 to 12, inclusive and S½;
Sec. 3, lots 1 to 12, inclusive and S½;
Sec. 4, lots 1 to 12, inclusive and S½;
Sec. 5, lots 1 to 12, inclusive and S½;
Sec. 6, lots 1 to 21, inclusive and SE¼;
Sec. 7, lots 1 to 12, inclusive and E½;
Secs. 8 to 14, inclusive;
Sec. 15, SE¼;
Secs. 16 and 17;
Sec. 18, lots 1 to 12, inclusive and E½;
Sec. 19, lots 1 to 12, inclusive and E½;
Secs. 20, 21 and 22;
Sec. 23, N½, SW¼ and N½SE¼;
Secs. 24 and 25;
Sec. 26, W½NE¼, W½ and SE¼;
Secs. 27, 28 and 29;
Sec. 30, lots 1 to 12, inclusive and E½;
Sec. 31, lots 1 to 14, NE¼ and N½SE¼;
Sec. 32, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 33, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 34, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 35, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 36, lots 1, 2, 3, 4, N½ and N½S½.

T. 22 S., R. 10 E.,
Sec. 1, lots 5 to 12, inclusive and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 5 to 12, inclusive and S½;
Sec. 4, lots 1 to 12, inclusive and S½N½;
Sec. 5, lots 1, 2, 3, 4 and S½N½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 8;
Sec. 9, lots 1 to 16, inclusive;
Secs. 10 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 5 to 12, inclusive, NE¼ and E½NW¼;
Sec. 20, lots 1 to 15, inclusive;
Sec. 21, lots 1 to 8, inclusive and E½;
Secs. 22 to 29, inclusive;
Sec. 30, lots 5 to 20, inclusive;
Sec. 31, lots 5 to 20, inclusive;
Secs. 32 to 36, inclusive.

7. 23 S., R. 10 E.,
Sec. 1, lots 1, 2, 3, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, N½NE¼, SW¼NE¼, E½W½ and SE¼;
Sec. 20, N½NE¼, SW¼NE¼, W½ and SE¼;
Secs. 21 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 and 33;
Sec. 34, E½, E½W½, NW¼NW¼ and W½ SW¼;
Secs. 35 and 36.

T. 24 S., R. 10 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 5 to 20, inclusive;
Sec. 4, lots 5 to 20, inclusive;
Sec. 5, lots 3 to 8, inclusive, S½NW¼ and S½;
Sec. 6, lots 1, 2, 8, 9, 10, 11, 12, 13, 14, 15, S½NE¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 and 9;
Sec. 10, E½, N½NW¼ and SW¼;
Sec. 11, lots 1 to 16, inclusive;
Sec. 12, lots 1, 2, 3, 4, E½ and NW¼;
Sec. 13, lots 1 to 16, inclusive;
Secs. 14, 15, 16 and 17;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20, 21, 22 and 23;
Sec. 24, lots 1 to 16, inclusive;
Sec. 25, lots 1 to 16, inclusive;
Secs. 26, 27, 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 32, E½, W½NW¼, SE¼NW¼ and SW¼;
Secs. 33, 34, 35 and 36.

T. 25 S., R. 10 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 8, SW¼;
Sec. 9, S½;
Sec. 10, S½S½;
Sec. 11, N½;
Secs. 12 and 13;
Sec. 14, E½SW¼, NW¼SW¼ and SE¼;
Secs. 15, 16 and 17;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20, 21 and 22;
Sec. 23, E½E½, NW¼NE¼ and W½SE¼;
Sec. 24, N½ and SW¼;
Sec. 26, E½ and S½SW¼;
Secs. 27, 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 and 33;
Sec. 35.

T. 26 S., R. 10 E.,
Secs. 2, 3, 4 and 5;
Sec. 6, lots 1, 2, E½ and E½W½;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 and 9;
Sec. 10, NW¼;
Sec. 16, N½ and SW¼;
Sec. 17;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 20;
Sec. 21, NW¼;
Sec. 29, N½ and SW¼;
Sec. 30, lot 1, NE¼ and NE¼NW¼;
Sec. 32, lots 3, 4 and N½NW¼.

T. 20 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 to 36, inclusive.

T. 21 S., R. 11 E.,
Sec. 1, lots 1 to 12, inclusive and S½;
Sec. 2, lots 1 to 12, inclusive and S½;
Sec. 3, lots 1 to 12, inclusive and S½;
Sec. 6, lots 1 to 14, inclusive, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 20;
Secs. 25 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1 to 7, inclusive, NE¼, E½ NW¼, NE¼SW¼ and N½SE¼;
Sec. 32, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 33, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 34, lots 1, 2, 3, 4, NW¼NE¼, N½NW¼, S½N½ and N½S½;
Sec. 35, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 36, lots 1, 2, 3, 4, N½ and N½S½.

T. 22 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 12, inclusive;
Secs. 15, 16 and 17;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 to 36, inclusive.

T. 23 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, W½E½, E½W½ and SE¼SE¼;
Secs. 32 to 36.

T. 24 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 8 to 23, inclusive;
Sec. 7, lots 5 to 20, inclusive;
Sec. 8, lots 1 to 16, inclusive;
Secs. 9, 10 and 11;
Sec. 12, NW¼;
Sec. 14, NW¼;
Secs. 15, 16 and 17;
Sec. 18, lots 5 to 20, inclusive;
Sec. 19, lots 5 to 20, inclusive;
Sec. 20, lots 1 to 8, inclusive and W½;
Sec. 21, lots 1 to 16, inclusive;
Sec. 22, lots 3, 4, 5, 6, 11, 12, 13 and 14;
Sec. 28, N½ and SW¼;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 32.

T. 25 S., R. 11 E.,
Sec. 5, lots 3, 4, S½NW¼ and SW¼;
Sec. 6, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 7, N½ and SW¼;
Sec. 18, NW¼.

T. 20 S., R. 12 E.,
Sec. 2, S½;
Sec. 3, lots 1, 2, 3, 4 and S½N½;
Sec. 5, lots 1, 2 and S½NE¼;
Sec. 7, NW¼NW¼;
Sec. 8, NW¼;
Sec. 9, SE¼NE¼;
Sec. 10, N½SW¼ and SE¼SE¼;
Sec. 11, E½NW¼ and NE¼SW¼;
Sec. 15, E½NE¼ and SE¼SE¼;
Sec. 16;
Sec. 22, W½SW¼;
Sec. 24, lot 3 and NW¼SE¼;
Sec. 26, SE¼NE¼, S½NW¼, N½SW¼ and NW¼SE¼;
Sec. 27, SW¼NE¼, S½NW¼ and N½S½;
Sec. 28, NW¼NE¼, N½NW¼, S½N½ and N½S½;
Secs. 30 and 32;
Sec. 36, lots 1, 2, 3, 4, W½E½ and W½.

T. 21 S., R. 12 E.,
Sec. 1, lots 1 to 12, inclusive and S½;
Sec. 2, lots 1 to 12, inclusive and S½;
Sec. 3, lots 1, 2, 3 and 4;
Sec. 4, lots 1, 2, 3, 4, 5, 6, 11, 12 and SW¼;

Sec. 5, lots 1 to 12, inclusive and S½;
Sec. 6, lots 1 to 11, inclusive and SE¼;
Sec. 7, lots 1, 2, 3, 4 and E½;
Secs. 8, 11, 12, 13, 14, 15, 16 and 17;
Sec. 18, lots 1, 2, 3, 4 and E½;
Sec. 19, lots 1, 2, 3, 4 and E½;
Secs. 20 and 21;
Sec. 22, N½;
Secs. 23 to 27, inclusive;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4 and E½;
Sec. 31, lots 1, 2, 3, 4 and E½;
Secs. 32, 34, 35 and 36.

T. 22 S., R. 12 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, S½NE¼ and SE¼;
Secs. 8, 9, 10, 11 and 12;
Secs. 14, 15, 16 and 17;
Sec. 18, E½;
Sec. 19, lots 1, 2, 3, 4 and E½;
Secs. 20, 21 and 22;
Secs. 24 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4 and E½;
Sec. 31, lots 1, 2, 3, 4 and E½;
Secs. 32 to 36, inclusive.

T. 23 S., R. 12 E.,
Secs. 1 to 5, inclusive;
Sec. 6, lots 1, 2, 3, 4 and E½;
Sec. 7, lots 1, 2, 3, 4 and E½;
Secs. 8 to 12, inclusive;
Sec. 14, N½;
Sec. 15, N½, N½S½ and S½SW¼;
Sec. 17;
Sec. 18, lots 1, 2, 3, 4 and E½;
Sec. 19, lots 1, 2, 3, 4 and E½;
Secs. 20 and 21;
Sec. 22, W½NE¼, SE¼NE¼ and W½;
Sec. 28, NW¼;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4 and E½;
Sec. 31, lots 1, 2, 3, 4, 5, 6, NE¼ and NE¼ SE¼;
Sec. 32, NW¼.

T. 24 S., R. 12 E.,
Sec. 6, lots 10, 11, 12 and 13.

T. 20 S., R. 13 E.,
Sec. 7, lots 3 and 4;
Sec. 16, S½;
Sec. 17, S½;
Sec. 18, lots 1, 2, 3, 4, E½SW¼ and SE¼;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 21, NE¼;
Sec. 22, E½, NW¼ and E½SW¼;
Sec. 25, E½NW¼ and SW¼;
Sec. 26, SW¼NE¼ and E½SE¼;
Secs. 27 and 28;
Sec. 29, S½;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32, 33 and 34;
Sec. 35, SE¼NW¼, W½W½ and NE¼ SW¼;
Sec. 36.

T. 21 S., R. 13 E.,
Sec. 1, lots 8, 9, 10, 12 and S½;
Sec. 2, lots 1 to 12, inclusive and S½;
Sec. 3, lots 1 to 12, inclusive and S½;
Sec. 4, lots 1 to 12, inclusive and S½;
Sec. 5, lots 1 to 12, inclusive and S½;
Sec. 6, lots 1 to 14, inclusive, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20, 21, 22 and 23;
Sec. 24, N½ and SW¼;
Sec. 25, NW¼;
Secs. 26, 27, 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32, 33 and 34;
Sec. 35, N½ and SW¼.

T. 22 S., R. 13 E.,
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 3, 4, S½NW¼ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 9, E½ and SW¼;
Sec. 10, W½;
Sec. 16, NW¼ and N½SW¼;
Sec. 20;
Sec. 21, NW¼;
Sec. 29, N½ and SW¼;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 32, NW¼.

T. 23 S., R. 13 E.,
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼ and E½SW¼.

T. 21 S., R. 14 E.,
Sec. 5, lots 1, 2, 3, 8 and SW¼;
Sec. 6, lots 1 to 14, inclusive, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, NE¼ and E½W½;
Sec. 18, lots 1, 2 and E½NW¼.

The lands described above aggregate 608,384.87 acres, more or less in Otero County.

The following described lands lie within Lincoln National Forest:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

LINCOLN NATIONAL FOREST

T. 19 S., R. 10 E.,
Sec. 1, SW¼ and W½W½SE¼ (unsurveyed);
Sec. 12, W½W½E½ (unsurveyed).

T. 19 S., R. 11 E.,
Sec. 6, lots 6, 7, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 8;
Sec. 9, S½;
Sec. 14, SW¼;
Secs. 15, 16 and 17;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20, 21, 22 and 23;
Sec. 24, S½;
Sec. 25, E½, NW¼, W½SW¼ and SE¼ SW¼;
Secs. 26, 27, 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 and 33;
Sec. 34, N½;
Sec. 35, E½, NW¼, W½SW¼ and SE¼ SW¼;
Sec. 36.

T. 19 S., R. 12 E.,
Sec. 29, S½;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 32.

The areas described above aggregate approximately 18,004.06 acres in Otero County.

MICHAEL T. SOLAN,
Chief, Division of Technical Services.

[FR Doc.77-1023 Filed 1-10-77;8:45 am]

Office of the Secretary

[Order No. 2997]

ESCROW ACCOUNT

Establishment of Deposit, Investment and Payment Policies

Section 1.—*Purpose.* The purpose of this order is (a) to establish policy for the deposit, investment, and payment of monies in the escrow account as authorized and required by section 2 of the Act of January 2, 1976 (hereinafter referred to as the Act), and (b) to delegate to the Commissioner of Indian Affairs (Commissioner) the responsibility of setting up the account, preparing guidelines for administering the account, and making investments and disbursements of the monies in the account.

Section 2.—*Delegation of Authority.* The Commissioner is hereby delegated the responsibility of (a) setting up the escrow account, (b) preparing guidelines for administering the account and crediting the investment income to the account, (c) publishing the guidelines in the FEDERAL REGISTER, and (d) making investments and disbursements of the account.

The heads of all Interior Offices and Bureaus administering lands in Alaska subject to section 2 of the Act are directed to deposit appropriate proceeds to the escrow account and devise and maintain a record, as described in section 5(b) of this order and guidelines to be established pursuant to this order. Other Federal Agencies administering lands subject to section 2 of the Act and the State of Alaska are requested to comply with this order and the guidelines to be established pursuant to this order.

Section 3.—*Scope.* This order deals with all proceeds collected from contracts, leases, permits, rights-of-way, or easements pertaining to lands or resources in lands withdrawn for Native selection. This order does not affect the responsibility of any Office, Bureau, or Agency under appropriate law for determining and collecting amounts due from such contracts, leases, permits, rights-of-way, or easements.

Section 4.—*Definitions.* (a) *Escrow account* means an account entitled "Deposits of Proceeds of Lands Withdrawn for Native Selection, Bureau of Indian Affairs," which has been established in the Treasury of the United States pursuant to section 2(a) of the Act for deposit, withdrawal, and disbursement of proceeds.

(b) *Affected lands* means those lands that on January 1, 1976, were withdrawn by or pursuant to sections 11, 14, 16, 17 (d)(2)(E), or 19 of the Alaska Native Claim Settlement Act (ANCSA) for Native selection and, from the time of withdrawal, lands subsequently withdrawn for Native selection by, under, or pursuant to the ANCSA and amendments thereto, and for so long as these lands remain withdrawn for Native selection and conveyance.

(c) *Withdrawn* means that lands have been set aside either by section 11(a)(1) or (2) or 16(a) or (d) of the ANCSA, as amended, or a positive action by the Secretary of the Interior in the form of a Public Land Order for selection by Native entities under the ANCSA.

(d) *Proceeds* means all monies received on or after January 1, 1976, from contracts, leases, permits, rights-of-way, or easements pertaining to affected lands, or the resources thereof, except (1) fil-

ing and similar administrative fees, (2) trespass and similar damages, and (3) all income received by the Federal Government which is a reimbursement of Federal expenses.

Proceeds from contracts, leases, permits, rights-of-way, or easements involving the subsurface resources of lands within Naval Petroleum Reserve No. 4 and units of the National Wildlife Refuge System are not subject to the provisions of section 2 of the Act, except those proceeds which may derive from the specific Kenai National Moose Range lands identified for conveyance in section 12 of the Act.

(e) *Payment* means (1) disbursement of proceeds and appropriate interest and investment return of monies in the escrow account to the grantee of the surface and/or subsurface estate, (2) disbursement of proceeds of monies in the escrow account into the appropriate Federal account as provided in section 2(a) of the Act, or (3) deposit into miscellaneous receipts of the Treasury of the interest and investment return accruing to proceeds that are to be returned to the appropriate Federal account.

(f) *Conveyance* means the issuance of a document which conveys legal title.

(g) *Grantee* means the individual, association, corporation, or other Native entity that receives a conveyance from the United States under the ANCSA, as amended.

Section 5. *Policy.* The policies set forth herein will be applied to assure that the escrow account is equitably and fairly administered.

(a) The Secretary, by issuance of this order, serves notice that there has been established an escrow account entitled "Deposits of Proceeds of Lands Withdrawn for Native Selection, Bureau of Indian Affairs" in the Treasury of the United States for the deposit of proceeds derived from contracts, leases, permits, rights-of-way, or easements pertaining to affected lands or resources in affected lands withdrawn for Native selection pursuant to the ANCSA. All Departments or Agencies of the Federal Government and the State of Alaska receiving such proceeds are requested to deposit proceeds to the account and advise the Commissioner of the deposit.

(b) All Departments or Agencies of the Federal Government and the State of Alaska receiving such proceeds are also requested to devise and maintain a record which includes (1) the identity of the specific contract, lease, etc., involved; (2) the statutory authority under which the proceeds were collected; (3) the account to which the proceeds would have otherwise been deposited; (4) the specific description of the lands involved in the contract, lease, etc.; (5) whether the proceeds were derived from the surface or subsurface estate; and (6) other information determined necessary, as described in the guidelines to be established pursuant to this order.

(c) The Commissioner shall devise and maintain a record and accounting system for the escrow account that will permit identification of the source of funds, interest or return applicable to such funds, and payment of such funds. He shall identify and/or furnish the necessary forms, guidelines, and procedures required for implementation to the agencies collecting or expected to collect proceeds.

(d) The Commissioner may cause the funds in the escrow account to be invested as provided by the Act and will coordinate with the Department of the Treasury to obtain any interest on funds in the account as provided by the Act. Interest or investment return shall be applied to all funds in the account in proportion to the amount, rate of return, and period of return.

(e) Upon issuance of a conveyance document to a Native entity, the Director, Bureau of Land Management, will furnish the Commissioner, and the head of any other agency known by the Bureau of Land Management (BLM) to be administering the affected lands, a copy of the conveyance document in order that the appropriate agency may (1) determine the percentage of the proceeds, interest, and investment return to be paid to the grantee, and (2) submit it to the Commissioner in order that the Commissioner may authorize payment to the grantee.

(f) Where the contract, lease, permit, right-of-way, or easement does not fall entirely within the conveyed land or interest, the grantee shall receive a payment based on the proportionate amount that results from multiplying the total proceeds and appropriate interest and investment return attributable to the conract, lease, etc., by a fraction in which the numerator is the acreage of the contract, lease, etc., falling within the conveyance and the denominator is the total acreage within the contract, lease, etc.

However, in the case of timber sale contracts involving more than one specific cutting area, each such cutting area will be considered a separate "contract" for purposes of computing the payment. Thus, if the entire cutting area falls within the area conveyed, the entire proceeds from that cutting area shall be paid. If only a portion of the cutting area falls within the area conveyed, the pro rata amount as provided above shall apply.

(g) In an area where (1) there have been no selections and the selection period has terminated, (2) selections have been rejected and the decision is final, or (3) the final action has been taken on all pending selections by Native entities, the Director, BLM, shall inform the Commissioner and the head of any other agency known by BLM to be administering the affected lands of the description of lands not selected or conveyed.

(h) Agencies administering affected lands should provide the Commissioner with a list of those accounts where the final action has been taken so that the Commissioner may (1) return any remaining proceeds in the escrow account attributable to such lands to the appropriate Federal account to which they would have otherwise been deposited; (2) deposit the interest and investment return attributable to the remaining proceeds to miscellaneous receipts, Treasury; and (3) notify the "original" collection agency of such return.

Section 6.—*Limitations.* The actions of the Commissioner under this delegation shall be audited by the Assistant Secretary—Administration and Management at such times as the Assistant Secretary shall determine, but not less frequently than once each year.

Section 7.—*Effective date.* This order is effective immediately and shall remain in effect until it is amended, revoked, or superseded. However, in the absence of the foregoing, the provisions of this order shall terminate two years from the date of signature Notice of proposal and period of comment is found to be unnecessary due to the limited applicability of this order and its categorization as interpretation of section 2 of the Act of January 2, 1976.

(89 Stat. 1146.)

Dated: January 3, 1977.

THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.77-1022 Filed 1-10-77;8:45 am]

SECRETARY OF THE TREASURY

Memorandum of Agreement and Delegation of Authority

The purpose of this agreement is to delegate authority to the Secretary of the Treasury in connection with the implementation of section 606(a) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94-241, 90 Stat. 263, 48 U.S.C. 1681 note).

It is hereby agreed between the Secretary of the Interior and the Secretary of the Treasury that, pursuant to the authority vested in the Secretary of the Interior by Executive Order No. 11021 of May 7, 1962, as amended by Executive Order 11944 of October 25, 1976, there is hereby delegated to the Secretary of the Treasury, to be exercised in such manner as he may deem appropriate, the authority necessary to perform all functions on behalf of the government of the Northern Mariana Islands with respect to the administration, collection and assessment, and enforcement of the taxes (including interest and penalties) imposed by the Northern Mariana Islands Social Security Act.

It is agreed that the authority delegated herein may be redelegated to any officer or employee of the Department of the Treasury. It is further agreed that this Memorandum of Agreement and

Delegation shall be effective on January 1, 1977.

Dated: December 31, 1976.

WILLIAM E. SIMON,
Secretary of the Treasury.

Dated: December 23, 1976.

THOMAS S. HEPPE,
Secretary of the Interior.

[FR Doc.77-921 Filed 1-10-77;8:45 am]

OIL SHALE ENVIRONMENTAL ADVISORY PANEL

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will begin at 9 a.m. on Tuesday, January at the Howard Johnson's Motor Lodge in Grand Junction, Colorado. The meeting will begin at 9 a.m. on Tuesday, January 25, in the Powderhorn Room and conclude at noon on Wednesday, January 26.

The Panel was established to assist the Department of the Interior in the performance of its functions in connection with the supervision of oil shale leases issued under the prototype oil shale leasing program. The purpose of this meeting is to hear a briefing on proposed revision of the Detailed Development Plan for lease tract C-b, review a proposed pipeline right-of-way for lease tract C-a, review the eighth quarterly summary data reports for lease tracts C-a, C-b, and for the U-a and U-b tracts combined, to receive reports from Interior officials and to consider any other matters which have come before the Panel.

The meeting is open to the public. It is expected that space will permit at least 100 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the panel or file written statements. Request should be made to Mr. William L. Rogers, Chairman, at the Office of the Secretary, Department of the Interior, Room 688, Building 67, Denver Federal Center, Denver, Colorado 80225.

Further information concerning this meeting may be obtained from Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225, Telephone No. (303) 234-3275. Minutes of the meeting will be available for public inspection 30 days after the meeting at the panel office.

DENNIS N. SACHS,
Deputy Assistant Secretary of the Interior.

JANUARY 6, 1977.

[FR Doc.77-912 Filed 1-10-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 30, 1976. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments should be submitted by January 24, 1977.

JERRY L. ROGERS,
Acting Chief, Office of Archeology and Historic Preservation.

DELAWARE

Delaware County

Glen Mills, *Glen Mills School*, Glen Mills Rd.

MARYLAND

Baltimore County

My Lady's Manor (Lady Baltimore's Manor), area of 10th election district, northern (also in Harford County).

NEW JERSEY

Bergen County

Lyndhurst, *River Road School*, 400 Riverside Ave.

Burlington County

Roebling, *Roebling Historic District*, between Riverside and Hornberger Aves., and 2nd and 8th Sts.

Cumberland County

Millville, *Millville's First Bank Building*, 2nd and E. Main Sts.

Hunterdon County

Clinton vicinity, *Perryville Tavern*, W of Clinton (in Union Township) at jct. of I 78 and SR 42.

Morris County

Boonton, *Rockaway Valley Methodist Church*, N of Boonton (in Boonton Township) on Valley Rd. off Washington Ave.
Madison, *Gibbons Mansion*, 36 Madison Ave.

Sussex County

Branchville vicinity, *Log Cabin and Farm*, N of Branchville (in Frankford Township) on Madison Ave.

NEW YORK

Monroe County

Rochester, *East Avenue Historic District*, irregular boundary including East Ave. and adjacent streets.

New York County

New York, *The New York Cancer Hospital*, 2 West 106th St.

NORTH DAKOTA

Cass County

Amenia, *Burlington Northern, Inc., Depot*, Woodard Ave.

McHenry County

Granville, *Granville State Bank*, Main and 2nd Sts.

PENNSYLVANIA

Centre County

Centre Hall, *Gregg, Andrew, Homestead*, 2 mi. E of Centre Hall between PA 192 and PA 45.
Spring Mills, *Fisher, Maj. Jared B., House*, Penn Hall, S side of PA 45.

Chester County

Unionville, *Unionville Village Historic District*, in irregular pattern along Doe Run, Embreeville, and Wollaston Rds.

Cumberland County

William Grove vicinity, *Williams, John, House*, 0.5 mi. S of William Grove.

Lancaster County

Bainbridge, *Locust Grove*, 0.5 mi. S of Bainbridge.

Lehigh County

Emmaus, *Kemmerer House (Irongate)*, 3 Iroquois St.

Montgomery County

Lansdale, *Jenkins Homesteam*, 137 Jenkins Ave.

Northampton County

Easton vicinity, *Coffeetown Grist Mill*, Coffeetown and Kressman Rds. Williams Township.

Schuylkill County

Pottsville, *Yuengling Brewing Company*, 5th W. Mahantongo Sts.

SOUTH CAROLINA

Berkeley County

Cross vicinity, *Lawson's Pond Plantation*, 5 mi. N of Cross off SC 6.
Cross vicinity, *Loch Dhu*, 5 mi. N of Cross off SC 6.

Charleston County

Charleston, *Central Baptist Church*, 26 Radcliffe St.
Charleston vicinity, *Magnolia Cemetery*.

Dillon County

Little Rock vicinity, *St. Paul's Methodist Church*, NW of jct. of SC 9 and secondary route (Harllee's Bridge).

Greenville County

Greenville, *Greenville Baptist Church, First Baptist Church*, 101 West McBee Ave.

Horry County

Conway vicinity, *Hebron Church*, 10 mi. S of Conway on US 701.

York County

McConnells vicinity, *Bethesda Presbyterian Church*, 3.5 mi. NE of McConnells on SC 332.
Rock Hill, *Ebenezer Academy*, 2132 Ebenezer Rd.

TEXAS

Coryell County

Gatesville, *Coryell County Courthouse*, Public Sq.

[FR Doc.77-562 Filed 1-10-77;8:45 am]

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD

Renewal

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the renewal of the NCIC Advisory Policy Board and its Security and Confidentiality (S&C) Committee.

The Assistant Attorney General for Administration, United States Department of Justice, has determined that renewal of this Board is necessary and in

the public interest. Copies of documents relating to the work of the Board and its S&C Committee can be obtained at FBI Headquarters, Washington, D.C.

The purpose of the Board is to recommend to the FBI general policy with respect to the philosophy, concept and operational principles of the NCIC system.

Membership on this Board consists of twenty-six (26) representatives of criminal justice agencies throughout the United States. Twenty (20) members are elected; five each from the four (4) NCIC geographic regions. Qualified electors are representatives of NCIC control terminal agencies. The FBI does not participate in the electoral process. Six additional members representing the judicial, prosecutorial, and correctional segments of the criminal justice community are appointed by the Director of the FBI.

The purpose of the Board's S&C Committee is to review matters pertaining to the overall security of the NCIC system with particular emphasis upon security, confidentiality and privacy issues as they relate to the NCIC Computerized Criminal History File. This review is done on a continuing basis and the S&C Committee's recommendations provide guidance to the Board in this important area of major public concern.

The S&C Committee is composed of eleven members, ten of whom are selected by the Chairman of the Board from the criminal justice community. One member is from the FBI. The tenure of the S&C Committee parallels that of the Board which it serves and expires accordingly.

The Chairman of the Board is elected by the Board's members and will serve until January 4, 1979. The Chairman of the Board's S&C Committee must be a member of the Board, is appointed by the Board Chairman, and his term also expires on January 4, 1979.

CLARENCE M. KELLEY,
Director.

[FR Doc.77-922 Filed 1-10-77;8:45 am]

Law Enforcement Assistance Administration

ADVISORY COMMITTEE TO THE ADMINISTRATOR ON STANDARDS FOR THE ADMINISTRATION OF JUVENILE JUSTICE

Meeting

Notice is hereby given that the site of the January 14-16, 1977, meeting of the Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice has been changed from the Scottsdale Hilton, 6333 N. Scottsdale Road, Scottsdale, Arizona to the Holiday Inn, 915 E. Apache Boulevard, Tempe, Arizona. The meeting was previously announced on December 23, 1976. The Advisory Committee on Standards is a subdivision of the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

The change was made in order to bring the costs of the meeting within the limitations set forth in the regulations on travel.

The meeting will be open to the public. For further information, contact:

Richard Van Duizend, National Institute for Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., 4th Floor, Washington, D.C. 20531, (202) 376-3952.

J. A. BROZOST,
Attorney Advisor,
Office of General Counsel.

[FR Doc.77-836 Filed 1-10-77;8:45 am]

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Fact Finding and Needs Assessment Meeting

Notice is hereby given that the National Minority Advisory Council on Criminal Justice (NMACCJ) will meet Wednesday and Thursday, January 26 and 27, 1977, in Atlanta, Georgia. The fact finding and needs assessment meeting is scheduled to convene at 7:30 p.m. on January 26, at the Atlanta Internationale Hotel, located at Capitol Avenue and Stadium in Atlanta, Georgia, telephone: (404) 688-1900. This meeting is scheduled to run from 7:30 p.m. until 10:30 p.m. on Wednesday evening, and 10 a.m. until 6 p.m. on Thursday, January 27.

This meeting represents the first effort on the part of the NMACCJ to gather factual information and data concerning the problems of minorities and the criminal justice system at the local, county, state and Federal level in the areas of community crime prevention, criminal justice educational and training programs, police, courts, and corrections. The NMACCJ will not concentrate on specific allegations of discrimination but rather on the impact of the criminal justice system on minorities. This will be an open meeting and persons wishing to attend must furnish their own transportation and accomodations. Anyone wishing to make written or oral statement should contact:

Lewis W. Taylor, Special Assistant to the Administrator for Minorities and Women, 633 Indiana Avenue, N.W., Washington, D.C. 20531, (202) 376-3936.

JAY A. BROZOST,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.77-838 Filed 1-10-77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

ALASKA STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of Federal standards as State standards (by reference or after comments and/or public hearing). Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standard changes the State has submitted, by letters dated May 21, 1976 (Change 1), July 8, 1976 (Change 2), and September 21, 1976 (Change 3), from Edmund N. Orbeck, Commissioner, Alaska Department of Labor to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards comparable to OSHA standards 29 CFR Part 1910 as republished on June 27, 1974 (39 FR 23502); December 3, 1974 (39 FR 41841); June 27, 1975 (40 FR 27368); March 26, 1975 (40 FR 13436); and March 26, 1975 (40 FR 13440).

Change 1 includes State initiated changes correcting typographical errors; numbering changes; the State response to Federal changes to 29 CFR 1910.217 Mechanical Powered Punch Presses (39 FR 41841) dated December 3, 1974; and references to the Alaska General Safety Code. State subchapters and effective dates relating to these changes are as follows: Subchapter 1, effective June 30, 1973, as amended November 22, 1975; Subchapter 2, effective September 26, 1974; Subchapter 3, effective June 30, 1973; Subchapter 4, effective June 30, 1973; and Subchapter 5, effective September 26, 1974. These standards are adopted in accordance with AS 18.60.20, as the minimum standards to be followed throughout the State of Alaska.

Change 2 includes State initiated changes to the Alaska General Safety Code, Subchapter 1, effective March 27, 1976, comparable to 29 CFR Part 1910, consisting of numbering changes and typographical corrections.

Change 3 includes changes to the Alaska General Safety Code: Subchapter 1 effective September 30, 1976, including Vehicle Mounted Elevating and Rotating Work Platforms (40 FR 13439) March 26, 1975; Helicopters (40 FR 13440) March 26, 1975; and Industrial Slings (40 FR 27368) June 27, 1975, as well as State initiated changes correcting typographical errors and clarifying numbers and references.

These standards, which are contained in the Alaska General Safety Code, were promulgated after public hearings held on June 30, 1975, in Anchorage (Change 1); July 16, 1976, in Ketchikan; July 20-

21, 1976, in Anchorage; and July 23, 1976, in Fairbanks (Change 3). Change 2 was adopted after public comment pursuant to the Alaska Administrative Procedures Act AS 44.62.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards, except for numbering, State titles, and grammatical editing, and accordingly are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003 Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Technical Data Center, Occupational Safety and Health Administration, New Department of Labor Building, Room N-3620, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Section 1953.2 (c) of this chapter provides that where State standards are identical to or "at least as effective as" comparable Federal standards and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are identical to the Federal standards and have been promulgated in accordance with State law, they are approved without further opportunity for public comment.

This decision is effective January 11, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this third day of December 1976.

JAMES W. LAKE,
Regional Administrator, Office of Safety and Health Administration.

[FR Doc.77-957 Filed 1-10-77;8:45 am]

INDIANA

Approval of Plan Supplement

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act), for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On March 6, 1974, a notice was published in the FEDERAL REGISTER (39 FR 8611) of the approval of the Indiana plan and the adoption of Subpart Z of Part 1952 containing the decision of approval. On July 14, 1975, the State of Indiana submitted a supplement to the plan involving a State initiated change (see Subpart E of 29 CFR Part 1953).

2. *Description of supplement.* The supplement concerns the establishment of a position entitled, "IOSHA Supervisor" whose responsibilities include directing the implementation of the State's occupational safety and health program; the coordination of all State agencies which are assigned specific program responsibilities; final review of all violations and the abatement of such violations. The IOSHA Supervisor is administratively responsible to the Commissioner of Labor.

3. *Location of the plan and its supplement for inspection and copying.* A copy of the supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Directorate of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N3608, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3259, 230 South Dearborn Street, Chicago, Illinois 60604; and the State of Indiana Division of Labor, Room 1013, State Office Building, Indianapolis, Indiana 46202.

4. *Public participation.* Under section 1953.2(c) of this chapter, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Indiana supplement described above is consistent with commitments made in the approved plan which had previously been available for public comment, and the recommendations made on pages 8-5 and 10-7 of Indiana's second semi-annual report (for the period covering November 1, 1974 to March 31, 1975). Accordingly, it is found that further public comment and notice is unnecessary.

5. *Decision.* After careful consideration, the Indiana plan supplement outlined above is approved under Part 1953 of his chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C. this 23rd day of December 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.77-959 Filed 1-10-77;8:45 am]

WASHINGTON STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER 38 FR 2421 of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standards changes, the State has submitted by letter dated October 6, 1976 from John Hillier, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards comparable to 29 CFR Part 1910.183 Helicopters as published in the FEDERAL REGISTER 40 FR 13440 dated March 26, 1975.

These State standards, which are contained in the Washington General Safety and Health Code WAC 296-24, were promulgated after public hearings held on September 15, 1976 at Yakima, Washington.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly are hereby approved. The State standards are more specific concerning work permitted under hovering craft. The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, 308 East Fourth Avenue, Olympia, Washington 98504; and the Technical Data Center, Room N3620, 200 Constitution Avenue N.W., Washington, D.C. 20210.

4. *Public participation.* Section 1953.2 (c) provides that where State standards are identical to or "at least as effective" as comparable Federal standards, and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are "at least as effective" as the Federal standards, and have been promulgated

in accordance with State law (including an opportunity for public comment and/or a public hearing), they are approved without an opportunity for further public comment.

This decision is effective January 11, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington this 16th day of November 1976.

JAMES W. LAKE,
Regional Administrator, Occupational Safety and Health Administration.

[FR Doc.77-960 Filed 1-10-77;8:45 am]

Office of the Secretary

[TA-W-1238]

ALDEN SHOE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1238: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 8, 1976 in response to a worker petition dated October 29, 1976 which was filed by three workers at the Alden Shoe Company, Middleboro, Massachusetts. The investigation revealed that men's orthopedic shoes and men's dress shoes are produced.

The notice of investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51627). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Alden Shoe Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales, production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that the first three criteria have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average annual employment of production workers at Alden Shoe remained unchanged in 1974 compared with 1973, increased 0.9 percent in 1975 compared with 1974 and increased 4.3 percent in the period January through November 1976 compared with the like period in 1975.

Average weekly hours worked increased 4.9 percent in 1974 compared with 1973, decreased 3.5 percent in 1975 compared with 1974 and increased 4.2 percent in the period January through November 1976 compared with the like period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales in terms of quantity decreased 1.2 percent in 1974 compared with 1973, increased 1.8 percent in 1975 compared with 1974 and increased 3.4 percent in the period January through November 1976 compared with the like period in 1975.

Production in terms of quantity decreased 1.6 percent in 1974 compared with 1973, increased 3.8 percent in 1975 compared with 1974 and increased 10.9 percent in the period January through November 1976 compared with the like period in 1975.

INCREASED IMPORTS

Industry sources have indicated that there are no known imports of men's orthopedic shoes. Due to the specialized need and care of the individual user, a closer working relationship is needed between the customer and the manufacturer. This eliminates the probability of significant imports of orthopedic shoes.

CONTRIBUTED IMPORTANTLY

Orthopedic shoes are of sophisticated design and construction and are normally dispensed by medical prescription where correction and therapy modification are deemed necessary. These shoes are typically high priced and as such, sales would be most affected by current domestic economic conditions as individuals may choose to forestall purchases of orthopedic shoes.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that separations of workers have not occurred and that sales and production of men's orthopedic shoes at Alden Shoe Company have not declined as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-994 Filed 1-10-77;8:45 am]

[TA-W-1151]

ALUMINUM COMPANY OF AMERICA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1151: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 7, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing primary aluminum at the Point Comfort, Texas Operations of the Aluminum Company of America (Alcoa).

The notice of investigation was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47616). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Aluminum Company of America, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Point Comfort rose 10 percent from 1973 to 1974 and declined 29 percent from 1974 to 1975. In the first three quarters of 1976, plant employment was 22 percent below that in the same period of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of primary aluminum at Point Comfort decreased in volume by two percent from 1973 to 1974 and by

62 percent from 1974 to 1975. In the first three quarters of 1976, plant production was 61 percent below that in the like period of 1975.

INCREASED IMPORTS

Imports of primary aluminum increased from 614 thousand short tons in 1973 to 628 thousand short tons in 1974 and then declined to 550 thousand short tons in 1975. Imports rose from 215 thousand short tons in the first half of 1975 to 342 thousand short tons in the first half of 1976.

The ratio of imports to domestic aluminum production increased from 12.8 percent in 1974 to 14.2 percent in 1975 and rose from 10.6 percent in the first half of 1975 to 22.0 percent in the first half of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that most of the primary aluminum produced at Point Comfort is shipped to corporate fabrication mills and corporate warehouses. Corporate imports of primary aluminum by Alcoa increased 11 percent in volume from the first three quarters of 1975 to the first three quarters of 1976.

Faced with a drop in demand for aluminum products and an increase in corporate inventories, Alcoa decided early in 1975 to curtail corporate production of primary aluminum. As a result of this decision, smelting and refining operations at Point Comfort were cut back, and workers were laid off during 1975 and 1976.

Aluminum production requires a large amount of electrical energy. Point Comfort is dependent on natural gas to run its electrical generators. The rising cost of natural gas has made Point Comfort a high energy cost plant in comparison with other Alcoa plants. The relatively high energy cost at Point Comfort was one of the primary reasons for the long curtailment of production at the plant. The relatively low energy cost at Alcoa's aluminum plants in Norway and South America was a factor behind the increase in corporate imports of aluminum in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the primary aluminum produced at Point Comfort contributed importantly to the total or partial separation of the workers at such plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of primary aluminum at the Point Comfort, Texas Operations of the Aluminum Company of America who became totally or partially separated from employment on or after September 1, 1976, are eligible to apply for adjustment assistance under Title II, Chaper 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-961 Filed 1-10-77;8:45 am]

[TA-W-1145]

AMERICAN INTERNATIONAL SHOE CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1145: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 5, 1976 in response to a worker petition received on that date which was filed on behalf of workers formerly engaged in cutting and stitching footwear uppers at the Portsmouth, New Hampshire facility of American International Shoe Corporation.

The notice of investigation was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47616). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of American International Shoe Corporation, its former customers, the Office of Management and Budget, the American Footwear Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligiblity to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with articles produced by such workers' firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criteria three and four have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers fluctuated widely from September 1975, when the plant first began production, through August 1976. All workers were separated from employment by the end of August 1976 when the plant closed.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED

Sales increased from September 1975, when the plant first began production, to January 1976, then declined through August 1976, when all production ceased. American International Shoe produced on a contractual basis, and separate production records were not maintained.

INCREASED IMPORTS

Imports of leather footwear shoe uppers are not separately identifiable in the Tariff Schedules of the United States Annotated. Leather shoe uppers are included in a basket category consisting of leather shapes for use in footwear. Official statistics are recorded only in value terms, which do not reflect the change in value of leather in recent years. The proportion of leather shoe uppers to the value of the entire category is not known.

CONTRIBUTED IMPORTANTLY

Customers of American International Shoe Corporation indicated, in response to a survey, that they do not import shoe uppers. Imports of shoes which incorporate uppers of the same origin are not like or directly competitive with shoe uppers produced by American International.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with leather and vinyl shoe uppers produced at the Portsmouth, New Hampshire plant of American International Shoe Corporation, did not contribute importantly to the total or partial separation of the workers of that plant.

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

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-1001 Filed 1-10-77;8:45 am]

[TA-W-1144]

AMERICAN INTERNATIONAL SHOE CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1144: investigation regarding certifi-

cation of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 5, 1976 in response to a worker petition received on that date which was filed on behalf of workers formerly engaged in cutting and stitching footwear uppers at the Newport, New Hampshire facility of American International Shoe Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47616). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of American International Shoe Corporation, its former customers, the Office of Management and Budget, the American Footwear Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criteria three and four have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers increased from November, 1975, when the plant first began production, through June 1976. All workers were separated from employment by the end of August 1976 when the plant closed.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales increased from November 1975, when the plant first began production, through March 1976. American International Shoe produced on a contractual basis, and separate production records were not maintained. Production ceased in August 1976.

INCREASED IMPORTS

Imports of leather footwear shoe uppers are not separately identifiable in the Tariff Schedules of the United States Annotated. Leather shoe uppers are included in a basket category consisting of leather shapes for use in footwear. Official statistics are recorded only in value terms, which do not reflect the change in value of leather in recent years. The proportion of leather shoe uppers to the value of the entire category is not known.

CONTRIBUTED IMPORTANTLY

Customers of American International Shoe Corporation indicated, in response to a survey, that they do not import shoe uppers. Imports of shoes which incorporate uppers of the same origin are not like or directly competitive with shoe uppers produced by American International.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with uppers for leather footwear produced at the Newport, New Hampshire plant of American International Shoe Corporation, did not contribute importantly to the total or partial separation of the workers of that plant.

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

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-1002 Filed 1-10-77;8:45 am]

[TA-W-1,457]

ARMCO STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Kansas City Works, Kansas City, Missouri of Armco Steel Corp., Middletown, Ohio (TA-W-1,457). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with billets, bars, rebars, rod angles, flats, channels, fasteners, wire rope, & wire products produced by Armco Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a signficant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatend to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-988 Filed 1-10-77;8:45 am]

[TA-W-1,498]

BETHLEHEM STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Vernon, California, Los Angeles plant of Bethlehem Steel Corporation, Bethlehem, Pa. (TA-W-1,498). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with wire, galvanized wire, industrial fasteners, and reinforcement bars and other products of iron and steel produced by Bethlehem Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the de-

termination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-972 Filed 1-10-77;8:45 am]

[TA-W-1,496]

BETHLEHEM STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Bethlehem Steel Corporation, Bethlehem, Pennsylvania (TA-W-1,496). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron, steel and brass products produced by Bethlehem Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-973 Filed 1-10-77;8:45 am]

[TA-W-1,508]

CASCADE STEEL ROLLING MILLS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 22, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Cascade Steel Rolling Mills, Inc., McMinnville, Oregon (TA-W-1,508). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with carbon steel rebars produced by Cascade Steel Rolling Mills, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-966 Filed 1-10-77;8:45 am]

[TA-W-1, 507]

EMPIRE COKE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Empire Coke Company, Holt, Alabama, a Div. of McWane Cast Iron Pipe Co., Birmingham, Alabama (TA-W-1, 507). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with coke produced by Empire Coke Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility require-

ments of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-967 Filed 1-10-77;8:45 am]

[TA-W-1,483]

HAWAIIAN WESTERN STEEL LTD.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Hawaiian Western Steel Ltd., Ewa Beach, Hawaii (TA-W-1,483). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with reinforcing steel, reinforcing bars produced by Hawaiian Western Steel Ltd. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-986 Filed 1-10-77;8:45 am]

[TA-W-1085]

INCOPA INDUSTRIES, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1085: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 20, 1976, in response to a worker petition received on that date which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of American on behalf of workers and former workers of Incopa Industries, Inc., Bristol, Tennessee, a subsidiary of Koracorp Industries, Inc. San Francisco, California.

The Notice of Investigation was published in the FEDERAL REGISTER on October 5, 1976 (41 FR 43972). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Koracorp Industries, Inc., the parent firm of Incopa Industries, Inc., the customers of Incopa Industries, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers fell 42 percent in 1975 compared to 1974 and declined 24 percent in the first half of 1976 compared to the like period of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales fell 45 percent in 1975 compared to 1974 and decreased 25 percent in the first half of 1976 compared to the like period of 1975.

INCREASED IMPORTS

Imports of man-made coated or protected fabric increased in 1972 and 1973, declined in 1974 and rose 9 percent in 1975 compared to 1974. Imports increased 100 percent in the first nine months of 1976 compared to the like period of 1975. The ratio of imports to domestic production increased from 8.5 percent in 1974 to 11.5 percent in 1975.

CONTRIBUTED IMPORTANTLY

Customers surveyed indicated that they did not switch their purchases of coated fabrics from Incopa Industries, Inc. to foreign producers. One customer, that accounted for almost 40 percent of Incopa Industries' sales in 1975, reduced purchases by more than 50 percent in the first nine months of 1976 compared to the like period of 1975. This customer reduced purchases from Incopa Industries because it experienced a large drop in sales to the U.S. Government which purchases no imported coated fabrics.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with coated fabrics produced by Incopa Industries, Inc., Bristol, Tennessee, did not contribute importantly to the total or partial separation of the workers of that plant.

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

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-1003 Filed 1-10-77;8:45 am]

[TA-W-1243]

INTERNATIONAL SHOE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1243: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 8, 1976 in response to a worker petition received on that date which was filed by the Boot and Shoe Workers Union on behalf of workers and former workers producing men's shoes and Hy-Test boots at the Flora, Illinois plant of the International Shoe Company, St. Louis, Missouri.

The notice of investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51631). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the International Shoe Company, its customers, the Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened with becoming totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 13 percent from 1973 to 1974, declined 8 percent from 1974 to 1975, and declined 6 percent in the first three quarters of 1976 compared to the same period of 1975. All production workers were laid-off in November 1976 when the plant was permanently closed. A skeleton crew of maintenance workers and supervisors were retained after November to complete closs-up operations. All employment terminations are expected to occur by the first week in January, 1977.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Production of men's dress shoes and Hy-Test Safety Boots at the Flora plant declined 34 percent in quantity from 1973 to 1974, declined 10 percent from 1974 to 1975, and declined 23 percent in the first three quarters of 1976 compared to the same period of 1975. All production ceased in November 1976 when the plant was permanently closed.

INCREASED IMPORTS

Imports of men's dress and casual footwear increased absolutely in each year from 1971 to 1973, declined from 1973 to 1974, and then increased from 1974 to 1975 and in the first nine months of 1976 compared to the same period of 1975. The ratio of imports to domestic production increased from 46.1 percent in the first nine months of 1975 to 52.1 percent in the same period of 1976.

Imports of work footwear increased absolutely in each year from 1971 to 1974, declined from 1974 to 1975, and then increased in the first nine months of 1976 compared to the same period of 1975. The ratio of imports to domestic production increased from 9.3 percent in the first nine months of 1975 to 19.6 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

The investigation has revealed that retail customers reduced purchases from International Shoe in 1975 and 1976. Several of the customers surveyed shifted to purchases of imported men's shoes.

The import influence resulting in the deterioration of International Shoe's market for men's dress shoes led to the closure of the Flora, Illinois plant in November, 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's shoes produced at the Flora, Illinois plant of the International Shoe Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provision of the Act, I make the following certification:

All workers engaged in employment related to the production of men's shoes and Hy-Test Safety Boots at the Flora, Illinois plant of the Internaltional Shoe Company who became totally or partially separated from employment on or after October 29, 1975 and before February 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated from employment on or after February 1, 1977 are not eligible to apply for adjustment assistance.

Signed at Washington, D.C. this 30th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc.77-992 Filed 1-10-77;8:45 am]

[TA-W-1242]

INTERNATIONAL SHOE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1242: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 8, 1976 in response to a worker petition received on November 8, 1976 which was filed by the Boot and Shoe Workers' Union on behalf of workers and former workers producing men's shoes at the West Plains, Missouri plant of the International Shoe Company, St. Louis, Missouri.

Notice of the Investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51630). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Shoe Company, its customers, the International Trade Commission, the Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed important" but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers increased 3 percent from 1973 to 1974, and then declined 6 percent from 1974 to 1975. Employment declined in the second and third quarters of 1976 compared to the same quarters of the previous year.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the West Plains, Missouri plant increased 3 percent in quantity from 1973 to 1974, and then declined 20 percent from 1974 to 1975. Production declined in the second and third quarters of 1976 compared to the same quarters of 1975.

INCREASED IMPORTS

Imports of men's dress and casual footwear increased absolutely in each year from 1971 to 1973, declined from 1973 to 1974, and then increased absolutely from 1974 to 1975 and in the first nine months of 1976 compared to the first nine months of 1975. The ratio of imports to domestic production increased from 46.1 percent in the first nine months of 1975 to 52.1 percent in the same period of 1976.

Imports of work footwear increased each year from 1971 to 1974 and decreased in 1975. Imports increased both absolutely and relatively from the first three quarters of 1975 to the similar period in 1976.

CONTRIBUTED IMPORTANTLY

Customers reduced purchases of men's shoes from International Shoe in 1975 and 1976. Approximately 45 percent of the customers surveyed have shifted to purchases of imported men's footwear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's shoes produced by the West Plains, Missouri plant of the International Shoe Company, St. Louis, Missouri, contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of men's shoes at the West Plains, Missouri plant of the International Shoe Company, St. Louis, Missouri who became totally or partially separated from employment on or after October 18, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-993 Filed 1-10-77;8:45 am]

[TA-W-1333]

ITT GRINNELL CORP.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1333: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on November 30, 1976 which was filed by the United Steelworkers of America on behalf of workers producing steel pipes, fittings, valves, and brass foundry products at the Warren, Ohio plant of ITT Grinnell Corporation.

The notice of investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55606). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and ITT Grinnell Corporation.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (1) has not been met. The evidence developed in the Department's investigation reveals that no involuntary separations occurred during 1975 or 1976 to the present.

The average weekly hours worked during 1975 and to date have been 40 hours or more.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that employees at the Warren, Ohio plant of ITT Grinnell Corporation have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-991 Filed 1-10-77;8:45 am]

[TA-W-1409]

KENTUCKY ELECTRIC STEEL CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 14, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Kentucky Electric Steel Company, Ashland, Kentucky (TA-W-1409). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with angles, flats and channels of high carbon and alloy steel produced by Kentucky Electric Steel Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFA 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-989 Filed 1-10-77;8:45 am]

[TA-W-1509]

MARATHON MANUFACTURING CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 22, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974

("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Marathon Stainless Rolling Division, Marathon Manufacturing Company, Tempe, Arizona (TA-W-1509). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with carbon steel bars produced by Marathon Manufacturing Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-965 Filed 1-10-77;8:45 am]

[TA-W-1504]

MESTA MACHINE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 22, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of West Homestead, Pa. plant of Mesta Machine Company, Pittsburgh, Pa. (TA-W-1504). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with rolling mill machinery & equipment produced by Mesta Machine Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-970 Filed 1-10-77;8:45 am]

[TA-W-1077]

MILWAUKEE GLOVE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1077: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 15, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing leather dress gloves, leather work gloves, and leather outerwear at Milwaukee Glove Company, Marinette, Wisconsin.

The Notice of Investigation was published in the FEDERAL REGISTER on October 1, 1976 (41 FR 43495). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials and customers of Milwaukee Glove Company, the Work Glove Manufacturers Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Department's investigation revealed that employment of production workers at Milwaukee Glove Company after declining two percent in the fourth quarter of 1975 compared to the fourth quarter of 1974, increased eight percent, ten percent, and 16 percent in the first three quarters of 1976 compared to the same respective quarters in 1975. Employment in the third quarter of 1976 reached peak quarterly levels for the period under investigation—from January 1973 to September 1976. Officials of Milwaukee Glove Company and local union officials attributed minor fluctuations in employment levels to the use of voluntary part-time employment by workers drawing social security benefits.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that significant total or partial separations of workers at Milwaukee Glove Company, Marinette, Wisconsin, have not occurred as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-1004 Filed 1-10-77;8:45 am]

[TA-W-1224]

NEW YORK IMPERIAL FOUNDATION, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1224: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 3, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing brassieres and girdles at the Brooklyn, New York plant of New York Imperial Foundation, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51143). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of New York Imperial Foundation, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially seprated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average weekly employment of production workers at New York Imperial declined 5 percent in 1974 from 1973, 11 percent in 1975 from 1974 and 19 percent in the first 11 months of 1976 from the same period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of girdles at New York Imperial declined 6 percent in 1974 from 1973, 8 percent in 1975 from 1974 and 23 percent in the first 11 months of 1976 from the same period in 1975.

Production of brassieres (number of brassieres cut) at New York Imperial decreased 11 percent in 1974 from 1973, increased 11 percent in 1975 from 1974 and decreased 17 percent in the first 11 months of 1976 from the same period in 1975.

Since January 1974, approximately 80 percent of brassieres cut and sold by Imperial have been shipped to a Puerto Rican firm for stitching. The remaining 20 percent are stitched at Imperial's Brooklyn plant.

INCREASED IMPORTS

Imports of brassieres into the U.S. increased absolutely and relative to domestic production in each year from 1972 through 1975 from the previous year. Imports increased 12 percent in 1975 from 1974. Imports increased 28 percent in the first 9 months of 1976 from the first 9 months of 1975. The ratio of imports to domestic production increased from 35.4 percent in 1974 to 42.3 percent in 1975.

Imports of girdles into the U.S. increased in 1972 from 1971, decreased in 1973 from 1972, and increased in 1974 and 1975 from the previous year. Imports increased 18 percent in 1975 from 1974 and 88 percent in the first 9 months of 1976 from the same period of 1975. The ratio of imports to domestic production increased from 2.6 percent in 1974 to 3.1 percent in 1975.

CONTRIBUTED IMPORTANTLY

Customers accounting for 95 percent of Imperial's sales have decreased purchases of brassieres and girdles from New York Imperial and increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with brassieres and girdles produced at the Brooklyn, New York plant of New York Imperial Foundation, Inc., contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Brooklyn, New York plant of New York Imperial Foundation, Inc., who became totally or partially separated from employment on or after October 19, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-995 Filed 1-10-77;8:45 am]

[TA-W-1,503]

NORTHWESTERN STEEL & WIRE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Northwestern Steel & Wire Company, Sterling, Illinois (TA-W-1,503). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with wire fabrications, structural steel, bars, rods, billets and ingots produced by Northwestern Steel & Wire Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-971 Filed 1-10-77;8:45 am]

[TA-W-1,510]

PACIFIC STATES STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 22, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Pacific States Steel Corporation, Union City, California (TA-W-1,510). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with structural shapes carbon steel produced by Pacific States Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U. S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 22nd day of December 1976.

MARVIN M. FOOKS,
Director, Office of Adjustment Assistance.

[FR Doc.77-964 Filed 1-10-77;8:45 am]

[TA-W-1,495]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Culvert Division, Canton, Ohio of Republic Steel Corporation, Cleveland, Ohio (TA-W-1,495). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-974 Filed 1-10-77;8:45 am]

[TA-W-1,494]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976, the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Berger Division, Canton, Ohio of Republic Steel Corporation, Cleveland, Ohio (TA-W-1494). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-975 Filed 1-10-77;8:45 am]

[TA-W-1,493]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Canton South, Canton, Ohio plant of Republic Steel Corporation, Cleveland, Ohio (TA-W-1,493). Accordingly, the Director, Office of Trade Adjustment Assistant, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-976 Filed 1-10-77;8:45 am]

[TA-W-1,492]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Canton Alloy Division, Canton, Ohio of Republic Steel Corporation, Cleveland, Ohio (TA-W-1,492). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigtaion is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-977 Filed 1-10-77;8:45 am]

[TA-W-1491]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United States Steelworkers of America on behalf of the workers and former workers of Youngstown, Ohio plant of Republic Steel Corporation, Cleveland, Ohio (TA-W-1491). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-978 Filed 1-10-77;8:45 am]

[TA-W-1,490]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Warren, Ohio plant of Republic Steel Corporation, Cleveland, Ohio (TA-W-1,490). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-979 Filed 1-10-77;8:45 am]

[TA-W-1,489]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Niles, Ohio plant of Republic Steel Corporation, Cleveland, Ohio (TA-W-1,489). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-980 Filed 1-10-77;8:45 am]

[TA-W-1,488]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Massillon, Ohio plant of Republic Steel Corporation, Cleveland, Ohio (TA-W-1,488). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition field in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-981 Filed 1-10-77;8:45 am]

[TA-W-1,487]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Gadsden, Alabama plant of Republic Steel Corporation, Cleveland, Ohio (TA-W-1,487). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U. S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-982 Filed 1-10-77;8:45 am]

[TA-W-1,486]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Republic Steel Corporation, Cleveland, Ohio (TA-W-1,486). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-983 Filed 1-10-77;8:45 am]

[TA-W-485]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of South Chicago, Illinois plant of Republic Steel Corporation, Cleveland, Ohio (TA-W-1485). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-984 Filed 1-10-77;8:45 am]

[TA-W-1484]

REPUBLIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("The Act") by the United Steelworkers of America on behalf of the workers and former workers of Buffalo, New York plan of Republic Steel Corporation, Cleveland, Ohio (TA-W-1484). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by Republic Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case in available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-985 Filed 1-10-77;8:45 am]

[TA-W-1164]

ROCKWELL INTERNATIONAL

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1164: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 13, 1976 in response to a worker petition received on October 13, 1976 which was filed by three workers on behalf of workers and former workers producing the Rockwell Quadrasonic ladies seamless hosiery machine at the Rockwell International plant in Reading, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47629). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rockwell International and its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That such increased imports like or directly competitive with those produced by the firm or subdivision are being imported in increasesd quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation revealed that criterion four has not been met.

Rockwell International began producing an experimental circular knitting machine in early 1975. This prototype machine called Quadrasonic was designed to produce ladies seamless hosiery. The Quadrasonic prototypes were never sold commercially by Rockwell.

The Quadrasonic program never progressed beyond the experimental stage. Field tests of Quadrasonic machines uncovered many technical problems. In assessing the cost of further developmental work on Quadrasonic, management decided to discontinue the experimental work. All employees were on this project were terminated in October 1976.

Quadrasonic machines were never available for sale on the commercial market and therefore increases of imports of circular knitting machines for sale to end users could not have contributed importantly to the termination of developmental work on this prototype machine.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of circular knitting machinery for hosiery have not contributed importantly to total or partial separations of the workers engaged in employment related to developmental work on Quadrasonic at the Reading, Pennsylvania plant of Rockwell International as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-998 Filed 1-10-77;8:45 am]

[TA-W-1214]

ROCKWELL INTERNATIONAL

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1214: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 31, 1976 in response to a worker petition received on October 31, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing circular knitting machines also known as large diameter knitting machines at the Rockwell International plant in Reading, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51144). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rockwell International, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any one of the criteria is not met, a negative determination must be made.

Rockwell International at Reading discontinued the production of flat kitting machinery in October 1974 and discontinued the production of large diameter knitting machinery in January 1975. Since then, the only employees having any involvement with either flat or large diameter knitting machinery were those involved in the reconditioning of repossessed machinery previously sold by the Knitting Machinery Division to be resold by Rockwell.

The Department of Labor has already determined that the performance of services is not included within the term "articles" as used in Section 222(3) of the Act. See Notice of Negative Determination in Pan American World Airways, Incorporated (TA-W-153; 40 FR 54639).

The petitioning group of workers are employed in the performance of servicing repossessed either flat or large diameter knitting machines. These workers were not involved in the production of an article within the meaning of Section 222(3) of the Act.

CONCLUSION

After careful review of the issues, I have determined that services of reconditioning either flat or large diameter knitting machines by the petitioning group of workers employed at the Reading, Pennsylvania plant of Rockwell International are not "articles" within the meaning of section 222(3) of the Trade Act of 1974. Therefore this petition is denied.

Signed at Washington, D.C. this 30th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-996 Filed 1-10-77;8:45 am]

[TA-W-1,370]

SARCO CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Sarco Company, Allentown, Pa., division of White Consolidated Industries, Inc., Allentown, Pa. (TA-W-1370). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the secretarial services provided by Sarco Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-990 Filed 1-10-77;8:45 am]

[TA-W-1147]

SEBASTIANA C. INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1147: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 7, 1976 in response to a worker petition received on October 7, 1976 which was filed on behalf of workers and former workers engaged in shrimp and fish catching activities for Sebastiana C., Inc., Gloucester, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47629). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sebastiana C. Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, and Department Files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in that workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment based on crew share and the average number of trips made declined 18.1 percent in 1975 compared to 1974 and then increased 13.7 percent in the first nine months of 1976 compared to the first nine months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at Sebastiana declined 15.9 percent in 1975 compared to 1974 and then increased 7.1 percent in the first nine months of 1976 compared to the first nine months of 1975.

INCREASED IMPORTS

Imports of shrimp decreased absolutely and relatively from 1974 to 1975. Imports of shrimp increased from 101.1 thousand pounds in the first six months of 1975 to 124.4 thousand pounds in the first six months of 1976. The ratio of imports to production rose from 205.0 percent in the first six months of 1975 to 212.6 percent in the first six months of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation indicated that approximately 70 percent of the total catch of Sebastiana C. is fresh fish. Customers of Sebastiana C. do not purchase imported fish. The other 30 percent of the catch was shrimp. Regulations issued by the Atlantic States Marine Fisheries Commission have prohibited any catching of shrimp in the waters off Maine, New Hampshire and Massachusetts since April 15, 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fresh fish and shrimp handled by Sebastiana C. did not contribute importantly to the total or partial separations of the workers.

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

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-1000 Filed 1-10-77;8:45 am]

[TA-W-1,506]

SHENANGO, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 22, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Sharpsville, Pennsylvania plant of Shenango, Inc., Pittsburgh, Pa. (TA-W-1,506). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with ingot molds and stools produced by Shenango, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-968 Filed 1-10-77;8:45 am]

[TA-W-1,505]

SHENANGO, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 22, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Neville Island, Pa. plant, of Shenango, Incorporated, Pittsburgh, Pa. (TA-W-1,505). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with coke and iron produced by Shenango, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-969 Filed 1-10-77;8:45 am]

[TA-W-1156, 1157, 1158, 1271]

SWEETREE MILLS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1156, 1157, 1158, and 1271: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 12, 1976 in response to a worker petition received on October 12, 1976 which was filed on behalf of workers formerly producing ladies' knit sweaters and knit sportswear at the Cherryville sewing plant (TA-W-1157), the Cherryville dye house (TA-W-1156,) and Kings Mountain sewing plant (TA-W-1158) of Sweetree Mills, Incorporated, Cherryville, N.C. A fourth petition, received on November 24, 1976 was filed on behalf of workers formerly producing ladies' knit sweaters and knit sportswear at the Cherryville knitting plant (TA-W-1271) of Sweetree Mills, Incorporated.

The Notices of Investigation were published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47630 and 47631) and December 7, 1976 (41 FR 53553). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sweetree Mills, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or

an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The investigation reveals that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Cherryville knitting plant declined 4 percent from 1973 to 1974 and declined 32 percent from 1974 to 1975. In the first nine months of 1976, employment declined 28 percent compared to the first nine months of 1975.

The average number of production workers at the Cherryville dye house declined 15 percent from 1973 to 1974 and declined 33 percent from 1974 to 1975. In the first nine months of 1976, employment declined 37 percent compared to the first nine months of 1975.

The average number of production workers at the Cherryville sewing plant increased 17 percent from 1973 to 1974 and then declined 13 percent from 1974 to 1975. In the first nine months of 1976, employment declined 11 percent compared to the first nine months of 1975.

The average number of production workers at the King's Mountain sewing plant increased 11 percent from 1973 to 1974 and then declined 1 percent from 1974 to 1975. In the first nine months of 1976, employment declined 26 percent compared to the first nine months of 1975. King's Mountain employment data for June through September 1976, reflect those workers who were transferred with sportswear production from King's Mountain to the Cherryville sewing plant.

The average number of salaried workers at Sweetree Mills, Inc. increased 18 percent from 1973 to 1974 and then declined 15 percent from 1974 to 1975. In the first nine months of 1976, salaried employment declined 27 percent compared to the first nine months of 1975.

All employment of Sweetree Mills, Inc. was terminated in September 1976.

SALES, PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales of ladies' knit sweaters declined 7 percent from 1973 to 1974 and declined 35 percent from 1974 to 1975. In the first six months of 1976, sweater sales increased 30 percent compared to the first six months of 1975.

Sales of ladies' knit sportswear increased 20 percent from 1973 to 1974 and then declined 18 percent from 1974 to 1975. In the first six months of 1976, sportswear sales declined 35 percent compared to the first six months of 1975.

Production of ladies' knit sweaters declined 3 percent from 1973 to 1974 and declined 38 percent from 1974 to 1975. In the first six months of 1976, sweater production declined 5 percent compared to the first six months of 1975.

Production of ladies' knit sportswear increased 3 percent from 1973 to 1974 and then declined 20 percent from 1974 to 1975. In the first six months of 1976, sportswear production increased 29 percent compared to the first six months of 1975.

The King's Mountain plant was closed in June 1976. At that time, sewing of remaining sportswear inventory and workers engaged in the production of sportswear were transferred from King's Mountain to the Cherryville sewing plant. The sportswear operation was segregated from sweater production until Sweetree went out of business. In September 1976 production at the three remaining Sweetree plants ceased.

INCREASED IMPORTS

Imports of women's misses', and children's knit sweaters declined absolutely and relatively in each year from 1971 through 1973. Imports increased absolutely from 1973 to 1974, from 1974 to 1975, and from the first nine months of 1975 to the first nine months of 1976. The ratio of imports to domestic production declined from 104.9 percent in 1974 to 94.6 percent in 1975.

Imports of women's, misses', and children's knit slacks and shorts increased absolutely in each year from 1971 through 1973 and then declined absolutely from 1973 to 1974. Imports increased both absolutely and relatively from 1974 to 1975. Imports declined absolutely in the first nine months of 1976 compared to the first nine months of 1975. The ratio of imports to domestic production increased from 41.6 percent in 1974 to 44.8 percent in 1975.

Imports of women's, misses' and children's knit coats (including blazers) increased absolutely from 1971 to 1972 and increased absolutely and relatively from 1972 to 1973 and from 1973 to 1974. Imports increased relatively from 1974 to 1975 and increased absolutely in the first nine months of 1976 compared to the first nine months of 1975. The ratio of imports to domestic production increased from 21.7 percent in 1974 to 21.8 percent in 1975.

Imports of women's, misses', and children's knit blouses and shirts increased absolutely from 1971 to 1972, from 1972 to 1973, and then increased absolutely and relatively from 1973 to 1974. Imports increased absolutely and relatively from 1974 to 1975 and increased absolutely in the first nine months of 1976 compared to the first nine months of 1975. The ratio of imports to domestic production increased from 69.6 percent in 1974 to 81.6 percent in 1975.

Imports of women's, misses', and children's knit slacks and shorts increased and relatively from 1971 to 1972 and then declined absolutely and relatively from 1972 to 1973 and from 1973 to 1974. Imports increased absolutely and relatively from 1974 to 1975 and then declined absolutely in the first nine months of 1976 compared to the first nine months of 1975. The ratio of imports to domestic production increased from 5.1 percent in 1974 to 7.6 percent in 1975.

Import data for ladies' knit vests was not available. Vests are included in the basket category "women's, misses', and children's—all other clothing".

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers reduced purchases of ladies' knit sweaters and knit sportswear from Sweetree Mills in 1975 and 1976 and substituted purchases of imported sweaters and sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' knit sweaters and knit sportswear produced at the Cherryville sewing plant, dye house, knitting plant and King's Mountain sewing plant of Sweetree Mills, Incorporated contributed importantly to the total or partial separation of the workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of labdies' knit sweaters and knit sportswear at the Cherryville sewing plant, dye house, knitting plant, and King's Mountain sewing plant of Sweetree Mills, Incorporated, Cherryville, N.C. who became totally or partially separated from employment on or after September 30, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 77-999 Filed 1-10-77;8:45 am]

[TA-W-11T]

TRW, INC.

Completion of Termination Investigation Regarding Eligibility To Apply for Adjustment Assistance

In accordance with section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-11T; investigation regarding termination of certification of eligibility of apply for worker adjustment assistance as prescribed in section 223(d) of the Act.

On June 19, 1975, workers producing carbon composition resistors at the Philadelphia, Pennsylvania Division of TRW, Incorporated, Cleveland, Ohio were certified as eligible to apply for trade adjustment assistance. The Notice of Determination was published in the FEDERAL REGISTER on June 26, 1975 (40 FR 27084).

The investigation regarding termination of certification was initiated on May 27, 1976 to determine whether the groups of workers specified above con-

tinue to meet the group eligibility requirements of Section 222 of the Act. The Notice of Investigation was published in the FEDERAL REGISTER on June 29, 1976 (41 FR 26771). No public hearing was requested and none was held.

During the course of the investigation, information was obtained from officials of TRW, Incorporated, its customers, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Whenever it becomes evident that any of the above criteria are no longer met, the certification as issued must be revised to include a termination date. The termination date would apply only with respect to total or partial separations occurring after this date as specified in the revised certification.

The investigation reveals that all four criteria continue to be met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Subsequent to the June 19, 1975 finding, employment of production workers decreased 51 percent from 1974 to 1975. Employment decreased 5 percent in the first quarter of 1976 compared to the like period of 1975. Employment increased 16 percent in the second quarter of 1976 compared to the same quarter of the previous year, but declined 16 percent from the previous quarter. Employment increased 9 percent in the third quarter of 1976 compared to the same quarter of the previous year and remained unchanged from the previous quarter. Employment figures include the Downington, Pennsylvania facility of TRW, which employs workers engaged in the preparation of paints for the resistors produced at the Philadelphia Division and represents approximately 1½ percent of total employment.

Employment of salaried workers declined 41 percent from 1974 to 1975, and 14 percent in the first ten months of 1976 from the same period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Subsequent to the June 19, 1975 finding, sales of carbon composition resistors by the Philadelphia Division of TRW, Inc. decreased 44 percent in quantity from 1974 to 1975. Sales increased 25 percent in the first quarter of 1976 compared to the like period of 1975, then decreased in quantity in the second and third quarters of 1976, 7 percent and 32 percent, respectively, compared to the like periods of 1975.

Production of carbon composition resistors decreased 58 percent in quantity from 1974 to 1975. Sales increased 25 per- in the first, second, and third quarters of 1976, 34 percent, 22 percent and 18 percent in quantity, respectively, compared to the same quarters of 1975. Production decreased 37 percent in the second quarter of 1976 compared to the first quarter of 1976 and decreased 7 percent in the third quarter of 1976 compared to the second quarter of 1976.

INCREASED IMPORTS

Subsequent to the June 19, 1975 finding, imports of carbon composition resistors decreased both absolutely and relatively from 1974 to 1975. Imports increased absolutely and relatively in the first six months of 1976 compared to the same period of the previous year. The ratio of imports to domestic production and consumption increased from 34.0 percent and 26.2 percent, respectively, in the first six months of 1975, to 57.3 percent and 37.0 percent, respectively, in the first six months of 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that customers decreased their purchases of carbon composition resistors from TRW's Philadelphia Division from 1974 to 1975 and in the first 10 months of 1976 compared to the same period of 1975, and increased their purchases of imported resistors. These customers cited the lower price of imported resistors as the reason for the shift in purchasing patterns.

CONCLUSION

While employment at the Philadelphia Division of TRW, Inc. increased in the second and third quarters of 1976 compared to the same quarters in 1975, employment declines are anticipated as evidenced by the decrease in numbers of production workers in the second and third quarters of 1976 from the previous quarters. Further evidence that TRW has not recovered from the impact of imports is also seen by the decline in employment of production workers in the first, second and third quarters of 1976, 46 percent, 55 percent, and 55 percent, respectively, when compared to the like periods of 1974.

While production at the Philadelphia Division of TRW increased in the first, second, and third quarters of 1976 compared to the same quarters in 1975, production declines are expected as evidenced by the decrease in production in the first, second, and third quarters of 1976 from the previous quarters. Additionally, production of carbon composition resistors declined in the first, second, and third quarters of 1976, 40 percent, 65 percent, and 61 percent, respectively, when compared to the same quarters of 1974.

Sales decreased in the second and third quarters of 1976 compared to the same quarters of the previous year and decreased in quantity in the first, second, and third quarters of 1976, 54 percent, 58 percent, and 62 percent, respectively, compared to the same quarters of 1974.

U.S. imports of fixed resistors increased absolutely and relatively in the first six months of 1976 compared to the like period of 1975. Customers surveyed continued to decrease their purchases of carbon composition resistors from TRW's Philadelphia Division and increase their purchases of imported resistors in the first ten months of 1976 compared to the same period in 1975.

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers producing carbon composition resistors at the Philadelphia Division of TRW, Inc., Cleveland, Ohio and related workers at the Downington, Pennsylvania facility continue to be attributable to the conditions specified in section 222 of the Trade Act of 1974.

Therefore, the certification issued on June 19, 1975 for TA-W-11, the Philadelphia Division of TRW, Incorporated, Cleveland, Ohio and related workers at the Downington, Pennsylvania facility is not revised to include a termination date of eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 30th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-1005 Filed 1-10-77;8:45 am]

[TA-W-1171]

WASHINGTON STOVE WORKS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1171: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 14, 1976 in response to a worker petition received on October 14, 1976 which was filed by the International Molders and Allied Workers Union on behalf of workers and former workers producing cast iron stoves at the Everett, Washington plant of Washington Stove Works.

The Notice of Investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48819). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Washington Stove Works, its customers, the U.S. Department of Commerce, the U.S. Inter-

national Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdecision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 36.3 percent in the first three quarters of 1976 compared to the first three quarters of 1975. Separations first occurred at the plant on March 15, 1976.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales of cast iron stoves, in value, increased 125.6 percent in 1975 compared to 1974. Company sales of cast iron stoves, in value, declined 27.6 percent in the first three quarters of 1976 compared to the first three quarters of 1975.

Plant production, in quantity, of cast iron stoves increased 68.5 percent in 1975 compared to 1974. Plant production of cast iron stoves declined 67.1 percent in the first three quarters of 1976 compared to the first three quarters of 1975. Plant production, in quantity, declined 27.1 percent in the first quarter of 1976 compared to the first quarter of 1975.

INCREASED IMPORTS

U.S. imports of cast iron stoves were negligible from 1972 through 1973. U.S. imports increased to 75 thousand units in 1974. U.S. imports were 233 thousand units in 1975, an increase of 210.7 percent compared to 1974.

The ratio of imports of cast iron stoves to domestic production was 46.3 percent in 1974 and increased to 95.9 percent in 1975. The radio of imports to domestic production was 86.8 percent in the first three quarters of 1975 and increased to 117.8 percent in the first three quarters of 1976.

The ratio of imports to domestic consumption was 31.6 percent in 1974 and increased to 48.8 percent in 1975. The ratio of imports to domestic consumption was 46.5 percent in the first three quarters of 1975 and increased to 54.1 percent in the first three quarters of 1976.

CONTRIBUTED IMPORTANTLY

Major customers of Washington Stove Works indicated that they have increased their purchases of imported cast iron stoves while decreasing their purchases from Washington Stove Works. Customers have increased purchases of imported cast iron stoves because of lower prices.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of cast iron stoves have contributed importantly to the total or partial separation of the workers at the Everett, Washington plant of Washington Stove Works. In accordance with the provisions of the Act, I make the following certification:

All employees at the Everett, Washington plant of Washington Stove Works who became totally or partially separated from employment on or after March 15, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-997 Filed 1-10-77;8:45 am]

[TA-W-1464]

YOUNGSTOWN SHEET AND TUBE CO

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 29, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Campbell, Struthers Works, Youngstown, Ohio of Youngstown Sheet and Tube Co., Youngstown, Ohio (TA-W-1464). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with basic steel produced by Youngstown Sheet and Tube Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-987 Filed 1-10-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

FUTURE COUNCIL MEETINGS

Notice is hereby given, pursuant to Pub. L. 92-463, that future dates of meetings of the National Advisory Council on the Education of Disadvantaged Children will be held as follows:

January 28-29, 1977, February 25-26, March 11 (Editing Committee only), April 1-2, May 20-21, June 10-11, July 15-16, August 19-20, September 9-10, October 14-15, November 18-19, December 9-10.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

Because of limited space, all persons wishing to attend should call for reservations in advance area code 202/382-6945.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 13th St., NW, Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C., on January 4, 1977.

PAUL F. KELLER,
Acting Executive Director.

[FR Doc.77-897 Filed 1-10-77;8:45 am]

COUNCIL MEETING

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held at 425 13th St., NW, Suite 1012, Washington, D.C. on January 28, 1977 from 9:00 am-5:00 pm and on January 29, 1977 from 9:00 am-12 noon. The Committees on Legislation, Mandated Studies and Adolescence will meet to go over individual drafts of legislation and the full Council will meet to review Committee reports and further develop sections of the 1977 Annual Report.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

Because of limited space, all persons wishing to attend should call for reservations by January 24, 1977 area code 202/382-6945.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 13th St., NW, Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C., on January 4, 1977.

PAUL F. KELLER,
Acting Executive Director.

[FR Doc.77-898 Filed 1-10-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-2)]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL

Meeting

The NASA Research and Technology Advisory Council will meet on February 2-4, 1977, in Room 625 of Federal Office Building 10B at NASA Headquarters, 600 Independence Avenue, SW, Washington, DC 20546. The meeting will be open to the public on a first-come, first-served basis up to the seating capacity of the room, which is about 40 persons.

The NASA Research and Technology Advisory Council was established to advise NASA's senior management in the area of aeronautics and space research and technology. The Council studies issues, pinpoints critical problems, determines gaps in needed technology, points out desirable goals and objectives, summarizes the state of the art, assesses ongoing work, and makes recommendations to help NASA plan and carry out a program of greatest benefit to the nation. The Chairman is Dr. Ronald Smelt. There are 17 members on the Council itself and additional members on five committees and four panels which report to the Council.

The following list sets forth the approved agenda and schedule for the meeting. For further information, please contact the Executive Secretary, Mr. C. Robert Nysmith (Code R-3), NASA Headquarters, Washington, DC 20546, Area Code 202 755-8550.

FEBRUARY 2, 1977

Time	*Topic*
8:30 a.m.	Opening remarks. (Purpose: To summarize the topics to be discussed at the meeting and note any changes in the NASA organization and personnel.)
9 a.m.	NASA 5-year plan—1978-82. (Purpose: To present the NASA 5-year plan for the council's review and comment.)
1:15 p.m.	OAST fiscal year 1978 budget. (Purpose: To inform the council of the proposed fiscal year 1978 aeronautics and space technology program and budget.)
2:15 p.m.	Fiscal year 1979 planning. (Purpose: To discuss and plan future RTAC activities to insure that the advice provided by RTAC is timely and of maximum usefulness to NASA during formulation of the potential fiscal year 1979 technology programs and budget.)
3 p.m.	Future planning. (Purpose: To solicit RTAC recommendations on future areas which should be emphasized.)
3:45 p.m.	NASA aeronautics facility energy requirements and utilization. (Purpose: To present and discuss the requirements and utilization of energy by the research centers' aeronautical facilities and solicit the council's advice and recommendations regarding proposed NASA activities to reduce facility energy consumption.)
4:45 p.m.	Status of issues and recommendations. (Purpose: To discuss NASA's actions in response to RTAC issues and recommendations.)
5:45 p.m.	Adjournment.

FEBRUARY 3, 1977

8:30 a.m.	Center of Excellence Discussion (Purpose: To discuss the RTAC recommendations and suggestions concerning NASA technology "centers of excellence.") Committee and panel reports. (Purpose: To permit the chairman of each committee and panel to identify issues and recommendations from the last meeting of his committee/panel, for council discussion.)
10 a.m.	Committee on aerodynamics and configurations.
11 a.m.	Panel on space vehicles.
1 p.m.	Panel on aeronautical safety and operating systems.
2 p.m.	Committee on guidance, control, and information systems.
3:15 p.m.	Committee on aeronautical propulsion.
4:15 p.m.	Panel on research.
5:15 p.m.	Adjournment.

FEBRUARY 4, 1977

8:30 a.m.	Panel on general aviation technology.
9:30 a.m.	Committee on materials and structures.
10:45 a.m.	Committee on space propulsion and power.
12:45 p.m.	Council deliberations. (Purpose: To allow time for the council to categorize and document recommendations and observations to be reported to NASA.)
2:30 p.m.	Informal council report to NASA. (Purpose: The council will report recommendations to senior NASA officials, and other highlights of the meeting will be discussed.)
3:30 p.m.	Adjournment.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

JANUARY 4, 1977.

[FR Doc. 77-889 Filed 1-10-77;8:45 am]

[Notice 77-3]

SPACE PROGRAM ADVISORY COUNCIL

Meeting

The NASA Space Program Advisory Council will meet on February 1 and 2, 1977, in Room 7002, Federal Office Building 6, 400 Maryland Avenue, SW, Washington, DC 20546. The meeting, to be held from 9 a.m. to 4:30 p.m. on both days, is open to the public. The seating capacity of the room is about 40 persons, including Council members and other participants. Visitors will be requested to sign a visitor's register.

The NASA Space Program Advisory Council was established as an interdisciplinary group to advise NASA senior management with respect to the plans for, the work in progress on, and the accomplishments of NASA's space programs. The Council is concerned with the disciplines appropriate to Physical Sciences, Life Sciences, Space Applications, and Space Systems, as they bear on space programs. The Chairman of the Council is Dr. Frederick Seitz. There are currently seventeen members on the Council and additional members on four standing committees which report to the Council. The following list sets forth the approved agenda and schedule for the meeting. For further information contact the Executive Secretary, Mr. Nathaniel B. Cohen, Area Code 202 755-8433, NASA Headquarters, Washington, DC 20546.

FEBRUARY 1, 1977

9 a.m.	Opening remarks. This time is provided for the chairman's introductory remarks and for executive secretary to cover administrative matters.

Time	Topic
	Fiscal year 1978 President's budget. NASA will review the fiscal year 1978 budget submitted for Congressional approval and will discuss its implications.
10 a.m.	Fiscal year 1978 5-year planning. NASA will review the approach to developing, and review the contents of, a 5-year planning report developed in conjunction with the fiscal year 1978 budget submission. The views of the council regarding the upcoming preparation of a fiscal year 1979 5-year planning report will be sought.
2:30 p.m.	SPAC committee reports. This time is provided for reports of the 4 standing committees on matters they have considered since the last SPAC meeting.
4:30 p.m.	Adjourn.

FEBRUARY 2, 1977

9 a.m.	STS reimbursement policy. A reimbursement policy governing the establishment of fees to be charged to users of the Space Transportation System has been proposed for formal issuance. This policy will be reviewed for the council.
10 a.m.	Viking results. The most recent scientific results of the Viking missions and considerations of possible options for post-Viking exploration of Mars will be presented to the council.
11 a.m.	Program update. Highlights of space program events and activities since the last meeting of the council will be summarized.
1:30 p.m.	Working session. This period is set aside for general discussion by SPAC of matters brought before the council by NASA.
4:30 p.m.	Adjourn.

JOHN M. COULTER,
Acting Assistant Administrator, DOD and Interagency Affairs.

JANUARY 5, 1977.

[FR Doc.77-890 Filed 1-10-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

HANDICAPPED IN SCIENCE PROGRAM

Invitation to Submit Preliminary Proposals

The National Science Foundation (NSF) invites *preliminary proposals* from colleges, universities, schools for the handicapped, and non-profit organizations, for projects to develop and test mechanisms to attract physically handicapped individuals to scientific careers. Through experimentation with promising solutions, the Foundation seeks to identify and demonstrate effective models for the physically handicapped.

Preliminary proposals outlining the proposed project should be submitted to the Handicapped in Science Program by February 25, 1977. The Foundation staff will in two stages review the preliminary proposals and will either discourage submission of a formal proposal or encourage submission and provide information for the submission of a formal proposal by April 15, 1977.

The preliminary proposal should not exceed five pages, sketching in broad strokes the essential features of the experiment. It is important, however, that the design, procedures and the evaluation plan be identified, and the costs be estimated.

Proposers should note that funds will not be provided for student participant support; special services cost will be considered where clearly justified.

Five copies of the completed proposal are requested. They should be sent to:

Handicapped in Science Program, Division of Science Manpower Improvement, Directorate for Science Education, National Science Foundation, Washington, D.C. 20550.

Dated: January 5, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-887 Filed 1-10-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS AND ELECTRIC CO.

Consideration of Variance Involving Provisional Operating License No. DPR-13

The Southern California Edison Company of Rosemead, California and San Diego Gas and Electric Company of San Diego, California (licensees) are authorized by Provisional Operating License No. DPR-13 to operate a nuclear power reactor identified as San Onofre Unit No. 1 (the facility), located in San Diego County, California, at steady state power levels up to 1347 MWt.

By letter dated November 3, 1976, Southern California Edison Company (SCEC) indicated that based on its efforts to date and the remaining work to be done to achieve compliance with the Commission's Interim Acceptance Criteria (IAC; 36 FR 12247, June 29, 1971), operation of San Onofre, Unit No. 1 was scheduled to be resumed on February 11, 1977. The work which involves the installation of the on-site emergency power system, has continued during the present facility outage with the reactor shut down since September 30, 1976, prior to the expiration of the October 1, 1976 IAC conformance date granted in the Commission's August 5, 1974 variance.

In its letter dated December 16, 1976 (which updates its previous letter dated November 19, 1976) SCEC proposed to have the new on-site emergency power system available for operation upon startup of the facility as scheduled for February 11, 1977, with transfer pumps for supplying diesel oil to the two new diesel generators that do not meet the required ASME Section III pump qualifications. The facility would be operated in this manner until replacement of the transfer pumps with physically and functionally similar pumps that will be certified to meet the ASME, Section III requirements. SCEC's request for approval of this proposed course of action may involve a request for variance from the IAC for the purpose of obtaining an extension of time for replacement of the fuel oil transfer pumps with pumps certified to meet Section III requirements.

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation is considering a variance which would extend the October 1, 1976, deadline for achieving compliance for the facility until April 30, 1977. The variance may be granted upon a finding that there is good cause and that there is reasonable assurance that the granting of the extension will not adversely affect the health and safety of the public. The Director, Office of Nuclear Reactor Regulation will consider and issue a determination, together with supporting reasons, with respect to the variance. In that connection, the Director, Office of Nuclear Reactor Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, address to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, not later than January 25, 1977.

A copy of SCEC's letters of November 3, 19, December 16, 1976, and related correspondence and documents including the Commission's Order of August 5, 1974, have been placed in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California.

Dated at Bethesda, Maryland, this 7th day of January, 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-1107 Filed 1-10-77;10:20 am]

OHIO RIVER BASIN COMMISSION

GREEN RIVER BASIN COMPREHENSIVE COORDINATED JOINT PLAN

Availability of Report for Review

Pursuant to section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89-90), the Ohio River Basin Commission has completed a report summarizing the current Comprehensive Coordinated Joint Plan (CCJP) for the Green River Basin portion of the Ohio River Basin. The Report currently is being reviewed by the Governors, the head of each Federal agency, and each interstate agency, from which a member of the Commission has been appointed.

Views, comments and recommendations on the CCJP are requested by

April 4, 1977. Copies are available on request to the Ohio River Basin Commission, 36 E. Fourth Street, Cincinnati, Ohio 45202.

FRED E. MORR,
Chairman.

[FR Doc.77-923 Filed 1-10-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice 511]

APPLICATIONS FOR BRIDGE PERMITS

Brownsville, Texas

Notice is hereby given that the Department of State has received three separate applications for permits authorizing the construction, operation and maintenance of international bridges in the Brownsville, Texas area. Applications have been filed by the City of Brownsville and by Cameron County, Texas, for permits authorizing a highway bridge connecting Brownsville with the City of Matamoros. Both the City and County seek authority to build similar bridges in substantially the same location. A third application has been filed by the Brownsville Navigation District for a permit authorizing a rail-highway bridge in the area of the Port of Brownsville.

The Department's jurisdiction with respect to these applications is based upon Executive Order 11423, dated August 16, 1968, and the International Bridge Act of 1972 (Pub. L. 92-343, 86 Stat. 731, approved September 26, 1972).

As required by E.O. 11423, the Department of State is circulating these applications to concerned agencies for comment. In addition, the Office of Environmental Affairs of the Department of State is initiating an assessment of the environmental effects of the three proposals to determine if environmental impact statements will be required.

Interested persons may submit their views regarding these applications in writing to Mr. Phillip R. Trimble, Assistant Legal Adviser for Economic and Business Affairs, Room 6420, Department of State, Washington, D.C. 20520.

The applications and related documents made part of the record to be considered by the Department of State in connection with these applications are available for inspection and copying in the Office of the Assistant Legal Adviser for Economic and Business Affairs during normal business hours.

Any questions relating to this notice may be addressed to Mr. Trimble at the above address, telephone 202-632-0242; or to Mr. John Crook, of his office, telephone 202-632-1571.

For the Secretary of State,

Dated: December 30, 1976.

PHILLIP R. TRIMBLE,
Assistant Legal Adviser for Economic and Business Affairs.

[FR Doc.77-924 Filed 1-10-77;8:45 am]

Agency for International Development

HOUSING GUARANTY PROGRAM FOR REPUBLIC OF PANAMA

Information for Investors

The Agency for International Development (A.I.D.) has advised the Banco Hipotecario Nacional (the Borrower) an instrumentality of the Government of Panama that upon execution by an eligible U.S. investor acceptable to A.I.D. of an agreement to loan the Borrower an amount not to exceed $3,400,000 and subject to the satisfaction of certain further terms and conditions by the Borrower, A.I.D. will guaranty repayment to the investor of the principal and interest on such loan. The guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority contained in section 222 of the Foreign Assistance Act of 1961, as amended (the Act). Proceeds of the loan will be used to finance housing for lower income families.

Eligible investors interested in extending a guaranteed loan to the Borrowers should communicate promptly with:

Franklin Almillategui, General Manager, Banco Hipotecario Nacional, Apartado 222, Panama 1, Republic of Panama.

Investors eligible to receive a guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic corporations, partnerships or associations substantially beneficially owned by U.C. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for a guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate to be established by A.I.D.

The Borrower projects a schedule of disbursements covering approximately a two year period from the date of the loan agreement and prospective Investors should consider this in proposing a guaranteed loan to the Borrower. In addition, the Investor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the Borrower.

Information as to eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 300 E, SA-2, Washington, D.C. 20523.

This notice is not an offer by A.I.D. or by the Borrower. The Borrower and not A.I.D. will select a lender and negotiate the terms of the proposed loan.

Dated: December 13, 1976.

DONALD A. GARDNER,
Deputy Director, Office of Housing Agency for International Development.

[FR Doc.77-837 Filed 1-10-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Pendency of Exemption Relating to Transactions Involving the Ragnar Benson Profit Sharing Plan and Trust (Application No. D-175)

Correction

In FR Doc. 77-99 appearing in the issue of Tuesday, January 4, 1977 on page 956, in the 3rd column, the 2nd full paragraph numbered "11.", the last sentence should read, "With this capital contribution, which will total approximately $140,000 over the seven year period, all of the new loans will be repaid on a straight-line principal plus interest basis."

Office of the Secretary

SECRETARY OF THE TREASURY

Memorandum of Agreement and Delegation of Authority

CROSS REFERENCE: For a document issued jointly by the Department of the Treasury, Office of the Secretary, and the Department of the Interior, Office of the Secretary, on the subject of a delegation of authority to the Secretary of the Treasury in connection with establishment of a Commonwealth of the Northern Mariana Islands in Political Union with the United States, see FR Doc. 77-921 appearing in the Notices section of this issue under the Department of the Interior, Office of the Secretary.

INTERSTATE COMMERCE COMMISSION

[Notice No. 301]

ASSIGNMENT OF HEARINGS

JANUARY 6, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropri-

ate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 61502 Sub 9, Wm. McCullough Transportation Co., Inc., now being assigned March 9, 1977 (3 days), at New York, N.Y. in a hearing room to be later designated.

MC 59457 Sub 31, Sorensen Transportation Company, Inc., now being assigned March 7, 1977 (2 days), at New York, N.Y. in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77—1019 Filed 1-10-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 6, 1977.

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 26, 1977.

FSA No. 43296—*Joint Rail-Water Container Rates—Baltic Shipping Company.* Filed by Baltic Shipping Company, (No. 104), for itself and interested rail carriers. Rates on general commodities, between ports in Europe, and rail stations on the U.S. Atlantic Coast Seaboard.

Grounds for relief—Water competition.

Tariffs—Baltic Shipping Company tariffs Eastbound No. 1, I.C.C. No. 1, F.M.C. No. 18, and Westbound No. 2, I.C.C. No. 2, F.M.C. No. 19. Rates are published to become effective on February 6, 1977.

FSA No. 43297—*Iron or Steel Articles to Beaumont, Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B-646), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from Alton and Federal, Illinois, to Beaumont, Texas.

Grounds for relief—Rate relationship and market competition.

Tariff—Supplement 245 to Southwestern Freight Bureau, Agent, tariff 301-F, I.C.C. No. 5098. Rates are published to become effective on February 8, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1008 Filed 1-10-77;8:45 am]

[Notice No. 101]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 11, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212a(b) in connection with transfer application under section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76904. By application filed December 28, 1976, WALLACE TRANSPORT, INC., P.O. Box 214, Somers Point, N.J., 08244, seeks temporary authority to lease a portion of the operating rights of JOHNSRUD TRANSPORT, INC., Highway 9 West, P.O. Box 447, Cresco, IA, 52136, under section 210a(b). The transfer to WALLACE TRANSPORT, INC., of a portion of the operating rights of JOHNSRUD TRANSPORT, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1020 Filed 1-10-77;8:45 am]

[Notice No. 2]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 5, 1977.

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 57697 (Sub-No. 5TA), filed December 20, 1976. Applicant: LESTER SMITH TRUCKING, INC., P.O. Box 16424, 2645 E. 51st Ave., Denver, Colo. 80216. Applicant's representative: Michael J. Norton, P.O. Box 2135, 404 Boston Bldg., Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Gypsum and gypsum products*, from points in Albuquerque, N. Mex., and its commercial zone, to points in Colorado and Arizona; (b) *Paper products and gypsum paper*, from points in Colorado, to Albuquerque, N. Mex., and its commercial zone; and (c) *Lumber, lumber products, and wood products*, from points in Colorado, Wyoming, Idaho, and Montana, to points in New Mexico, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. 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: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 107818 (Sub-No. 84TA), filed December 21, 1976. Applicant: GREENSTEIN TRUCKING COMPANY, 280 N.W. 12th Ave., P.O. Box 608, Pompano Beach, Fla. 33061. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared dough*, in vehicles equipped with mechanical refrigeration, from New Albany, Ind., to points in Florida, Georgia, North Carolina and South Carolina, for 180 days. Supporting shipper: Refrigerated Foods Co., Division of the Pillsbury Co., 602 2nd Ave., South, Minneapolis, Minn. 55402. Send protests to: Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 112288 (Sub-No. 13TA), filed December 23, 1976. Applicant: YARBROUGH TRANSFER COMPANY, 1500 Doune St., Winston-Salem, N.C. 27107. Applicant's representative: John L. Brown, 2236 Brookfield Dr., S.W., Roanoke, Va. 24018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air conditioning, air filtration, refrigeration and humidifying equipment*, the transportation of which because of size or weight requires the use of special equipment, from Salisbury, N.C., to points in Georgia, Iowa, Michigan, South Carolina and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gamewell Mechanical, Inc., P.O. Box 1949, Salisbury, N.C. 28144. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 112539 (Sub-No. 17TA), filed December 23, 1976. Applicant: PERCHAK TRUCKING, INC., P.O. Box 811, Route 309, Hazle Village, Hazleton, Pa.

18201. Applicant's representative: Joseph F. Hoary, 121 S. Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from South Volney Township, N.Y., to Hazleton, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Quality Beverage Dist., 695 Poplar St., Hazleton, Pa. 18201. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 113843 (Sub-No. 236TA), filed December 21, 1976. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and food products*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Granite State Packing Co., at or near Manchester, N.J., to points in Colorado, District of Columbia, Illinois, Indiana, Maryland, Michigan, Missouri, New York, Ohio, Pennsylvania, Virginia and Wisconsin, restricted to traffic originating at the above-named origin and destined to the above-named destinations, for 180 days. Supporting shipper: Granite State Packing Co., 163 Hancock St., Manchester, N.H. 03105. Send protests to: Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway St., Boston, Mass. 02114.

No. MC 113908 (Sub-No. 392TA), filed December 21, 1976. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale St., P.O. Box 3180 G.S.S. Springfield Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid concrete admixtures*, in bulk, from points in Tarrant County, Tex., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, Wisconsin and Wyoming, for 180 days. Supporting shipper: Master Builders, Lee at Mayfield, Cleveland, Ohio 44118. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 114457 (Sub-No. 279TA), filed December 23, 1976. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the plantsite and warehouse facilities of Jeno's, Inc., Duluth, Minn., to points in Iowa, Kansas, Missouri, Nebraska and South Dakota, restricted to the transportation of traffic originating at and destined to the above named points, for 180 days. Supporting shipper: Jeno's, Inc., 525 Lake Ave., South, Duluth, Minn. 55802. 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 114533 (Sub-No. 353TA), filed December 17, 1976. Applicant: BANKERS DISPATCH CORPORATION, 1106 W. 35th St., Chicago, Ill. 60609. Applicant's representative: Paul R. Bergant (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film*, and incidental dealer handling supplies (except motion picture films and materials and supplies used in connection with commercial and television motion pictures), between Salt Lake, Davis and Weber Counties, Utah, on the one hand, and, on the other, points in Idaho, Colorado, Oregon and Wyoming, for 180 days. Supporting shippers: Filmcraft, Inc., Steve Brooks, Manager, 1475 S. Main St., Transamerica Film Service, 1430 S. Main St., Vern Hilman, Plant Manager, Salt Lake City, Utah 84115. Sun Photo Service, D. Thomas Silvers, Exec. V.P., 1146 S. State St., Salt Lake City, Utah 84110. 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 117765 (Sub-No. 219TA), filed December 23, 1976. Applicant: HAHN TRUCK LINE, INC., 5315 N.W. 5th St., P.O. Box 75218, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers; (1) from Laredo, Tex., to points in Oklahoma; and (2) from Wichita, Kans., to points in Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hirst Imports, Inc., 1140 N.W. 4th St., Oklahoma City, Okla. 73106. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 117940 (Sub-No. 203TA), filed December 23, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Bruce A. Bullock, 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: *Such merchandise* as is dealt in by discount and variety stores (except foodstuffs and commodities in bulk), from points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and West Virginia, to the facilities of S. S. Kresge Company, in Illinois, Indiana and Ohio, restricted to traffic originating at the named origin states and destined to the named facilities, for 180 days. Supporting shipper: S. S. Kresge Company, 3100 W. Big Veaver, Troy, Mich. 48084. 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 117940 (Sub-No. 204TA), filed December 23, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Bruce A. Bullock, 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: *Such merchandise* as is dealt in by discount and variety stores (except foodstuffs and commodities in bulk), from points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and West Virginia, to the facilities of S. S. Kresge Company, in the Lower Peninsula of Michigan, restricted to traffic originating in the named origin states and destined to the named facilities, for 180 days. Supporting shipper: S. S. Kresge Company, 3100 W. Big Veaver, Troy, Mich. 48084. 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 118806 (Sub-No. 51TA), filed December 23, 1976. Applicant: ARNOLD BROS. TRANSPORT, LTED., 851 Lagimodiere Blvd., Suite 200, Winnipeg, Manitoba, Canada R2J 3K4. Applicant's representative: Daniel C. Sullivan, 327 S. LaSalle St., Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Egg flats, egg cartons and peat moss pots*, from the ports of entry on the International Boundary Line between the United States and Canada located at or near Pembina, N. Dak., and Noyes, Minn., to points in California, Illinois, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin, for 180 days. Supporting shipper: Fibre Form Industries, Inc., Box 1958, Tisdale, Saskatchewan, Canada. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Com-

mission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 119934 (Sub-No. 210TA), filed December 22, 1976. Applicant: ECOFF TRUCKING, INC., 625 E. Broadway, Fortville, Ind. 46040. Applicant'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: (1) *Liquid sugar*, in bulk, from Reserve, La., to Atlanta and Forest Park, Ga.; Cincinnati, Ohio; Louisville, Ky.; and Malden, Mo.; and (2) *Dry sugar*, in bulk, from Reserve, La., to Atlanta and Forest Park, Ga.; Cincinnati, Ohio; and Malden, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Godchaux Henderson Sugar, Inc., P.O. Drawer AM, Reserve, La. 70084. 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 129301 (Sub-No. 5TA), filed December 21, 1976. Applicant: ENGLISH AND SONS CORPORATION, 412 Kings Highway, Thorofare, N.J. 08086. Applicant's representative: James H. Sweeney, P.O. Box 684, Woodbury, N.J. 08096. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, cold pack or frozen, canned, preserved or prepared and pet food*, between Camden, N.J., on the one hand, and, on the other, points in Delaware, Maryland and New York within 125 miles of Camden, N.J., restricted to a transportation service to be performed under a continuing contract with Campbell Soup Company, Camden, N.J.; (2) *Foodstuffs*, from Vincetown, N.J., to points in Connecticut, Delaware, District of Columbia, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia and West Virginia, restricted to a transportation service to be performed under a continuing contract with Francis C. Stokes Company, Vincetown, N.J.; and (3) *General commodities* (except commodities in bulk, dangerous explosives and household goods as defined by the Commission), between Cinnaminson, N.J., on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia and the District of Columbia, restricted to a transportation service to be performed under a continuing contract with Anthony Sales, Cinnaminson, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Campbell Soup Company, Camden, N.J. 08101. (2) Francis C. Stokes Company, P.O. Box 278, Vincentown, N.J. 08088. and (3) Anthony Sales, 1300 Taylors Lane, Cinnaminson, N.J. 08077. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 E. State St., Room 204, Trenton, N.J. 08608.

No. MC 133193 (Sub-No. 2TA), filed December 20, 1976. Applicant: JAMES ANDREWS, doing business as JAMES ANDREWS TRUCKING CO., 69 Catlin Ave., Roosevelt, N.Y. 11575. Applicant's representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, N.Y. 10528. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, between Inwood, N.Y., on the one hand, and, on the other, points in the New York, N.Y., Commercial Zone, as defined by the Commission, under a continuing contract with Gay Togs, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gay Togs, Inc., 475 Doughty Blvd., Inwood, N.Y. 11696. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 133741 (Sub-No. 19TA), filed December 22, 1976. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, Wyo. 82501. Applicant's representative: David R. Parker, 1600 Broadway, 2310 Colorado State Bank Bldg., Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, in bulk, from the facilities utilized by Louisiana-Pacific Corporation, in the Dubois, Wyo., commercial zone, to the facilities utilized by Louisiana-Pacific Corporation, in the Riverton, Wyo., commercial zone, restricted to shipments having a subsequent movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Louisiana-Pacific Corporation, 1300 S.W. 5th Ave., Portland, Oreg. 97201. Send protests to: Paul A. Naughton, Transportation Specialist, Interstate Commerce Commission, 1006 Federal Bldg., and Post Office, 100 E. B St., Casper, Wyo. 82601.

No. MC 134467 (Sub-No. 15TA), filed December 23, 1976. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, Ark. 72764. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared flour mixes and frosting mixes*, from the plantsite and storage facilities of Chelsea Milling Co., at or near Chelsea, Mich., to points in Arkansas, Oklahoma, Tennessee, Texas and Missouri, restricted to traffic originating at the plantsite or storage facilities of Chelsea Milling Co., at or near Chelsea, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chelsea Milling Co., North St., Chelsea, Mich. 48118. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 134970 (Sub-No. 10 TA), filed December 21, 1976. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, Route #24 East, El Paso, Ill. 61738. Applicant's representative: Charles W. Gustafson, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehcle, 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), from the plantsite and storage facilities utilized by Wilson & Company, Inc., at or near Monmouth, Ill., to Albany, Ga., Atlanta, Ga., and its Commercial Zone, Lovejoy, Ga., Thomasville, Ga., New Orleans, La., and its Commercial Zone, Shreveport, La., and its Commercal Zone, Suffolk, Va., Jacksonville, Fla., and its Commercial Zone, Madison, Fla., and Plant City, Fla., and Tampa, Fla., and its Commercial Zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wilson Foods Corporation, A. N. Brent, Manager, Transportation, P.O. Box 26724, Oklahoma City, Okla. 73126. 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 135437 (Sub-No. 9TA), filed December 23, 1976. Applicant: TRI-NORTHEASTERN TRANSPORT, INC., South Main St., Lyndonville, N.Y. 14098. Applicant's representative: S. Michael Richards, P.O. Box 225, 44 North Ave., Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen mushrooms*, from Kennett Square, Pa., to Rochester, N.Y., Owensboro, Ky., and Evansville, Ind., for 180 days. Supporting shipper: Ragu Foods, Inc., 1680 Lyell Ave., Rochester, N.Y. 14606. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 138231 (Sub-No. 2TA), filed December 17, 1976. Applicant: WILBUR CARTER, 401 St. Augustine Road, Valdosta, Ga. 31601. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular

routes, transporting (1) *Furniture and components of furniture* (except commodities in bulk); and (2) *raw materials and component parts* used in the manufacture of furniture (except commodities in bulk), from Candler, N.C., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, South Carolina, Tennessee, Virginia and West Virginia; and from points in the destination states named in (1) above, to Candler, N.C., under a continuing contract with Harris Pine Mills, for 180 days. Supporting shipper: Harris Pine Mills, Drawer 1168, Pendleton, Oreg. 97801. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 138383 (Sub-No. 2TA), filed December 23, 1976. Applicant: JON C. SAWYER, doing business as, SAWYER TRANSPORT CO., 3535 Wolf Road, Saginaw, Mich. 48601. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial sand*, in bulk, from the facilities of Nugent Sand Company, at Muskegon, Mich., and its commercial zone, to Defiance, Ohio, for 180 days. Supporting shipper: Central Foundry Division, GMC, 77 W. Center St., P.O. Box 1629, Saginaw, Mich. 48605. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 138626 (Sub-No. 1TA), filed December 23, 1976. Applicant: LESLIE OAKLEY, JR. AND BARRY D. OAKLEY, doing business as, OAKLEY BROTHERS TRUCKING, Fairfield, Mont. 59436. Applicant's representative: Mr. Dzivi, 529 Northwestern Bank Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, aluminum and steel pipe and wheel line sprinklers*, from points in Oregon, Washington and Idaho, to points in Montana and to the International Boundary line between the United States and Canada as the same is contiguous with the boundaries of Montana. Applicant intends to tack its existing authority with MC 138626, for 180 days. Supporting shippers: Mike Saranto, Purchasing Manager, Pringle Manufacturing Company, Box 235, Walla Walla, Wash. 99362. William Bixby, Manager, Johns-Mansville, Inc., McNary, Oreg. Send protests to: Paul J. Lebane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North Billings, Mont. 59101.

No. MC 139663 (Sub-No. 1 TA), filed December 23, 1976. Applicant: HASKINS & SON, INC., 815 Max Ave., Lansing, Mich. 48915. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial sand*, in bulk, from the facilities of the Nugent Sand Company, at Muskegon, Mich., and its commercial zone to Defiance, Ohio, for 180 days. Supporting shipper: Central Foundry Division, GMC, 77 W. Center St., P.O. Box 1629, Saginaw, Mich. 48605. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 140665 (Sub-No. 4 TA), filed December 21, 1976. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, Mo. 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric lamps; lighting fixtures, Christmas tree lamp outfits; electric cord sets; dry cell batteries; and portable battery chargers*, from Bellevue, Cleveland, Warren, Youngstown, Ravenna, Circleville and Bucyrus, Ohio, to points in Arizona, California, Colorado, Idaho, New Mexico, Utah, Nevada, Wyoming, Montana, Oregon, and Washington, for 180 days. Supporting shipper: General Electric Company, Nela Park, Cleveland, Ohio 44112. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 141205 (Sub-No. 5TA), filed December 23, 1976. Applicant: HUSKY OIL TRANSPORTATION COMPANY, 600 S. Cherry St., Denver, Colo. 80222. Applicant's representative: Karl F. Anuta (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from oil wells located in Nye County, Nev., to refineries located at or near Salt Lake City, North Salt Lake and Woods Cross, Utah, under a continuing contract with Husky Oil Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Husky Oil Company, 600 S. Cherry St., Denver, Colo. 80222. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 142290 (Sub-No. 1TA), filed December 23, 1976. Applicant: JERNIGAN TRUCKING COMPANY, INC., Route 1, Box 141, Seffner, Fla. 33584. Applicant's representative: M. Craig Massey, 202 E. Walnut St., P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clinker*, between Tampa, Fla., and Port Manatee, Fla., under a continuing contract with National Portland Cement Company of Florida, Inc., for 180 days. Supporting shipper: National Portland Cement Company of Florida, Inc., Route 1, Port Manatee, Palmetto, Fla. 33561. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 142722 (Sub-No. 1TA), filed December 20, 1976. Applicant: CRAIG LEE SCHUELLER & MARTIN STEWART PHILLIPS, doing business as SCHIPPS TRANSFER & STORAGE CO., 7815 Slater No. 2, Huntington Beach, Calif. 92647. Applicant's representative: Craig Lee Schueller (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, and personal effects*, restricted to the performance of pickup and delivery service in connection with packing, crating and containerization and decontainerization of such traffic between the warehouse facilities of Schipp's Transfer & Storage, in Orange County, Calif., on the one hand, and, on the other, points in Los Angeles, Orange, Riverside, San Diego, San Bernardino, and Ventura Counties, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Purchasing & Contracting Office, U.S. Marine Corps, P.O. Box 1609, Oceanside, Calif. 92054. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1321, Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 142610 (Sub-No. 1TA), filed December 20, 1976. Applicant: ACTION MOTOR EXPRESS, INC., P.O. Box 29102, 8303 Old Gentilly Road, New Orleans, La. 70189. Applicant's representative: William P. Jackson, 3426 North Washington Blvd., Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and preserved foodstuffs*, in glass containers, from the plant facilities of B. F. Trappey, Inc., at Lafayette, La., and New Iberia, La., to points in Pennsylvania, Wisconsin, Indiana, Michigan, Illinois, Ohio, and New York, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: B. F. Trappey, Inc., P.O. Box 400, New Iberia, La. 70560. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, 9038 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans, La. 70113.

No. MC 142750 TA, filed December 20, 1976. Applicant: ROBERT NEWSOME, JR., Box 34, Naugatuck, W. Va. 25685. 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: *Heating oil, diesel fuel and gasoline*, in bulk, in tank trailers, from Leach, Ky., to Chattaroy, Matewan, and Williamson, W. Va., and from Ironton, Ohio, to Matewan and Williamson, W. Va., under a continuing contract with B & C Oil Company, Inc., and J. H. Trippett

Distributing, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Harold B. Davis, Office Manager-Company Representative, B & C Oil Company, Inc., Box 177, Matewan, W. Va 25678. J. H. Trippett, Owner, J. H. Trippett Distributing, 1413 W. 5th Ave., Williamson, W. Va. 25661. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 142751 TA, filed December 21, 1976. Applicant: TWIN LAKES SERVICE, INC., 651–80th Ave., N.E., Minneapolis, Minn. 55432. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except commodities in bulk), from Milwaukee, Wis., to St. Cloud, Minn., under a continuing contract with Shabel Beverage, Inc., for 180 days. Supporting shipper: Schabel Beverage, Inc., St. Cloud, Minn. 56301. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Comerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

PASSENGER APPLICATION

No. MC 142692 (Sub-No. 1TA), filed December 20, 1976. Applicant: OHIO VALLEY REGIONAL TRANSPORTATION AUTHORITY, 2177 National Road, P.O. Box 2086, Wheeling, W. Va. 26003. Applicant's representative: Paul C. Camilletti, Peoples Federal Bldg., Wheeling, W. Va. 26003. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage;* (1) from Rayland, Ohio, through Tiltonsville, Martins Ferry, and Bridgeport, Ohio, to Wheeling, W. Va., and return; (2) from Blaine, Ohio, through Wolfehurst, Brookside, and Bridgeport, Ohio, to Wheeling, W. Va., and return; (3) Shadyside, Ohio, through Bellaire and Bridgeport, Ohio, to Wheeling, W. Va., and return; and (4) Incidental charter service for above area and to West Liberty, W. Va., and West Alexander, Pa., and environs; *Passengers and their baggage;* between Wheeling, W. Va., and Shadyside, Blaine, and Rayland, Ohio, as follows: from Wheeling, W. Va., over U.S. Highway 40 to Bridgeport, Ohio, thence over Ohio Route 7 to Shadyside, Ohio; from Wheeling, W. Va., over U.S. Highway 40 to Bridgeport, Brookside, and Blaine, Ohio; from Wheeling, W. Va., over U.S. Highway 40 to Bridgeport, Ohio, thence over Ohio Route 7 to Martins Ferry, Ohio via Zane Highway Hanover Street, return to Ohio Route 7 to Tiltonsville, Yorkville, and Rayland, Ohio, via Main Street, return over these routes to Wheeling, W. Va., service is authorized to and from all intermediate points on the above specified routes, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Bel-O-Mar Regional Council and Interstate Planning Commission, P.O. Box 2086, Wheeling, W. Va. 26003. Eastern Ohio Regional Transit Authority, Citizens Savings Bank, Martins Ferry, Ohio 43935. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Bldg., Wheeling, W. Va. 26003.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1018 Filed 1-10-77;8:45 am]

[Notice No. 3]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 6, 1977.

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 1485 (Sub-No. 12TA), filed December 27, 1976. Applicant: SCHROOL TRANSPORTATION, INC., 360 Governor St., East Hartford, Conn. 06108. Applicant's representative: Hugh M. Joseloff, 80 State St., Hartford, Conn. 06103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, cooked, cured or preserved*, n.o.i., from the plantsites of the shipper at Manchester and Bedford, N.H., to points in Massachusetts, Rhode Island and Connecticut, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. M. Mades Co., Inc., 67 South St., Somerville, Mass. 02143. Send protests to: J. D. Perry, Jr., Interstate Commerce Commission, 324 U.S. Post Office Bldg., 135 High St., Hartford, Conn. 06101.

No. MC 33322 (Sub-No. 19TA), filed December 28, 1976. Applicant: JOHN N. APGAR, SR. (IRVING L. APGAR, JOHN N. APGAR, JR. AND THE FIRST NATIONAL BANK OF CENTRAL JERSEY, EXECUTORS AND TRUSTEES), STERLING E. APGAR (MORRIS RUTER, TRUSTEE) AND DORTHY E. ANDERSON, doing business as APGAR BROS., 232 W. Union Ave., Bound Brook, N.J. 08805. Applicant's representative: Herbert Alan Dubin, 1819 H St., NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Antifreeze*, in bulk, in tank vehicles, from the facilities of Union Carbide Corporation, located at to near Freehold, N.J., to Baltimore, Md.; Tarytown, N.Y.; Wilmington, Del.; and Exton, Pa., under a continuing contract with Union Carbide Corporation, for 180 days. Supporting shipper: Union Carbide Corporation, Corporate Distribution Department, 270 Park Ave., New York, N.Y. 10017. Send protests to: Julia M. Papp, Transportation Assistant, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 49387 (Sub-No. 47TA), filed December 28, 1976. Applicant: ORSCHELN BROS. TRUCK LINES, Highway 24 East, P.O. Box 658, Moberly, Mo. 65270. Applicant's representative: Herman W. Huber, 101 E. High St., Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparations, surgical dressings, swabs and absorbent cotton and advertising matter and store display racks or stands* when moving at the same time and in the same vehicle with the above described commodities, from Jefferson City, Mo., to Lafayette, Inc., for 180 days. Supporting shipper: Chesebrough-Pond's, Inc., John St., Clinton, Conn. 06413. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo.

No. MC 108393 (Sub-No. 113TA), filed December 28, 1976. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Ave., Hinsdale, Ill. 60521. Applicant's representative: Thomas B. Hill (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical and gas appliances, parts of electrical and gas appliances, and equipment, materials and supplies* used in the manufacture, distribution and repair of electrical and gas appliances, between St. Paul, Minn., on the one hand,

and Tupelo, Miss., on the other, under a continuing contract with Whirlpool Corporation, for 180 days. Supporting shipper: Whirlpool Corporation, Carl Anderson, Director of Corporate Traffic, Administrative Center, Benton Harbor, Mich. 49022. 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 108393 (Sub-No. 114TA), filed December 28, 1976. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Ave., Hinsdale, Ill. 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts of electrical and gas appliances, and equipment, materials and supplies* used in the manufacture, distribution and repair of electrical and gas appliances, between Ft. Wayne, Ind., and Danville, Ky., under a continuing contract with Whirlpool Corporation, for 180 days. Supporting shipper: Whirlpool Corporation, Carl R. Anderson, Director of Corporate Traffic, Administrative Center, Benton Harbor, Mich. 49022. 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 112617 (Sub-No. 356TA), filed December 28, 1976. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids*, in bulk, in tank vehicles, from Evansville, Ind., to points in Ohio, Michigan, and West Virginia, restricted to shipments having a prior movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oscar T. Smith, President, S & R Services, Inc., P.O. Box 1182, Henderson, Ky. 42420. Send protests to: Elbert Brown, Jr., District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 114457 (Sub-No. 280TA), filed December 22, 1976. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from Eau Claire, Wis., to points in Connecticut, Georgia, Illinois, Indiana, Iowa, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas, for 180 days. Supporting shipper: Landy of Wisconsin, Inc., 2411 3rd St., Eau Claire, Wis. 54701. 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 115242 (Sub-No. 13TA), filed December 27, 1976. Applicant: DONALD MOORE, 601 North Prairie, Prairie du Chien, Wis. 53821. Applicant's representative: Michael S. Varda, 121 S. Pinckney St., Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Peoria, Ill., to Dubuque, Iowa, and on return, *empty malt beverage containers and pallets*, from Dubuque, Iowa, to Peoria, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dubuque Hilliday Sales, Inc., 1270 E. 12th St., Dubuque, Iowa 52001. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 130 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 116014 (Sub-No. 79TA), filed December 23, 1976. Applicant: OLIVER TRUCKING COMPANY, INC., Box 53, Lexington Road, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated poles*, from Bibb, Fulton and Richmond Counties, Ga., to points in Indiana, Kentucky, Ohio, and the Lower Peninsula of Michigan, for 180 days. Supporting shipper: Southern Wood Piedmont Co., P.O. Box 5047, Spartanburg, S.C. Send protests to: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Room 216 Bakhaus Bldg., 1500 W. Main St., Lexington, Ky. 40505.

No. MC 117565 (Sub-No. 95TA), filed December 22, 1976. Applicant: MOTOR SERVICE COMPANY, INC., Lake Park Road, P.O. Box 448, Coshocton, Ohio 43812. Applicant's representative: John R. Hafner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes*, in single and double wide units, in initial movement, from Middlebury, Ind., to points in Illinois, Iowa, Kentucky, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Coachmen Homes Corporation, P.O. Box 705, Middlebury, Ind. 46540. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., & U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 118989 (Sub-No. 150TA), filed December 27, 1976. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and container closures*, from Chicago, Ill., to Jeannette, Pa., and Jonesboro, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Continental Group, Inc., 150 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operation, U.S. Federal Bldg., & Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 123543 (Sub-No. 1TA), filed December 22, 1976. Applicant: FANELLI'S EXPRESS, INC., Campion Road, New Hartford, N.Y. 13413. Applicant's representative: Murray J. S. Kirshtein, 118 Bleeker St., Utica, N.Y. 130501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated and plastic shipping containers, materials, supplies, and machinery used in the manufacture thereof*, from New Hartford, N.Y., to Hamden, Hartford, and West Hartford, Conn.; Everett, Lawrence, and Springfield, Mass.; Waltham, Maine; Londonderry, N.H.; Carlstadt, Flemington, Hackensack, and Secaucus, N.J.; East Stroudsburg, Erie, Franklin, Lancaster, Leetsdale, Middletown, Reading, Stroudsburg, West Reading, and Wynnewood, Pa.; Bennington, Charlotte, Hinesburg, St. Albans, and Winooski, Vt.; and from Boston, Canton, Hyde Park, Palmer, Springfield, and Wakefield, Mass.; Bangor, Dixfield, Oakland, Old Town, Passadumkeag, and Portland, Maine, Stirling, N.J.; Gettysburg and Erie, Pa., to New Hartford, N.Y., under a continuing contract with Mohawk Containers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Richard C. Kennedy, Assistant, to President, Mohawk Containers, Inc., P.O. Box 218, New Hartford, N.Y. 13413. Send protest to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St., Room 1259, Syracuse, N.Y. 13202.

No. MC 126276 (Sub-No. 165TA), filed December 23, 1976. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 N. La Salle St. Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container closures*, from Sharonville, Ohio, to Siloam Springs and Springdale, Ark.; Champaign, Chicago, Milford, and Rossville, Ill.; Berne, Bloomington, Buffington, La Porte, Mt. Summit, Port Isabel, Orestes, Swayzee, Valparaiso, and Wilkinson, Ind.; Cedar Rapids, Iowa; Owensboro, Ky.; Cross-

ville, Greenville, Jackson, Memphis, Nashville, and Newport, Tenn.; and Madison and Milwaukee, Wis., under a continuing contract with The Continental Group, Inc., for 180 days. Supporting shipper: The Continental Group, Inc., Richard Dwyer, Regional Traffic & Distribution Manager, 150 S. Wacker Drive, Chicago, Ill. 60606. 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 129712 (Sub-No. 8TA), filed December 23, 1976. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 954, McDonough, Ga. 30253. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors); *and attachments, parts and accessories* for tractors when moving at the same time and in the same equipment with tractors; and all having a prior movement by rail, from the rail ramps located at or near Memphis, Tenn., Greenville, Miss., and Birmingham, Ala., to points in Alabama, Arkansas, Tennessee, Mississippi, and Lousiana, under a continuing contract with Fort Tractor Operations, Ford Motor Company, Troy, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ford Tractor Operations, Ford Motor Company, 2500 E. Maple Road, Troy, Mich. 48084. Send protests to: E. A. Bryant, Transportation Specialist, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Atlanta, Ga., 30309.

No. MC 129712 (Sub-No. 9TA), filed December 23, 1976. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 954, McDonough, Ga. 30253. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors); *and attachments, parts and accessories* for tractors when moving at the same time and in the same equipment with tractors; and all having a prior movement by rail, from the rail ramps located at or near Tampa and Jacksonville, Fla., to points in Florida, under a continuing contract with Ford Tractor Operations, Ford Motor Company, Troy, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ford Tractor Operations, Ford Motor Company, 2500 E. Maple Road, Tryo, Mich. 48084. Send protests to: E. A. Bryant, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 133684 (Sub-No. 23TA), filed December 23, 1976. Applicant: GORDON FAST FREIGHT, INC., 2205 Pacific Highway East, Tacoma, Wash. 98422. Applicant's representative: Michael D. Duppenthaler, 607 Third Ave., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Fairfield, Calif., to Kent, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: City Beverage Distributors, Inc., 848 S. Third, Kent, Wash. 98031. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 134134 (Sub-No. 20TA), filed December 22, 1976. Applicant: MAINLINER MOTOR EXPRESS, INC., 2002 Madison St., Omaha, Nebr. 68107. Applicant's representative: Arlyn L. Westergren, Suite 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, meat products, meat by-products and articles* distributed by meat packinghouses, from the plantsite and storage facilities utilized by Armour & Co., at or near Omaha, Nebr., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D. A. Chute, Manager, Transportation & Distribution, Armour Food Company, 111 W. Clarendon Ave., Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 134405 (Sub-No. 31TA), filed December 22, 1976. Applicant: BACON TRANSPORT CO., P.O. Box 1134, Ardmore, Okla. 73401. Applicant's representative: O. G. BACON III (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles, from Arkansas City, Kans., to Muskogee, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Riffe Petroleum Company, 1700 Philtower Bldg., Tulsa, Okla. 74103. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 134477 (Sub-No. 130TA), filed December 22, 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 hides and commodities in bulk), from Huron, S. Dak., to points in Illinois, Iowa, Michigan, Minnesota, Nebraska, New Jersey, New York, Ohio, Wisconsin and Washington, D.C., restricted to traffic originating at the plantsite and storage facilities of Huron Dressed Beef, Inc., at or near Huron, S. Dak., and destined to points in the above-named states, for 180 days. Supporting shipper: Huron Dressed Beef, Inc., Huron, S. Dak. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134599 (Sub-No. 151TA), filed December 22, 1976. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Games, toys, and plastic articles*, and (2) *materials, parts and supplies* used in the manufacture of items in part (1) above (except commodities in bulk and those requiring special handling or special equipment); (1) between Edison, N.J., on the one hand, and, on the other, points in California, Georgia, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, North Carolina, Oklahoma, Oregon, Tennessee, Texas, Virginia and Washington; (2) from Edison, N.J., to points in Alabama, Arizona, Arkansas, Colorado, Kentucky, Louisiana, Nebraska, Ohio, South Carolina and Wisconsin, under a continuing contract with Mattel, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mattel, Inc., 5150 Rosecrans Ave., Hawthorne, Calif. 90250. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 134859 (Sub-No. 8TA), filed December 22, 1976. Applicant: FRANK RUSSELL & SON, 401 S. Ida St., West Frankfort, Ill. 62896. Applicant's representative: Donald Russell (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magnetite*, in bulk and in bags, from Meramec Mine, at or near Pea Ridge, Mo., to Elizabethtown, Ky., under a continuing contract with Colt Industries, Crucible Inc., Magnetics Div., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gene P. Jaggers, V.P./Controller, Colt Industries, Crucible Inc., Magnetics Div., P.O. Box 100, Elizabethtown, Ky. 42701. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 142239 (Sub-No. 4TA) (Correction), filed December 13, 1976, published in the FEDERAL REGISTER issue of December 27, 1976, and republished as corrected this issue. Applicant: WASHINGTON TRANSPORTATION CO., 3305 Highway 192, Council Bluffs, Iowa 51501. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *contract 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), from the commercial zones of Omaha, Nebr., Madison, Nebr., and Sioux City, Iowa, to points in Illinois and Indiana, within the Chicago, Ill., commercial zone and points in the commercial zones of Detroit, Mich., Boston, Mass.; Cleveland, Ohio; Baltimore, Md.; and South Windsor, Conn.; and Toledo, Ohio; and points in New Jersey, New York and Pennsylvania. Restriction: Restricted to a transportation service to be performed under a continuing contract with Cudahy Foods Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: T. L. Byerly, Purchasing Manager, Cudahy Co., 5051 S. 33rd St., Omaha, Nebr. 68107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 142346 (Sub-No. 2TA), filed December 23, 1976. Applicant: LARMER TRANSFER CO., 90129 Prarie Road, P.O. Box 706, Eugene, Oreg. 97041. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel plate, angle iron, bars, pipe and channel*, from the plantsite of Farwest Steel Plant, at Eugene, Oreg., to Ontario, Oreg., for interline with shipper or certified carriers for ultimate destination in Boise, Idaho, under a continuing contract with Farwest Steel Corporation, for 180 days. Supporting shipper: Farwest Steel Corporation, P.O. Box 889, Eugene, Oreg. 97401. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 142440 (Sub-No. 1TA), filed December 23, 1976. Applicant: SPURLING AVIATION, INC., 8403 Perimeter Road South, Seattle, Wash. 98188. Applicant's representative: Clyde H. MacIver, 1900 Peoples National Bank Bldg., 1415 Fifth Ave., Seattle, Wash. 98171. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Supplies and materials* used in the manufacture of fiberglass pleasure boats; and (2) *Industrial machinery parts*, between points in King, Snohomish and Skagit Counties, Wash., on the one hand, and, on the other, Marysville (Snohomish County), Arlington (Snohomish County), and Sedro Woolley (Skagit County), Washington (restricted to traffic having an immediately prior or subsequent movement by air in interstate or foreign commerce and to individual shipments not exceeding 500 lbs.), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Glas-Ply, Inc., 14524 40th Ave., N.E., Marysville, Wash. 98270. Bayliner Marine Corp., P.O. Box 24467, Route 5, Arlington, Wash. Bendix/Skagit Corporation, P.O. Box 151, Sedro-Woolley, Wash. 98284. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 142681TA (Correction), filed November 29, 1976, published in the FEDERAL REGISTER issue of December 10, 1976, and republished as corrected this issue. Applicant: JOHN L. BRADY, doing business as J & M ENTERPRIZE, 48 N. 1st West, Hyde Park, Utah 84318. Applicant's representative: Irene Warr, 430 Judge Bldg., Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flour and Bran*, in bags, from the plant site of Gilt Edge Flour Mill, at or near Richmond, Utah, to points in California, under a continuing contract with Gilt Edge Flour Mills, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Guilt Edge Florur Mills, Inc., P.O. Box 161, Richmond, Utah 84333. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138. The purpose of this republication is to correct the applicant's name.

No. MC 142762TA, filed December 23, 1976. Applicant: VERPLANK'S COAL & DOCK CO., Ferrysburg, Mich. 49409. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial sand*, in bulk, from the facilities of the Nugent sand Company, at Muskegon, Mich., and its commercial zone to Defiance, Ohio, for 180 days. Supporting shipper: Central Foundry Division, GMC, 77 W. Center St., P.O. Box 1629, Saginaw, Mich. 48605. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 142763TA, filed December 23, 1976. Applicant: G.W. CANNON COMPANY, P.O. Box 506, Muskegon, Mich. 49443. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial sand*, in bulk, from the facilities of the Nugent Sand Company, at Muskegon, Mich., and its commercial zone, to Defiance, Ohio, for 180 days. Supporting shipper: Central Foundry Division, GMC, 77 W. Center St., P.O. Box 1629, Saginaw, Mich. 48605. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

PASSENGER APPLICATIONS

No. MC 110060 (Sub-No. 2TA), filed December 22, 1976. Applicant: TRANSPORTES CHIHUAHUENSES, S.A. De C.V., 16 de Septiembre 250 OTE, Juarez Chihuahua, Mexico. Applicant's representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in charter operations, between Presidio, Tex., and the International Boundary Line between the United States and the Republic of Mexico, from Presidio, Tex., over U.S. Highway 67 to the International Boundary Line between the United States and Mexico and return over the same routes, serving no intermediate points, for 180 days. Supporting shipper: Pan American Travel Service, Del Camino Motor Hotel, P.O. Box 9401, El Paso, Tex. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 142760TA, filed December 22, 1976. Applicant: DATA PROCESSING MAINTENANCE, INC., doing business as LUXURY COACHES, 4220 LaBranch, Box 8326, Houston, Tex. 77004. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their bagage*, in round-trip special or charter operations, and in round-trip special operations, between points in Harris County, Tex., on the one hand, and, on the other, points in New Mexico and Colorado, at or near snow skiing areas, for 180 days. Supporting shippers: There are approximately 8 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1017 Filed 1-10-77;8:45 am]

[Ex Parte No. 137; Service Date Jan. 6, 1977]

CONTRACTS FOR PROTECTIVE SERVICES

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 28th day of December, 1976.

Upon consideration of the record in this proceeding including the petition for rulemaking and modification and clarification of rules filed June 14, 1976 by certain Eastern Railroads and the replies thereto filed by the Pacific Fruit Express Company on June 26, 1976 and Bureau of Enforcement on July 6, 1976; and the motion to open rulemaking proceedings filed on August 20, 1976 by twenty-four railroads (Railroads); and

It appearing, That petitioners have submitted proposed modifications to the contracts for protective service regulations at 49 CFR 1032 and have requested that their petition be handled with the remand of the United States District Court for the District of Columbia in *Southern Ry.* v. *United States* 412 F. Supp. 1122 (1976);

It further appearing, That the Railroads in their motion request that the Commission clarify our order in 318 I.C.C. 111 (1962), determine its future applicability to the Railroads, determine whether our ruling at 340 I.C.C. 754 (1972) should be incorporated in this proceeding, decide whether it should be adopted as to all carriers and car lines, and resolve the applicable rules for the Southern remand;

And it further appearing, That the petition and motion are premature since negotiations between the carriers and car lines are currently progressing and an informal conference pertaining to a settlement between the parties is scheduled for February 9, 1977;

Wherefore and good cause appearing therefore:

It is ordered, That the petition and motion to the extent they seek institution of a rulemaking proceeding be, and they are hereby, denied at this time.

By the Commission, Division 2, Commissioners Hardin, O'Neal and Christian.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1016 Filed 1-10-77;8:45 am]

[AB 1 (Sub-No. 49); Service Date Jan. 6, 1977]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Abandonment Between Elkhorn Junction and Irvington, in Douglas County, Nebraska

DECEMBER 21, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Chicago and North Western Transportation Company between Elkhorn Junction and Irvington, a distance of 5.3 miles, all in Douglas County, Nebr., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because traffic on the line has been non-existent for 2 years and the only shipper on the line has relocated its operations. Also, no land use plans of an economic or industrial importance exist which would necessitate the continued operation of the line. The right-of-way has been determined to be suitable for other transportation purposes and recreation use following abandonment.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before February 3, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1010 Filed 1-10-77;8:45 am]

[AB 7 (Sub-No. 29); Service Date Jan. 6, 1977]

CHICAGO, MILWAUKEE, ST PAUL AND PACIFIC RAILROAD CO.

Abandonment in the City of Berlin, Green Lake County, Wisconsin

DECEMBER 23, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of its line of railroad beginning at Engineer's station 2214 + 14 (milepost 181.08) and extending northwesterly to the end of the track at Engineer's station 2233 + 73 (milepost 181.45) a total distance of 1,959 feet of main track and 4,115 feet of other track, all in the City of Berlin, Green Lake County, Wis., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that abandonment of the subject line will not adversely change existing environmental and economic conditions in the affected area because (1) traffic on the line is at a very low level and no increases are expected, (2) the dismantling of the line and rerouting of traffic should create only minimal environmental impacts, (3) removal of the line is consistent with City improvement plans and private industrial expansion plans for the area, and (4) there will be no historic impacts involved.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423, telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before February 7, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1013 Filed 1-10-77;8:45 am]

[AB 19 (Sub-No. 11); Service Date Jan. 6, 1977]

FAIRMONT, MORGANTOWN AND PITTSBURGH RAILROAD CO. AND BALTIMORE AND OHIO RAILROAD CO.

Abandonment Portion Smithfield and Masontown Branch Between Strum and Leckrone, in Fayette County, Pennsylvania

DECEMBER 23, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Fairmont and Morgantown and Pittsburgh Railroad Company and the Baltimore and Ohio Railroad Company between Strum and Leckrone all in Fayette County, Pa., a total distance of 6.58 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the

meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because the amount of traffic diverted to motor carrier is not expected to create any substantial alterations in existing air quality and fuel consumption. No land use or development plans exist; while the major commodity shipped on this line is coal, abandonment will not preclude the extraction of this resource from the surrounding area. Finally, it has been determined that the right-of-way is not suitable for other public purposes.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423, telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before February 7, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1015 Filed 1-10-77;8:45 am]

[AB 12 (Sub-No. 20); Service Date Jan. 6, 1977.]

SOUTHERN PACIFIC TRANSPORTATION CO.

DECEMBER 23, 1976.

In the matter of Southern Pacific Transportation Company—Abandonment of its line of railroad—in Victoria, Goliad, Bee, San Patricid, Jim Wells, Brooks and Hidalgo Counties, Texas; Finance Docket No. 28024. Southern Pacific Transportation Company—Trackage rights—over Missouri Pacific Railroad Company between Harlingen and Placedo, in Cameron and Victoria Counties, Texas; Finance Docket No. 28078. Southern Pacific Transportation Company—Construction and operations between lines of Missouri Pacific Railroad Company and the Texas Mexican Railway Company at Robstown, Nueces County, Texas.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the action proposed by the Southern Pacific Transportation Company—abandonment of certain portions of its line (between Victoria and Beeville, in Victoria, Goliad, and Bee Counties, Tex.; between Skidmore and Alice, in Bee, San Patricio, and Jim Wells Counties, Tex.; and between Falfurrias and Edinburg, in Brooks and Hidalgo Counties, Tex.—a distance of approximately 149.9 miles; acquisition of trackage rights over the Missouri Pacific Railroad Company line between Harlingen and Placedo, in Cameron and Victoria Counties, Tex.; and construction of and operation over a connecting track between the lines of Texas Mexican Railway Company and Missouri Pacific at Robstown, in Mueces County, Tex.—if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332 (2)(C) of the NEPA.

It was concluded, among other things, that diversion of rail traffic to motor carriers would not result in a significant increase in energy consumption, air pollution, or highway traffic. In none of the communities which would lose direct rail access under the proposal are there definitive developmental plans reliant on continued rail service. Consequently, the proposed action will not have a serious adverse effect on rural and community development. It was found that the right-of-way is suitable for alternative public use.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, or before February 7, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1009 Filed 1-10-77;8:45 am]

[AB 12 (Sub-No. 31); Service Date Jan. 6, 1977]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Westwood Siding and Beverly Hills In Los Angeles County, California

DECEMBER 21, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of 1.22 miles of its rail line between Westwood Siding and Beverly Hills, in Los Angeles County, Calif., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because of the lack of traffic on the subject line and the absence of any historical, safety, or ecological impacts associated with the proposed action.

Local and regional transportation and development plans do not include continued operation of the subject line as a prerequisite to their implementation. These plans do include, however, the utilization of the subject right-of-way for alternative public uses and public agencies have expressed their interest in acquiring this property should the line be abandoned.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before February 3, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1014 Filed 1-10-77;8:45 am]

[AB 12 (Sub-No. 46); Service Date, Jan. 6, 1977.]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Hamilton and Ordbend in Glenn County, California

DECEMBER 23, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of its branch line between Hamilton and Ordbend, a distance of 7.3 miles, in Glenn County, Calif., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that there will be no significant impacts on community development, historical sites, energy consumption, or local ecology resulting from the abandonment, and that the roads and highways in the area are capable of handling the small increase in truck traffic which will be diverted from the subject line.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before February 7, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1012 Filed 1-10-77;8:45 am]

[AB 12 (Sub-No. 26); Service Date Jan. 6, 1977.]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Villa Park and Trust in Orange County, California

DECEMBER 27, 1976.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served November 22, 1976, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1011 Filed 1-10-77;8:45 am]

federal register

TUESDAY, JANUARY 11, 1977

PART II



DEPARTMENT OF THE TREASURY

Office of the Secretary

■

FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Fiscal Procedures and Auditings; Interim Regulations

Title 31—Money and Finance: Treasury

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 51—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Fiscal Procedures and Auditing; Interim Regulations

Notice is hereby given that pursuant to the authority vested in the Secretary of the Treasury by the State and Local Fiscal Assistance Act of 1972 (the Revenue Sharing Act) as amended by the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221 et seq.) the Department of the Treasury hereby adopts the following interim regulations in Part 51 of Subpart F of Title 31, Code of Federal Regulations, which became effective November 18, 1975 (40 FR 53355). Additional regulations will be issued at a future date to conform the remaining subparts in part 51 of Title 31, Code of Federal Regulations, to the State and Local Fiscal Assistance Amendments of 1976.

Regulations appearing in Subpart G, Proceedings for Reduction Entitlement, Withholding or Repayment of Funds, numbered §§ 51.80 to 51.105 are redesignated §§ 51.200 to 51.225.

Present § 51.70 of the regulations is redesignated as § 51.100 and paragraph (b) of that section is amended to provide that a use, obligation, or appropriation of entitlement funds shall be consistent with the State or local law requiring a legislative enactment in ordinance or resolution form. Present § 51.70(d)(3) is redesignated as § 51.100(d)(2) and is amended to elaborate upon the extent to which fiscal accounts must be maintained to permit tracing of entitlement funds to a level of expenditure adequate to establish compliance with the provisions of the Act and regulations. A recipient government shall either maintain a separate set of fund accounts, separate bank account, or a memorandum record of voucher numbers and amounts for entitlement funds expended. Present § 51.70(d)(2) is rescinded.

Present § 51.71 is redesignated as § 51.101. Section 51.101(a) provides, in general, that each recipient government shall have an independent audit of its financial statements conducted in accordance with generally accepted auditing standards at least once every three years for the entire three years.

Section 51.101(b) defines "independent audit" as an audit conducted by independent public accountants, or qualified accountants or examiners from a State agency, who have no interest in the financial affairs of the government being audited. Where the audit of a local government, under State or local law, is made by a State official, or where the local government maintains a permanent auditing office responsible directly to the legislative branch, such audit shall be considered an independent audit.

Section 51.101(c)(1) defines "generally accepted auditing standards" as those auditing standards pronounced by the American Institute of Certified Public Accountants and incorporated in its Statements on Audit Procedures and as further included in summary form in the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions as re-issued in 1974 by the Comptroller General of the United States.

Section 51.101 (d) and (e) and § 51.102 set forth certain conditions under which the audit requirements under the Act are not applicable. Section 51.101(d) provides that a recipient government may elect to have the audit requirements not applicable upon the filing of an assurance that its financial statements are audited by independent public accountants or independent auditors, in accordance with State or local law, at least once every three years for the entire three years.

Section 51.101(e)(2) provides that the audit requirements are automatically waived for recipient governments which receive entitlements of less than $25,000 unless such government is required to have an audit under State or local law. Under § 51.102 the Director may waive the audit requirements when the recipient government assures the Director that its accounts are unauditable, and that such government is making substantial progress towards making its accounts auditable. Request for the waiver, i.e., notification to the Director that its accounts are unauditable, must be made by the recipient government on or before March 31, 1978.

Section 51.103 provides that the Director may rely upon audits conducted by other Federal audit agencies pursuant to other Federal laws, provided such audits meet the requirements of § 51.101.

Section 51.104 requires opinions rendered with respect to audits to be made a part of the audit report in accordance with opinions in general use for attesting to financial statements.

Present § 51.71(b) is redesignated as § 51.105 and is amended to provide that the scope of each audit shall include each separate fund maintained by the recipient government and verification of its fiscal data as reported to it by the Bureau of the Census. Guides for such audits are the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States in 1972 (and re-issued in 1974) and the Audit Guide and Standards for Revenue Sharing Recipients, published by the Office of Revenue Sharing.

Because the purpose of these interim regulations is to provide immediate guidance to the States and local governments in order that the requirements of the Act, as amended, be complied with, it is hereby found impractical to issue such regulations with the notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitations of 5 U.S.C. 553(d).

These interim regulations shall become effective on or after January 1, 1977. It is expected that permanent regulations will be issued in the near future and for this reason, written comments are solicited for consideration by the Department. Written comments may be submitted, in triplicate, on or before February 4, 1977 to the following address:

Director, Office of Revenue Sharing (Symbols CC), 2401 E St., N.W., Washington, D.C. 20226.

Comments submitted in response to this solicitation are available to the public upon written request pursuant to the Freedom of Information Act and the regulations promulgated thereunder by the Department, 31 CFR 1.1 et seq.

Dated: January 3, 1977.

JEANNA D. TULLY,
Director,
Office of Revenue Sharing.

Approved:
JERRY THOMAS,
Under Secretary
of the Treasury.

Part 51 of 31 CFR Chapter I is amended as follows:

1. The sections in Subpart G, currently numbered §§ 51.80–51.105, are renumbered as §§ 51.200–51.225 respectively.

2. Subpart F is revised to read as follows:

Subpart F—Fiscal Procedures and Auditing

Sec.

51.100 Procedures applicable to the use of funds.
51.101 Auditing and evaluation.
51.102 Waiver of auditing provisions where financial accounts are unauditable.
51.103 Reliance upon other Federal audit agencies.
51.104 Audit opinions.
51.105 Scope of audits.
51.106 Retention of audit work papers.
51.107 Requirement to submit audit reports.

Subpart F—Fiscal Procedures and Auditing

§ 51.100 Procedures applicable to the use of funds.

A recipient government which receives entitlement funds under the Act shall:

(a) Establish a trust fund and deposit all entitlement funds received and all interest earned thereon in that trust fund. The trust fund may be established on the books and records as a separate set of accounts, or a separate bank account may be established.

(b) Use, obligate, or appropriate such funds within 24 months from the end of the entitlement period to which the entitlement payment is applicable. Such use, obligation or appropriation of entitlement funds shall be consistent with State or local law requiring a legislative enactment in ordinance or resolution form. Any interest earned on such funds while in the trust fund shall be used, obligated, or appropriated within 24 months from the end of the entitlement period during which the interest was received or credited. An extension of time in which to act on the funds, or interest earned thereon, shall be obtained by application to the Director. Such application will set forth the facts and circumstances supporting the need for more time and the amount of additional time requested. The Director may

grant such extensions of time as in his judgment appear necessary or appropriate.

(c) Provide for the expenditure of entitlement funds in accordance with the laws and procedures applicable to the expenditure of its own revenues.

(d) Maintain its fiscal accounts in a manner sufficient to:

(1) Permit the reports required by the Director to be prepared therefrom, and

(2) Permit the tracing of entitlement funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of this part. Such tracing requires that vouchers in support of expenditures funded by the Act shall be identified. Such identification can be made in any one of three ways as followed:

(i) Maintain a separate set of fund accounts; or,

(ii) Maintain a separate bank account; or,

(iii) Keep a memorandum record of the voucher numbers and amounts for the expenditures funded by entitlements received under the Act.

The accounting for entitlement funds shall at a minimum employ the same fiscal accounting and internal audit procedures as are used with respect to expenditures from revenues derived from the recipient government's own sources.

(e) Provide to the Director and to the Comptroller General of the United States, on reasonable notice, access to and the right to examine such books, documents, papers or records as the Director may reasonably require for the purpose of reviewing compliance with the Act and the regulations of this part or, in the case of the Comptroller General, as the Comptroller General may reasonably require for the purpose of reviewing compliance and operations under the Act.

§ 51.101 Auditing and evaluation.

(a) *In general.* Each recipient government which expects to receive entitlement funds for entitlement periods beginning on or after January 1, 1977, shall have an independent audit of its financial statements conducted for the purpose of determining compliance with the provisions of the Act, in accordance with generally accepted auditing standards, not less often than once every three years covering the three year period.

(b) *Independent audit—defined.* For purposes of this section an independent audit is an audit conducted by independent public accountants, or by qualified accountants or examiners from a State or local agency who have no personal interest directly or indirectly in the financial affairs of the government being audited, or in the financial affairs of any of the officers of the government being audited.

(1) In those States in which an audit is required by State law to be made of the State government by a State office or official, such audit shall be considered to meet the requirements of an independent audit if the principal officer of the State audit agency is:

(i) Elected by the citizens of the State; or

(ii) Elected or appointed by and reports to the State legislature or a committee thereof.

(2) In those States in which an audit is required by State law to be made of local governments (or certain categories of local government) by a State office or official, such audit shall be considered to meet the requirements of an independent audit.

(3) Audits of local recipient governments made by a permanent (internal) auditing office or officer shall be considered to meet the requirements of an independent audit if the principal officer of the audit agency is:

(i) Elected by the citizens of the local recipient government; or,

(ii) Elected or appointed by and reports to the governing body of the local recipient government or a committee thereof.

(4) Audits other than those specified in paragraphs (b) (1), (2) and (3) of this section shall not be considered to be independent audits.

(c) *Generally accepted auditing standards and independent public accountant—defined.* (1) As used in paragraph (a) of this section, and as defined in § 51.2(h), "generally accepted auditing standards" means those auditing standards pronounced by the American Institute of Certified Public Accountants and incorporated in its Statements on Audit Standards, and further included in summary form in the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions as reissued in 1974 by the Comptroller General of the United States.

(2) As used in paragraph (a) of this section and as defined in § 51.2(j) "independent public accountant" means independent certified public accountants, and licensed public accountants licensed on or before December 31, 1970, certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(d) *Election by recipient government.* A recipient government may elect to have the requirements of paragraph (a) of this section not applicable to that government upon the filing of a written assurance by the chief executive officer that:

(1) The financial statements of the recipient government are audited by independent public accountants as defined in § 51.2(j) of this part, or by independent auditors as defined in paragraph (b) of this section, and that such financial statements are audited in accordance with State or local law, and

(2) The audits of the recipient government are conducted in accordance with generally accepted auditing standards, and

(3) The audits of the recipient government will be conducted not less often than every three years and will include an audit of the entire three years.

(e) *Inapplicability of audit requirement.* The requirement of paragraph (a) of this section shall not apply where:

(1) The recipient government conducts a series of independent audits over a period not to exceed three fiscal years which cover, in the aggregate, all of the accounts of such government for the three year period; or

(2) The recipient government's entitlement for any of its fiscal years is less than $25,000, except where there is a State or local law requiring an audit of such government's financial statements which must be complied with in accordance with § 51.100(c) of this part.

§ 51.102 Waiver of auditing provisions where financial accounts are unauditable.

The Director may, upon written application of the chief executive officer of the recipient government on or before March 31, 1978, waive the provisions of § 51.101 of this part for any fiscal period if in the course of determining compliance with § 51.101, the independent auditor renders an opinion that the financial accounts of such recipient government are not auditable, and the chief executive officer of such recipient government assures the Director that the accounts are not auditable and clearly sets forth the arrangements which have been made or taken toward making such financial accounts auditable. The Director shall satisfy himself by investigation or inquiry that the recipient government is achieving substantial progress toward making its financial accounts auditable. A recipient government which fails to apply to the Director on or before March 31, 1978 that its financial accounts are not auditable shall not be entitled to the waiver provisions of this section.

§ 51.103 Reliance upon other Federal audit agencies.

The Director may rely upon audits of the financial statements of recipient governments conducted in accordance with other Federal laws, for any fiscal period, provided that such audits substantially satisfy the requirements for audits contained in § 51.101(a) of this part.

§ 51.104 Audit opinions.

Opinions made with respect to audits must be rendered as a part of the audit report and shall be in accordance with the opinion in general use for attesting to financial statements. Examples of opinions are set out in the appendix of the Audit Guide and Standards for Revenue Sharing Recipients published by the Office of Revenue Sharing and available to each recipient government.

§ 51.105 Scope of audits.

(a) *In general.* The scope of each audit required under § 51.101(a) of this part shall include each separate fund (self balancing group of accounts) maintained by the recipient government. The audit shall be of the financial and compliance type described in The Standards for Audit of Governmental Organizations, Programs, Activities and Functions issued by the Comptroller General of the

United States in 1972, and as described further in the Audit Guide and Standards for Revenue Sharing Recipients published by the Office of Revenue Sharing. The audit for compliance shall pertain only to entitlement funds of the recipient government received under the Act.

(b) Verification of fiscal data reported to the Bureau of the Census. The scope of the audit shall include also a verification of the recipient government's fiscal data as reported by it to the Bureau of the Census.

§ 51.106 Retention of audit workpapers.

Audit workpapers and related audit reports shall be retained for three years after the issuance of the audit report, and shall be available upon request to the Director and the Comptroller General or to their representatives.

§ 51.107 Requirement to submit audit reports.

The Director may require the chief executive officer of a recipient government to submit a copy of its audit reports at such times as he may request.

[FR Doc.77-587 Filed 1-4-77;12:45 pm]

federal register

TUESDAY, JANUARY 11, 1977

PART III

DEPARTMENT OF LABOR

Office of the Secretary

■

EMERGENCY JOBS PROGRAM EXTENSION ACT

Implementing Regulations; Republication

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PUBLIC JOBS PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Emergency Jobs Programs Extension Act; Implementing Regulations

On December 10, 1976, the Department of Labor published in the FEDERAL REGISTER (41 FR 54066) final regulations to implement the Emergency Jobs Programs Extension Act of 1976, Pub. L. 94.444. There were typographical and compilation errors in this publication, and therefore, the Department is reprinting in corrected form, the entire document that was published on December 10, 1976, to read as follows:

On Tuesday, October 26, 1976, the Department of Labor published in the FEDERAL REGISTER (41 FR 46998) proposed rulemaking to implement the Emergency Jobs Programs Extension Act (EJPEA) of 1976, Pub. L. 94.444, which amended certain sections of the Comprehensive Employment and Training Act (Pub. L. 93.203). At that time, the Department invited interested persons to submit comments, data or arguments on the proposed rulemaking to the Department by November 26, 1976.

The Department carefully studied each comment received with respect to the merits of the suggestions being made and considered such comments relative to other comments received on the same or similar subjects. Consideration of these comments has led to a decision to amend the current regulations for Title VI, and certain parts of the June 25, 1976 regulations for Titles I and II. Since the extension of Title VI made significant changes that the Congress intended would have immediate impact at the local level, and final regulations could not be completed prior to this date, the Department issued early administrative instructions, TD–7–0053, to each of its regional offices for immediate implementation of some of the new legislative provisions. The regulations published today supercede TD–7–0053.

The following significant changes have been made in response to the comments received on the October 26, 1976 proposed rulemaking.

1. In § 99.1, Scope and purpose, the language has been changed to refer to AFDC recipient rather than welfare recipient to conform to the language of the Act.

2. In § 98.12, Allowable Federal costs, paragraph (b)(1)(ii) has been changed to conform more closely with the language of the act with respect to rental of space. The new language allows the rental or lease of real property, but it does not allow acquisition of such property.

3. Numerous additional editorial and clarifying changes have also been made.

The regulations published today are effective January 10, 1977. It should be noted, however, that Pub. L. 94.444 was signed into law on October 1, 1976. Therefore, as of October 1, 1976, certain provisions of Pub. L. 94.444 became immediately applicable. Those provisions include:

1. As of October 1, 1976 prime sponsors under Titles II and VI were allowed to spend funds for the acquisition, rental or leasing of supplies, equipment and materials, and for the rental of space.

2. As of October 1, 1976 prime sponsors under Titles II and VI were required to spend at least 85% of public service employment funds for participant wages and fringe benefits.

3. As of October 1, 1976 prime sponsors under Titles I, II and VI were allowed to permit participants to work on winterization/weatherization activities on homes of persons whose income was 125 percent of the poverty level or less.

Since the Act became effective on October 1, the Department intends to apply the regulations immediately in order to insure compliance with statute. The revised parts 94, 95, 96, 98, and 99 read as follows:

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

1. Section 94.3, *Consolidated table of contents for Parts 94–99* is revised as follows:

Section 96.36 shall now read:

* * * * *

Sec.
96.36 Use of Title II funds for programs under Titles I and III–A.

* * * * *

§ 96.37 [Deleted]

Section 96.37 is deleted.

The table of contents for Part 99 is revised as follows:

PART 99—PROGRAMS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SUBPART A—GENERAL

Sec.
99.1 Scope and purpose of this Part 99.
99.2 Allocation of funds.
99.3 Eligibility for funds.

SUBPART B—GRANT APPLICATION

99.10 General.
99.11 Planning process; advisory councils.
99.12 Content and description of grant application.
99.13 Comment and publication procedures relating to submission of grant application.
99.14 Submission of grant application; standards for reviewing grant applications.
99.15 Application approval; application disapproval; grant agreement.
99.16 Use of alternative eligible applicant; services by the Secretary.
99.17 Modifications.

SUBPART C—PROGRAM OPERATION REQUIREMENTS FOR PRIME SPONSORS

99.30 General.
99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.
99.32 Program performance requirements for prime sponsors.
99.33 Public service job activities.
99.34 Maintenance of effort.
99.35 Linkages with other employment and training programs; training and supportive services.
99.36 Placement goals.
99.37 Compensation and working conditions for participants.
99.38 Place of residence for participants.

SUBPART D—PROGRAM OPERATION REQUIREMENTS OF THE EMERGENCY JOBS PROGRAMS EXTENSION ACT OF 1976

99.40 Apportionment of the prime sponsor's allocation.
99.41 Project and activity approval.
99.42 Eligibility for participation in Title VI programs.
99.43 Verification of participant eligibility.
99.44 Special considerations on selection.
99.45 Administrative staff selection and compensation.

SUBPART E—ADMINISTRATIVE PROVISIONS

99.70 General.
99.71 Payments, financial management systems and audit.
99.72 Reporting requirements.
99.73 Reallocation of funds.
99.74 Allowable Federal costs.
99.75 Grantee contracts and subgrants.
99.76 Allocations of allowable costs among program activities.
99.77 Basic personnel standards for eligible applicants.
99.78 Adjustments in payments.
99.79 Termination of grant and closeout procedures.
99.80 Retention of records.
99.81 Program income and procurement standards.
99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.
99.83 Assessment and evaluation.
99.84 Hearings and judicial review.

SUBPART F—SPECIAL CONDITIONS FOR GRANTS TO INDIAN TRIBES AND ALASKAN NATIVE VILLAGES

99.90 General.
99.91 Grant responsibility.
99.92 Distribution of funds.
99.93 Eligibility for funds.
99.94 Funding of prime sponsors.
99.95 Participant eligibility.
99.96 Comments and publication procedures relating to submission of application for funding.
99.97 Planning process; advisory councils.
99.98 Travel requirements.
99.99 Nepotism and conflict of interest.
99.100 Nondiscrimination; political activities.
99.101 Subgrants.

* * * * *

2. Section 94.4, Definitions, is amended by revising paragraph (kk), deleting paragraph (hhh)(5), and adding paragraphs (nnn), (ooo), (ppp) and (qqq) as follows:

§ 94.4 Definitions.

* * * * *

(kk) "Participant" shall mean an individual who qualifies and receives services, except for an individual who receives only outreach and intake (including assessment) services, or takes part in activities under provisions of the Act. An individual applicant becomes a participant when:

(1) The individual is declared eligible upon intake; and

(2) The individual receives employment, training or services funded under the Act following intake, except for an

individual who receives only outreach and intake (including assessment) services.

* * * * *

(hhh) (5) [Revoked.]

* * * * *

(nnn) "Lower living standard income level" shall mean that income level (adjusted for selected SMSA's and regional, metropolitan and non-metropolitan differences and family size) determined annually by the Secretary based upon the most recent lower living standard budget level issued by the Bureau of Labor Statistics of the Department of Labor.

(ooo) "Project" shall mean, except for the purposes of § 99.33 (b) (2) and (3), a defined task which provides a public service, provided that such service does not expand existing, on-going services provided by the State, county, or municipality. Project funds, for example, could not be used to increase refuse collection from once to twice a week, but could be used to undertake a special clean-up endeavor. Individuals participating in projects may be enrolled in either public service employment, work experience, or on-the-job training, provided that the activity results in the provision of a public service, as defined in § 94.4(tt).

(ppp) "Project applicant" shall mean States and agencies thereof, units of general local government and agencies thereof or combinations or associations of such governmental units when the primary purpose of such combinations or associations is to assist such governmental units to provide public services, special purpose political subdvisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies as defined in section 801(f) of the Elementary and Secondary Education Act of 1965, institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965, community based organizations as defined in § 94.4(k), community development corporations, non-profit groups and organizations serving Indians and Native Hawaiians, and other non-profit private organizations or institutions engaged in public service.

(qqq) "Rehire" shall mean an individual who has been laid-off from regular unsubsidized employment and who is subsequently recalled as a participant by the former employer into a position funded under the Act.

PART 95—PROGRAMS UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

3. Paragraph (b) (2) (i) (C) (*1*) (*vi*), (*vii*), (3) (ii) (*F*), and (3) (iii) (K) of § 95.14 are revised to read as follows:

§ 95.14 Content and description of grant application.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(C) * * *

(*1*) * * *

(*vi*) A description of the arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under Section 1787 of Title 38, United States Code. (Sec. 105(a) (3) (e)).

(*vii*) For newly eligible prime sponsors, prime sponsors operating independently for the first time, and prime sponsors serving geographical areas in addition to that served in the previous program year, a description of the continuity of service to be provided.

* * * * *

(3) * * *

(ii) * * *

(F) Arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under Section 1787 of Title 38, United States Code. (Sec. 105(a) (3) (e)).

* * * * *

(iii) * * *

(K) Provision of jobs in each promotional line which will not infringe upon the promotional opportunities of unsubsidized current employees and provision of jobs only at the entry level in each promotional line until applicable personnel procedures and collective bargaining agreements have been met (sec. 205(c) (24));

* * * * *

4. Section 95.17 is amended by revising paragraph (b) (8) and by adding a new paragraph (b) (14) to read as follows:

§ 95.17 Standards for reviewing grant applications.

* * * * *

(b) * * *

(8) The administrative costs in the application are reasonable and provide, to the maximum extent feasible, for Federal funds to be expended for direct program activities and services, and, if administrative costs exceed 20 percent of non-public service employment activities whether the prime sponsor has cited an adequate reason and provided supporting documentation. Costs for public service employment other than wages and fringe benefits may not exceed 15 percent (secs. 108(d) (2) and (203(b));

* * * * *

(14) The manpower plan provides for appropriate arrangements by the prime sponsor to promote maximum use of apprenticeship or other on-the-job opportunities pursuant to Section 1787 of Title 38, United States Code (Sec. 105(a) (3) (E));

* * * * *

5. Section 95.21(a) (1) (iv) (D) is revised to read as follows:

§ 95.21 Modifications.

(a) * * *

(1) * * *

(iv) * * *

(D) When the program design is altered significantly such as when there is a change in the allowance payment system (e.g., provisions for allowance waivers), development or elimination of a program activity, or when 10% or more of the public service employment positions (except for Title VI) are to be used for rehiring laid off employees.

* * * * *

6. Section 95.32(f) is revised to read as follows:

§ 95.32 Eligibility for participation in a Title I program.

* * * * *

(f) Since all Title II, VI, Emergency Employment Act (EEA), participants, and participants under Title X of the Public Works and Economic Development Act (PWEDA) who are enrolled in Title II or VI activities funded through the Department, would also have qualified at time of enrollment for Title I, then a Title II, Title VI, EEA, or Title II or VI PWEDA participant for whom maximum efforts have been made to find unsubsidized employment or for whom supplemental training or services is needed as a prerequisite to a job, may be transferred into or concurrently enrolled in a program offered by the prime sponsor under Title I of the Act without an intervening period of unemployment. Title III participants who met the eligibility criteria for Title I at the time of their enrollment may also be transferred into or enrolled concurrently in the Title I program (sec. 205(c) (14) and (19) and 105(a) (2)).

* * * * *

7. Section 95.33(d) (4) (ix) and (x) are revised to read as follows:

§ 95.33 Types of manpower activities allowable.

* * * * *

(d) * * *

(4) * * *

(ix) Work experience participants may be outstationed at worksites, including Federal agencies and private nonprofit agencies. Outstationed participants are still to be considered employees of the prime sponsor or its subgrantees or contractors, as appropriate, and shall be assured of the same working conditions and benefits, as specified in § 98.24, as received by other similarly employed employees of the prime sponsor or its subgrantees or contractors (not the outstationed worksite).

(x) Work experience participants may be used in home repair and winterization/weatherization activities as provided in § 98.12(b) (3).

* * * * *

8. Paragraph (f) (1) of § 95.34 is revised to read as follows:

§ 95.34 Training allowances.

* * * * *

(f) (1) Dependents' allowances shall be reduced pro rata only for absences without good cause. The reduction of the weekly dependent's allowance shall be based on the ratio of the number of hours of absence without good cause to the number of hours which the individual is scheduled to participate in activi-

ties for which he/she receives allowances.

* * * * *

9. Paragraph (c)(1)(iv) of § 95.56 is revised to read as follows:

§ 95.56 Program operations.

* * * * *

(c) * * *

(1) * * *

(iv) Arrangements made by the State to assist the Secretary in carrying out his responsibilities for enforcing the requirements for Federal contractors to list all suitable employment openings with local offices of the State employment service and take affirmative action, as required in section 2012(a) of Title 38, United States Code. Such arrangements shall be explained in the State Comprehensive Manpower Plan and shall relate only to Federal contractors and subcontractors and should not be interpreted to include grantees, subgrantees or contractors under the Act (sec. 106(b)(5)).

PART 96—PROGRAMS UNDER TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

10. Paragraph (b)(2)(i) of § 96.2 is revised to read as follows:

§ 96.2 Allocation of funds.

* * * * *

(b) * * *

(2) * * *

(i) When any portion of these funds is to be allocated using a distribution based upon a formula, the Secretary shall not later than 30 days prior to such allocation publish for comment in the FEDERAL REGISTER the specific formula for such distribution, the rationale behind the selection of the formula and the proposed amount for distribution to each eligible applicant. After consideration of comments received, the Secretary shall publish final allocations (sec. 202(c)).

* * * * *

11. Paragraphs (b)(2)(i)(C)(2) (*vi*) and (*vii*) of § 96.14 are revised to read as follows:

§ 96.14 Content and description of grant application.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(C) * * *

(2) * * *

(*vi*) A description of the arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportuinties available under Section 1787 of Title 38, United States Code.

(*vii*) For newly eligible applicants, eligible applicants operating independently for the first time, and eligible applicants serving geographical area(s) in addition to that served in the previous program year, a description of the continuity of service to be provided.

* * * * *

12. Subparagraphs (11), (12) and (15) of § 96.23(b) are revised to read as follows:

§ 96.23 Acceptable public employment positions.

* * * * *

(b) * * *

(11) Jobs in each promotional line shall in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service jobs not subsidized under Title II. In accordance with § 98.24(b), when a promotional freeze affects non-CETA employees, it shall also apply to CETA participants similarly employed (sec. 205(c)(24));

(12) No job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective bargaining procedures have been complied with (sec. 205(c)(24));

* * * * *

(15) Consistent with the requirements of § 98.12(b)(3), of this subtitle, public service employment participants may be used in home repair and winterization/weatherization activities.

13. Paragraphs (c) and (j) of § 96.24 are revised to read as follows:

§ 96.24 Maintenance of effort.

* * * * *

(c) Eligible applicants, program agents, contractors and subgrantees may not terminate, layoff, or reduce the working hours of, an employee in anticipation of hiring an individual with funds available under the Act. In addition, no participant shall be used to fill positions or provide services normally provided by temporary, part-time, or seasonal workers or contracted out, or to fill full-time vacancies, unless documentation is maintained, as provided in paragraph (j) of this section, that such action does not constitute a substitution of Federal funds for purposes that would otherwise have been supported by other resources.

* * * * *

(j) Eligible applicants, program agents, contractors, or subgrantees which utilize funds under this part to hire persons to fill positions previously supported by funds other than funds available under the Act or to provide services which are normally provided by temporary, part-time or seasonal workers or which is normally contracted out, shall maintain documentation that such use of funds does not constitute a violation of paragraph (c) or of any other requirement of this section. Such documentation shall be prepared and maintained in a form which clearly demonstrates that all requirements of this section are complied with and shall be readily available for the inspection of the RA for a period of not less than one year subsequent to the filing of any position to which these provisions are applicable. Prime sponsors shall, at the direction of the RA, submit such documentation or any budgetary expenditure records, revenue statements, and other information relevant to determinations under this section. RA's shall not approve any plan unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this section.

* * * * *

14. Paragraph (d)(1) of § 96.27 is revised to read as follows:

§ 96.27 Eligibility for participation in a Title II program.

* * * * *

(d)(1) Title I, Section 302 and 303 enrollees under the Act, and participants under Title X of the Public Works and Economic Development Act who are enrolled in Title II or VI activities funded through the Department, may be transferred into a Title II program only if they met the requirements of paragraphs (a) and (f) of this section prior to their entry into the program from which they are being transferred and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(5)).

15. Section 96.36 is deleted, and section 96.37 is renumbered as 96.36 and revised as follows:

§ 96.36 Use of Title II funds for programs under Titles I and III–A.

Funds available to an eligible applicant may, at its option, be utilized for residents of the areas of substantial unemployment designated under this Part for programs authorized under Title I or Part A of Title III of the Act. Where Title II funds are used for activities authorized under other Titles of the Act, all provisions under this Part, except § 96.20, § 96.21(b)(c)(d)(e)(g) and (h), § 96.23, § 96.24, § 96.27(e), § 96.31, § 96.32, § 96.33, and § 96.34 shall apply in addition to those provisions applicable for programs under Title I or Part A of Title III (sec. 210); however, when Title II funds are used to fund public service employment all of the provisions of this Part 96 shall apply.

PART 98—ADMINISTRATIVE PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

16. Section 98.8(g) is revised to read as follows:

§ 98.8 Program Status Summary, Financial Status Report and Monthly Report.

* * * * *

(g) *Monthly Progress Report.* Grantees operating a Title II or VI funded program shall be required to submit the Monthly Progress Report (MPR) on which they will record the cumulative participants served and terminated, the number of participants on board at the end of the month, and the actual versus planned accrued expenditures cumulative for the program year to the end of the month. The monthly report period is the calendar month. This report will be submitted to the appropriate RA no later

than 20 working days after the end of the report period. The monthly report will be phased out when economic conditions and programmatic consideration no longer warrant its submission.

* * * * *

17. Paragraphs (b)(1), (b)(3), (d)(4), (f)(2), (f)(5) and (f)(6) of § 98.12 are revised to read as follows:

* * * * *

§ 98.12 Allowable Federal costs.

(b) *Restriction on use of funds in Public Service Employment Programs.* (1)(i)(A) Not less than 85 percent of the funds appropriated pursuant to the Act which are used by an eligible applicant for public service employment programs shall be expended for wages and fringe benefits to persons employed in public service jobs (sec. 203(b)).

(B) The remaining 15 percent may be used for administration, training, or supportive services to participants in public service employment.

(C) An eligible applicant which does not itself administer the entire program may not retain the entire 15 percent mentioned in (b)(1)(i)(B) of this section for its own use unless this is agreed to by its subgrantees. Unless otherwise agreed to, at least fifty percent (50) of the amount used for the administration of the program shall be available to subgrantees for administrative costs.

(D) Training materials, work tools, uniforms or other equipment ordinarily provided by the employer to regular employees, and which are for the benefit and ownership of the participants may be considered fringe benefit costs for public service employment participants (sec. 208(a)(7)). However, such costs shall be charged to the appropriate cost category, not fringe benefits, when such items are rented or otherwise do not become the property of the participant.

(ii) The 15 percent of funds used by a prime sponsor or an eligible applicant for public service employment programs under the Act, after the 85 percent requirement of this section is met, may be used for the acquisition of or rental or leasing of supplies, equipment, and materials, including equipment and materials used in the training of public service employment participants, and work related supplies, equipment and materials for such participants. Such funds may also be used for the rental or leasing of real property. However, none of the 15 percent may be used to contract for capital improvements to real property used in the administration of the program. Acquisition of such equipment, materials and supplies, including rental costs, shall be governed by the administrative provisions of this section (secs. 203(b), 602(b), 210).

* * * * *

(3) Consistent with the maintenance of effort requirements of § 96.24, of this subtitle, the cost of participants' salaries and fringe benefits shall be allowable costs when such participants are used in home repair and winterization/weatherization activities where work performed will not inure primarily to the benefit of a profitmaking organization. Home repair and winterization/weatherization activities shall be limited to dwellings of individuals who are at or below 125 percent of the poverty level (as defined in § 94.4) which are privately owned and owner-occupied, privately owned by a nonprofit organization, or units of public housing.

(4) Unless otherwise provided in Parts 94–99 of this subtitle, funds provided under one title of the Act may not be used to support costs of another title, or another grant under the same title.

* * * * * *

(d) * * *

(4) When required by § 98.24 or State Unemployment Insurance Laws to pay unemployment insurance costs, prime sponsors shall plan for those obligations to be incurred during the grant year. This responsibility includes unemployment insurance charges which will be incurred by subgrantees and contractors because of unemployment insurance liabilities incurred under programs under the Act. Unemployment insurance benefit costs are allowable for administrative staff hired in accordance with the administrative provisions of these regulations, and for participants in other than public service employment. Unemployment insurance benefit costs for public service employment participants, including such participants who are also administrative staff, who become eligible for unemployment insurance by reason of their participation in the program shall be paid not from funds under the Act, but from funds appropriated pursuant to Part B, Section 220(a) of Pub. L. 94–444. However, administrative costs associated with the recordkeeping requirements necessary to implement Part B, Section 220(a) of Pub. L. 94–444, shall be allowable as an administrative cost under the Act. Each grantee, subgrantee, or contractor shall cooperate with the SESA's in providing data necessary to implement the provisions of Part B of Pub. L. 94–444.

* * * * *

(f) * * *

(2) *Fringe benefits.* Allowable fringe benefit costs for participants include, but are not limited to the following: Annual, sick, court and military leave pursuant to an approved leave system; employer's contribution for social security, employee's life and health insurance plans, workers compensation insurance, unemployment insurance where applicable; retirement benefits provided such benefits are granted under an approved plan, and such training materials, work tools, uniforms, or other equipment which may be charged to the fringe benefits category under Public Service Employment programs, in accordance with § 98.12(b)(1). Cost of living increases may not be charged to fringe benefits.

(5) * * *

(v) The following are examples of costs not properly chargeable to Services: General and administrative costs of the services provided; supervision, clerical support not directly involved in providing services, staff training, travel of supervisory staff, rent and other facilities costs (except as provided for in (iv)), and costs of supplies, materials, and equipment not used directly in providing services to participants.

(6) *Administrative costs.* (i) Administrative costs shall be limited to those necessary to effectively operate the program. They shall not exceed 20 percent of the total planned costs for all program activities other than public service employment unless the Program Narrative Description under § 95.14(b)(2)(i) sets forth an explanation of how all Administration costs have been determined and a detailed documentation to support that amount. The restriction on the use of funds for administration in public service employment programs is set forth in § 98.12(b)(1) (sec. 108(d)(2)).

* * * * *

18. Paragraphs (b)(1) and (b)(5)(i) of § 98.18 are revised to read as follows:

* * * * *

§ 98.18 Maintenance and retention of records.

* * * * *

(b) * * *

* * * * *

(1) Financial records, supporting documents, statistical records and all other pertinent records shall be retained for a period of 3 years. Such financial records related to PSE programs shall be public information. No Federal requirements for records retention which exceed those established by State or local governments shall be otherwise imposed, except that: (sec. 704(d)).

* * * * *

(5)(i) The names of all participants supported under the Act are considered public information unless otherwise noted in this subtitle. The names, addresses, positions and salaries of all persons employed in public service employment positions under the Act are public information (sec. 704(d)).

* * * * *

19. Paragraph (a)(3) of § 98.20 is revised to read as follows:

§ 98.20 Procurement and property management standards.

* * * * *

(a) * * *

(3) The standards to be used for the procurement of supplies, equipment, and other materials and services with Federal grant funds are those described in Attachment O of FMC 74–7 with the following exceptions. On-the-job training contracts are not subject to the sole source approval requirement under paragraph 6(b) of Attachment O and selection of subgrantees is exempt from the requirements of Attachment O. When on-the-job training contracts are made under this exception a record of the name of the contractor, the amount and the services to be provided must be made available to the RA upon request. These standards are furnished to assure that such materials and services are obtained in compliance with the provisions of ap-

plicable Federal laws and Executive Orders.

* * * * *

20. Section 98.24(b) is revised to read as follows:

§ 98.24 General benefits and working conditions for program participants.

* * * * *

(b) Each participant in an on-the-job training, work experience, or public service employment program shall also be assured of health insurance, unemployment insurance (to the extent such benefits are allowable), coverage under collective bargaining agreements and other benefits at the same levels and to the same extent as other employees similarly employed, and to working conditions and promotional opportunities neither more nor less favorable than such other employees similarly employed (secs. 208 (a)(4), 703(5) and 703(6)). Nothing in this section shall be interpreted to require coverage for health insurance, unemployment insurance and similar benefits for participants, such as, work experience participants, where there is no employee of the employer performing the same or similar work in the employment situation. In determining whether the work is the same or similar to that of a person regularly employed, the prime sponsor will take into consideration, but shall not be limited to, employment status, type of work performed, job classification and method of appointment to the position.

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21. Part 99 is revised to read as follows:

PART 99—PROGRAMS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—General

Sec.
99.1 Scope and purpose of this Part 99.
99.2 Allocation of funds.
99.3 Eligibility for funds.

Subpart B—Grant Application

99.10 General.
99.11 Planning process; advisory councils.
99.12 Content and description of grant application.
99.13 Comment and publication procedures relating to submission of grant application.
99.14 Submission of grant application; standards for reviewing grant applications.
99.15 Application approval; application disapproval; grant agreement.
99.16 Use of alternative eligible applicant; services by the Secretary.
99.17 Modifications.

Subpart C—Program Operation Requirements for Prime Sponsors

99.30 General.
99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.
99.32 Program performance requirements for prime sponsors.
99.33 Public service job activities.
99.34 Maintenance of effort.
99.35 Linkages with other employment and training programs; training and supportive services.
99.36 Placement goals.
99.37 Compensation and working conditions for participants.
99.38 Place of residence for participants.

Subpart D—Program Operation Requirements of the Emergency Jobs Programs Extension Act of 1976

99.40 Apportionment of the prime sponsor's allocation.
Sec.
99.41 Project and activity approval.
99.42 Eligibility for participation in Title VI programs.
99.43 Verification of participant eligibility.
99.44 Special considerations on selection.
99.45 Administrative staff selection and compensation.

Subpart E—Administrative Provisions

99.70 General.
99.71 Payments, financial management systems and audit.
99.72 Reporting requirements.
99.73 Reallocation of funds.
99.74 Allowable Federal costs.
99.75 Grantee contracts and subgrants.
99.76 Allocations of allowable costs among program activities.
99.77 Basic personnel standards for eligible applicants.
99.78 Adjustments in payments.
99.79 Termination of grant and closeout procedures.
99.80 Retention of records.
99.81 Program income and procurement standards.
99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.
99.83 Assessment and evaluation.
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Subpart F—Special Conditions for Grants to Indian Tribes and Alaskan Native Villages

99.90 General.
99.91 Grant responsibility.
99.92 Distribution of funds.
99.93 Eligibility for funds.
99.94 Funding of prime sponsors.
99.95 Participant eligibility.
99.96 Comments and publication procedures relating to submission of application for funding.
99.97 Planning process; advisory councils.
99.98 Travel requirements.
99.99 Nepotism and conflict of interest.
99.100 Nondiscrimination; political activities.
99.101 Subgrants.

Subpart A—General

§ 99.1 Scope and purpose of this Part 99.

(a) This part contains the Department of Labor's regulations governing the establishment and operation of a public service and employment and training program under Title VI of the Act, as amended by the Emergency Jobs and Unemployment Assistanct Act of 1974, Pub. L. 93-567, 88 Stat. 1845, and the Emergency Jobs Programs Extension Act of 1976, Pub. L. 94-444.

(b) This program is intended to provide the level of funds needed to sustain enrollment under Title VI through Fiscal Year 1977. Provision is also made for a shift in emphasis toward serving persons who are long-term unemployed or AFDC recipients and whose family incomes are 70 per cent or less of the lower living standard income level.

(c) Such long-term unemployed and ADFC recipients are to make up at least 50 percent of those hired into the program, although a prime sponsor could choose to enroll a greater percentage or only such persons.

(d) Provision is made for all program activity beyond what is required for sustaining Title VI enrollment to be in projects and activities, which are subject to the review of the prime sponsor's planning council. Such projects and activities must have only long-term unemployed and AFDC participants.

(e) The duration of such projects and activities is limited to one year. While there is no regulatory limit to the duration of participation of enrollees in projects, it is strongly encouraged that the participation of such persons also be limited to one year.

(f) Prime sponsors are expected to provide a substantial part of project funds to nonprofit agencies.

(g) Work in projects must be above and beyond those services customarily provided by State or local jurisdictions and must not conflict with the maintenance of effort provisions of the Act or of the regulations in this part. Work performed in projects must be compared with similar work performed by regular employees to assure that prevailing wages are paid.

(h) Funds reserved for sustaining may be used for the same activities which were previously allowable under Title VI, including public service employment programs, basic manpower activities, and projects. When sustaining funds are used to operate projects, the projects are not subject to the planning council review or to the one-year limitation, and the persons in such projects are not limited to only the new eligibility criteria.

(i) Since whether a participant is long-term unemployed is based on collecting, having exhausted, or being ineligible for unemployment compensation, prime sponsors are strongly encouraged to arrange for verification of such information with SESAs.

(j) Definitions not found in this part for abbreviations and major terms may be found in Part 94 of this subtitle.

(k) Although the Emergency Jobs Programs Extension Act of 1976 authorizes the funding of projects for the long-term unemployed and for AFDC recipients, Congress at the present time has appropriated by a continuing resolution only the amount of money which it believed would be enough to maintain the number of public service jobs which were filled on June 30, 1976. Consequently, it is not expected that there will be much money available for projects at this time. Therefore, these regulations at § 99.40(b) allow a simplified administrative system for calculating the number of long-term unemployed and AFDC recipients who are hired into the program. Because of the current lack of appropriations for projects and because the principal intent of the Emergency Jobs Programs Extension Act is to sustain the public service jobs programs, § 99.40(a) allows prime sponsors to

carry into the new grant period the number of participants on board on October 31, 1976, if that number is higher than the June 30, 1976 level. Should additional funds become available for Title VI, these regulations will be revised accordingly.

(i) Statutory authority for the regulations contained in this part is found in section 702(a) of the Act. Other relevant sections of the Act are generally noted at the end of the substantive regulations in this part.

Although these regulations are effective 30 days after publication, it should be noted that Pub. L. 94-444 was signed into law on October 1, 1976. Therefore, as of October 1, 1976, certain provisions of Pub. L. 94-444 became immediately applicable, including sections 3(a)(1), 3(a)(2), and 11. These regulations shall constitute a modification to all grants currently operating under Title VI.

§ 99.2 Allocation of funds.

(a) The Secretary shall allocate not less than 2 percent of the funds available for Title VI of the Act to those eligible applicants defined in § 99.3 which are Indian tribes, bands, and groups qualified under section 302(c)(1) of the Act (sec. 602(e) and sec. 603(a)(1)).

(b) Not less than 90 percent of the funds remaining after the application of paragraph (a) of this section shall be allocated among eligible applicants defined in § 99.3 which are prime sponsors under Title I of the Act according to the following basic formula (sec. 603(a)(1)):

(1) Fifty percent of the funds shall be allocated among eligible applicants in proportion to the relative number of unemployed persons who reside in areas within the jurisdiction of such applicants compared to the number of unemployed persons who reside in all eligible applicants' areas in all the States (sec. 603(a)(2)(A)).

(2) Twenty-five percent of the funds shall be allocated among eligible applicants on the basis of the ratio of the excess number of unemployed persons, as defined below, who reside within the jurisdiction of the eligible applicant, to the total excess number of unemployed persons who reside within the jurisdictions of all eligible applicants. In allocating funds to an eligible applicant which is not a State, the term "excess number" shall mean the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant. For allocating funds to an eligible applicant which is a State, the term "excess number" shall mean either the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant, or the number of unemployed persons in excess of 4.5 percent of the labor force in areas eligible for assistance under Title II of the Act in the geographical area served by such State prime sponsor (under Title I or Title II), whichever is greater (sec. 603(a)(2)(C)).

(3) Twenty-five percent of the funds shall be allocated for use on behalf of residents of areas of substantial unemployment. An area of substantial unemployment, other than in relation to Indian tribes, bands, and groups, is any area within a prime sponsor's jurisdiction which has a population of at least 10,000 persons, qualifies for a minimum allocation of $25,000 under Title II of the Act, and has a rate of unemployment of at least 6.5 percent for a period of three consecutive months as determined by the Secretary of Labor at least once each fiscal year. These funds shall be allocated in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the eligible applicant as compared to the total number of unemployed persons residing in all areas of substantial unemployment (sec. 603(a)(2)(B)).

(c) The remaining funds, not to exceed 10 percent of the funds remaining after application of paragraph (a) of this section, may be distributed to prime sponsors under Title VI by the Secretary as the Secretary deems appropriate to carry out the purpose of Title VI, taking into account both changes in rates of unemployment, and the need for additional funds to continue the same level of public service employment activities previously supported under the Act within the jurisdiction of the eligible applicant (sec. 603(b)).

(d) When any portion of these funds is to be allocated using a distribution based upon a formula, the Secretary shall not later than 30 days prior to such allocation publish in the FEDERAL REGISTER the specific formula for such distribution, the rationale behind the selection of the formula and the proposed amount for distribution to each eligible applicant. After consideration of comments received within 30 days of the FEDERAL REGISTER notice, the Secretary shall publish final allocations (sec. 603(d)).

(d) In determining the allocations under paragraph (b) and (c) of this section, the term "jurisdiction" includes the jurisdiction of each unit of general local government as described in § 95.3(a)(2) of this subtitle, whether or not such unit has entered into a consortium of units of general local government for the purposes of § 95.3(a)(3) of this subtitle (sec. 603(c)).

(e)(1) An eligible applicant shall distribute to a program agent, as defined in paragraph (e)(3) of this section, funds to be utilized to serve residents of the program agent's area unless the program agent declines to operate a program, in which case, the eligible applicant shall make other arrangements to serve the residents of the program agent's jurisdiction (sec. 204(d)(1)).

(2) If the Secretary does not specify an amount to be distributed to a program agent, the eligible applicant shall distribute funds to the program agent using the same intent used by the Secretary in distributing funds to eligible applicants.

(3) The term "program agent" under this part shall mean any unit of general local government (or combination of such units) located within an eligible applicant's jurisdiction which has a population of 50,000 or more (sec. 204(d)(1)).

(4) Notwithstanding paragraph (e)(1) of this section, a program agent which is a member of a consortium may make such agreements as agreed to by the consortium with regard to the administration of funds for the benefit of the residents of the eligible program agent's area.

§ 99.3 Eligibility for funds.

(a) Funds shall be allocated by the Secretary only to eligible applicants. The term "eligible applicant" shall mean prime sponsors qualified for Fiscal Year 1977 under Title I of the Act and Indian tribes, bands, and groups qualified for Fiscal Year 1977 under section 302(c)(1) of the Act (sec. 602(e)).

(b) A State shall not qualify as an eligible applicant for any geographical area within the jurisdiction of any other eligible applicant which is a unit of local government, within the State unless the non-State eligible applicant has not submitted an approvable application for Title VI funds, or has stated to the Regional Administrator, in writing, its desire to be served by the State (sec. 204(a)).

(c) A unit of general local government shall not qualify as an eligible applicant with respect to any area within the jurisdiction of another eligible unit of general local government unless the other unit has not submitted an approvable application for such areas, or has stated its desire to the RA, in writing, to be served by such larger unit (sec. 204(a)).

(d)(1) An eligible applicant shall distribute funds to program agents as provided in §99.2(e) (sec. 204(d)(2)).

(2) No program agent shall receive or continue to receive funds for any area within the jurisdiction of another program agent unless the RA determines that the other program agent has not carried out its administrative responsibility consistent with the application for financial assistance developed by the eligible applicant for developing, funding, overseeing, and monitoring programs within its areas (sec. 204(d)(3)).

(e) Funds for areas of substantial unemployment.

(1) An eligible applicant or program agent which contains an area or areas of substantial unemployment shall make available for services to residents of each such area those funds allocated to the eligible applicant under § 99.2(b)(3) (sec. 603(a)(2)(b)).

(2) An eligible applicant other than a State, or a program agent, whose entire jurisdiction qualifies as an area of substantial unemployment, shall, to the extent feasible, allocate funds allocated under § 99.2(b)(3) according to § 96.3(f)(1) of this subtitle.

(3) If the eligible applicant is a State whose entire jurisdiction qualifies as an area of substantial unemployment, the eligible applicant shall, to the extent feasible, allocate the funds allocated to it under § 99.2(b)(3) according to § 96.3(f)(2) of this subtitle.

(4) If an eligible applicant believes that there is an area of substantial un-

employment within its jurisdiction that has not been designated as such by the Secretary it may recommend that such area be considered by the Secretary. In making any such recommendation, the eligible applicant must include a precise geographical definition of the area to be served and population data. Such recommendation shall be submitted to the RA. The Secretary shall, within a reasonable time, make a determination on the recommendation and inform the eligible applicant of the decision and the reasons therefor.

Subpart B—Grant Application

§ 99.10 General.

(a) This subpart contains the procedures for obtaining grants to operate programs under Title VI of the Act (sec. 602(a)).

(b) The Secretary reserves the right to temporarily waive any of the grant procedures in this subpart and provide immediate funding authority when, and if, strict adherence to a procedure would result in a funding delay which would necessitate the lay-off of currently employed participants.

§ 99.11 Planning process; advisory councils.

To receive financial assistance under Title VI of the Act, eligible applicants shall submit an appropriate comprehensive Title VI plan, pursuant to § 99.12. In developing and modifying such a plan, an eligible applicant shall utilize the planning process and the advisory councils pursuant to § 95.13 (b), (c), (d), and (e) of this subtitle.

§ 99.12 Content and description of grant application.

(a) This section describes the grant application which the eligible applicant shall use to apply for its grant.

(b) Copies of all grant application forms and instructions are contained in the Forms Preparation Handbook.

(c) *Grant application forms.* (1) The Application for Federal Assistance identifies the eligible applicant and the amount of funds requested; it provides information concerning the area to be served and the number of people expected to benefit from the program. The Standard Form 424 contained in Federal Management Circular (FMC) 74-7 is being used.

(2) *The Comprehensive Title VI Plan.* The Comprehensive Title VI Plan is a statement of how the eligible applicant intends to use Title VI funds and to coordinate its activities with other employment and training programs and services operating within its jurisdiction. The Comprehensive Title VI Plan consists of the Narrative of the Title VI Program, the Program Planning Summary, the Budget Information Summary, the Monthly Schedule, the Public Service Employment Occupational Summary, and the Program Summary all described below.

(i) *Narrative Description of the Title VI Program.* The Narrative Description of the Title VI program identifies and explains the employment and training problems within the eligible applicant's jurisdiction, describes proposed program activities and delivery systems to deal with those problems, and projects the results which may be expected from the program. These narrative description requirements represent an abbreviated version of the narrative description requirements of Title II (§ 96.14(b)(2)(1) of this subtitle. However, if information required in certain items below has already been provided in the current title II narrative description, a copy of this description may be attached in order to comply with these requirements. The Narrative Description of the Title VI program requires a detailed statement on the program including the following items:

(A) *Objectives and needs for the assistance.* (*1*) Program purpose; and

(*2*) Analysis of need—A brief description of the labor market of the area including labor force and a description of the population groups most in need of services at this time.

(B) *Results and benefits expected.* This item should explain how the quantified results in Section I of the PPS impact on the needs of the labor force and the community services to be provided.

(C) *Approach.* (*1*) What provisions have been made to sustain the June 30, 1976, level in both Titles II and VI, or to retain the October 31, 1976 level, if higher?

(*i*) Identify the June 30, 1976, level in Titles II and VI. Identify the October 31, 1976, level, if different.

(*ii*) Estimate amount of funds it will take to sustain the June 30, 1976, level or retain the October 31, 1976 level.

(*iii*) Identify the number of participants that will be sustained under Title II.

(*iv*) If any former participants are to be reinstated under the provisions of § 99.40(c) state the number of individuals involved. Submit adequate documentation to allow the RA to determine that such individuals qualify for reinstatement under § 99.40(c). This documentation must include the name, position, date of termination and reason for termination of each participant and any additional information required by the RA.

(*2*) Describe the methods which will be used in providing training and supportive services if any, to long-term unemployed persons.

(*3*) Provide the estimated average annual wage rate for PSE occupations and the rationale for obtaining this wage rate; keeping in mind the aim of obtaining a nationwide rate of $7,800.

(*4*) Describe the unmet public service needs.

(*5*) Describe the method of recruitment on the basis of new eligibility criteria and method of verification. Describe procedures that will be used to track and monitor the flow of participants in order to comply with the different eligibility requirements of § 99.42 (a) and (b) of this Part.

(*6*) Provide an explanation of the basis for the geographical distribution of funds within the prime sponsor's area.

(*7*) Describe the plan for providing services to disabled, special and recently discharged veterans and welfare recipients.

(*8*) For newly eligible applicants, eligible applicants operating independently for the first time and eligible applicants serving geographical area(s) in addition to that served in the previous program year, describe the continuity of service to be provided.

(*9*) Describe the process for selecting delivery agents and project operators, including: (*i*) An explanation of the methods and criteria to be used in the selection of deliverers of service; and

(*ii*) An explanation of the methods and criteria to be used for soliciting and approving project and activity applicants to operate projects and activities to the extent known.

(*10*) Describe the linkages established with other manpower and related agencies.

(D) *Management and administrative plan.*

(*1*) Provide an organizational chart.

(*2*) Describe internal administrative controls, including personnel or merit system and grievance procedures.

(E) *Maintenance of effort data.* An eligible applicant shall estimate the number of jobs that will be filled by recalling former employees who have been terminated or laid-off. In accordance with the provisions of § 99.34, the RA may request additional documentation.

(ii) *Program Planing Summary.* The Program Planning Summary requires a prime sponsor to provide a quantitative statement of planned enrollment levels; the participants to be served by each program activity (classroom training, on-the-job training, public service employment, work experience, and other activities); and outcomes for program participants. It also requires an identification of the significant segments of the population and the number of individuals to be served in each.

(iii) *Budget Information Summary.* The Budget Information Summary requires a prime sponsor to provide a quantitative statement of planned expenditures and obligations. It requires prime sponsors to indicate yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services). The prime sponsor is to reflect planned quarterly obligations and planned expenditures by program activity.

(iv) *Monthly Schedule.* A monthly estimate of total individuals enrolled at the end of the month and total cumulative expenditures shall be provided. Such monthly schedule will reflect the activity for each month during the grant period under Title VI.

(v) *Public Service Employment Occupational Summary.* The Public Service Employment Occupational Summary requires an eligible applicant operating a public service employment program under Title VI of the Act to provide a

description of proposed job opportunities, occupations and wages for similar nonsubsidized jobs in the employing agency at the sustaining level. Subsidized jobs provided in projects and activities should also be described to the extent known at the time of application.

(vi) *Program Summary.* The Program Summary presents a distribution of jobs, training slots, and funds to be provided to eligible applicants and subgrantees. It designates the area to be served, the population and employing agencies of each area. To the extent known, the above information should also be provided for projects and activities.

(3)(i) *Assurances and Certifications.* The Assurances and Certifications form is a signature sheet on which the eligible applicant assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars and Office of Management and Budget (OMB) circulars. The Assurances and Certifications form will be provided in the grant application package.

(ii) When prime sponsors are planning to fund job opportunities authorized under Section 304(a) of the Act, paragraphs (3), (4), (5), and (6), they must submit a certification to the RA in the grant application that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 604(a)).

(4) *Grant Signature Sheet.* The Grant Signature Sheet records the acceptance by the grantee and grantor of the terms and conditions of the grant and any changes to the grant. It records the time period for which the grant is effective, the grant allotment, the amount of funds obligated by the RA to the grantee, the Title of the Act under which funding is authorized and the name, title and signature of the approving official on both sides.

§ 99.13 Comment and publication procedures relating to submission of grant application.

(a) Each eligible applicant shall provide an opportunity for comment on the application as set out in § 95.15 of this subtitle, except that newspaper publication and provision of the application to Governors, appropriate units of government, appropriate Indian prime sponsors, and appropriate labor organizations may be simultaneous with submission of the grant application to the RA.

(b) Each eligible applicant shall submit a copy of its grant application to appropriate State and sub-state clearinghouse(s) at the same time that it submits its application to the RA.

§ 99.14 Submission of grant application; standards for reviewing grant applications.

(a) Each eligible applicant shall submit its grant application to the RA on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 99.12 of this part.

(c) A grant application will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law. In reviewing a grant application, the RA shall use the standards set forth in § 95.17(b) of this subtitle.

§ 99.15 Application approval; application disapproval; grant agreement.

The procedures set forth in §§ 95.18 and 95.19 of this subtitle shall apply for Title VI applications and grant agreements.

§ 99.16 Use of alternative eligible applicant; services by the Secretary.

The provisions detailed in § 95.20 of this subtitle shall apply to applications and grants made pursuant to Title VI of the Act.

§ 99.17 Modifications.

The modification procedures set forth in § 95.21 of this subtitle shall apply to Title VI grants.

Subpart C—Program Operation Requirements for Prime Sponsors

§ 99.30 General.

(a) This subpart contains the program operation requirements governing prime sponsors with respect to the creating and expanding of public service job opportunities for unemployed and underemployed persons (secs. 205, 602(a)).

(b) This subpart also contains special provisions governing prime sponsors of areas of excessively high unemployment, which include:

(1) Prime sponsors of areas having an average unemployment rate in excess of 7 percent for the most recent three consecutive months based upon the best available information and subject to review by the RA, and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(2) Prime sponsors which are "exceptional circumstance" prime sponsors under section 102(a)(4) of the Act and which certify to the RA in the grant application or a request for modification that application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(3) Prime sponsors which are "concentrated employment program" prime sponsors under section 102(a)(5) of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area; and

(4) Prime sponsors which are State prime sponsors serving areas which are eligible for assistance under Title II of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the Title II area.

§ 99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.

(a)(1) A prime sponsor shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle.

(2) A prime sponsor of an area of excessively high unemployment shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle, except that the provisions of § 96.21(c), (d) and (e) of this subtitle shall not apply.

(b) The responsibilities of program agents, as defined in § 99.2(e)(3), shall be those provided in § 96.22 of this subtitle.

§ 99.32 Program performance requirements for prime sponsors.

(a) A prime sponsor shall use funds under Title VI of the Act in accordance with the expenditure levels and enrollment levels described in the approved Comprehensive Title VI Plan and within the monthly schedule.

(b)(1) The RA shall review the program performance of each prime sponsor on a monthly basis and determine the adequacy of the prime sponsor's performance with respect to the expenditure and enrollment levels provided for in the Program Planning Summary, Budget Information Summary, and the monthly schedule.

(2) If a prime sponsor operates at a level in variance from the monthly schedule, the RA may prescribe corrective action and/or technical assistance.

(c) The RA, on a monthly basis, shall make a general review of the prime sponsor's performance and goals to determine the responsiveness of the prime sponsor's program to the unemployment rates of its area and the employment needs of the persons within its jurisdiction.

§ 99.33 Public service job activities.

(a) A prime sponsor may provide:

(1) Public service jobs in employment projects, as defined in § 94.4(ooo) of this subtitle, which provide maximum employment opportunities for eligible persons (sec. 602(a));

(2) Public service employment programs which meet the requirements of § 96.23 of this subtitle (sec. 602(a));

(3) Basic manpower activities and services described in § 95.33(d) of this subtitle (sec. 201);

(4) Job opportunities with public employers, as described in paragraphs (3), (4), (5), and (6) of section 304(a) of the Act, if the prime sponsor certifies to the RA in the grant application or a modification that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 640(a));

(5) Where funds are utilized pursuant to paragraphs (a)(3) and (a)(4) of this section, all provisions under this part shall apply, except for references in such provisions to §§ 96.20, 96.21 (b)(c)(d)(e)(g) and (h), 96.23, 96.31, 96.32, 96.33, and 96.34 of this subtitle. In addition, those

provisions applicable for programs under Title I, or Part A of Title III shall apply. However, when Title VI funds are used to fund public service employment, all of the provisions of this part shall apply.

(b) Funds allocated to prime sponsors of areas of excessively high unemployment may also be used for the following special program activities and services (sec. 604):

(1) Public service employment programs which meet the requirements of § 96.23 of this subtitle, except that § 96.23(b) (2), (3), and (8) shall not apply;

(2) The funding of jobs with public employers on community capital improvement projects, which would not be otherwise carried out (however, these activities must be activities that the prime sponsor is authorized to do and would normally perform itself rather than contract out). Such projects may include the rehabilitation, alteration, or improvement, but not new construction, of public buildings, roads and other public transportation facilities, health and education facilities, and other facilities for the improvement of the community in which the project is or will be located. Funds shall not be used, however, for employment in capital improvement projects which inures primarily to the benefit of a private profit-making organization (sec. 604(b)); and

(3) The funding of jobs in projects for functions that would normally be authorized for the jurisdiction but would not otherwise be carried out. The activities performed in the projects must be those which the prime sponsor has historically performed itself rather than those which would normally be performed by an outside contractor. Such projects may include construction (including new construction), rehabilitation, alteration, or improvement of water and waste disposal facilities in communities with populations of 10,000 individuals or less which are outside the Standard Metropolitan Statistical Area, as defined by the Bureau of the Census.

§ 99.34 Maintenance of effort.

(a) Public service jobs funded under Title VI of the Act shall only be in addition to employment which would otherwise be financed by the prime sponsor without assistance under the Act (secs. 602(c), 205(c)(25)).

(b) To assure maintenance of effort, the prime sponsor shall see that a public service employment program under Title VI of the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of nonovertime work, wages, or employment benefits;

(3) Shall not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) Shall not substitute public service jobs for existing federally assisted jobs under federally supported programs other than those under the Act (secs. 602(c), 208(a)(1)).

(c) Prime sponsors, program agents and subgrantees may not terminate, layoff, or reduce the working hours of, an employee in anticipation of hiring an individual with funds available under Title VI. In addition, no participant shall be used to fill positions or provide services normally provided by temporary, part-time, or seasonal workers or contracted out, or to fill full-time vacancies, unless documentation is maintained, as provided in paragraph (h) of this section, that such action does not constitute a substitution of Federal funds for purposes that would otherwise have been supported by other resources.

(d) No prime sponsor shall hire or allow the hiring of any person into any job funded under this part when any other person is on lay-off from the same or any substantially equivalent job (secs. 602(c), 205(c)(7)(8)). If layoffs of regular employees occur during the grant period, participants may not remain working in the same or substantially equivalent job within the employing agency that is affected by the lay-off. Such participants shall be transferred to positions not affected or be laid off or terminated. Prime sponsors shall try to transfer them to Title I, if appropriate, or shall attempt to place them into unsubsidized employment before laying them off or terminating them (secs. 602(c), 205(c)(8)).

(e) Former employees who lost their jobs due to a bona fide lay-off may be hired into positions supported under this Part provided that such hiring does not constitute a violation of the maintenance of effort provisions of the Act and these regulations.

(f) No participant may be placed or remain working in any position substantially equivalent to a position which is vacant due to a hiring freeze unless the prime sponsor can demonstrate that:

(1) The freeze resulted from a lack of funds to sustain former staff levels and was not established because of the availability of funds under this part; and

(2) The promotional opportunities of regular employees will not be infringed upon.

(g) Prime sponsors shall notify the RA in writing of any layoff or hiring freeze in a department or agency where participants are employed in positions substantially equivalent to those affected by the layoff or hiring freeze.

(h) Prime sponsors, program agents, or subgrantees which utilize funds under this Part to hire persons to fill positions previously supported by funds other than funds available under the Act or to provide services which are normally provided by temporary, part-time or seasonal workers or which are normally contracted out, shall maintain documentation that such use of funds does not constitute a violation of paragraph (c) of this section nor of any other requirements of this section. Such documentation shall be prepared and maintained in a form which clearly demonstrates that all requirements of this section are complied with and shall be readily available for the inspection of the RA for a period of not less than one year subsequent to the filling of any position to which these provisions are applicable. Prime sponsors shall, at the direction of the RA, submit such documentation or any budgetary expenditure records, revenue statements, and other information relevant to determinations under this section. RA's shall not approve any plan unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this section.

(i) Funds shall not be used to provide public services, through a private or nonprofit organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area if such funding will result in a reduction of the customary level of such service by the State, political subdivision, or local educational agency.

(j) RAs and prime sponsors shall carefully review all programs to insure compliance with all maintenance of effort requirements.

§ 99.35 Linkages with other employment and training programs; training and supportive services.

(a) Each prime sponsor, where appropriate, shall maintain linkages with other employment and training programs as provided under the provisions of § 96.32 of this subtitle.

(b) As appropriate, each prime sponsor shall provide training and supportive services for participants as specified by § 96.31 of this subtitle.

§ 99.36 Placement goals.

Public service employment programs, to the extent feasible, shall meet placement goals as described in § 96.33 of this subtitle (secs. 602(c), 211(b)). The provisions of § 96.33(c)–(f), however, shall not be applicable to participants in projects and activities as described in § 99.40(a)(2).

§ 99.37 Compensation and working conditions for participants.

(a) Participants in public service employment programs and projects shall be compensated pursuant to § 96.34 of this subtitle.

(b) A prime sponsor may establish, on an area basis, jobs and wage structures for participants, taking into account the average wages in the area served and the cost of living in such areas, with the aim of effecting a nationwide, federally supported annual average wage rate equivalent of $7,800 per full-time position within the overall $10,000 federally supported salary limitation provided to public service jobholders. However, this provision in no way is intended to relieve a prime sponsor from compensating participants in accordance with paragraphs (a), (c), (d), (e), and

(f) of this section. The RA is authorized to make recommendations, on an area basis, to prime sponsors pertaining to the provisions set forth in this paragraph.

(c) Participants in classroom training programs shall be compensated pursuant to § 95.34 of this subtitle.

(d) Participants in on-the-job training programs and projects shall be compensated pursuant to § 95.35 of this subtitle.

(e) Participants in work experience programs shall be compensated in accordance with § 95.33(d)(4)(viii) of this subtitle. When participants enrolled in work experience are working in projects, wages shall equal the highest of either of the rates specified in § 95.33(d)(4)(viii) of this subtitle or the prevailing rates of pay for persons employed in similar occupations by the same employer.

(f) The salary limitations specified in § 96.34(c) of this subtitle shall apply to compensation provided participants under Title VI.

§ 99.38 Place of residence for participants.

(a) *General.* (1) (i) At time of both application and selection, program participants shall reside within the geographic area for which funds have been designated. A program agent, therefore, may not hire persons outside of its jurisdiction nor may a prime sponsor hire a person from the jurisdiction of another prime sponsor or of a program agent within its own jurisdiction.

(ii) Because of changes in program agent designations each program year, this policy does not require the layoff of participants eligible under the residency requirements that were applicable at the time of their selection.

(2) A prime sponsor or program agent may receive additional funds as a subgrantee of another prime sponsor or program agent to enroll residents of the other prime sponsor's or program agent's jurisdiction in any public service job or other manpower program under Title VI. The prime sponsor or program agent receiving funds must offer jobs or programs which are within reasonable commuting distance of residents of the other prime sponsor's or program agent's jurisdiction.

(3) *Consortia of eligible applicants.* If two or more jurisdictions eligible to be prime sponsors have formed a consortium to operate programs under Titles I, II, and VI, residents of any designated area within the boundaries of the consortium may be employed in public service jobs or enrolled in any other manpower activity either within the geographical boundaries of the consortium or outside such boundaries in which case the provisions of § 96.23(b)(7) of this subtitle shall apply: *Provided*, That the total amount of funds spent for residents of each participating prime sponsor equals the amount of funds that the area would have received if the consortium had not been formed.

(b) Funds provided under § 99.2(b)(3) shall be used only on behalf of residents of geographic areas eligible for assistance under Title II of the Act.

(c) *Consortia of units of general local government formed in order to qualify as program agents; multijurisdictional prime sponsors.* The provisions of paragraphs (a) and (b) of this section shall apply to consortia of units of general local government formed in order to qualify as program agents and shall apply to multijurisdictional prime sponsors.

Subpart D—Program Operation Requirements of the Emergency Jobs Programs Extension Act of 1976

§ 99.40 Apportionment of the prime sponsor's allocation.

(a) *General.* (1) (i) Each prime sponsor shall reserve from the funds available during Fiscal Year 1977 for its use under Title VI, an amount which, when added to the funds available during Fiscal Year 1977 for its use under Title II, shall be sufficient to sustain throughout FY 1977 the number of Titles II and VI participants who were in the program on June 30, 1976.

(ii) However, if the number of participants enrolled in Titles II and VI on October, 31, 1976, plus any rehires who were terminated from Titles II and VI and who are approved for reinstatement in accordance with paragraph (c) of this section, is higher than the June 30, 1976, level of participants, the prime sponsor may reserve funds to carry the higher level into the new grant period. The prime sponsor should be aware, however, that its allocation, which shall be keyed to the June 30, 1976 level, may not be sufficient to operate at the higher level throughout FY 1977.

(iii) (A) Funds reserved in accordance with paragraph (a)(1)(i) of this section shall not be used to support a level of opportunities in excess of the June 30, 1976, level or the level of opportunities on the date of grant execution.

(B) Funds reserved in accordance with paragraph (a)(1)(ii) of this section shall not be used to support a level of opportunities in excess of the October 31, 1976, level plus any rehires who have been approved for reinstatement under paragraph (c) of this section or the level of opportunities on the date of grant execution.

(2) Funds remaining after the application of paragraph (a)(1) of this section shall be used for new projects as defined in § 94.4(ooo) of this subtitle, and activities, as described in § 99.33, not to exceed 12 months and subject to the approval procedures in § 99.41 (sec. 607(b)).

(b) *Enrollment of Title VI participants.* (1) At least fifty percent of the participants who become enrolled after grant execution shall meet the new eligibility criteria (§ 99.42(a)).

(i) Only participants meeting the new eligibility criteria shall be enrolled in projects and activities as specified in §§ 99.40(a)(2) and 99.41.

(2) Up to fifty percent of the participants who become enrolled after grant execution may meet the original Title VI eligibility criteria (see § 99.42(b)).

(i) Individuals enrolled after grant execution who meet the original Title VI eligibility criteria may be rehires, as defined in § 94.4(qqq), provided that the maintenance of effort provisions of § 99.34 are not violated.

(ii) In selecting individuals who meet the original Title VI criteria, prime sponsors may give preference to unemployed qualified former health and safety personnel for public health and safety positions (sec. 607(c)(2)).

(3) The cumulative and current number of participants who become enrolled in Title VI after grant execution who meet the new eligibility criteria shall at all times approximate fifty percent or greater of all participants who become enrolled in Title VI after grant execution.

(4) In paragraphs (b)(1), (2), and (3) of this section, persons enrolled after grant execution shall not include Title II participants who are moved into Title VI during the initial separation of Titles II and VI participants.

(c) Any rehire who, after June 30, 1976, and before October 1, 1976, was laid off from a job supported under Titles II and VI because of the provisions of § 96.24 (e) and (f) of this subtitle may be reinstated by the prime sponsor into a Title VI position supported pursuant to paragraph (a)(1) of this section without regard to requirements of paragraphs (b)(1) and (2) of this section. However, reinstatement shall be subject to RA determination that they were laid off because of § 96.24 (e) and (f), after review of information provided in § 99.12(c)(2)(i)(C)(*1*)(*iv*). The reinstatement provision of this section shall not relieve a prime sponsor from compliance with § 99.34(d) (sec. 609(c)).

§ 99.41 Project and activity approval.

(a) Funds remaining after funds are reserved for supporting the level of opportunities determined in § 99.40(a)(1) shall be utilized for public service jobs in new projects, as defined in § 94.4(ooo), and activities, as described in § 99.33, not to exceed one year in duration (sec. 607(b)).

(b) Such projects and activities shall be funded as follows:

(1) Each prime sponsor shall establish procedures for its own use and the use of its program agents for notifying potentially eligible project applicants (as defined in § 94.4(ppp)) of the application process and cut-off date for acceptance of applications.

(2) Each prime sponsor is responsible for establishing procedures for its own use and the use of its program agents, whereby, upon receipt, a copy of each project/activity application shall be submitted to the prime sponsor's planning council to allow the council to submit comments and recommendations with respect to the application (sec. 609(a)).

(i) No member of a prime sponsor's planning council shall cast a vote on any matter in connection with a proposed project or activity in which that member (or any organization with which that member is associated) has a direct interest (sec. 609(a)).

(3) Prime sponsors and program agents should give consideration to providing a substantial portion of the project and activity funds to nonprofit agencies, in order to insure that real, new jobs are created and to avoid substitution of Federal funds for services customarily provided by State and local governments.

(4) In reviewing project and activity applications, prime sponsors, and program agents, should carefully consider any proposed expenditures for materials, supplies, equipment, and space in relation to the duration of the proposed projects and activities.

(5) Prime sponsors and program agents shall not disapprove a project or activity application without first considering any comments and recommendations submitted by the planning council and providing the applicant and the council with a written statement of the reasons for the disapproval (sec. 609(b)).

(6) In program agent areas, decisions on approving or disapproving project and activity applications shall be made in accordance with § 96.22 of this subtitle.

§ 99.42 Eligibility for participation in Title VI programs.

(a) The following criteria shall be used by prime sponsors in determining participant eligibility pursuant to § 99.40 (a)(2) and (b)(1) and in selecting participants for these positions (sec. 608(a)).

(1) An eligible person must be a member of a family which has a current total family income, determined pursuant to paragraph (a)(2) of this section, at or below 70 per centum of the lower living standard income level, as defined in § 94.4 (nnn), and

(i) Who has been receiving unemployment compensation for fifteen or more weeks; or

(ii) Who is ineligible for unemployment compensation and has been unemployed for fifteen or more weeks; or

(iii) Who has exhausted all unemployment compensation benefits; or

(iv) Whose family is receiving Aid to Families with Dependent Children (AFDC), including AFDC—Unemployed Fathers, under Title IV of the Social Security Act.

(2)(i) In determining current family income, the prime sponsor shall annualized, based on the three months preceding application, total family income, utilizing the same exclusions (e.g., unemployment compensation) used to determine family income for the Participant Record, except with regard to welfare payments. Only that portion of public payments received by the family which a family member, including the applicant, will be disqualified from receiving due to the enrollment of the applicant under Title VI (e.g., payments under the Aid to Families with Dependent Children of Unemployed Fathers program) shall be excluded.

(ii) In instances where, due to seasonal employment, summer employment for youth, or other circumstances, the three months period is unrepresentative, the prime sponsor shall compute family income by totaling all family income received during the twelve months prior to application, except for those exclusions indicated in paragraph (a)(2)(i) of this section (sec. 608(a)(2)).

(3) The prime sponsor shall take reasonable steps to insure that funds used pursuant to § 99.40(a)(2) and (b)(1) are equitably allocated among the categories of eligible persons described in subdivisions (i), (ii), (iii), and (iv) of paragraph (a)(1) of this section. Such equitable allocation shall be made in light of the composition of the population of unemployed eligible persons served by the prime sponsor, to the extent that such data are available. No one group shall be served exclusively, and no group shall be excluded from service (sec. 608(c)).

(4) Participants under Title I, section 302 and section 303 of the Act, participants under Sections 5 and 6 of the Emergency Employment Act, and participants under Title X of the Public Works and Economic Development Act who are enrolled in Title II or VI activities funded through the Department, may be transferred pursuant to § 99.40 (a)(2) or (b)(1) if they met the requirements of paragraph (a)(1) of this section and § 99.38 at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(b) In order to be eligible pursuant to § 99.40(b)(2), an individual shall be:

(1)(i) A person who has been unemployed for at least 30 days, as defined in § 94.4(hhh), prior to application, or who is underemployed, as defined in § 94.4 (fff), and who meets the residence requirements of § 99.38, is eligible pursuant to § 99.40(b)(2). The term residence is defined in § 96.27(f) of this subtitle; or

(ii) A person who has been unemployed for at least 15 days, as defined in § 94.4(hhh), except for the provision of § 94.4(hhh)(3), prior to application, or who is underemployed, as defined in § 94.4(fff) and who meets the residence requirements of § 99.38, is eligible for a job funded under § 99.40(b)(2) in areas of excessively high unemployment.

(2) A veteran who served in the U.S. Armed Forces during the Vietnam Era (August 5, 1964, to May 7, 1975), and who has served on active duty for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon discharge, for participation in an activity under § 99.40 (b)(2) without regard to the 15- or 30-day unemployment requirement which would otherwise pertain (sec. 2013, Vietnam Era Veterans' Readjustment Assistance Act of 1972, Pub. L. 92-540): *Provided*, Such veteran has not obtained permanent, full-time unsubsidized employment between the time of discharge and the time of application for participation in Title VI.

(3) A person participating in a public employment program under a Section 5 or Section 6 grant funded by the Emergency Employment Act (EEA) may be transferred into an activity under § 99.40 (b)(2), in order to provide for the orderly phaseout of the EEA grant, if he/she met the requirements of § 99.38 at the time his/her entry into EEA, and provided that maximum efforts have been made to place such an individual in unsubsidized employment or training.

(4) Title I, Title II, section 302, and section 303 participants under the Act, and participants under Title X of the Public Works and Economic Development Act, who are enrolled in Titles II or VI activities funded through the Department may be transferred pursuant to § 99.40(b)(2) only if they met the requirements of paragraph (b)(1) of this section at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(5) A person participating in a WIN public service employment program under Part C, Title IV, of the Social Security Act, who leaves or is removed from a public service employment position, shall be treated in the same manner as any other such applicant with respect to eligibility pursuant to § 99.40(b)(2):

(i) If such an individual is still receiving cash welfare payments, that individual meets the definition of unemployed for this title, and is immediately eligible if the individual also meets the requirements of § 99.38.

(ii) If the individual is no longer receiving welfare payments, that individual must meet the standard eligibility criteria for paragraph (b)(1) of this section.

(c) The following requirements are applicable in the selection process of participants for all jobs and activities filled under Title VI:

(1) The selection of participants shall be made in accordance with the provisions of § 96.25 of this subtitle.

(2) A person who obtains permanent, full-time unsubsidized employment after application shall no longer be considered eligible for Title VI, unless, even with such full-time employment, an applicant pursuant to § 99.40(b)(2) still meets the requirements of paragraph (b)(1) of this section.

(3) Citizenship may not be used as a criterion to prevent persons from participating in a program under Title VI. However, program participation shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or are otherwise legally available for work in the United States.

(4) While the selection of eligible full-time students for participation in programs funded under Title VI is not prohibited, prime sponsors should exercise caution in providing for such participation and should provide for such participation only in accordance with these regulations. Prior to providing for such participation, prime sponsors should give special consideration to those persons most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under Title VI.

(5) A participant in a Title VI program may change jobs within a particular prime sponsor's or program agent's jurisdiction without reestablishing eligibility pursuant to paragraphs (a) or (b) of this section, but may not be employed in a job or activity for any other prime sponsor or program agent without again establishing eligibility pursuant to paragraphs (a) or (b) of this section.

(6) The provisions of § 96.28 and § 96.30, special consideration for most severely disadvantaged persons and groups to be provided special consideration, shall apply to programs funded under Title VI.

(7) The significant segments of a prime sponsor's population shall be served on an equitable basis, as provided in § 96.29 of this subtitle. In selecting individuals eligible pursuant to paragraph (a) of this section, the requirements of paragraph (a)(3) of this section are in addition to serving significant segments equitably.

§ 99.43 Verification of participant eligibility.

(a) A prime sponsor is responsible for assuring the eligibility of all participants under Title VI. The eligibility requirements of paragraphs (i), (ii), (iii), and (iv) of § 99.42(a)(1) of this Part are verifiable. Prime sponsors shall be liable for any payments made to participants determined ineligible during program audits or reviews or otherwise. Decisions on whether to verify eligibility and on the method of verification rest with the prime sponsor. However, in order to protect their liability, prime sponsors are encouraged to develop arrangements and procedures for the verification of participants as follows:

(1) Arrangements, including cooperative agreements, with SESAs for the verification of individuals whose applications indicate that they qualify pursuant to paragraphs (i), (ii), and (iii) of § 99.42(a)(1) of this Part; and

(2) Arrangements with public welfare agencies for the verification of individuals whose applications indicate that they qualify as an AFDC recipient (§ 99.42(a)(1)(iv)).

(b) As unemployment compensation recipients approach their 15th week or their exhaustion status, SESAs will be informing them of their possible eligibility for Title VI programs. Prime sponsors shall work with the SESA in the development of arrangements for informing these individuals of their possible eligibility for available opportunities.

§ 99.44 Special considerations on selection.

In providing public service jobs and determining hours of work for individuals eligible pursuant to § 99.40(a)(2) and § 99.40(b)(1), each prime sponsor shall take into consideration the household support obligations of the individuals and shall give special consideration to such alternative working arrangements as flexible hours of work, shared time and part-time jobs, for participants with particular needs, e.g., parents of young children, older persons, and handicapped individuals (sec. 608(d)).

§ 99.45 Administrative staff selection and compensation.

(a) The Title VI administrative staff shall be selected and compensated in accordance with the provisions of § 96.35 of this subtitle.

(b) When administrative funds are utilized to pay the wages of supervisory personnel for projects, the promotional rights of existing employees to fill the supervisory positions shall be protected.

Subpart E—Administrative Provisions

§ 99.70 General.

This subpart contains regulations on the administration of grants under Title VI of the Act. The regulations in this subpart reference the sections of Part 98 of this subtitle which apply to Title VI grants.

§ 99.71 Payments, financial management systems and audit.

§§ 98.2 through 98.6 of this subtitle relating to payments, financial management systems and audits apply to grants under Title VI of the Act (secs. 702(b), 713).

§ 99.72 Reporting requirements.

(a) Section 98.7 shall apply to Title VI programs (secs. 702(12), 713).

(b) Section 98.8 of this subtitle requiring submission of the Program Status Report and Monthly Report shall apply to programs under Title VI.

(c) Section 98.9 of this subtitle requiring submission of a Quarterly Summary of Participant Characteristics shall apply to programs under Title VI.

(d) Section 98.10 of this subtitle requiring submission of a Report of Federal Cash Transactions shall apply to programs under Title VI.

§ 99.73 Reallocation of funds.

(a) Irrespective of requirements under § 98.11 of this subtitle, the RA may make such reallocation, as he deems appropriate, of any amount of any allocation under Title VI of the Act to the extent that he determines that an eligible applicant will not be able to use such amount within a reasonable period of time.

(b) When the RA determines that a reallocation is appropriate, he shall give the grantee and the appropriate Governor 30-day notice of the proposed action to remove funds from the grant. Such notice shall include the specific reasons for the action being taken.

(c) The grantee and the Governor will be invited to submit comments on a proposed reallocation of funds. These comments shall be submitted to the RA within 30 days from the date of the notice. The RA shall notify the Governor and affected prime sponsors on any decision to reallocate funds and shall have any such decision published in the FEDERAL REGISTER.

(d) The procedures set out in this section are in lieu of any other procedure which might otherwise be applicable under § 98.40, et seq. of this subtitle.

(e) Any reallocation of funds shall be to an alternate eligible applicant to serve the same area or to eligible applicants to serve other areas. In reallocating such funds to serve other areas, priority shall be given first to eligible applicants within the same State and then to eligible applicants within other States, taking into consideration the number of eligible unemployed individuals in those areas (sec. 606).

§ 99.74 Allowable Federal costs.

(a) Section 98.12 of this subtitle concerning allowable Federal costs shall apply to Title VI grants. In addition, the cost of participants' salaries and fringe benefits or the cost of allowances in areas of excessively high unemployment may include jobs on community capital improvement projects, which would not otherwise be carried out by the grantee or subgrantee, including the rehabilitation, alteration, or improvement of public buildings, roads, and other transportation facilities, health and education facilities, and other facilities for the improvement of the community in which the community capital improvement project is or will be located, but such funds shall not be used for public service employment in new building and highway construction work or in other work which inures primarily to the benefit of a private profitmaking organization (sec. 604(b)(3)). The costs of participants' salaries and fringe benefits or the costs of allowances in areas of excessively high unemployment are allowable for participants engaged in construction, rehabilitation, alteration, or improvement of water and waste disposal facilities which would not otherwise be carried out, in communities having populations of 10,000 individuals or less which are outside the boundaries of a Standard Metropolitan Statistical Area (as defined by the Bureau of the Census) (sec. 604(a)(3)).

§ 99.75 Grantee contracts and subgrants.

Section 98.27 of this title shall apply to Title VI grants, except that contracts and subgrants may not extend more than 6 months beyond the term of the grant.

§ 99.76 Allocations of allowable costs among program activities.

Section 98.13 of this subtitle shall apply to Title VI grants.

§ 99.77 Basic personnel standards for eligible applicants.

(a) Section 98.14 of this title shall apply to Title VI grants (sec. 703(14)).

(b) The basic personnel standards, as set forth in § 98.14 of this subtitle, shall apply only to an eligible applicant's staff and not to program participants. However, in filling public service jobs funded under Title VI of the Act, eligible applicants shall insure that applicable personnel procedures and collective bargaining agreements have been met.

§ 99.78 Adjustments in payments.

Section 98.15 of this subtitle shall apply to Title VI grants (sec. 702(b)).

§ 99.79 Termination of grant and closeout procedures.

Sections 98.16 and 98.17 of this subtitle shall apply to Title VI grants (sec. 702(b)).

§ 99.80 Retention of records.

Section 98.18 of this subtitle shall apply to Title VI grants (sec. 703(a)(12)).

§ 99.81 Program income and procurement standards.

Sections 98.19 and 98.20 of this subtitle shall apply to Title VI grants.

§ 99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.

(a) Sections 98.21, 98.22 and 98.23 of this subtitle apply to Title VI programs (secs. 703(1), 710 and 712):

(b) Sections 98.24, 98.25, 98.26, 98.28, and 98.29 of this subtitle relating to general benefits and working conditions, retirement programs, procedures for resolving issues, nonfederal status of participants, and Davis-Bacon Act provisions, shall apply to Title VI programs.

§ 99.83 Assessment and evaluation.

Sections 98.30 through 98.34 shall apply to Title VI grants (sec. 703(14)).

§ 99.84 Hearings and judicial review.

Sections 98.40 through 98.49 of this subtitle shall apply to Title VI grants (except as otherwise provided in this part).

Subpart F—Special Conditions for Grants to Indian Tribes and Alaskan Native Villages

§ 99.90 General.

This subpart contains special conditions for grants under Title VI of the Act to Indian tribes on Federal and State reservations, recognized tribes in the State of Oklahoma, and Alaskan Native Villages in the State of Alaska. To the extent that any provisions of this subpart differ from any other provision of this part, the provisions of this subpart shall govern. Otherwise, the requirements of this part 99 apply to programs under this subpart.

§ 99.91 Grant responsibility.

The Division of Indian and Native American Programs in the Office of National Programs shall have full responsibility for all matters pertaining to funds allocated to eligible applicants as defined under § 99.90 above. For purposes of this subpart, all references to RA in this Part 99 shall be read as Director, Division of Indian and Native American Programs.

§ 99.92 Distribution of funds.

Funds for use under this subpart shall be not less than 2 percent of all funds appropriated for Title VI programs. Such funds shall be allocated among the designated prime sponsors on the basis of the prime sponsor's Indian and Alaskan Native rate of unemployment compared to the rate of unemployment in all eligible areas. In making such allocations, the Secretary shall use the best data available.

§ 99.93 Eligibility for funds.

Indian tribes on Federal or State reservations, recognized tribes in Oklahoma and Alaskan Native villages shall be eligible for Title VI funds provided they meet the requirements of § 96.42 of this subtitle, except that recognized tribes in Oklahoma and Alaskan Native villages are exempt from the Federal or State reservation requirement.

§ 99.94 Funding of prime sponsors.

(a) A prime sponsor, if necessary, shall update its Preapplication for Federal Assistance (SF–424) to include a request for funding pursuant to Title VI of the Act. An eligible applicant which has not previously submitted a Preapplication shall comply with § 97.111 of this subtitle.

(b) A consortium, if necessary, shall amend its consortium agreement to insure that it covers activities funded under Title VI of the Act.

(c) Funds made available pursuant to Title VI shall be included in existing Fiscal Year 1977 grants via a modification if appropriate. If new grants are executed, they shall be for a period not to exceed 12 months.

(d) The Title VI modification of the new grant shall consist of the Employment Plan and the Grant Sheet. New grants shall also include appropriate Assurances and Certifications. The Employment Plan shall consist of:

(1) A full narrative description of the program;
(2) A program planning summary;
(3) A budget information summary;
(4) An occupational summary;
(5) A program summary; and
(6) A monthly plan.

§ 99.95 Participant eligibility.

Indian and Alaskan Natives who meet the eligibility and residency requirements of this part shall be eligible to participate in programs funded under Title VI.

§ 99.96 Comments and publication procedures relating to submission of application for funding.

Each eligible applicant shall provide an opportunity for comment on its Title VI plan as set out in § 97.115 of this subtitle.

§ 99.97 Planning process; advisory councils.

Eligible applicants shall utilize in their planning process the services of their planning councils authorized under § 97.113 of this subtitle. In addition, the provision of § 99.41 shall apply to the project application approval process.

§ 99.98 Travel requirements.

Travel regulations for grantees under this subpart shall be those at § 97.161(f)(7) of this subtitle.

§ 99.99 Nepotism and conflict of interest.

(a) No prime sponsor, subgrantee or contractor shall hire, or permit the hiring of, any person in a staff position, nor shall they accept any person as a participant, if a member of the person's immediate family is employed in an administrative capacity by the prime sponsor, subgrantee or contractor. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister. The term "staff position" includes all positions such as instructors, counselors, administrators, and suppliers of training and services. The term "employed in an administrative capacity" includes those persons who have overall administrative responsibility for a program, including: All elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under this subpart as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director and unit chiefs; and persons who have selection, hiring, placement, or supervisory responsibilities for public service employment participants. The Secretary may waive this requirement if adequate justification is received that no other persons within the subgrantee's jurisdiction are eligible and available for participation or employment by the prime sponsor.

(b) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the prime sponsor shall follow the tribal rule.

(c) Each prime sponsor shall establish safeguards to prohibit employees under the grant, board members, or tribal council members from using their positions for private gain for themselves or others with whom they have family, business or other ties.

§ 99.100 Non-discrimination; political activities.

Sections 98.21 and 98.23 shall be applicable to programs under this subpart except to the extent that those provisions conflict with 42 U.S.C. 2000e(b).

§ 99.101 Subgrants.

In addition to the requirements concerning subgrants, Indian tribes may require that subgrantees agree, to the maximum extent feasible, to hire as staff qualified Indians in accordance with 42 U.S.C. 2000e–2(i).

Signed in Washington, D.C., this 5th day of January 1977.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training Administration.

[FR Doc.77-962 Filed 1-10-77;8:45 am]

federal register

TUESDAY, JANUARY 11, 1977

PART IV



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

■

TRAINING PROGRAMS

Proposed Rulemaking

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Chapter II]

TRAINING

Notice of Intent; Reconsideration of Structuring of Regulations

The regulations for programs currently administered by the Social and Rehabilitation Service, published beginning in 1969, are organized in four groups:

1. Parts 201 through 213—Policies applicable to several or all of the programs administered by the Social and Rehabilitation Service.

2. Parts 220 through 228—Policies applicable to social services programs, including the Work Incentive Program (WIN).

3. Parts 232 through 237—Policies applicable to the income maintenance programs.

4. Parts 246 through 252—Policies applicable to the Medicaid program.

The Department wishes to make its regulations as clear, concise and usable as possible. Already underway is a pilot project for total revision of the Medicaid regulations. Overall structure is a major consideration on which the Service wishes the advice of the users of its regulations.

The current organizational pattern means that the total body of policies applicable to any one of the three major programs is obtainable only by referring to group 1 and to group 2, 3, or 4, as described above.

Similarly, with respect to the general subject of training, it is necessary to consult group 1 (§ 205.202), group 2 (Subpart H of Part 228), and group 4 (§ 250.120).

Furthermore, as a result of legislation enacted since 1969, the differences among the three programs have increased greatly. This makes group 1 regulations more complex and perhaps more difficult to use. The reader interested in a particular program must segregate what applies to that program from what applies only to other programs.

The public was specifically requested to comment on the possible integration in one section of the regulation of all provisions on staff training when the services amendments (45 CFR Part 228) were published August 26, 1976 (41 FR 36167) containing, in Subpart H, the training regulations applicable to social services programs under title XX.

Published today at page 2445 is a proposed revision of 45 CFR 205.202, which contains training policies applicable to the income maintenance and Medicaid programs.

In order to provide a tangible basis for comparison between separate and integrated regulations, the Service republishes Subpart H of Part 228 (at page 2443) and publishes an integrated version of the two proposals.

The differences in training policies are the result of differences in the laws. The integrated version differs from § 205.202 in that it provides more detail about training policies applicable to Medicaid. It differs from Subpart H of Part 228 in that it specifies a time limit for compliance with, and release from the commitment to work for a period of time equal to the training period (§ 207.10(a)(4) and (5)).

Included at page 2444 is a comparative table of contents which lists all subjects and cites the corresponding sections or subsections of each version.

The question is whether the most desirable structure is that which brings together all policies applicable to any one of the 3 programs, as is generally the case in the Title XX services regulations (45 CFR Part 228); or that which brings together all policies dealing with a particular aspect to all programs, such as fair hearings, confidentiality, or, in this particular instance, training. The NPRM published today includes policies applicable to both financial assistance and medicaid. So the question is also whether it is preferable to publish medicaid policies separately because of differences in what training can be provided and the rates of FFP.

Comments responsive to this notice will not be acknowledged but careful consideration will be given to all written comments addressed to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013, and received on or before February 25, 1977. In order to assure prompt handling of comments, please refer to "PCO–152–NI". Agencies and organizations are requested to submit their comments in duplicate.

Such comments will be available for public inspection in Room 5225 of the Department's offices at 330 C Street, S.W., Washington, D.C. 20201, beginning approximately two weeks after publication of this Notice in the FEDERAL REGISTER, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202–245–0950). Answers to specific questions may be obtained by calling Evelyn Greene 202–245–0202.

AUTHORITY: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302)

(Catalog of Federal Domestic Assistance Program No. 13.724, Public Assistance—State and Local Training.)

Dated: November 24, 1976.

ROBERT FULTON,
Administrator, Social and Rehabilitation Service.

Approved: January 4, 1977.

MARJORIE LYNCH,
Acting Secretary.

The integrated version of the regulations reads as set forth below:

Chapter II, Title 45 of the Code of Federal Regulations is amended by adding a new Part 207 which brings together, revises and recodifies the content of 45 CFR 205.202 and 45 CFR Part 228, Subpart H, to read as follows:

PART 207—TRAINING

Sec.

207.1 Scope.
207.2 Definitions.
207.5 State Plan requirements and options.
207.8 Who may be trained.
207.9 Grants to educational institutions.
207.10 Financial assistance to trainees.
207.11 Rates of FFP and effective dates for FFP.
207.12 Activities and costs matchable as training expenditures under titles I, IV–A, X, XIV, XVI or XX.
207.13 Other training expenditures matchable only under title XX.
207.14 Activities and costs matchable as training expenditures under title XIX.
207.15 Activities and costs not matchable as training expenditures.
207.16 Sources of State funds.
207.17 Cost allocation.

AUTHORITY: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

§ 207.1 Scope.

This Part contains the State plan requirements and the conditions for Federal financial participation (FFP) which are applicable to training costs incurred for the financial and medical assistance and services programs under titles I, IV–A, X, XIV, XVI (AABD), XIX and XX of the Social Security Act.

§ 207.2 Definitions.

As used in this Part:

(a) *Training program* means an organized method of meeting the State agency's and provider agency's training needs.

(b) *Orientation* means a program for individuals or groups that provides newly appointed staff with the knowledge required to assume job responsibilities.

(c) *Continuing* training means training, other than day to day supervision, planned by the agency to enable employees to reinforce their basic knowledge and develop the required skills for the performance of specific functions, and to acquire additional knowledge and skill when needed because of, e.g., enactment of new legislation, development of new policies, change in assignment, or a shift in program emphasis. It includes in-service training and short-term and long-term training at educational institutions.

(d) *Persons preparing for employment* means individuals who do not have an employee relationship with the agency, but who received financial assistance from the State agency for full-time, long-term training and have made a legally binding commitment with the agency for future employment under conditions of these regulations.

(e) *Grant to an educational institution* means a time-limited agreement between the State agency and an eligible educational institution to provide for training for persons eligible under this regulation, and under which State agency payments are made for training furnished.

(f) *Stipend* means the basic living allowance paid to a student.

(g) *Fringe benefits* means the employer's share of premiums for industrial compensation, employees' retirement, unemployment compensation, health insurance, and similar expenses.

(h) *Short term training* means training for less than 8 consecutive work weeks.

(i) *Long-term* training means training for 8 consecutive work weeks or longer.

(j) *Full-time* training means for State agency and provider agency employees training that requires them to be relieved of all responsibility for performance of current agency work to participate in a training program; and for persons preparing for employment by the State agency means full-time as defined by the educational institution.

(k) *Part-time* training means training that allows employees to continue full time in their agency jobs or requires only partial reduction of work activities to participate in a training program.

(l) State agency means the single State agency for title I, IV-A, X, XIV, XVI or XIX or the appropriate State agency designated for title XX and, except where the context otherwise requires, includes local agencies administering the program under the supervision of the State agency.

(m) *Provider agency* and *individual providers* means agencies and individuals who provide title XX services, under contract for agreemnet with the title XX agency.

(n) *FFP* means Federal financial participation.

§ 207.5 State plan requirements and options.

(a) A State plan under title I, IV-A, X, XIV, or XVI (AABD) for Puerto Rico, the Virgin Islands and Guam, and under title XIX, for all jurisdictions, shall provide for the training and effective use of subporfessional staff and volunteers in accordance with the requirements of Part 225 of this chapter.

(b) A State plan under titles I, IV-A, X, XIV or XVI (AABD) of the Act may provide for a training program for State agency personnel and for persons preparing for employment in the State agency.

(c) A State plan under title XIX may provide for a training program for State agency personnel and other eligible personnel in another public agency.

(d) The appropriate title XX State agency may provide a training program for State agency and eligible provider agency personnel and individual providers and for persons preparing for employment in the State agency (in addition to the training which the Federal Interagency Day Care Requirements require for out-of-home child caregivers).

(e) If the State agency chooses to have a training program as described in paragraphs (b) or (c) of this section, such training program:

(1) May include orientation for newly appointed personnel, and continuing training opportunities to improve the operation of the program; and may include short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions when such students are State agency employees or persons preparing for employment with the State agency or, under title XX,

(2) Shall be related to job duties performed or to be performed by the persons trained, and consistent with the program objectives of the particular State agency.

§ 207.8 Who may be trained.

FFP is available only for training provided to the following individuals:

(a) *Under titles I, IV-A, X, XIV or XVI*, Personnel employed in all classes of positions, volunteers, and persons preparing for employment by the State or local agency administering the program;

(b) *Under title XIX*, Personnel of the title XIX agency and designated personnel of another public agency providing services for the title XIX agency in accordance with § 250.120 of this chapter; and subprofessional staff and volunteers.

(c) Under title XX: (1) State agency staff employed in all classes of positions which directly relate to the operation of the title XX program;

(2) Volunteers attached to the State agency and supervised by it in relation to duties directly related to the program;

(3) Service delivery and eligibility determination personnel employed by providers only when:

(i) A purchase of service contract which includes determination of eligibility by the provider is in effect in accordance with Subpart G of Part 228 of this chapter,

(ii) The training provided is directly related to the provision of services or the determination of eligibility under the contract, and

(iii) The provider personnel, during or immediately following the training period, participate in the provision of services or the determination of eligibility under the contract for a period of time at least equal to the period of time for which training was provided;

(4) Persons preparing for employment in the State agency in all classes of positions which relate directly to the operation of the title XX program;

(5) Individual providers who are currently under contract pursuant to § 228.70 of this chapter, including, but not limited to:

(i) Foster family caregivers who need training to enable them to provide special services (as defined in § 228.45 of this chapter) to eligible individuals living in the home, or to prepare them to receive eligible individuals who need such services if the home is used within the period covered by the contract, or

(ii) Family or in-home day care givers;

(6) Individuals who provide services paid for by the recipient, as provided in § 228.47 of this chapter, if training is directly related to such service; and

(7) Foster family caregivers whose homes provide a resource to the title XX agency in carrying out its directly operated foster care services program for eligible children and adults.

§ 207.9 Grants to educational institutions.

Under titles, I, IV-A, XIV, XVI, and XX, but not under title XIX, FFP is available in payments for training furnished under grants to educational institutions provided all conditions specified in this section are met.

(a) *Purpose of grants.* (i) Grants are made for the purpose of developing, expanding or improving training for employees of the State agency, and, under title XX only, employees of provider agencies, or persons preparing for employment by the State agency.

(ii) Grants are made for an educational program (curriculum development classroom instruction, field instruction, or any combination of these) that is directly related to the agency's financial or social services programs under the respective titles. Grants are made for not more than the 3 years (renewable at the end of 3 years, subject to the conditions of this section).

(b) *Recipients of grants.* Grants are made only to post secondary, undergraduate and graduate institutions that have been accredited by the appropriate institutional accrediting body recognized by the U.S. Commissioner of Education. A specialized program for which there is a specialized accrediting body must be accredited by, have pre-accreditation status from, or have applied for accreditation by such body. (45 CFR Part 149 specifies the criteria and procedures for obtaining recognition as an accrediting agency or association. Lists of currently recognized accrediting bodies are published in the FEDERAL REGISTER periodically. See also *Nationally Recognized Accrediting Agencies and Associations* dated June, 1975 and published by the Office of Education.)

(c) *Written policies.* The State agency has written policies establishing conditions and procedures for such grants; and

(d) *Specified objectives.* Each grant specifies objectives in terms of how the educational program is related to the particular program and how it is designed to meet the State agency's current or future manpower needs.

(e) *Program evaluation.* An evaluation of the educational program funded by each grant is made no later than the close of the second year of the agreement. The evaluation shall be conducted by a panel consisting of representatives from the educational institution, the State agency, and the SRS Regional Office to determine whether the conditions and objectives specified in the grant are being met. Under this requirement, if a majority which includes representation from the three groups comprising the panel finds that the educational program is failing to meet such

conditions and objectives, payment shall be terminated no later than the close of the second year of the agreement.

§ 207.10 Financial assistance to trainees.

(a) FFP is available in assistance to persons specified in § 207.8, provided the conditions of this section are met, and within the specified limitations.

(1) Students are selected by the State agency or, under title XX, by the provider agency, and approved by the school;

(2) Under titles I, IV–A, X, XIV, XVI, XIX or XX, the individual (either agency employee or person preparing for employment) who is assisted for full-time, long-term training makes a commitment to work in the agency for a period of time equal to the period for which financial assistance is granted. Under this requirement:

(i) A State agency may exempt an employee from fulfilling the commitment only if failure to continue in employment is due to death or disability; and

(ii) A State agency may exempt a person preparing for employment when failure to accept employment is due to death, disability or employment in a State or local public assistance, medicaid or title XX services agency in another State.

(3) Persons preparing for employment (titles I, IV–A, X, XIV, XVI, or XX) are required to make themselves available for employment within 30 days following the completion of training to fulfill the commitment specified under paragraph (a)(2) of this section.

(4) The State agency:

(i) Offers the individual preparing for employment a job, unless precluded by Merit System requirements, legislative cuts, position freezes, or other circumstances beyond the agency's control; and if unable to offer such employment, releases the individual from his commitment;

(ii) Keeps a record of the employment of persons trained, including, for those not employed by the agency, the reason for non-employment; and

(iii) Evaluates the results of the training program.

(b) Any recoupment of funds by the State from trainees failing to fulfill their commitment under this section shall be treated as a refund and deducted from total training costs for the purpose of determining net costs for FFP. (See 45 CFR Part 74.)

(c) An employee on leave for training shall retain his employee benefits (retirement, insurance, etc.) and his right to his position or one which is at least comparable to that held at the time leave is granted.

§ 207.11 Rates of FEP; and effective date for FFP.

FFP is available as follows for the training expenditures authorized in this section.

(a) Under title IV–A, the rate is 75% for the 50 States and the District of Columbia; and 60% for Puerto Rico, the Virgin Islands and Guam.

(b) Under titles I, X, XIV or XVI, the rate is 75% if the State provides for social services in accordance with the regulations in Part 222, subparts A and B of this chapter; and 50% if the State plan does not so provide for social services.

(c) Under title XX, the rate is 75%. Training expenditures may be claimed inside or outside the State's allotment for services. FFP shall be available for training expenditures no earlier than the date on which FFP is available for the provision of services under the final services plan in accordance with § 228.20 of this chapter.

(d) Under title XIX: at rates ranging from 50% to 100% as specified in paragraph § 250.120 of this chapter.

(1) 75% for administrators who are skilled professional medical personnel and directly supporting staff supervised by the administrators;

(2) 75% for personnel engaged directly in the operations of mechanized claims processing and information retrieval systems;

(3) 100% for personnel of the State licensing agency who inspect skilled nursing or intermediate care facilities (through 6/30/77);

(4) 90% for personnel arranging and furnishing family planning services and supplies;

(5) 50% for all other staff of the State or other public agency staff providing services for the title XIX agency.

§ 207.12 Activities and costs matchable as training expenditures under titles I, IV–A, X, XIV, XVI or XX.

(a) *State agency employees.* (1) For State agency employees in full-time, long-term training programs (with no asssigned agency duties): salaries (including fringe benefits), dependency allowances, travel, tuition, books, and educational supplies).

(2) For State agency employees in full-time short-term training programs of less than eight consecutive work weeks: per diem, travel, tuition, books, and educational supplies;

(3) For State agency employees in part-time training programs (part of work week, evenings, morning): tuition, books and educational supplies.

(b) *State agency staff development personnel.* For State agency staff development personnel (including support staff), assigned full time to training functions: salaries, fringe benefits, travel and per diem. Costs of staff spending less than full time on training for the specified program must be allocated between training and administration in accordance with § 205.150 of this chapter.

(c) *State agency training activities.* (1) For experts engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem;

(2) For State agency training activities directly related to the program: cost of use of space, postage, teaching supplies, and purchase or development of teaching materials and equipment—for example, books and audio-visual aids.

(d) *Persons preparing for employment.* For persons preparing for employment with the State agency: stipends, travel tuition, books and educational supplies.

(e) *Payments to educational institutions.* Under conditions specified in § 207.9, for curriculum development, classroom and field instruction: salaries, fringe benefits and travel of instructors; clerical assistance, teaching materials and equipment, for example, books and audio-visual aids.

§ 207.13 Other training expenditures matchable only under title XX.

(a) *Provider agency personnel.* FFP is available in the following costs of training provider agency personnel as training costs; provided such costs are not included in the cost of services purchased from the provider agency, and provided they are reasonably assignable to title XX training, using acceptable costing methods:

(1) For provider agency employees in full-time training programs of 8 consecutive work weeks or longer (with no assigned provider agency duties): travel and education costs;

(2) For provider agency employees in full-time training program of less than 8 consecutive work weeks: per diem, travel, and education costs;

(3) For provider agency employees on part-time educational leave: education cost;

(b) *Provider agency staff development personnel.* For provider agency staff development personnel (including support staff) engaged in providing training to provider agency staff eligible for training under § 207.8(c): salaries and fringe benefits travel and per diem.

(c) *Provider agency training activities.* (1) For experts engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem.

(2) For provider agency training activities directly related to the title XX program: cost of teaching materials and equipment—for example, books and audio-visual aids.

(d) *Individual providers.* For individual providers and foster parents in part-time training: travel and education costs.

§ 207.14 Activities and costs matchable as training expenditures under title XIX.

(a) For State agency employees and designated employees of another public agency providing services under contract for the title XIX agency, the same activities and costs specified in § 207.12 (a) (b) and (c) at the rates of FFP specified in § 207.11(d).

(b) For field instruction in medical assistance including instructors' salaries (and fringe benefits), rental of space, travel, clerical assistance, teaching materials and equipment such as books and audio visual aids.

§ 207.15 Activities and costs not matchable as training expenditures.

The following expenditures are matchable as administrative costs; for title

XX they must be claimed within the State's allotment for services.

(a) Salaries of newly employed workers in the State agency or a provider agency while they are in orientation.

(b) Salaries of State agency employees who are attending short-term training programs.

(c) Salaries of supervisors (day-to-day supervision of staff is not a training activity).

(d) Attendance at meetings or conferences of professional organizations; and

(e) Employment of students on a temporary basis, such as in the summertime.

§ 207.16 Sources of State funds.

(a) *Public funds.* Public funds including funds from Indian Tribes may be considered as the State's share in claiming Federal reimbursement where such funds:

(1) Are appropriated directly to the State or local agency, or transferred from another public agency to the State or local agency and under its administrative control;

(2) Are certified by the contributing public agency as representing expenditures eligible for FFP under this section;

(3) Represent value, as determined in accordance with 45 CFR 74.53 (b) and (c), and Appendix C, Part II, B. 11 of 45 CFR 74, of goods or property provided by a public agency even if the agency does not incur any current expenditures for such goods or property during the period of their use in the program; or

(4) Are not Federal funds, or are Federal funds authorized by Federal law to be used to match other Federal funds.

(b) *Private funds—Titles I, IV–A, X, XIV, XVI, and XIX.* Funds donated from private sources may be considered as the State's share in claiming Federal reimbursement only where such funds are:

(1) Transferred to the State or local agency and under its administrative control, and

(2) Donated without any restriction which would require their use for the training of particular individuals or at particular facilities or institutions or revert to the donor's facility or use or to the use of any other designated project or facility.

(c) *Private funds—Title XX.* (1) Funds donated from private sources for services or administrative functions may be considered as State funds in claiming FFP only where such funds are:

(i) Transferred to the State or local agency and under its administrative control;

(ii) Donated to the State without restrictions as to use, other than restrictions as to the services, administration, training or geographic area. The donor may not be a sponsor or operator of the services for which the contribution is to be used; and

(iii) Not used to purchase services from the donor unless the donor is a nonprofit organization and it is an independent decision of the State agency to purchase services from the donor.

(2) For purposes of this section, a voluntary federated fund-raising organization is not considered to be a sponsor or operator of a service facility, and members of the federation are considered separate autonomous entities so long as control by interlocking board membership or other means does not exist.

§ 207.17 Cost Allocation.

Training costs are chargeable to titles I, IV–A, X, XIV, XVI, XIX or XX only to the extent that such costs benefit these titles. Where such costs are for the benefit of both Federally funded and non-Federally funded programs, e.g., general assistance or other programs financed solely with State and/or local funds, such costs must be allocated among programs as specified in 45 CFR Part 74, Appendix C, and 45 CFR 205.150.

PART 228—SOCIAL SERVICES FOR INDIVIDUALS AND FAMILIES—TITLE XX OF THE SOCIAL SECURITY ACT

The following portion of 45 CFR Part 228 (Subpart H) is reprinted from the notice published on August 26, 1976 (41 FR 36167). It will serve as a basis for comparison with the notice of proposed rulemaking published today at page 2445 and the Notice of Intent published at page 2440. Those two notices request comments regarding the overall structure of regulations, specifically, whether it is preferable to integrate training policies applicable to all the Service's programs in a single regulation; or to publish separate training regulations for financial assistance, Medicaid, and social services.

SUBPART H—TRAINING AND RETRAINING

39. Section 228.80 is revised to read as follows:

§ 228.80 *Conditions for FFP.*

FFP is available in expenditures for personnel training and retraining that is directly related to the services program if the State meets all requirements of this Subpart. The training may include in-service training, and short and long-term training at educational institutions. FFP in such training expenditures may be claimed inside or outside the State's allotment for services and is available at the 75 percent rate. FFP shall be available for training expenditures no earlier than the date on which FFP is available for the provision of services under the final services plan in accordance with § 228.20.

40. Section 228.81 is revised to read as follows:

§ 228.81 *Who may be trained.*

FFP is available for training only the following individuals:

(a) State agency staff employed in all classes of positions which directly relate to the operation of the Title XX program;

(b) Volunteers attached to the State agency and supervised by it in relation to duties directly related to the program;

(c) Service delivery and eligibility determination personnel employed by providers only when:

(1) A purchase of service contract which includes determination of eligibility by the provider, is in effect in accordance with Subpart G;

(2) The training provided is directly related to the provision of services, or the determination of eligibility under the contract; and

(3) The provider personnel, during or immediately following the training period, participate in the provision of services or the determination of eligibility under the contract for a period of time at least equal to the period of time for which training was provided;

(d) Persons preparing for employment in the State agency in all classes of positions which directly relate to operation of the title XX program;

(e) Individual providers who are currently under contract pursuant to Subpart G including, but not limited to:

(1) Foster family caregivers who need training to enable them to provide special services (as defined in § 228.45) to eligible individuals living in the home, or to prepare them to receive eligible individuals who need such services if the home is used within the period covered by the contract, or

(2) Family or in-home day care givers;

(f) Individuals who provide services paid for by the recipient, as provided in § 228.47, if training is directly related to such service, and

(g) Foster family caregivers whose homes provide a resource to the title XX agency in carrying out its directly operated foster care services program for eligible children and adults.

41. Section 228.82 is revised to read as follows:

§ 228.82 *Grants to educational institutions.*

(a) FFP is available in payments for training furnished under grants to educational institutions, if all conditions specified in this section are met:

(1) Grants are made: (i) For the purpose of developing, expanding, or improving training for employees of the State agency and of providers, or persons preparing for employment with the State agency; (ii) for an educational program (curriculum development, classroom instruction, and related field instruction) that is directly related to the title XX program and provision of services; and (iii) for not more than three years, renewable subject to the provisions of paragraph (b) of this section;

(2) Grants are available only to postsecondary, undergraduate and graduate educational institutions and programs that have been accredited by the appropriate institutional accrediting body recognized by the U.S. Commissioner of Education. A specialized program for which there is a specialized accrediting body shall be accredited by, have preaccreditation status from, or have applied for, accreditation by such body. (45 CFR Part 149 specifies the criteria and procedures for obtaining recognition as an accrediting agency or association. Lists of currently recognized accrediting bodies are published in the FEDERAL REGISTER periodically. See also "Nationally Recognized Accrediting Agencies and Associations" dated June, 1975 and published by the Office of Education).

(3) The State agency has written policies establishing conditions and procedures for such grants; and

(4) Each grant specifies objectives in terms of how the educational program is related to the title XX services program and how it is designed to meet the State agency's manpower needs.

(b) An evaluation of the educational program funded by each grant is made no later than the close of the second year of the grant. The evaluation shall be conducted by a panel consisting of representatives from the educatalonal institution, the State agency, and the SRS Regional Office to determine whether the conditions and objectives specified in the grant are being met.

(c) If a majority, which includes equal representation from the three groups comprising the panel, finds that the educational programs are failing to meet such conditions and objectives, payment shall be terminated no later than the close of the second year of the grant.

42. Section 228.83 is revised to read as follows:

§ 228.83 *Financial assistance to trainees.*

(a) FFP is available for expenditures in the costs of training persons specified in § 228.81. If the following conditions are met, and within the specified limitations:

(1) State agency employees and service delivery personnel and eligibility workers of provider agencies who are in attendance full-time at training programs for 8 consecutive workweeks or longer have a legally binding commitment to continue to work in the State or provider agency for a period of time at least equal to the period for which financial assistance is granted.

(2) Persons preparing for employment in the State agency are:

(i) Selected by the State agency and accepted by the school;

(ii) Pursuing educational programs approved by the agency; and

(iii) Legally committed to work for the State agency for a period of time at least equal to the period for which financial assistance is granted if employment is offered within 6 months after training is completed. If not employed by the State agency, such persons shall keep the agency informed of their employment status for one year.

(b) *State agency responsibilities.* The State agency shall:

(1) Offer employment to the individual preparing for employment in the State agency during the 6 months following completion of the training, unless precluded by Merit System requirements, legislative cuts, position freezes, or other circumstances beyond the agency's control; and

(2) Evaluate the training programs.

(c) Any recoupment of funds by the State from trainees failing to fulfill their commitment under this section shall be treated as a refund and deducted from total training costs for the purpose of determining net costs for FFP.

43. Section 228.84 is revised to read as follows:

§ 228.84 *Activities and costs matchable as training expenditures.*

FFP is available in the following costs as training expenditures:

(a) *State agency employees.* (1) For State agency employees in full-time training programs of eight consecutive work weeks or longer (with no assigned agency duties): salaries (including fringe benefits), dependency allowances, travel, and education costs (that is, tuition, books, and supplies);

(2) For State agency employees in full-time training programs of less than eight consecutive work weeks: per diem, travel, and education costs;

(3) For State agency employees in part-time training programs (part of work week, evenings, mornings): Education costs.

(b) *State agency staff development personnel.* For State agency staff development personnel (including support staff), assigned full time to training functions: salaries, fringe benefits, travel and per diem. (Costs of staff spending less than full time on training for the title XX program must be allocated according to the time actually spent on such training.)

(c) *State agency trainnig activities.* (1) For experts engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem;

(2) For State agency training activities directly related to the title XX program: cost of use of space, postage, teaching supplies, and purchase or development of teaching materials and equipment—for example, books and audio-visual aids.

(d) *Persons preparing for employment.* For persons preparing for employment with the State agency: stipends, travel, and education costs.

(e) *Provider agency personnel.* FFP is available in the following costs of training provider agency personnel as training costs, provided such costs are not included in the cost of services purchased from the provider agency, and provided they are reasonably assignable to title XX training:

(1) For provider agency employees in full-time training programs of 8 consecutive work weeks or longer (with no assigned provider agency duties): travel and education costs;

(2) For provider agency employees in full-time training programs of less than 8 consecutive work weeks: per diem, travel and education costs;

(3) For provider agency employees on part-time educational leave: education costs;

(f) *Provider agency staff development personnel.* For provider agency staff development personnel (including support staff) engaged in providing training to provider agency staff eligible for training under § 228.81(c) salaries and fringe benefits, travel and per diem.

(g) *Provider agency training activities.* (1) For experts engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem.

(2) For provider agency training activities directly related to the title XX program: cost of teaching supplies and purchase or development of teaching materials and equipment—for example, books and audio-visual aids.

(h) *Individual providers.* For individual providers and foster parents in part-time training: travel and education costs.

(i) *Payments to educational institutions.* Under conditions specified in § 228.82, for curriculum development, classroom and field instruction: salaries, fringe benefits and travel of instructors; clerical assistance; teaching materials and equipment—for example, books and audio-visual aids.

Sections 228.85 and 228.86 were not published with the proposed revisions because they were not changed. They are reproduced here to complete Subpart H.

§ 228.85 *Activities and costs not matchable as training expenditures.*

FFP is not available for the following as expenditures outside the State's allotment for social services. Such expenditures are matchable as administrative costs (not training expenses) under the State's allotment for services.

(a) Salaries of newly-employed workers in the State agency or a provider agency while they are in orientation;

(b) Salaries of State agency employees who attend training programs less than full-time for a period of less than eight consecutive work weeks;

(c) Salaries of supervisors (day-to-day supervision of staff is not a training activity);

(d) Attendance at meetings or conferences of professional organizations; and

(e) Employment of students on a temporary basis, such as in the summertime.

§ 228.86 *Phase-in of training requirements.*

FFP for grants to educational institutions and financial assistance to students contracted for under titles IV–A and VI prior to July 1, 1975 and with commitment to continue such training through the 1975–76 academic year, is available subject to the regulations in 45 CFR 205.202 for the period October 1, 1975 to the date the contract is renegotiated or through June 30, 1976, whichever date occurs first. FFP under titles IV–A and VI is available for training programs related to social services, initiated on or after July 1, 1975 for the period through September 30, 1975, subject to 45 CFR 205.202; however, effective October 1, 1975, FFP is available for such programs only under title XX and only if the requirements of this Part are met. Subpart H, section 228, in its entirety is applicable to all training programs covered by this subpart initiated on or after October 1, 1975.

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[FR Doc.77-742 Filed 1-10-77;8:45 am]

[45 CFR Part 205]

TRAINING PROGRAMS UNDER TITLES I, IV–A, X, XIV, XVI (AABD) AND XIX OF THE SOCIAL SECURITY ACT

Proposed Revision

This revised regulation, proposed by the Administrator of the Social Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare would be applicable to the following programs:

1. Financial Assistance for all jurisdictions,

2. Medical Assistance for all jurisdictions, and,

3. Social Services for Puerto Rico, the Virgin Islands, and Guam.

Regulations applicable to services programs in the 50 States and the District of Columbia are contained in 45 CFR Part 228, Subpart H.

The proposal contains substantive changes aimed at improving the management and effectiveness of public assistance State and local training programs.

The specific purposes of the revision are:

1. To limit State plan requirements to those that are imposed by statute.

2. To clarify the conditions under which State agencies administering or supervising the administration of these programs can receive Federal matching for training expenditures.

3. To conform the regulations, to the extent possible, to the training regulations applicable to the services programs under title XX as the Service proposed to revise them in a notice published in the FEDERAL REGISTER on August 26, 1976 (41 FR 36167).

The basis for the proposed revision is the Service's experience under the current regulations, including the results of administrative reviews and fiscal audits. This experience has shown that more specific guidance is required to assure that training expenditures achieve the purposes for which training funds are authorized.

Accordingly, the proposed revision focuses more sharply on the agency's training needs and spells out more clearly the conditions for Federal financial participation. It would help the agencies to plan and implement their training activities so that they directly benefit the programs under which they are funded.

As revised, the regulation would no longer require States to have a training program except where the law makes training a State plan requirement. The law requires State agencies to provide training for sub-professional staff and volunteers in the medical assistance program, in all jurisdictions; and in the financial assistance and social services programs, in Puerto Rico, the Virgin Islands, and Guam.

State agencies can receive Federal matching for training beyond that required by law if the training program meets the conditions specified in the regulation. Such training may include orientation for newly appointed staff and continuing training to meet the on-going training needs of staff; and may be provided within the agency, or through grants to educational institutions and financial assistance to students.

Although it would not be required by the proposed revision, the Service believes it desirable that States which elect to have a training program (beyond that required by the Act) coordinate with other human services agencies. This would promote efficiency in program development and implementation. The Service invites comment on the possibility of including a requirement for such coordination.

This revised regulation focuses on the training needs of the agency. Its intent is to ensure that training funds are used to develop and implement training programs that meet the manpower needs of the agency. Major proposed changes are in three areas: grants to educational institutions, financial assistance to students, and costs of the program.

1. Grants to educational institutions:

a. Agreements for grants to educational institution would be limited to 3 years.

b. Agreements would state the objectives to be achieved and how the training will help to meet the agency's manpower needs.

c. Progress toward achievement of the objectives of the grant would be evaluated by the close of the second year.

Current regulations do not set time limits for grants to educational institutions nor require evaluation of the training provided under such grants. In practice, it takes about two years to set up an effective educational program. For this reason, an initial 3-year limit would be imposed, and evaluation required at the end of the second year. If the program is found not to be meeting the objectives specified in the agreement, the grant could be terminated. Conversely, if it is meeting the objectives, it could be renewed for an additional 3-year period. The focus on specific objectives and the involvement of the State agency, the educational institution, and SRS Regional Office staff in the evaluation process would assure that the training benefits the programs under which it is funded.

2. Financial assistance to students.

a. Agency employees and individuals preparing for employment with the agency, if they receive assistance for full-time, long-term training, would be required to make a commitment to work for the agency (or a related agency) for a period of time equal to the training period.

b. The State agency would offer employment to persons preparing for employment during the 6 months following completion of training.

c. The State agency would be responsible for maintaining records which:

(1) Identify all persons who receive financial assistance because they are preparing for employment;

(2) Identify those persons who are employed after completion or training; and

(3) Identify the reasons for non-employment of all others trained in preparation for employment.

d. The Federal share of any funds recouped by the State from persons who do not fulfill their commitments would revert to the Federal treasury.

The required commitment would assure that funds expended for training will result in benefit to the programs under which they are funded (or will be recovered). This requirement is less stringent than requirements already imposed by many States; it permits employment in a public assistance agency in another State as an alternative method of meeting the commitment.

The record-keeping requirement would keep the State agency alert to the results of the assistance-to-students aspect of its training program, and provide a basis for future planning.

3. Costs of the program.

Greater clarity would be achieved by:

a. Definitions of terms;

b. Specific listing of costs and activities matchable as training expenditures and those matchable as administrative expenditures;

c. Statement of cost-allocation requirements, and

d. Identification of acceptable sources of the State's share for matching.

Major proposed changes are:

a. Long term training is defined as training of 8 consecutive work-weeks or more (rather than 4 as in current regulations), because this is the length of a term in a trimester system, and is generally accepted as the shortest period of time in which a full course of study can be completed.

b. Salaries of employees in orientation or short-term training are classified as administrative rather than training expenditures because it is unlikely that the agency would replace the student by employing another individual for a period of less than 8 weeks. Such replacement salary cost would be the only justification for matching the student's salary as a training cost. (Other costs of orientation, such as salaries of training staff and training materials are still classified as training expenditures.)

c. Salary of temporary employees, (including summer employees in work-training programs) would be classified as administrative costs because:

1. The benefits to the assistance programs (in terms of providing future employees), have been limited;

2. It is consistent with the basic policy which limits matching of salaries (as training expenditures) to salaries of persons in full-time, long-term training; and

3. The current job market situation (increased pool of trained manpower in search of employment) has sharply reduced the need for work-training programs as a method of recruitment.

The Service is considering whether to incorporate in a single Part the title XX training policies and these policies which

apply to the title I, IV-A, X, XIV and XVI (AABD) and XIX programs. It is particularly interested in comments on this aspect. In order to provide a basis for comparison, the Service will soon publish a draft integrated version.

Prior to the adoption of the proposed regulations, consideration will be given to written comments, suggestions, or objections thereto addressed to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013, and received on or before February 25, 1977.

In commenting, please refer to PCO-66-P. Agencies and organizations are requested to submit comments in duplicate.

Such comments will be available for public inspection in Room 5226 of the Department's offices at 330 C Street, S.W., Washington, D.C., beginning approximately two weeks after publication in the FEDERAL REGISTER, on Monday through Friday of each week from 8:30 to 5 p.m. (area code 202-245-0950).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302) (Catalog of Federal Domestic Assistance Program No. 13.724, Public Assistance—State and Local Training).)

Answers to specific questions may be obtained by calling Ms. Evelyn Greene, (Area Code 202) 245-0202.

The Social and Rehabilitation Service has determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 13, 1976.

ROBERT FULTON,
Administrator, Social and Rehabilitation Service.

Approved: January 4, 1977.

MARJORIE LYNCH,
Acting Secretary.

Part 205, Chapter II, Title 45 of the Code of Federal Regulations is amended by revising § 205.202 to read as set forth below:

§ 205.202 Training.

(a) *Scope.* This section contains the State plan requirements and the conditions for Federal financial participation (FFP) which are applicable to training costs incurred for the financial and medical assistance programs under titles I, IV-A, X, XIV, XVI (AABD), and XIX of the Social Security Act. Policies applicable to the services programs under title XX of the Act are contained in 45 CFR Part 228, Subpart H.

(b) *Definitions.* As used in this section:

(1) *Training program* means an organized method of meeting the State agency's training needs.

(2) *Orientation* means a program for individuals or groups that provides newly appointed staff with the knowledge required to assume job responsibilities.

(3) *Continuing training* means training, other than day to day supervision, planned by the agency to enable employees to reinforce their basic knowledge and develop the required skills for the performance of specific functions, and to acquire additional knowledge and skill when needed because of, e.g., enactment of new legislation, development of new policies, change in assignment or a shift in program emphasis. It includes in-service training and short-term and long-term training at educational institutions.

(4) *Persons preparing for employment* means individuals who do not have an employee relationship with the agency, but who have received financial assistance from the State agency for training, and have made a legally binding commitment with the agency for future employment under the conditions of these regulations.

(5) *A Grant to an educational institution* means a time-limited agreement between the State agency and an eligible educational institution which provides for training for State agency employees or persons preparing for employment with the State agency, and under which State agency payments are made for services rendered.

(6) *Stipend* means the basic living allowance paid to a student.

(7) *Fringe benefits* means the employer's share of premiums for industrial compensation, employees' retirement, unemployment compensation, health insurance, and similar expenses.

(8) *Short-term training* means training for less than 8 consecutive work weeks.

(9) *Long-term training* means training for 8 consecutive work weeks or longer.

(10) *Full-time training* means training that requires employees to be relieved of all responsibility for performance of current agency work to participate in a training program.

(11) *Part-time training* means training that allows employees to continue full time in their agency jobs or requires only partial reduction of work activities to participate in a training program.

(12) *Permanent positions* means established positions approved for recruitment by the merit system and for which there are funds available for payment of salaries and expenses as of the end of the fiscal year.

(13) *Classes of positions* means a group of positions sufficiently similar to be placed in the same classification with respect to title, duties, and responsibilities and the same requirements regarding education, experience, knowledge, skills and abilities.

(14) *State agency* means the single State agency for title I, IV-A, X, XIV, XVI or XIX and except where the context otherwise requires, includes local agencies administering the program under the supervision of the State agency.

(15) FFP means Federal financial participation.

(c) *State plan requirements and options.* (1) A State plan under title I, IV-A, X, XIV, or XVI (AABD) for Puerto Rico, the Virgin Islands and Guam, and under title XIX, for all jurisdictions, must provide for the training and effective use of subprofessional staff and volunteers in accordance with the requirements of Part 225 of this chapter.

(2) A State plan under title I, IV-A, X, XIV, XVI (AABD) or XIX of the Act may provide for a training program for agency personnel, and except for title XIX, for persons preparing for employment. If the State plan so provides, the training program:

(i) May include orientation for newly appointed staff, and continuing training opportunities to improve the operation of the program; and may include short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions who are agency employees or persons preparing for employment with the State agency; and

(ii) Shall be related to job duties performed or to be performed by the persons trained, and consistent with the program objectives of the agency.

(d) *Conditions for Federal financial participation* (FFP).—(1) *Who may be trained.* FFP is available only for training provided to the following individuals:

(i) Under titles I, IV-A, X, XIV or XVI, personnel employed in all classes of positions, volunteers, and persons preparing for employment by the State or local agency administering the program; and

(ii) Under title XIX, personnel specified in § 250.120 of this chapter and subprofessional staff and volunteers.

(2) *Grants to educational institutions.* Under titles I, IV-A, X, XIV and XVI, but not under title XIX, FFP is available in payments for services rendered under grants to educational institutions provided all conditions specified in this section are met.

(i) Grants are made for the purpose of developing, expanding or improving training for personnel employed by the State or a provider agency or preparing for employment by the State or local agency administering the program. Grants are made for an educational program (curriculum development, classroom instruction, field instruction, or any combination of these) that is directly related to the agency's program. Grants are made for not more than the 3 years (renewable at the end of 3 years, subject to the conditions of this section).

(ii) Grants are made only to postsecondary, undergraduate and graduate institutions that have been accredited by the appropriate institutional accrediting body recognized by the U.S. Commissioner of Education. A specialized program for which there is a specialized accrediting body must be accredited by, have pre-accreditation status from, or have applied for accreditation by such body. (45 CFR Part 149 specifies the criteria and procedures for obtaining recognition as an accrediting agency or association. Lists of currently recognized accrediting bodies are published in the FEDERAL REGISTER periodically. See also *Nationally Recognized Accrediting Agencies and Associations* dated June, 1975, and published by the Office of Education.)

(iii) The State agency has written policies establishing conditions and procedures for such grants; and

(iv) Each grant specifies objectives in terms of how the educational program is related to the particular program and how it is designed to meet the State agency's manpower needs.

(v) An evaluation of the educational program funded by each grant is made no later than the close of the second year of the grant. The evaluation shall be conducted by a panel consisting of representatives from the educational institution, the State agency, and the SRS Regional Office to determine whether the conditions and objectives specified in the grant are being met. Under this requirement, if a majority which includes representation from the three groups comprising the panel finds that the educational programs are failing to meet such conditions and objectives, payment shall be terminated no later than the close of the second year of the grant.

(3) *Financial assistance to students.* FFP is available in assistance to persons specified in paragraph (d)(1) of this section provided the following conditions are met, and with the following limitations:

(i) Students are selected by the agency and approved by the school;

(ii) For full-time, long-term training, the individual makes a commitment to work in the agency for a period of time equal to the period for which financial assistance is granted except that a State agency may exempt an employee or person preparing for employment from fulfilling this commitment only if failure to continue in or accept employment is due to death, disability, or employment in a State or local public assistance or medicaid agency in another State;

(iii) An employee retains his rights and benefits in the agency while on full-time, long-term training leave; and

(iv) Persons preparing for employment are required to make themselves available for employment within 30 days following the completion of training to fulfill the commitment specified under paragraph (d)(3)(ii) of this section.

(v) The State agency offers the individual preparing for employment a job unless precluded by Merit System requirements, legislative cuts, position freezes, or other circumstances beyond the agency's control; and if unable to offer such employment, releases the individual from his commitment.

(vi) The State agency keeps a record of the employment of persons trained. If such persons are not employed by the agency, the record specifies the reason for non-employment.

(vii) The State agency evaluates the training programs.

(viii) Any recoupment of funds by the State from trainees failing to fulfill their commitment under this section shall be treated as a refund and deducted from total training costs for the purpose of determining net costs for FFP. (See 45 CFR Part 74).

(e) *Activities and costs matchable as training expenditures and rates of Federal Financial Participation* (FFP)

(1) Under title IV–A of the Act, FFP at the 75% rate for the 50 States and the District of Columbia, and at the 60% rate for Puerto Rico, the Virgin Islands and Guam, is available for the following costs:

(i) Salaries (including fringe benefits), dependency allowances, travel, tuition, books, and educational supplies for employees without any assigned agency duties in full-time, long-term training;

(ii) Stipends, travel and costs of education (including tuition, books, and educational supplies) for persons preparing for employment in permanent positions established by the agency;

(iii) Travel, per diem, tuition, books, and educational supplies for employees in short-term training attending short-term courses, workshops, seminars, or institutes;

(iv) Tuition, books, and educational supplies for employees in part-time training programs;

(v) Salaries (including fringe benefits) travel, per diem for agency State and local staff development personnel, including support staff, assigned full-time to the staff development function. Costs for personnel spending less than full-time as trainers under this title must be allocated between training and administration in accordance with § 205.150 of this chapter;

(vi) Payments to experts to develop or conduct special courses for the agency, including costs of salaries and fringe benefits, travel and per diem;

(vii) Costs of rental of space, postage and purchase and development of necessary teaching materials and equipment such as books, audiovisual aids and technical devices for agency in-service training;

(viii) Payments to educational institutions under conditions specified in paragraph (d)(2) of this section for curriculum development, classroom instruction and field instruction including salaries and fringe benefits for instructors, clerical assistance, necessary travel, and teaching materials and equipment such as books and audiovisual aids.

(2) Under title I, X, XIV, and XVI of the Act, FFP at the 75% rate is available to Puerto Rico, the Virgin Islands, and Guam under the same terms and conditions as prescribed in paragraph (e)(1) of this section if the State plan provides for social services in accordance with the regulations in Part 222, subparts A and B of this chapter. If the State plan does not so provide for social services, FFP at the 50% rate is available under the same terms and conditions prescribed in paragraph (e)(1) of this section.

(3) Under title XIX of the Act, FFP is available for the following training costs:

(i) For the personnel and at the rates specified in § 250.120 of this chapter, under the same terms and conditions prescribed in paragraph (e)(1) of this section except that FFP is not available in training of persons preparing for employment nor in grants to educational institutions;

(ii) For field instruction in medical assistance including instructors' salaries (and fringe benefits), rental of space, travel, clerical assistance, teaching materials and equipment such as books and audiovisual aids.

(f) *Activities and costs not matchable as training expenditures.*

(1) FFP is not available for the following expenditures as training costs; such expenditures are matchable as administrative costs.

(i) Salaries of new employees while they are in orientation;

(ii) Salaries of employees who attend training programs less than full-time, or full-time for less than 8 consecutive work weeks;

(iii) Salaries of supervisors (day-to-day supervision of staff is not a training activity);

(iv) Attendance at meetings or conferences of professional organizations; and

(v) Employment of students on a temporary basis, such as in the summertime.

(2) FFP is not available under this section for training staff of any locally funded or Federally funded program outside the titles specified in these regulations.

(g) *Sources of State funds.* (1) Public funds may be considered as the State's share in claiming Federal reimbursement where such funds:

(i) Are appropriated directly to the State or local agency, or transferred from another public agency (including Indian tribes) to the State or local agency and under its administrative control, or certified by the contributing public agency as representing expenditures eligible for FFP under this section, and

(ii) Are not Federal funds, or are Federal funds authorized by Federal law to be used to match other Federal funds.

(2) Funds donated from private sources may be considered as the State's share in claiming Federal reimbursement only where such funds are:

(i) Transferred to the State or local agency and under its administrative control, and

(ii) Donated without any restriction which would require their use for the training of particular individuals or at particular facilities or institutions or revert to the donor's facility or use or to the use of any other designated project or facility.

(h) *Cost Allocation.* Training costs are chargeable to title I, IV–A, X, XIV, XVI or XIX only to the extent that such costs benefit these titles. Where such costs are for the benefit of both Federally funded and non-Federally funded programs, e.g., general assistance or other programs finances solely with State and/or local funds, such costs must be allocated among programs as specified in 45 CFR Part 74, Appendix C, and 45 CFR 205.150.

[FR Doc.77-743 Filed 1-10-77;8:45 am]

federal register

TUESDAY, JANUARY 11, 1977

PART V



ENVIRONMENTAL PROTECTION AGENCY

■

PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS

New Source NPDES Permits

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 642-4]

PART 6—PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS

New Source NPDES Permits

The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., implemented by Executive Order 11514 of March 5, 1970, and the Council on Environmental Quality's (CEQ's) Guidelines of August 1, 1973, require that all agencies of the Federal Fovernment prepare detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The objective of NEPA is to build into the Agency decisionmaking process an appropriate and careful consideration of all environmental aspects of proposed actions, explain potential environmental effects of proposed actions and their alternatives for public understanding, avoid or minimize adverse effects of proposed actions, and restore or enhance environmental quality as much as possible.

Section 511(c)(1) of the Federal Water Pollution Control Act as amended (FWPCA) (Pub. L. 92-500) authorizes the Administrator to apply NEPA to the issuance of a permit under section 402 of the FWPCA for the discharge of any pollutant by a new source as defined in section 306 of the FWPCA. The discharge of a pollutant, as defined in section 502 (12) of the FWPCA, means an addition of any pollutant to navigable waters, the contiguous zone, or the ocean from any point source. The Environmental Protection Agency published proposed regulations in the FEDERAL REGISTER (40 FR 47714) on October 9, 1975, entitled "New Source NPDES Permits, Preparation of Environmental Impact Statements."

This regulation provides procedures for applying NEPA to the issuance of new source National Pollutant Discharge Elimination System (NPDES) permits as authorized by section 301 and section 402 of the FWPCA. This regulation shall apply only to the issuance of a new source NPDES permit by the U.S. Environmental Protection Agency and not to the issuance of a new source NPDES permit from any State which has an approved NPDES program in accordance with section 402(b) of the FWPCA. The regulation, when used in conjunction with the references under 40 CFR Part 125 (the National Pollutant Discharge Elimination System), provides the EPA procedures for processing new source NPDES permit applications. Upon the date of promulgation of this regulation, the FEDERAL REGISTER notice of September 30, 1974, "Requirements for Environmental Assessments" shall no longer be effective.

Written comments on the proposed regulation were invited and received from interested parties. EPA has carefully considered all comments submitted. Over 130 comment letters are on file with the Agency. Certain of the comments have been adopted or substantially satisfied by changes, deletions from, or additions to the regulation. Numerous comments and their disposition are discussed below.

(a) Two major issues which are generic to the regulation were discussed by a large number of commenters as follows:

(1) NEPA and the issuance of a State-approved new source NPDES permit—EPA has taken the position that section 511(c)(1) of the FWPCA does not give authority to the Agency to impose NEPA on the issuance of a new source NPDES permit by a State which has an approved NPDES program. The Agency's position is that the statute and the legislative history are clear that section 102(2)(C) of NEPA as described in section 511(c)(1) of the FWPCA, applies to the issuance of a permit by EPA to discharge as a new source as defined in section 306 of the FWPCA. When a State assumes the NPDES permit program as authorized by section 402(b) of the FWPCA, that State's issuance of an NPDES permit is considered to be a State action, not a Federal action. Therefore, the issuance of a State-authorized NPDES permit is not subject to a NEPA analysis because NEPA applies only to Federal actions. Several commenters suggested that EPA's review of a State-issued permit and the Agency's authority to veto the issuance of a State NPDES permit in connection with section 402(a)(5) should be considered part of the "issuance of the permit." Where a State is the issuing authority for a NPDES permit, EPA's actions connected with such issuance cannot be considered the "issuance of the permit." Section 402 of the FWPCA permits the Administrator to object to the issuance by a State of a permit, but does not authorize the Administrator to issue a permit so long as the State has an approved program as authorized by section 402(a)(5). Should the Administrator object to the issuance of a permit by a State, 40 CFR 124.23(d) provides that the State shall not issue such permit until the objections of EPA have been satisfied. Thus, even though EPA's role in a State permit proceeding could be viewed as a major Federal action, the Federal action is not the issuance of a permit to a new source and therefore section 511(c)(1) exempts EPA from the requirement to prepare an environmental impact statement in such a situation.

(2) Timing deadlines for the responsible official to complete the NEPA process—Many commenters were concerned that the proposed regulations did not impose deadlines on EPA to process the new source NPDES application. They expressed a need for EPA to establish time limits for itself for the following activities: (1) The new source determination, (2) the need for an environmental impact assessment, and (3) the decision to prepare an EIS or to file a negative declaration. The Agency recognizes the concern and agrees that it would be beneficial to applicants if the Agency could have specific deadlines for making these major decisions. As discussed in the "specific issues" section, however, the Agency has changed the procedures for the above major decisions to further articulate the number of options available to the applicant in order to comply with these procedures. For this reason, the Agency has decided not to adopt a complete regulatory deadline concept but rather has provided for a two-fold approach to inform the public about the time frame for processing new source NPDES applications. First, the Agency has determined that an applicant will be notified within thirty (30) days of the receipt of the New Source and Environmental Questionnaire whether it will be considered a new or existing source, or that additional information will be required in order to make the determination. This is provided in § 6.906. It is the Agency's intent that for most potential new source applicants, the new source decision can be made without requesting additional information. Secondly, EPA believes that the decision beyond this point is subject to many options. The Agency has decided that it cannot develop one time frame that will suffice in handling all these options for the many different types of individual sources requiring permits. Therefore, a flow chart will be developed and made available to applicants which will set forth the entire new source process as developed in this regulation. Included in the description of the process will be time frames in which the Agency expects to complete the action cited. For instance, the Agency expects to determine, within five (5) to forty-five (45) days after the initial new source determination, exactly what the scope of the environmental impact assessment should be, or to have discussed the possibility of entering into a third party EIS arrangement if the option is appropriate for that situation. In providing information for completing an action with both an estimated minimum and normal time frame, the Agency will provide individual applicants with a reasonable outlook on exactly how much time EPA expects to take to process a new source NPDES application and comply with its NEPA responsibilities.

(b) A number of more specific issues were addressed by commenters and are summarized in a section-by-section analysis as follows:

(1) *Section 6.902.*—(A) Several comments requested that "interested persons" be more narrowly defined to restrict the number of people that could request an adjudicatory hearing and potentially delay the processing of the new source application. It is the EPA's intention to proceed with the adjudicatory hearing pursuant to 40 CFR 125.36 which has a more limited definition of "interested persons."

(B) Requests were received to change the effective date for the application of NEPA to new sources to the date of final promulgation of this regulation. This change was not made as EPA believes that the applicability of NEPA to new source NPDES permits was adequately

conveyed in the September 30, 1974, FEDERAL REGISTER notice as well as in the FWPCA itself.

(C) Two comments requested a specific definition of "new source" for the coal mining industry. The Agency has determined that this procedural regulation is not the appropriate vehicle to consider industry-specific definitions. EPA expects to publish guidance for specific industrial categories, such as coal mines, and will provide for public dissemination of this guidance.

(2) *Section 6.904.*—(A) Several commenters raised the issue that the responsible official should be able to designate certain actions as not being "major Federal actions significantly affecting the quality of the human environment" and therefore not subject to NEPA. Although EPA agrees with this concept in theory, EPA determined it was not feasible to create threshold exemptions under the regulation.

(B) There were a few comments received that questioned the integration of EPA's NEPA process with State and local environmental impact statements and with other Federal agency EIS's. The issues raised are legitimate concerns over duplicative procedures that are costly in terms of dollars and time. This regulation has been rewritten to clarify the Agency's intent of utilizing other Federal Agency EIS's to the maximum extent possible, with the caveat that EPA's concerns must be adequately addressed in those other EIS's. A State's environmental review cannot be substituted directly for EPA's EIS although EPA expects to work cooperatively with the State, will evaluate the State's data and incorporate it into an EPA EIS.

(C) Several commenters questioned what happened to an application being processed if a State assumed the NPDES permit program and an EPA EIS were being prepared. EPA recognizes this as a potential problem and will be sending guidance to the responsible officials to deal with this issue. It is expected that such guidance will note that EPA will complete the EIS and work with the State to mitigate the adverse impacts. In addition, if the EIS is being prepared under the "lead" agency concept, the EIS requirement will continue to be applicable pursuant to the other Federal agencies' regulations.

(3) *Section 6.906.*—(A) Many commenters responded to this section by questioning the rigid "9-month prior to construction" requirement for submittal of the new source/environmental questionnaire (NS/EQ). The Agency has responded to these comments by deleting the 9 month-requirement. However, the Agency affirms its requirement that the NS/EQ be submitted and that the entire environmental evaluation process should be completed prior to commencement of on-site construction. All new source applicants are encouraged to submit NS/EQ information to EPA as early in their planning process as possible to avoid unnecessary delays.

(B) Several comments were received that suggested waivers, exemptions, or grace periods for plants that have already commenced construction. The Agency intends to apply NEPA substantively and has so indicated this intention for almost two years. Plants undergoing construction should have contacted EPA pursuant to the FEDERAL REGISTER Notice of September 30, 1974 for new source discharge permit applicants.

(C) Comments were received requesting deletion of the paragraph that notified the public of the responsible official's new source determination. It is the Agency's belief that notification of the public is consistent with the Federal policy of an informed general public. It is also more efficient for the Agency to proceed in this manner than to respond to individual requests under the Freedom of Information Act.

(4) *Section 6.908.*—(A) Several commenters stated that a negative declaration is a final decision and should not be subject to public review, and later reconsideration by the responsible official. It is EPA's contention that public review of a decision serves the important function of providing feedback on that decision for the ultimate benefit of the Agency and the public.

(B) Several commenters suggested that the environmental appraisal either be deleted or modified to exclude consideration of feasible alternatives and the steps necessary to minimize harm to the environment as these concerns are more appropriately addressed in the EIS. The environmental assessment utilizes the applicant's environmental impact assessment and is necessary to support the Agency's decision to issue a negative declaration. It is expected that the applicant's environmental impact assessment would have discussed feasible alternatives and any steps to minimize harm to the environment. By determining that an EIS is not necessary, the Agency is concluding that there will not be significant impact or that any significant adverse impacts have been mitigated.

(C) Several commenters addressed the third party EIS arrangement. Many of the comments were based on the mistaken premise that the third party method was required, when in fact it is only an option. EPA's approval of the selected consultant and EPA control of the information developed by the contractor were the main issues of contention. If the third party agreement is to serve the function of integrating the applicant's environmental impact assessment and EPA's EIS into one document fulfilling both party's responsibilities, then a certain degree of Federal involvement must occur for the document to fulfill EPA's NEPA responsibilities. At a minimum, Federal involvement must consist of involvement in the approval of the preparer and involvement and guidance in the information being developed. The applicant, of course, will have access to the informtion being developed. If the responsible official elects to participate in the third party agreement, he will concur in the selection of the applicant's consultant after determining the objectivity of the consultant. The applicant, in weighing whether to participate in the arrangement, must decide whether the possible significant time savings resulting from the preparation of one document are greater than the benefits resulting from participating with EPA in an open working relationship during the applicant's planning process and the disclosures that this entails.

(D) Several comments suggested that an adjudicatory hearing should be applicable to the determination that an EIS is required. The Federal agency has the responsibility to determine when an EIS is required, and it is not appropriate to subject this decision to an adjudicatory hearing. However, an adjudicatory hearing is applicable to the new source determination and to the determination of permit issuance, pursuant to 40 CFR 125.35a.

(5) *Section 6.910.*—(A) Two commenters stated that EPA was extending its authority into the area of land use planning. It is the Agency's view that EPA has a responsibility to inform the public of the primary and secondary effects of its actions through the NEPA mechanism. The CEQ guidelines, in addition, mandate consideration of land use impacts.

(B) Two commenters suggested that a negative declaration should automatically be given if the new source was replacing an old source and if the gross discharge from the new source does not exceed the gross discharge from the existing source. It is the Agency's policy that neither of the above criteria describes situations in which one could issue a negative declaration in all cases.

(C) A commenter suggested that the non-environmental benefits that would be delayed by EIS preparation must be considered in making a decision whether to prepare an EIS. It is the Agency's contention that NEPA requires the decision to prepare an EIS be based on the involvement of a major Federal action significantly affecting the quality of the environment. Therefore, an EIS is the appropriate place to weigh all the benefits and costs of EPA's action, rather than introduce these factors in the decision whether an EIS should be prepared.

(D) A commenter's statement implied confusion over the determination of significant impacts. The guidelines and specific criteria of § 6.910 indicate that at this point in the process, the environmental impact assessment has provided sufficient information to determine that the impacts are indeed significant, and that the next step is the preparation of the EIS.

(6) *Section 6.912.*—(A) Several commenters requested that the draft EIS be prepared within a specific period of time. Although the Agency understands the applicant's concern with timely processing of the new source application and subsequent environmental review, it is not possible to establish a time limit for the preparation of an EIS. The EIS must analyze the impact of the proposed source, and the amount of time necessary for this analysis will be a function

of many factors, among which is the complexity of the source itself.

(B) Requests were received from two commenters to reduce the comment period from 45 days to 30 days. However, EPA must comply with the CEQ guidelines which require a comment period of not less than 45 days.

(C) A commenter suggested that EPA notify the applicant of requests for additional information for the draft EIS at the same time the notice of intent to prepare an EIS is published. The Agency is unable to comply with this request because during the preparation of the draft EIS, new issues may surface. For this reason it is inappropriate to confine requests for additional information from the applicant to the time the notice of intent is published.

(D) A commenter suggested the addition of a subsection that would allow the responsible official to overrule frivolous or irrational objections. The Agency does not consider it necessary to expressly state that the Agency's decisions would be made in a rational and reasonable manner after all factors have received appropriate consideration.

(7) *Section 6.914.*—(A) A commenter suggested that the "significant" degree of public interest that would trigger a public hearing should be narrowly construed and should only apply to persons with technical expertise, to persons who were monetarily affected or to persons who were directly affected in their daily lives. It is the Agency's policy that the public hearing on a draft EIS should provide a forum for the discussion of the issues raised by the draft EIS, and that the public's opportunity to participate should not be limited.

(8) *Section 6.916.*—(A) Several commenters were concerned with potential delays between the publication of the draft and final EIS and recommended maximum time limits be established for this period. The time between the draft and final EIS is a function of the issues raised by the draft EIS and their resolution. The degree of public interest and resultant public hearing are factors which cannot be held to a rigid time frame. The Agency will process new source applications as expeditiously as possible giving due consideration to environmental impacts.

(B) Several commenters expressed their opinions that Agency recommendations for the NPDES permit should not be included in the EIS, as this was inappropriate. It is the Agency's position that the EIS serves as a decision-making document, and by incorporating the Agency's proposed decision into the document, the issue is evaluated more rigorously than if no proposed alternative was singled out. The critical aspect relates to EPA thoroughly evaluating other alternatives as well. Since the EIS is being written to evaluate information prior to a permitting action, the EIS will also discuss measures an applicant could take in order to receive a permit.

(9) *Section 6.918.*—(A) Two commenters wrote that the regulation did not specifically address the relationship between procedures for preparation of an EIS and procedures for the issuance of a permit with regard to timing. Section 6.908 has been revised to more clearly express these relationships and section 6.918 has been clarified to note the action EPA will take with regard to the new source NPDES permit.

(B) A commenter argued that environmental impacts should not be the only consideration in determining whether to approve or deny a permit. Environmental impacts are not the only items considered in EPA decision although strong weight is given to them. The cost effectiveness of an action and its effect on public health are also important considerations that are part of the Agency's decision-making process. In addition, environmental impacts are not limited to ecological impacts but may also include socio-economic impacts.

(C) A commenter requested that the responsible official state what the permit denial was based on and include in that statement a discussion of measures that could be taken in order to receive a permit. The Agency intends to have the final EIS address these issues and to include mitigative measures that an applicant could take in order to receive a permit.

(10) *Section 6.920.*—(A) Several commenters suggested that eligibility for listing in the National Register of Historic Places should not trigger the additional procedures outline in § 6.920. However, EPA must comply with the regulations promulgated by the Advisory Council on Historic Preservation (36 CFR Part 800) and these regulations require EPA to consider sites listed or eligible for listing on the National Register of Historic Places regardless of whether the site is on Federal land or non-Federal land. Some commenters felt that new sources should only be required to comply with the additional procedures if the new source's effect on wetlands, wild and scenic rivers, etc. was significant or adverse. It is EPA's intention that the original intent of the Act would be altered by adding these qualifying words.

(B) A commenter suggested that only wild and scenic rivers actually designated a part of the Wild and Scenic Rivers System or designated by Congress as potential additions should require consultation with the appropriate State and Federal officials. Since this suggestion deletes those rivers potentially a part of the system as a result of gubernatorial petition, this suggestion cannot be implemented and still preserve the intent of the Wild and Scenic Rivers Act.

(C) A commenter asked that the word "fish" be added to § 6.920(b)(5). The term "wildlife" has been statutorily defined in the Fish and Wildlife Coordination Act to include fish.

(11) *Section 6.924.*—(A) A commenter criticized EPA for engaging in site selection with no legal authority to do so. The CEQ Guidelines on "Preparation of Environmental Impact Statements" (40 CFR Part 1500) clearly state that alternatives to construction at a specific location must be considered. EPA is not engaging in site selection, but is complying with the CEQ Guidelines in analyzing alternatives.

(B) Two commenters have criticized EPA for not outlining criteria and standards for evaluation of data in an EIS. The variety and scope of the new sources preclude a definitive statement on criteria and standards for data evaluation. In general the data will be evaluated on the basis of complying with the CEQ Guidelines. An EPA document, Environmental Impact Assessment Guidelines for Selected New Source Industries, discusses the general format for an assessment and is available to new source applicants from EPA's Office of Federal Activities.

(C) Two commenters complained that the evaluation process would require too much paperwork. EPA has proposed a system for requesting information from the applicant that ensures that the environmentally insignificant new sources would not be burdened by excessive paperwork.

(12) *Appendix A.*—(A) Several commenters questioned EPA's decision in Part I of Appendix A to define "construction" more narrowly than Section 306 of the FWPCA through the use of such words as "significant" site preparation, "major" excavation or clearing, and "unique" facility. The Agency's intent in this section was to more clearly outline its position that "construction" had to be a continuous activity on the part of the applicant. This could be either on-site preparation or a contractual obligation. In determining whether an applicant was a new source, the Agency has to determine whether his activities demonstrated a commitment to construct the proposed new source. The addition of these criteria was to help the responsible official determine at what point a binding commitment was made, and at what point the Agency would consider commencement of construction to have occurred.

(B) Additional comments were raised stating that EPA was not complying with the intent of the FWPCA by attempting to apply NEPA to "modifications." EPA agrees with the commenters that the FWPCA and its legislative history clearly indicate that modifications are not to be considered as new sources. In addition, it was not the Agency's intent in Appendix A to subject "modifications" to standards of performance by determining that they would be new sources. We have revised the "major alterations" section of the Appendix to clearly distinguish between a source merely modifying some aspect of its facility, and a source undergoing total reconstruction or adding a facility which functions independently of the existing facility. These latter two actions would constitute "major alterations" and hence would be considered a new source. Modifications would continue to be treated under the permit modification procedures (40 CFR Part 125).

Accordingly, the new source NPDES regulation is published as a Subpart to the regulation applying NEPA to EPA's nonregulatory programs which was promulgated in the FEDERAL REGISTER

(40 FR 16814) on April 14, 1975. EPA also issued a separate notice in the October 21, 1974 FEDERAL REGISTER (39 FR 37419) which presented Agency procedures for voluntarily preparing environmental impact statements on certain other EPA regulatory activities.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended by adding a new Subpart I to Part 6 as set forth below.

Effective date: The final regulation promulgated hereby shall be effective February 10, 1977.

Dated: December 29, 1976.

RUSSELL E. TRAIN,
Administrator.

Subpart I—Preparation of Environmental Impact Statements on New Source NPDES Permits

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EXHIBITS

1. Notice of intent—suggested format.
2. Negative declaration—suggested format.
3. Environmental impact appraisal—suggested format.
4. Cover sheet for environmental impact statements.
5. Summary sheet format for environmental impact statements.
6. Public notice and news release—suggested format.

APPENDIX A—GUIDANCE ON DETERMINING A NEW SOURCE

AUTHORITY: Sec. 102, 103, 83 Stat. 854 (The National Environmental Policy Act of 1969); sec. 301, 306, 402, 511, 86 Stat. 816 et seq. (the Federal Water Pollution Control Act as amended).

§ 6.900 Purpose and policy.

Subpart I—Preparation of Environmental Impact Statements on New Source NPDES Permits

(a) The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., implemented by Executive Order 11514 and the Council on Environmental Quality's (CEQ's) Guidelines (40 CFR 1500) require that all agencies of the Federal Government prepare detailed environmental impact statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The objective of NEPA is to include in the agency decision-making process appropriate and careful consideration of all environmental effects of proposed actions, explain potential environmental effects of proposed actions and their alternatives for public understanding, avoid or minimize adverse effects of proposed actions and restore or enhance environmental quality as much as possible.

(b) This subpart provides procedures for compliance with NEPA in the issuance of new source National Pollutant Discharge Elimination System (NPDES) discharge permits as authorized by section 301, section 402, and section 511(c) of the Federal Water Pollution Control Act as amended, (FWPCA) (33 U.S.C. 1151 et seq.).

(c) All references in this part to Part 125 shall mean Part 125 of Title 40 of the Code of Federal Regulations (CFR) relating to the National Pollutant Discharge Elimination System.

§ 6.902. Definitions.

In addition to the information provided in §§ 6.102 and 6.104, the following definitions are provided with reference to this subpart:

(a) The abbreviated term "EPA" means the United States Environmental Protection Agency.

(b) The term "source," as defined in section 306(a)(3) of the FWPCA, means "any building, structure, facility or installation from which there is or may be the discharge of pollutants."

(c) The term "new source," as defined in section 306(a)(2) of the FWPCA, means "any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section." (See Appendix A for guidance.)

(d) The term "construction," as defined in section 306(a)(5) of the FWPCA, means "any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises." (See Appendix A for additional guidance.)

(e) The term "administrative action" means the issuance by EPA of an NPDES permit to discharge as a new source.

(f) The term "responsible official" means the appropriate Regional Administrator of EPA or his designee.

(g) The term "New Source and Environmental Questionnaire (NS/EQ)" means an initial document submitted by an applicant for a new source NPDES permit. This document will furnish information on the status of the proposed source that will allow determination of whether the facility is a new or existing source. In addition, the NS/EQ will also furnish information on the potential environmental impacts of the proposed source. It is the Agency's intention that in the case of sources which will probably have insignificant environmental impacts, the NS/EQ will normally provide sufficient information to fulfill the requirements for an environmental impact assessment.

(h) The term "environmental impact assessment" (EIA) means the report, prepared by the applicant for an NPDES permit to discharge as a new source, which identifies and analyzes the environmental impacts of the applicant's proposed source and feasible alternatives as provided in § 6.908 of this Part.

(i) The term "environmental review" means the evaluation undertaken by EPA to determine whether the issuance of a new source NPDES permit may have a significant impact on the environment. The environmental impact assessment is one of the major sources of information used in this review. The environmental review shall be completed with the issuance by the responsible official of either a notice of intent or a negative declaration unless the review is reopened by the responsible official because of additional relevant information.

(j) The term "environmental impacts" shall refer to both the adverse and the beneficial impacts associated with a new source.

(k) The term "notice of intent" means the written announcement to Federal, State and local agencies, and to interested persons, that a draft environmental impact statement will be prepared. The notice shall briefly describe the EPA action, its location, and the issues involved (see Exhibit 1). The purpose of a notice of intent is to involve other government agencies and interested persons as early as possible in the planning and evaluation of actions which may have significant environmental impacts. This notice should encourage public input in the preparation of a draft EIS and assure that environmental values will be identified and weighed from the outset, rather than accommodated by adjustments at the end of the decision-making process.

(l) The term "draft environmental impact statement" (draft EIS) means the document prepared by EPA, or under EPA guidance, which attempts to identify and analyze the environmental impacts of a proposed EPA action and feasible alternatives, and is circulated for public comment prior to preparation of the final environmental impact statement (final EIS).

(m) The term "final environmental impact statement" means the document prepared by EPA or under EPA guidance which identifies and analyzes in detail the environmental impacts of a proposed EPA action and incorporates comments made on the draft EIS.

(n) The term "third party" means a method for preparing EPA's environmental impact statement whereby the applicant retains a consultant, the responsible official exercises a concurrence review, and then the responsible official supervises the approved consultant in the preparation of the EIS. This method is optional and requires approval of both the new source applicant and the responsible official prior to the execution of an agreement to prepare the EIS. Generally, the preparation of the EIS under the third party method would be initiated prior to the preparation of the environmental impact assessment by the applicant and would thereby serve the pur-

pose of any such environmental assessment analyses.

(o) The term "negative declaration" means the written announcement, prepared subsequent to the environmental review, which states that EPA has decided not to prepare a draft environmental impact statement (see Exhibit 2).

(p) The term "environmental appraisal" (EA) means a document, based on the environmental review, which supports a negative declaration (see Exhibit 3).

(q) The term "potential new source applicant" means the prospective owner, operator, or designee, of an anticipated point source, as defined in section 502 (14) of the FWPCA, which falls within a proposed standard of performance category and would require an NPDES permit and further meets the definition of a new source set forth in § 6.902(c) above.

(r) The term "interested person" means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

§ 6.904 Administrative activity subject to this Subpart.

(a) These procedures shall apply only to the issuance of a new source NPDES permit by EPA and not to the issuance of a new source NPDES permit from any State which has an approved NPDES program in accordance with section 402 (b) of the FWPCA.

(b) These procedures shall be supplemented by the provisions of an interagency agreement which is established between EPA and any other Federal agency, or agencies, to designate "lead" or "nonlead" agency responsibilities in the preparation of an environmental impact statement. Such agreements shall be established when EPA or another Federal agency agrees to be "lead agency" or is designated by the Council on Environmental Quality (CEQ) to be "lead agency" in accordance with the CEQ Guidelines, 40 CFR 1500.7(b). Prior to the establishment of a lead agency agreement, EPA will assume responsibility for consulting with those Federal agencies that are also responsible for performing a NEPA review on their own Federal actions affecting an applicant whose facility has been determined by EPA to be a new source in order to determine which agency shall be "lead agency."

(c) These procedures shall apply to the issuance of a new source NPDES permit to a Federal facility, as defined in Executive Order 11752 of December 17, 1973. The official of the sponsoring Federal agency requiring a new source NPDES permit and the EPA responsible official shall discuss "lead agency" responsibilities so that each agency adequately complies with NEPA and its own procedures.

§ 6.906. New source determination procedures.

(a) Any person who may require an NPDES permit under the FWPCA shall so notify the responsible official having jurisdiction over the area in which the discharge is proposed to be located.

(b) The responsible official, upon receipt of such notice or of his own accord, shall provide any potential new source applicant with the new source and environmental questionnaire (NS/EQ).

(c) The potential new source applicant shall submit a NS/EQ prior to commencement of on-site construction. It is to the applicant's advantage to return the NS/EQ questionnaire as early as possible in his planning process, so if the facility is determined to be a new source, construction will not be unnecessarily delayed pending completion of these procedures. If any on-site construction commences prior to the issuance of an applicable new source permit, the applicant shall be advised by the responsible official that he is proceeding at his own risk and encouraged to halt construction activities until the environmental process is completed, that is, pursuant to § 6.909, no earlier than 30 days after issuance of the final EIS or 15 days after issuance of the negative declaration. EPA may seek a court order to enjoin construction if the applicant refuses to halt such construction activities.

(d) Within thirty (30) days of the receipt of the NS/EQ or the additional information required pursuant to § 6.906 (e) below, the responsible official shall make an initial determination of whether the facility is a "new source" (see Appendix A for guidance) and shall notify the applicant of the decision and of his right to contest such decision as provided in § 6.906(f) or (g) below. Where there is insufficient information to make this determination within the prescribed period, the responsible official shall so notify the applicant.

(e) If additional information is needed to make the initial new source determination, the responsible official shall obtain such additional information. The applicant shall provide additional information as requested by the responsible official.

(f) If the facility is initially determined to be an existing source, the responsible official shall notify interested persons of this determination and of the right to have the initial determination reconsidered at the NPDES permit adjudicatory hearing held in conjunction with contested permit terms under 40 CFR 125.36. Such notification shall be concurrent with public notice of the proposed issuance of a permit under 40 CFR 125.32.

(g) If the facility is initially determined to be a new source, the responsible official shall:

(1) Notify interested persons of this determination and of the right to have the initial determination considered at an adjudicatory hearing separate from or in conjunction with the NPDES permit adjudicatory hearing (as determined by the responsible official), held under 40 CFR 125.36. In either case, the rules under 40 CFR 125.36 shall govern the conduct of the hearing.

(2) Notify the applicant that he must submit an adequate environmental impact assessment and that the applicant should consult with the responsible official or his designee to determine the scope of the information required.

(3) Notify the public of such decision no later than the public notice of the issuance of a permit under 40 CFR 125.32.

(h) If the applicant or any interested person, within 30 days of the date of mailing the notice of initial determination, requests an adjudicatory hearing, the responsible official shall act upon the request for the adjudicatory hearing in accordance with procedures prescribed in §§ 6.906 (f) and (g) above.

(i) If no hearing is requested in accordance with § 6.906(h) above, the initial new source determination of the responsible official shall become the final new source determination of EPA.

§ 6.907. Confidentiality of documents.

(a) The applicant may request confidential treatment of information submitted pursuant to compliance with this Subpart in accordance with procedures under 40 CFR Part 2.

§ 6.908. Procedures for evaluation of environmental impacts.

(a) If EPA's initial new source determination under § 6.906 is that the facility is a new source, the responsible official shall inform the applicant if an environmental impact assessment must be submitted in order for EPA to complete an environmental review. (If in the process of making the new source determination, it becomes evident that an EIS will be required, the responsible official may seek the applicant's interest in developing a draft EIS by the "third party" method in lieu of preparing an environmental impact assessment.) (See also § 6.908(e)(2) of this Subpart.)

(b) In order for the applicant to complete requirements for his environmental impact assessment, the responsible official shall specify to the applicant what information is required and determine the proper scope of environmental assessment information required for the environmental review. In determining the scope of the environmental impact assessment, the responsible official may request the applicant to file either the NS/EQ with more complete environmental impact information or to develop additional environmental assessment information. In making this determination, the responsible official shall consider the size of the new source and the potential environmental impacts of the new source. The responsible official shall also consider the extent to which the applicant or his designee is capable of providing the required information. The responsible official shall not require the applicant to gather raw data or to perform analyses either of which duplicate existing data or the results of existing analyses available to EPA. The responsible official shall keep requests for data to a minimum consistent with his responsibilities under NEPA.

(c) The environmental review shall include a review of any environmental assessment information received to determine whether any significant impacts are anticipated, whether any changes can

be made in the proposed new source project to eliminate significant adverse impacts, and whether an EIS is required. The responsible official shall utilize the guidelines in § 6.910 of this Subpart to base his decision on the need for preparing an EIS.

(d) (1) When the environmental review indicates that a significant environmental impact may occur and that the significant adverse impacts cannot be eliminated by making changes in the proposed new source project, a notice of intent (Exhibit 1) shall be issued, and a draft EIS prepared and distributed. When the environmental review indicates no significant impacts are anticipated or when the proposed project is changed to eliminate the significant adverse impacts, a negative declaration (Exhibit 2) shall be issued.

(2) Upon completion of the environmental review, such notice of intent or negative declaration shall be distributed in accordance with procedures described in 40 CFR 135.32(a). Potentially appropriate agencies referred to in 40 CFR 125.32(a) are found in the Council on Environmental Quality Guidelines, 40 CFR 1500, Appendices II and III.

(e) (1) If the environmental review reveals that the preparation of an environmental impact statement is required, the responsible official shall prepare a draft EIS. The draft and subsequent final EIS, may be developed by several methods, including but not limited to the preparation of the EIS entirely by EPA personnel, utilization of university or professional consultant services retained and supervised by the responsible official, or through a third party agreement between the applicant and the responsible official.

(2) (i) At the option of either the applicant or the responsible official, and as deemed appropriate, a third party agreement for the preparation of an EIS may be established. Generally, such an agreement should be established prior to the development of the applicant's environmental impact assessment and serve the purposes of such environmental impact assessment. Such agreement shall not be initiated unless both the applicant and the responsible official have agreed to its establishment. Under a third party agreement, both the applicant and the responsible official have certain minimum responsibilities in the selection of the third party consultant. The applicant shall be responsible for retaining a third party consultant to prepare the EIS. The responsible official shall approve the selection of the third party consultant and shall base such approval on the objectivity of the consultant, including such factors as the degree of financial independence, the ability to make a free and independent appraisal of environmental impact, and the absence of conflicting interest.

(ii) In all cases when a third party agreement is being utilized to prepare an EIS, the responsible official shall specify the type of information to be developed and shall retain supervisory responsibility over the gathering, analysis, and presentation of the information. The responsible official shall keep the through the third party consultant to a minimum consistent with his responsibilities under NEPA. In addition, the responsible official shall ensure that the applicant is provided sufficient opportunity to review the material prior to the publication of both the draft and final EIS.

(f) For any negative declaration, the responsible official shall prepare an environmental impact appraisal which states EPA's reasons for concluding that there will be no significant impact resulting from the issuance of the applicable new source NPDES permit or that significant adverse impacts have been mitigated by making changes in the proposed new source (see Exhibit 3). This document shall briefly describe the proposed action and feasible alternatives, environmental impacts of the proposed new source, steps to minimize harm to the environment, the relationship between short term uses of man's environment and the maintenance and enhancement of long term beneficial uses, the irreversible and irretrievable commitments of resources for the new source, comments and consultations on the new source and reasons for concluding there will be no significant adverse impacts. The environmental impact appraisal shall be available for public inspection at the time of the issuance of the negative declaration and shall remain with the internal records of the permit.

§ 6.909 Completion of NEPA procedures before administrative action occurs.

(a) The processing and review of the applicant's NPDES permit application shall proceed concurrently with the procedures within this Subpart. In addition to the requirements defined in 40 CFR 125.35, no administrative action shall be taken by EPA until the environmental review process resulting in an EIS or a negative declaration with environmental appraisal has been completed.

(1) *When an EIS will be prepared.* Except when requested by the responsible official in writing and approved by CEQ, no administrative action shall be taken sooner than ninety (90) calendar days after a draft EIS has been distributed or sooner than thirty (30) calendar days after the final EIS has been made public. If the final text of an EIS is filed within ninety (90) days after a draft EIS has been circulated for comment, furnish to CEQ and made public, the minimum thirty (30) day period and the ninety (90) day period may run concurrently if they overlap. The minimum periods for review and advance availability of draft EIS's shall begin on the date CEQ publishes the notice of receipt of the EIS in the FEDERAL REGISTER. For final EIS's, the minimum period shall begin on the date CEQ receives the document.

(2) *When an EIS will not be prepared.* If EPA decides not to prepare an EIS on any action listed in this part for which a negative declaration with environmental appraisal has been prepared, no administrative action shall be taken for at least fifteen (15) working days after the negative declaration is issued to allow public review of the decision.

§ 6.910 Guidelines for determining whether to prepare an EIS.

The following guidelines shall be used when performing the environmental review:

(a) *General guidelines.* (1) When determining the significance of a proposed new source's impact, the responsible official shall consider both its short term and long term effects as well as its primary and secondary effects and beneficial and adverse environmental impacts as defined in § 6.924(c).

(2) If EPA is proposing to issue a number of minor, environmentally insignificant new source NPDES permits, during a limited time span and in the same general geographic area the responsible official may determine that the cumulative impact of the issuance of all these permits may have a significant environmental effect.

(3) An EIS will not be required if the responsible official determines that the proposed new source project has been adequately covered in another EIS.

(b) *Specific criteria.* An EIS will be prepared when: (1) The new source will induce or accelerate significant changes in industrial, commercial, agricultural, or residential land use concentrations or distributions which have the potential for significant environmental effects. Factors that should be considered in determining if these changes are environmentally significant include but are not limited to: the nature and extent of the vacant land subject to increased development pressure as a result of the new source; the increases in population or population density which may be induced and the ramifications of such changes; the nature of land use regulations in the affected area and their potential effects on development and the environment; and the changes in the availability or demand for energy and the resulting environmental consequences.

(2) The new source will directly, or through induced development, have significant adverse effect upon local ambient air quality, local ambient noise levels, surface or groundwater quality or quantity, fish, wildlife, and their natural habitats.

(3) Any major part of the new source will have significant adverse effect on the habitat of threatened or endangered species on the Department of Interior's lists of threatened and endangered species.

(4) The environmental impact of the issuance of a new source NPDES permit is likely to be highly controversial.

(5) The environmental impact of the issuance of a new source NPDES permit will have significant direct and adverse effect on a property listed in or eligible for listing in the National Register of Historic Places.

(6) Any major part of the source will have significant adverse effects on parklands, wetlands, wild and scenic rivers, reservoirs or other important bodies of water, navigation projects, or prime agricultural lands (see § 6.920 for additional procedures).

§ 6.912. Draft environmental impact statement.

(a) The responsible official shall assure that a draft environmental impact statement is prepared as soon as practicable after the release of the notice of intent. The draft EIS shall be published prior to or concurrent with the publication of public notice for the issuance of a proposed permit pursuant to 40 CFR 125.32.

(b) The content of the draft EIS shall be as specified according to § 6.924 of this Subpart.

(c) Parties who wish to comment have forty-five (45) days to reply after the date of publication by CEQ in the FEDERAL REGISTER of the availability of the draft EIS. The comment period may be extended for an additional fifteen (15) days upon request.

§ 6.914. Public hearing.

(a) If there is a significant degree of public interest, the responsible official may convene a public hearing after publication and circulation of the draft EIS. He shall issue public notice of such hearing in accordance with 40 CFR 125.32(d). The public hearing shall be conducted in accordance with 40 CFR 125.34, and is normally held during the comment period.

§ 6.916. Final environmental impact statement.

(a) The responsible official shall prepare a final environmental impact statement, which shall contain responses to substantive comments received on the draft EIS, a summary of the record of any public hearing, and any other relevant information.

(b) The final EIS shall be published prior to or concurrent with the responsible official's determination containing the permit pursuant to 40 CFR 125.35.

(c) The final EIS shall include the responsible official's recommendation on whether the permit is to be issued or denied.

(1) If the recommendation is to deny the permit, the final EIS shall contain the reason(s) for such a recommendation and the measures that EPA recommends the applicant take in order to receive a permit.

(2) If the recommendation is to issue, or issue and condition, the permit, the final EIS shall, when appropriate, also recommend the actions the permittee shall take to prevent or minimize any adverse environmental impacts identified in the analysis.

§ 6.918. Decision on the Federal action.

The responsible official shall issue, issue and condition, or deny the new source NPDES permit following a complete evaluation of any significant beneficial and adverse environmental impacts on the human environment consistent with Federal, State, or local requirements outlined in section 6.910 above. The applicant or other interested party may seek an adjudicatory hearing or other judicial review of the responsible official's decision pursuant to 40 CFR 125.36.

§ 6.920. Additional procedures.

This Subpart describes additional procedures with which the Environmental Protection Agency must comply regardless of whether or not an EIS is being prepared. These procedures derive from other Federal statutes, regulations and policies which establish environmental coordination procedures that are independent of the requirements of NEPA. The applicant for a new source NPDES permit may be requested to assist the responsible official in complying with these statutes in order to process the new source NPDES application as expeditiously as possible.

(a) EPA is subject to the requirement of section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq., Executive Order 11593, the Archaeological and Historic Preservation Act of 1974, 16 U.S.C. 469 et seq., the procedures of the Advisory Council on Historic Preservation (36 CFR Part 800), and other regulations promulgated thereunder.

(b) If the new source may affect wetlands, the responsible official shall consult with the appropriate offices of the Department of the Interior, the Department of Commerce, U.S. Army Corps of Engineers, the U.S. Department of Agriculture, and the States involved, during the environmental review to determine the probable impacts of the new source on the fish and wildlife resources and land use of these areas and the need for any other Federal authorizations.

(c) If the new source may affect coastal zones or coastal waters as defined in Title III of the Coastal Zone Management Act of 1972, 16 U.S.C. 1451 et seq., the responsible official shall consult with the appropriate State offices and with the appropriate office of the Department of Commerce to determine the probable impact of the new source on coastal zone or coastal water resources.

(d) If the proposed new source will encourage new industrial, commercial, and residential development in currently undeveloped floodplains which are of significant value for agricultural production, recreation, or wildlife habitat, the responsible official shall act pursuant to Executive Order 11296.

(e) If the new source may affect portions of rivers designated wild and scenic or being considered for the designation under the Wild and Scenic Rivers Act, 16 U.S.C. 1271 et seq., the responsible official shall consult with appropriate State offices and with the Secretary of the Interior, or where national forest lands are involved, with the Secretary of Agriculture, during the environmental review to determine the probable impact of the new source on eligible rivers or portions thereof.

(f) Whenever the new source will result in the control or structural modification of any stream or other important body of water for any purpose, including navigation and drainage, the responsible official shall consult with the United States Fish and Wildlife Service (Department of the Interior), the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (Department of Commerce), The U.S. Army Corps of Engineers, and the head of the agency administering the wildlife resources of the particular State in which the action will take place, to determine any steps which may be taken to conserve wildlife resources. This consultation shall follow the procedures in the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.).

(g) If the new source may affect threatened or endangered species, defined under section 4 of the Endangered Species Act of 1973, 16 U.S.C. 1531 et. seq., the responsible official shall consult with the Secretary of the Interior, the Secretary of Commerce, or the Secretary of Agriculture, according to the procedures of section 7 of that Act.

(h) If a new source may adversely affect significant amounts of prime agricultural land, the responsible official shall consult with the Secretary of Agriculture to determine the full impact of agricultural production and feasible alternatives.

(i)(1) Requests for consultation and the results of such consultation shall be documented in writing. The responding agencies will be given thirty (30) days to comment as measured from the date of the written request. With respect to all cases under subsections 6.924(b) through (h) above, the responsible official should advise the agencies that failure to answer within the allotted period of time will be deemed to be a statement that the agencies do not choose to comment at this time. Where the agencies advise the responsible official that the inclusion of specified conditions relating to the issuance of the permit are necessary to avoid impairment, the responsible official may include in the permit those conditions so specified by the agencies. When the agency notifies the responsible official that more time is needed for its evaluation, more time will be granted where it appears to the responsible official that the public interest warrants such extension. Where consultation has occurred, the agencies consulted shall receive copies of either the notice of intent and EIS or the negative declaration and environmental appraisal prepared on the proposed action.

(2) If an EIS is to be prepared, and there is consultation required pursuant to § 6.924(b) through (h), the consultation may be deferred until the commenting period following the preparation of the draft EIS.

§ 6.922. Availability of documents.

(a) EPA will print copies of draft and final EIS's for agency and public distribution. A nominal fee may be charged for copies requested by the public.

(b) When EPA no longer has copies of an EIS to distribute, copies shall be made available for public inspection at region-

al and headquarters Offices of Public Affairs. Interested persons also should be advised of the availability (at cost) of EIS's from the Environmental Law Institute, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036.

(c) Lists of EIS's prepared or under preparation and lists of negative declarations prepared will be available at both the regional and headquarters Offices of Public Affairs.

§ 6.924. Content of an environmental impact statement.

(a) *Cover sheet.* The cover sheet shall indicate the type of EIS (draft or final), the nature of the proposed EPA action, the name of the permit applicant, the responsible EPA office, the date, and the signature of the responsible official. The format is shown in Exhibit 4.

(b) *Summary sheet.* The summary sheet shall conform to the format prescribed in Appendix I of the August 1, 1973, Council on Environmental Quality's Guidelines (40 CFR 1500). The format is shown in Exhibit 5.

(c) *Body of statement.* The body of the EIS shall identify, develop, and analyze the pertinent issues included in § 6.924(c)(1) through (7) below. Each subsection need not be a separate chapter in the statement. The EIS shall serve as a means for the responsible official and the public to assess the environmental impacts of the proposed issuance of a new source NPDES permit, rather than as a justification for decisions already made. Environmental impact statements should be prepared using a systematic, interdisciplinary approach. Statements should incorporate all relevant analytical disciplines and should provide meaningful and factual data, information, and analyses. The presentation should be simple and concise, yet include all facts necessary to permit independent evaluation and appraisal of the beneficial and adverse environmental effects on the human environment of alternative actions. The amount of detail provided should be commensurate both with the extent and expected impact of the actions, and with the amount of information required at the particular level of decisionmaking. To the extent possible, statements shall not be drafted in a style which requires extensive scientific or technical expertise to comprehend and evaluate the environmental impact of the proposed EPA action.

(1) *Background and description of the proposed new source.* The EIS shall describe the proposed source, its product or purpose, its location, and its construction and operation time schedule. To prevent piecemeal decision-making, the new source should be described in as broad a context as necessary. The relationship of the proposed new source project to other projects and proposals directly affected by or stemming from the construction and the operation of the new source shall be discussed, including not only other EPA activities, but also those of Governmental and private organizations. Development and population trends in the project area and the assumption on which they are based shall also be included. Maps, photos, and artist's sketches should be incorporated if available when they help depict the environmental setting. If not enclosed, supporting documents should be referenced.

(2) *Alternatives available to the proposed new source.* The feasible alternatives available to the proposed new source shall be described, developed and objectively weighed against the proposed new source. The analysis should be sufficiently detailed to reveal the EPA's comparative evaluation of the environmental impacts on the human environment, costs, and risks of each feasible alternative. The analysis of alternatives shall include the alternative of not constructing or operating the new source or postponing construction or operation. Feasible design, process, and the site alternatives must be described. This analysis should be written in such a manner that the general public independently can judge the relative desirability of the various alternatives.

(3) *Environmental impacts of the proposed new source.* This shall be a description of the primary and secondary environmental impacts, both beneficial and adverse, anticipated from the new source. The scope of the description shall include both short and long-term impacts. Emphasis should be given to discussing those factors most directly impacted by the proposed activity.

(i) Primary impacts are those that can be attributed directly to the construction or operation of the new source.

(ii) Secondary impacts are indirect or induced impacts. Construction of a facility such as a large industrial facility may stimulate or induce secondary effects in the form of associated investments and changed patterns of social and economic activities. Particular attention should be paid to potential changes in population patterns or growth. When such changes are significant, their effect on the resource base, including land use, water quality and quantity and air quality should be determined. A discussion of how these impacts conform or conflict with the objectives and specific terms of approved or proposed Federal, State, and local land use plans, policies, and controls for the area should be included.

(4) *Adverse impacts which cannot be avoided should the new source permit be issued.* The EIS shall describe the kinds and magnitudes of adverse impacts which cannot be reduced in severity, give the remedial and protective measures which can be taken, describe the adverse impacts which can be reduced to an acceptable level, and the mitigative measures which should be taken. These adverse impacts may include water or air pollution, undesirable land use patterns, damage to ecological systems, urban congestion, threats to health or other consequences adverse to the environmental goals set out in section 101(b) of the National Environmental Policy Act.

(5) *Relationship between local short term uses of the environment and the maintenance and enhancement of long term beneficial uses.* This shall be a description of the extent to which the proposed activity involves trade offs between short term environmental gains at the expense of long term losses, or vice-versa, and the extent to which the proposed action forecloses future options. Special attention should be given to effects which narrow the range of beneficial uses of the environment or pose long term risks to health or safety.

(6) *Irreversible and irretrievable commitment of resources which would result if a new source permit were issued.* This shall be a description of the extent to which the proposed activity curtails the diversity and range of beneficial uses of the environment. Secondary impacts, such as induced growth in undeveloped areas, may make alternative uses of that land impossible. Also, irreversible damage can result from environmental accidents associated with the new source and this possibility should be evaluated.

(7) *A discussion of problems and objections raised by other Federal, State, and local agencies and by interested persons in this review process.* Final EIS's (and draft EIS's if appropriate) shall summarize the comments and suggestions made by reviewing organizations and shall describe the disposition of issues raised, e.g., changes to the proposed new source to mitigate anticipated impacts or objections. In particular, the EIS shall address any major issues in which the EPA position differs from reviewers' recommendations and objections, giving reasons why specific comments and suggestions could not be adopted. Reviewers' statements should be set forth in a list of "comments" and accompanied by EPA's "responses." In addition, the source of all comments should be clearly identified and copies of the comments (or summaries where a response has been exceptionally long) should be attached to the final EIS.

(d) *Documentation.* Any books, research reports, field study reports, correspondence and other documents which provided the data base for evaluating the impact of the proposed new source and alternatives discussed in the EIS shall be cited in the body of the EIS and included in a bibliography attached to the EIS.

EXHIBIT 1

NOTICE OF INTENT—SUGGESTED FORMAT

_____
(Date)

Environmental Protection Agency,
_____
(Appropriate Office)
_____
(Address, City, State, Zip Code)

NOTICE OF INTENT

To All Interested Government Agencies and Public Groups:

Gentlemen: As required by the EPA regulations, "Preparation of Environmental Impact Statements (EIS's) for new Source NPDES Permits" (40 CFR 6.900), attached is a Notice of Intent to prepare an EIS for the Proposed EPA action described below:

1. Proposed EPA Action and NPDES Permit Application Number:
_____
_____
_____

2. Name of Applicant and type of source:

---
3. Location of Proposed Source:
City ---
County ---
State ---
4. Issues Involved:

---
5. Proposed Starting Date of Discharge:

If your organization needs additional information or wishes to participate in the preparation of the draft EIS, please advise the (appropriate office, city, State).

Very truly yours,

(Appropriate EPA Official)

(List Federal, State, and local agencies to be solicited for comment.)

(List public action groups to be solicited for comment.)

(List of industry groups to be solicited for comment.)

EXHIBIT 2

NEGATIVE DECLARATION—SUGGESTED FORMAT

Negative Declaration

(Date)

Environmental Protection Agency,

(Appropriate Office)

(Address, City, State, Zip Code)

To All Interested Government Agencies and Public Groups:

Gentlemen: As required by the EPA regulations, "Preparation of Environmental Impact Statements (EIS's) for New Source NPDES Permits" (40 CFR 6.900), an environmental review has been performed on the proposed EPA action below:

(Name of Applicant and Type of Source)

(Location of Source: City, County, State)

(Nature of EPA Action)

(NPDES Permit Application Number)

PROJECT DESCRIPTION, ORIGINATOR AND PURPOSE

(Include a map of the project area and a brief narrative describing the primary and secondary impacts of the project, purpose of the project, and other data in support of the negative declaration.)

The review process did not indicate significant environmental impacts would result from the proposed action, or that significant adverse impacts have been mitigated by making changes in the project. Consequently, a preliminary decision not to prepare an EIS has been made. This action is taken on the basis of a careful review of the environmental assessment, and other supporting data, which are on file in the above office and will be available for public review upon request.

Comments on this decision may be submitted for consideration by EPA. After evaluating the comments received, the Agency will make a final decision on the need for an EIS.

Sincerely,

(Appropriate EPA Official)

EXHIBIT 3

ENVIRONMENTAL IMPACT APPRAISAL—SUGGESTED FORMAT

A. Identify Project:
Name of applicant---
Type of Source---
Address ---
B. Summarize Assessment:
1. Brief description of the Source---
---
2. Probable impact of the issuance of an NPDES new source permit on the environment: ---
---
3. Any probable adverse environmental effects which cannot be avoided: ---
---
4. Alternatives considered with evaluation of each: ---

---
5. Relationship between local short-term uses of the environment and maintenance and enhancement of long-term beneficial uses: ---
---
---
6. Any irreversible and irretrievable commitment of resources: ---
---
7. Public objections to the Source, if any, and their resolution: ---
---
8. Groups consulted about the Source: ---

B. Reasons for concluding there will be no significant impacts.

(Discuss topics 2, 3, 5, 6, and 7 above, and how the alternative (topic 4) selected is the most appropriate.

(Signature of appropriate official)

(Date)

EXHIBIT 4

COVER SHEET FORMAT FOR ENVIRONMENTAL IMPACT STATEMENTS

(Draft, Final)

ENVIRONMENTAL IMPACT STATEMENT

(Provide Name of Source and Type of EPA Action)

(Provide NPDES Permit Application Identifying Number)

Prepared by---
(Responsible Agency Office)

Approved by---
(Responsible Agency Official)

(Date)

EXHIBIT 5

SUMMARY SHEET FORMAT FOR ENVIRONMENTAL IMPACT STATEMENTS

(Check one)
( ) Draft
( ) Final

ENVIRONMENTAL PROTECTION AGENCY

(Responsible Agency Office)

1. Name of action. (Check one)
( ) Administrative action.
( ) Legislative action.

2. Brief description of action indicating what States (and counties) are particularly affected.

3. Summary of environmental impact and adverse environmental effects.

4. List alternative considered.

5 a. (for draft statements) List all Federal, State, and local agencies and interested persons from which comments have been requested.

b. (for final staetments) List all Federal, State, and local agencies and interested persons from which written comments have been received.

6. Dates draft EIS and final EIS made available to Council on Environmental Quality and public.

EXHIBIT 6

PUBLIC NOTICE AND NEWS RELEASE—SUGGESTED FORMAT

Public Notice

The Environmental Protection Agency (originating office) (will prepare, will not prepare, has prepared) a (draft, final) environmental impact statement on the following project:

(Name of Applicant and Type of Source)

(Nature of EPA Action)

(Source Location, City, County, State)

(Where EIS or Negative Declaration can be obtained)

This notice is to implement EPA's policy of encouraging public participation in the decision-making process on proposed EPA actions. Comments on this document may be submitted to (full address of originating office).

APPENDIX A

GUIDANCE ON DETERMINING A NEW SOURCE

(1) A source should be considered a new source provided that at the time of proposal of the applicable new source standard of performance, there has not been any:

(a) Significant site preparation work, such as major clearing or excavation, but not including feasibility and design studies, or erection of facilities or structures in connection with such studies;

(b) Placement, assembly, or installation of unique facilities or equipment at the premises where such facilities or equipment will be used; or

(c) Contractual obligation to purchase such unique facilities or equipment, provided that:

(i) The term "contractual obligation" shall refer only to binding contracts, and shall not include options to purchase or purported contracts which are terminable at little or no loss; and

(ii) The term "facilities or equipment" shall mean the following, provided that the value of such items represents a substantial commitment to construct a particular facility:

(a) structures;

(b) structural materials unique to a particular site; or

(c) machinery, process equipment, or construction equipment for use at a particular

site. The term "facilities or equipment" shall not include fuel or other fungible, non-site-specific commodities.

(2) For the purposes of determining applicability of these regulations to new construction involving direct discharge into the Nation's waters, three categories of new construction are described: a totally new source, a modification to an existing source and a major alteration. A totally new source is subject to new source requirements under the 1972 Federal Water Pollution Control Act Amendments (FWPCA). Such facilities include both what are traditionally known as green field operations and total reconstruction of the source.

Modifications to an existing source holding an NPDES discharge permit are intended by the FWPCA and its legislative history to be subject only to permit modification procedures (subject to 40 CFR Part 125) and are not considered to be new sources. Modifications include changes in production capacity by modification to or addition of process units in a manufacturing process. It may also involve the addition of related but new product lines.

The category of new construction called "major alteration" is established by these guidelines to accommodate situations which do not naturally fall into either of the above new construction categories. The purpose is to distinguish plant and process modifications which should not be considered to be new sources from those major alterations which effectively create a new source, but which by circumstances are located at the same site or are associated with existing sources. A major alteration is: the construction of an additional industrial facility or facilities on the existing site which functions independently of the existing facility.

[FR Doc.77-652 Filed 1-10-77;8:45 am]

federal register

TUESDAY, JANUARY 11, 1977

PART VI



ENVIRONMENTAL PROTECTION AGENCY

■

OCEAN DUMPING

Final Revision of Regulations and Criteria

Title 40—Protection of Environment

(FRL 657-7)

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER H—OCEAN DUMPING

FINAL REVISION OF REGULATIONS AND CRITERIA

The Environmental Protection Agency today publishes final regulations and criteria with respect to the transportation of wastes for the purpose of ocean dumping. Under Title I of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 32 U.S.C. 1401 et seq., (hereafter "the Act") the Agency on October 15, 1973, (38 FR 28610 et seq.) published regulations setting forth the procedures to be followed, and the criteria to be applied, in reviewing applications to dispose of materials in ocean waters. These rules now appear at 40 CFR Parts 220–227. In addition, the October 15 notice set forth substantive criteria to be applied in evaluating permits to discharge materials through ocean outfalls, pursuant to sections 402 and 403(c) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1342, 1343. The regulations published today delete all reference to section 403(c) ocean outfall criteria and make Parts 220–227 (with the addition of Parts 228 and 229) solely addressed to ocean dumping and implementation of the Act. In the near future the Agency will propose significant revisions to the criteria for ocean outfalls.

The final regulations and criteria published today affect both the procedures to be followed in reviewing applications for ocean dumping and the substantive criteria to be applied in evaluating those applications.

The revisions announced today do not include changes to 40 CFR Parts 223 and 226. Significant changes will be made to those Parts in the near future. Parts 223 and 226 will be greatly expanded to present more detailed procedures for enforcement proceedings and for proceedings brought to revoke or suspend a permit pursuant to section 105(f), 33 U.S.C. 1415(f). However, these Parts as presently in force are reprinted here as they originally appeared to provide a complete set of the regulations presently in force.

The Agency believes that changes in the present regulations announced today are appropriate for several reasons:

Operating experience of EPA pointed to several ways in which the regulations required modification. There is a need to specify in more detail the considerations which go into a determination of whether a permit will be issued. The present regulations do not adequately address the regulation of ocean dumping sites. Also, some people consider the present regulations inadequate with respect to the disposal of dredged material.

A petition for additional rulemaking by the National Wildlife Federal was received in April of 1974 and pointed out several areas in which the present regulations require changes if they are to completely satisfy the Act, the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (hereafter, "Convention") open for signiature December 29, 1972, at London, and the Amendments to the Act in light of the Convention which were brought about by Pub. L. 93–254 (March 22, 1974). The Convention became effective, according to Article XIX (1), on August 30, 1975, when the fifteenth party acceded to its terms. The first Consultative Meeting of the Contracting Parties was held in London in September, 1976, and these final regulations reflect agreements on procedures reached at that meeting.

In addition to the petition from the National Wildlife Federal, an individual has requested that the emergency permit provisions contained in the regulations be modified to require more adequate public notice and opportunity for hearing prior to the issuance of those permits. EPA has thoroughly revised and expanded the ocean dumping regulations and criteria to allow for greater public participation in the program.

The Agency has held several major hearings on applications to dispose of materials; the experiences of these hearings and the Regional Administrators' experiences in reviewing applications have prompted several suggestions as to ways in which the present regulations and criteria can be improved to more adequately address the implementation of the Act and Convention, and to address the problems encountered by the Regional Administrators.

The criteria have been modified to reflect recent advances in scientific knowledge, but there is no change in EPA's intent to eliminate ocean dumping of unacceptable materials as rapidly as possible.

It is not possible to note in this preamble all the places in the regulations in which changes have been made; many modifications are minor and will not affect the day-to-day operation of the program. However, the major substantive changes have been noted below. It must be emphasized that these final regulations will replace or amend seven existing Parts of Title 40 CFR, and will add Part 228. While the regulations appear to be long and complicated, the Agency has attempted to follow a logical pattern which will make their use more convenient than one might assume at first inspection. It also must be noted that these regulations will constitute the entire set of tools one needs to implement the Act and the Convention.

These regulations and criteria were published in proposed form in the FEDERAL REGISTER on June 28, 1976, (41 FR 26644 et seq.) and a Draft Environmental Impact Statement on the criteria (Parts 227–228) was issued on July 14, 1976. The public comment period closed September 24, 1976; 75 sets of comments were received comprising some 375 pages. Some substantive technical issues were raised, and EPA held a technical workshop on October 19–20, 1976, concerning the trace contaminant and dredged material criteria. The comments received, the EPA responses to the individual comments, and the report and transcript of the technical workshop are all included in the Final Environmental Impact Statement which is available from the address given at the end of this preamble.

SUMMARY OF CHANGES MADE AS A RESULT OF COMMENTS RECEIVED

PART 220

Section 220.1—Purpose and scope. One commenter suggested that Section 220.1 (a) (3) (ii) be changed to apply these regulations to a 200-mile contiguous zone. This is not possible since the Act limits jurisdiction over foreign flag vessels to the territorial sea and the 12-mile contiguous zone of the United States. See section 2(c) of the Act, as amended by Pub. L. 93–254 (33 U.S.C. 1401).

It has been suggested that Section 220.1(c)(4) be changed to refer to "human life at sea" rather than "life at sea." The language of this section follows that of the Act. It is implicit that this section refers to human life.

Section 220.2—Definitions. The definition of sewage treatment works in paragraph (b) has been amended to make it consistent with the definition found in the FWPCA.

Section 220.3—Categories of permits.

(c)—Emergency permits. Consultation procedures for emergency permits have been adopted by the Contracting Parties to the International Convention. The procedures in these regulations are consistent with those adopted on an international basis.

(d)—Interim permits. The Agency received a substantial number of comments with respect to the interim permit provisions.

Section 220.3(d) in its revised form provides that interim permits will be issued after April 23, 1978, only to interim permit holders who have exercised best efforts to meet the requirements of a Special permit by that date and have implementation schedules adequate to allow phasing out of ocean dumping or compliance with the requirements of a special permit, by December 31, 1981.

Commenters have questioned the legality of interim permits under the Act, and have further questioned the issuance of interim permits after the 1978 deadline. Others have argued that the 1978 cutoff date is too strict. Some have suggested that this deadline be deleted altogether, with applications for interim permits to be considered on a case-by-case basis.

Interim permits are not illegal under the Act, since they do not authorize dumping which would "unreasonably" degrade or endanger the marine environment. The Act lists need for ocean dumping as one factor to be considered in issuing permits. The "need factor" has outweighed other considerations due to the lack of alternative methods of disposal and technology necessary to meet environmental criteria. The need factor

is largely a matter of time, and interim permits have been issued in order to give existing dumpers sufficient time to develop alternatives or to comply with environmental criteria. It should be noted that in no event does this section authorize dumping of materials that are absolutely barred by the Act or the Convention, or authorize dumping above trace contaminant levels of materials proscribed above trace contaminant levels.

The April 23, 1978, deadline corresponds to the fifth anniversary of the effective date of the Act. This date is significant in that Title II of the Act provides for a research program aimed at "minimizing or ending all dumping of materials within five years of the effective date of this Act." Congress has expressed impatience with the continued issuance of interim permits (see H.R. Rep. No. 94–1047, 94th Cong., 2d Sess. (1976)), and the EPA agrees that five years is sufficient time for dumpers to develop technology to end reliance on ocean dumping which violates environmental criteria.

Existing dumpers who are unable to meet the 1978 deadline may receive interim permits after that date if they have implementation schedules adequate to allow phasing out of ocean dumping or compliance with all requirements of a special permit by December 31, 1981. Experience to date has shown that, while five years is sufficient time to develop alternatives and technology, three more years are needed to implement them. The 1981 deadline is based on the implementation schedules contained in current interim permits, all of which provide for compliance or phasing out by the end of 1981. The proposed regulations required implementation schedules for industrial dumpers to provide for compliance or phasing out by April 23, 1981. Revised § 220.3(d) changes this date to December 31, 1981, since it now applies also to municipal dumpers, who are unable to meet the April 23 date.

It has been suggested that the 1981 compliance date be changed to 1979 for industrial dumpers. This change has not been made since some industrial dumpers are expected to meet the 1981 deadline but would not be able to meet a 1979 deadline. It should be stressed that § 220.3(d) requires implementation plans to provide for phasing out or compliance by December 31, 1981, at the latest. Interim permit holders who are able to meet earlier deadlines will be required to do so. Interim permits with earlier deadline dates are not to be deemed to be affected by the regulations promulgated today.

The deadlines contained in this section are based on current projections of technological feasibility, and it is reasonable to expect dumpers to meet them. The primary purpose of the Act is to protect the marine environment, and dumping in violation of environmental criteria cannot be allowed to continue indefinitely. The EPA therefore will not retain discretion to issue interim permits to applicants who do not meet the requirements of this section.

The proposed regulations authorized issuance of interim permits for sewage treatment works on a showing that the dumper had exercised best efforts to comply with the requirements of a special permit. They did not require the dumper to have an implementation schedule adequate to permit compliance or phasing out by a specific date. No deadline was imposed on municipal dumpers because of their often complicated dependence on public agency funding sources. In response to several objections, the distinction between municipal and industrial dumpers has been removed, and all holders of interim permits will now be required to meet a deadline of no later than 1981. Technology exists to permit municipalities to meet this deadline; and all interim permits currently held by municipalities provide for compliance or phasing out by the end of 1981.

Thus, the regulations promulgated today do not substantially affect the planning which must be conducted by municipalities in light of the terms of existing interim permits held by those communities. It is noted that in a letter to the Administrator dated October 26, 1976, from Congressmen Robert L. Leggett, John B. Breaux, Edwin B. Forsythe and Charles A. Mosher, all of the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, it was strongly recommended that municipalities and industries be treated the same, with respect to interim permits. The Agency has changed the final regulations consistent with this recommendation.

New interim permits may be issued after 1978 to existing dumpers who exercise best efforts to comply with the requirements of past permits. As an example, municipal dumpers will not be denied new permits for inability, despite best efforts, to raise necessary revenues to comply with implementation schedules. While the precarious financial position of some municipalities may justify noncompliance with implementation schedules, it is expected that few, if any, exceptions will be granted by the Agency. The showing which must be made is significant, such as demonstrating that an outside construction or waste disposal firm with which the municipality has entered into contracts has become insolvent. In the past the communities employing ocean dumping as the means to dispose of sludge have on occasion submitted bare conclusions that no other alternatives are available. Not only will half-hearted attempts at compliance with the regulations and weak efforts to find alternatives not be considered to be good faith efforts under the revised criteria, but the Agency will undertake independent enforcement actions to stop such practices. It is not expected that financial reasons will be sufficient justification for noncompliance by industrial dumpers.

Section 220.3(d) authorizes issuance of interim permits after 1978 to dumpers who have implementation schedules adequate to allow phasing out of ocean dumping or compliance with the requirements of a special permit by 1981. Congressmen Leggett, Breaux, Forsythe and Mosher, in their letter of October 26, 1976, to the Administrator, have recommended that EPA make it explicit "that the choice between phasing out and complying with the criteria for a special permit is to be made by EPA—not by the applicant." Section 227.23 does make clear that this choice is up to the Regional Administrator.

Other commenters have challenged the authority of EPA to require phasing out of ocean dumping, maintaining that special permits must be issued to all applicants who meet the requirements therefor.

Subpart C of Part 227 provides that special permits may be denied to applicants who have no need to ocean dump, a factor which the Act directs the EPA to consider in issuing permits. The environmental criteria of Part 227 indicate only that the materials to be dumped by a particular dumper are not environmentally unacceptable. Since the cumulative effects of many dumpers may be environmentally unacceptable, the EPA must limit the total amount of ocean dumping and will therefore grant permits only to applicants who demonstrate lack of acceptable alternatives to ocean dumping. The purpose of implementation plans is to assure that dumping in violation of the requirements of Part 227 does not continue indefinitely. The Regional Administrators must have discretion to determine whether this purpose will be achieved by compliance with special permit requirements or by obviating the need for dumping.

Section 220.3(d) also provides that new interim permits will be issued only to applicants who demonstrate that they have exercised best efforts to comply with all requirements of previous permits.

One commenter has objected to this provision as requiring denial of permit applications for minor violations of previous permits. The same commenter has suggested that permit violations be dealt with according to the terms of the permit, rather than by denying future permits. There is no reason not to require permit holders to follow all terms of their permits in good faith, and it will be within the discretion of the Regional Administrator to determine whether best efforts have been exercised.

The primary purpose of this provision is to ensure compliance with implementation schedules. Most interim permits provide for compliance with schedules to be determined as of the expiration date of the permit. If there are no penalties for noncompliance during the term of a permit, the only way to enforce compliance is to deny subsequent permits.

There is no reason to give interim permits to dumpers who have demonstrated an unwillingness to exercise best efforts to comply with the terms of a permit.

Several minor changes have been made in § 220.3(d) in response to comments.

The proposed regulations provided for the issuance of interim permits "under certain conditions in accordance with Subpart A of Part 227". One commenter requested examples of the "certain conditions" under which interim permits would issue. Since the phrase "certain conditions" referred only to the conditions specified in Subpart A and was therefore redundant, it has been deleted.

The phrase "has a treatment facility under construction" has been changed to "has an implementation schedule" since there are methods to phase out dumping or comply with environmental criteria which do not require construction of treatment facilities.

Proposed § 220.3(d) would deny interim permits to the "expansion or modification of an existing facility". Since it has been pointed out that many implementation plans require modification or expansion, this provision has been changed to deny interim permits "for the dumping of an increased amount of waste from an existing facility".

The criticism of EPA's repeated use of interim permits has come from many informed persons, and the objections have been given careful consideration. As expressed by Congressmen Leggett, Breaux, Forsythe and Mosher in the letter of October 26, 1976, to the Administrator, "EPA continues to allow a substantial volume of dangerous, toxic materials to be dumped under 'interim permit' arrangements. * * * We feel that such 'interim permits' should be summarily phased out without continued exceptions. The revised regulations * * * do not effect the intent of Congress as expressed in the Marine Protection, Research, and Sanctuaries Act of 1972."

The answer to the question of repeated use of interim permits is founded on the lack of firm scientific conclusions with respect to individual and combined dumping of wastes in the oceans. The answer to this question is inextricably linked to the issues of defining trace contaminants and to the setting of special permit conditions. If materials are in trace quantities or less, or if they comply with special permit conditions, then one need not rely on interim permits for continued dumping. Thus, by lenient definitions of trace contaminants or special permit criteria, the Agency could avoid the interim permit dilemma. Obviously, the Agency will not arbitrarily define trace contaminants or special permits to so avoid the issues.

What the Agency has attempted to do is to estimate as best it can those levels of pollutants which may be expected to cause environmental harm, to apply a safety factor, and to refuse to sanction dumping of wastes containing pollutants in these amounts unless there is no other environmentally acceptable alternative. EPA has also tried to prepare its regulations in view of criteria established under the Federal Water Pollution Control Act, State laws, and other Federal pollution control laws. Obviously it makes little sense to allow discharges of mercury through a pipe into Chesapeake Bay at levels higher than discharges from a barge into the deep ocean waters, for example. The Agency also must consider its credibility as the regulating agency. If it demands that a small community or an industry cease dumping within a period of time, it should be confident that there are feasible alternatives which may be implemented within that time period. Increasingly, this is true; and this is the reason all interim permit holders have been given firm phase-out dates. It would be improper to adopt a cessation date which has little factual foundation. Increasingly, EPA has become aware that the alternatives to ocean dumping require careful evaluation; they may not always be better.

The interim permit remains EPA's most effective tool because it requires the permittee to periodically report to EPA as to the steps being taken to cease dumping or bring the dumping within the special permit limits, allows EPA to retain conservative limits on special permits, and gives EPA the flexibility to refuse reissuance when the Agency concludes that good faith efforts to find alternatives are not being made. EPA refused to reissue an interim permit to the City of Camden.

Conceivably, EPA could abolish the category of interim permits or make interim permits of a five-year duration. This would avoid some of the stigma attached to the Agency's repeated issuance to the same applicant of interim permits. As with an artificial modification of the special permit criteria, these options are unacceptable to EPA.

It must be emphasized that the numerical limits on special permits (which define when interim permits only can be obtained) are not founded on the most precise analytical process. They may be within orders of magnitude of a "correct" limit, but there is no confident means to determine this. EPA has over the past four years conducted several open workshops with respect to the "safe" or "unacceptable" levels of pollutants which may be dumped into the oceans. The latest was in October of this year. The only agreement reached at those sessions is that responsible scientists are not confident as to a "safe" number and that measuring environmental effects in the ocean is most difficult. With respect to any suggested alternative permit criteria, significant objections can be raised. In the discussion of § 227.6 below, more details are presented with respect to this problem.

The question, then, is not whether EPA has established environmentally unacceptable levels and continues to issue permits which violate those levels, but is whether EPA (1) has established levels which responsibly estimate concentrations of wastes not acutely toxic or otherwise clearly harmful; (2) has created a permit system which forces dumpers to find satisfactory alternatives as soon as possible; and (3) has established environmental criteria which are not inconsistent with criteria established under other laws with respect to discharges into inland waters. EPA believes it has adequately met these regulatory challenges.

(f) Permits for incineration at sea. One commenter has suggested that § 220.3(f) be revised to allow only research or interim permits to be issued for incineration at sea until criteria on this type of disposal are promulgated. This change has not been made. While there is currently insufficient information on which to base general criteria for ocean incineration, it is possible to conduct sufficient research on specific incineration projects to satisfy EPA that special permits should be issued in specific instances.

PART 221

Section 221.1—Applications for permits. This section has been revised slightly to require that applications must be in writing, but not necessarily by letter; that a full evaluation of all alternatives is not necessary; and that the environmental impact of alternatives must be considered.

Section 221.4—Adequacy of information in application. This section has been revised to allow an "adequate" description of the material to be dumped, rather than requiring a "full" description. It was pointed out that, in a practical sense, it would be impossible to ever achieve a "full" description of any material.

PART 222

In response to public comments, the Agency has made several changes in the regulations which govern procedures to be followed in reviewing applications for ocean dumping permits.

Section 222.3—Notice of applications. The Coastal Zone Management Program of the Commonwealth of Massachusetts recommended that the notice requirements of § 222.3(b) be modified to provide that the State agencies with responsibility to implement the Coastal Zone Management Act also receive notice of applications for ocean dumping permits. The requested modification has been made. Also, in paragraph (g) of that section, a sentence has been added to clarify that copies of these notices will also be sent to officials of the Departments of Commerce and Interior who are responsible for programs which may be affected by ocean dumping.

The notice provisions of § 222.3 prompted several requests for major expansion of the procedures to be followed in providing notices to the public of ocean dumping applications. Some commenters suggested that notices be placed in several newspapers in the area from which the transportation for the purpose of dumping is to commence; other commenters asked that specific provisions be included in the FEDERAL REGISTER for service of notices on particular states and private parties. Some parties stated

that the notice provision does not provide adequate time to comment on the application. Other parties are protesting that the notice provision allowed for unnecessary delay in the processing of applications.

The Agency believes that adequate notice is provided to the public by regulations promulgated today. In practice, the Regional Administrators provide substantially more notice to parties known to be interested in ocean dumping matters and to Federal and State authorities within those Regions than is provided in these regulations. The intent of the regulations promulgated today is not to dictate the procedure which may be followed in each instance but rather to state the minimum procedures which must be followed. Several of the commenters who wish to be provided with more elaborate notice of proposed applications may receive substantially more details on proposed dumping than is provided for in this Part by simply requesting the Regional Administrator for the Region in which they are located to so provide with respect to each ocean dumping application. Likewise, parties who believe that they will continue to have an interest in ocean dumping matters may resuest that they be sent detailed information on each application. With respect to the request that the notice provisions allow for more or less time, the Agency believes that the present regulations provide an adequate compromise between the need to allow parties to prepare adequately for presentations at the public hearings and for the need to promptly process ocean dumping applications. The Agency is concerned that the entire permit review process may take an unreasonable period of time if lengthy periods are allowed at the various stages to provide opportunity for parties to prepare new objections or recommendations to the proposed Agency action. The present regulations attempt to allow time for responsible participation in the permit review process while at the same time expediting that process.

Section 222.4—Initiation of hearings. A change has been made to the proposed § 222.4(b). In accordance with the decision of Judge Gerhard A. Gesell in the case of "State of Maryland et al. v. Train et al." (D.Md. Civil Action No. 5-1731) May 10, 1976, 8 ERC 2050, 2054, the Agency discretion with respect to the convening of the initial public hearing is narrowly circumscribed. Therefore, the final regulations state that the initial hearing may be called whenever a person properly requests such a hearing or whenever the Administrator or Regional Administrator, as the case may be, determines that such request presents genuine issues. The prior language required that the request present "substantial issues of public interest". It is intended that the Administrator or Regional Administrator deny the request for a hearing only when it is clear that the request is not in good faith or raises issues which have been clearly addressed in prior hearings when there is no new evidence. Denials of hearing requests will be rare.

Section 222.8—Recommendations of Presiding Officer. This section has been amended to provide that the recommendations of the Presiding Officer shall include a description of evidence relied upon. Most recommended decisions have already included such a description of evidence, but this amendment clarifies the requirement. It is not intended that this regulation will require that the presiding officers cite to a transcript or exhibit for every fact for which they rely upon; rather, it is merely intended to ensure that there is a clear explication of the factual bases for the recommended decision.

Section 222.9—Issuance of permits. In § 222.9(b)(1) the last phrase has been deleted because a change has been made to § 222.10(b) to the effect that the Administrator or Regional Administrator may not on their own discretion convene an adjudicatory hearing. A new paragraph (c) has been added to this section to make clear that the term of a presently valid permit may be extended pending the conclusion of the proceedings held pursuant to §§ 222.7-222.9, at the discretion of the Administrator or Regional Administrator.

Section 222.10—Appeal to adjudicatory hearing. Paragraph (a) of this section has been amended to provide that the request for an adjudicatory hearing must be sent within 10 days following the receipt of the notice of issuance or the denial of a permit. The previous language required computation of the 10 days following the dispatch of the notice. In all time requirements under the Part 222 rules, if a document is sent by the required date, it is considered timely even if it is received after the time constraint. As noted above, paragraph (b) has been changed to delete the reference to the Administrator or Regional Administrator convening a public hearing sua sponte. The original assumption was that there may be rare circumstances in which it may be appropriate for the Agency to convene an adjudicatory hearing to resolve difficult factual issues; it was pointed out by many commenters if there are significant factual issues involved there no doubt will be a request for such a hearing. Paragraph (b) has also been amended to provide that the Administrator or Regional Administrator, as the case may be, may call an adjudicatory hearing when a proper request has been made and when he determines that such a hearing is warranted. The change deletes the language requiring that such a request present substantial issues of public interest. This modification makes clear that discretion is allowed the Administrator or the Regional Administrator to determine the appropriateness of the convening of an adjudicatory hearing. It is anticipated that requests for adjudicatory hearings which raise genuine issues and which are brought in good faith, not in an attempt to delay, will be acted upon favorably by the Regional Administrator or Administrator. Adjudicatory hearings should be commenced as soon as possible following granting of the request. The provision in these regulations for the convening of an adjudicatory hearing is an effort by EPA to provide a forum for resolution of major factual issues which may be involved in the more significant permit proceedings.

In paragraph (c) modification has been made to allow the Administrator or Regional Administrator, prior to the conclusion of the adjudicatory hearing and appeal process, to extend the duration of the previously issued permit until a final determination has been made. This change follows substantially the recommendation made by the City of Philadelphia.

Section 222.11—Conduct of adjudicatory hearings. The first sentence of this section has been modified to delete the word "any" and insert the words "a reasonable" to modify the time in which someone must request to be admitted as a party to an adjudicatory hearing. The reason for the change is that persons should not be allowed to wait until the last minute to enter an adjudicatory hearing and thus to possibly alter the issues which have been narrowed for consideration at that hearing. The last sentence of paragraph (a) is new. It clarifies that the EPA staff will automatically be considered a party to the adjudicatory hearing.

In paragraph (d), subparagraph (6) has been deleted. This had provided that the prehearing conference could include discussion of prehearing discovery. It was concluded that prehearing discovery in most instances would be inappropriate and would lengthen the hearing to be conducted pursuant to this section beyond the time contemplated when this section was originally drafted. Of course, the Presiding Officer may request that the parties undertake informal discovery to assist in the expedition of the actual hearing, but this discovery should not be overly formal or time-consuming.

There was a great deal of comment with respect to paragraph (e), setting forth the adjudicatory hearing procedures. Much of the comment went to the statement that the burden of proof shall be on the applicant in the case of adjudicatory hearings held pursuant to § 222.10. This subsection has been changed. It now provides that, in the case of adjudicatory hearings held pursuant to § 222.10(b)(1), the person filing the request under § 222.10(a) has the burden of going forward as to each issue raised by that request. This suggestion substantially follows the recommendation made by the City of Philadelphia. Furthermore, references to the burden of proof have been deleted since it was deemed inappropriate to attempt to allot the burden of proof in procedural regulations. The Legislative History of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, is clear that the overall burden of persuasion rests with the applicant for permit with respect to basic issues which must be satisfied for a permit to be issued.

Paragraph (e)(5) has been changed to provide that rulings of the Presiding Officer on the admissibility of evidence,

the propriety of cross-examination, and other procedural matters merely shall appear in the record. The prior statement that these rulings shall be final has been deleted since these issues can be clearly raised on appeal. And since interlocutory appeals are disallowed, there is no necessity for such a phrase.

In paragraph (f), which addresses the procedures to be followed after the close of the adjudicatory hearing, the page limitations on briefs and other documents have been revised to allow the filing of lengthier documents.

Section 222.12—Appeal to Administrator. Consistent with changes made to other sections of Part 222, in paragraph (a) the ten-day limitation begins to run after receipt of the determination of the Regional Administrator rather than after the determination itself. Also, in later subsections of this section, the page limitations have been expanded slightly to allow more opportunity to summarize and comment on the findings and conclusions of law.

Section 222.13—Computation of time. This section is new. It has been added to clarify the means by which calculation of time should be accomplished. The section is identical to 40 CFR § 125.44, which applies to National Pollutant Discharge Elimination System Permit proceedings.

PART 223

Revisions to this Part will be promulgated in the near future.

PART 224

Section 224.2—Reports. Specific language has been added to state the type of information that must be reported when an emergency dump at sea is made.

PART 225

Section 225.2—Review of Dredge Material Permits. The requirement that EPA respond to Corps of Engineers permit actions only after a notice of intent is received has been deleted, since a permit action may be terminated prior to that point in some cases, and EPA review would normally begin prior to issuance of a notice of intent.

PART 226

Revisions to this Part will be promulgated in the near future.

PART 227

Many of the comments severely criticized the lack of a definition for "trace contaminants", the basis upon which the trace contaminant levels were set, and the differences between the dredged material criteria and the criteria for other materials. A technical workshop was convened by EPA to discuss these issues. There was general agreement among the participants that the criteria should be based, wherever possible, on impacts of dumped materials on marine ecosystems, and that these impacts could be measured best by bioassays rather than by relying on determination of total amounts of specific constituents present in a waste. The full transcript of that workshop is included in the Final EIS.

It was recognized that dredged material is merely a special case of a material containing liquid, suspended particulate, and solid phases, and that, while bioassay techniques on liquid materials have been developed to the point where they can be applied on a routine basis, bioassay techniques for the suspended particulate and solid phases of materials are still in an advanced stage of research and are not yet available for routine use. Nevertheless, the participants agreed that the criteria should be based on solid phase bioassays, recognizing that there will be an interim period during which the procedures will have to be specified on a case-by-case basis, and that such interim procedures may be less reliable and more difficult to perform than procedures which will be developed in the future.

Sections of Part 227 have been revised to reflect the recommendations of the workshop; thus, all criteria are based on ecosystem impact rather than on assumptions regarding allowable deviations from normal ambient values. These revisions are consistent with the concept of "unreasonable degradation" in these regulations and are directed toward achieving the goal of preventing significant impact on the biota. The use of bioassay results for regulatory purposes will provide EPA with direct measurements of the impact of dumping materials, so that it will no longer be necessary to infer damage indirectly through measurements related to normal ambient values.

Substantial revisions have been made in §§ 227.6, 227.13, and Subpart G. Details of the specific changes are presented below in the discussion of those sections. In general, § 227.6 has been revised to use liquid, suspended particulate, and solid phase bioassays as the basis for determining trace contaminants; § 227.13 has been changed to require bioassay results to be used in determining whether or not dredged material is environmentally acceptable for ocean dumping; and Subpart G has been revised to include definitions of liquid, suspended particulate, and solid phases, and of initial mixing allowances and limiting permissible concentrations for both liquid and solid phases.

Section 227.1—Applicability. Paragraph (b) of this section has been changed to make all of § 227.6 as well as §§ 227.9 and 227.10 applicable to dredged material, in addition to the other sections already made applicable. This is consistent with changes made in §§ 227.6, 227.13, and Subpart G.

Section 227.6—Trace contaminants. This section has been completely redrafted in response to the many comments received and to reflect the agreements reached at the technical workshop called by EPA to discuss those comments received during the public comment period. The redrafted section differs from that in the proposed regulations published on June 28, 1976:

1. The Agency is providing a broad narrative interpretation of the term "trace contaminants." The term "trace contaminants" is used in the Convention only, not in the Act. When the contracting parties to the Convention define this term, the United States will be bound by that definition. Should the Convention adopt a definition requiring more stringent operational levels than the United States is using, these levels will have to be changed accordingly. In the meantime, the Act and the Convention can be enforced effectively by stating the basis for regulation of these constituents.

Section 227.6(b) provides in general terms that these constituents will be considered as trace contaminants only when they are present in such amounts and forms that they will cause no significant undesirable effects through either toxicity or bioaccumulation.

2. Section 227.6(c) states the criteria for special permits and for wastes which otherwise can be deemed environmentally acceptable under Subpart B. Paragraph (c) of § 227.6 does not define trace contaminants; it merely states what is acceptable for ocean dumping under the environmental criteria of Subpart B. The test to be applied on all wastes is the direct determination of the impact of these constituents present in a waste on the marine ecosystem, as measured by bioassay techniques.

For liquid wastes and the liquid phases of mixed wastes, it is assumed that all of these constituents present are in forms available to the biota. Section 227.6(c)(1) provides that constituents in the liquid phase will be considered environmentally acceptable (i.e., they qualify for special permits) if they conform to the EPA marine water quality criteria. These criteria are based on the most recent and comprehensive compilation of bioassay data presently available, and recommend permissible ambient levels to avoid either chronic toxicity or potential for bioaccumulation of toxic materials, whichever factor is more restrictive. Thus, by applying the marine water quality criteria to the liquid phase, it is practical to determine environmental impact through chemical analysis.

For mercury, however, the marine water quality criteria are set near the lowest ambient levels observed in ocean waters; ambient levels in many parts of the ocean deviate from this level significantly. Therefore, an allowance for an increase in mercury of 50 percent over the local ambient level after initial mixing is allowed. This is consistent with the existing criteria for both liquid and solid phases, which are based on the range and variation of historically observed values for mercury in ocean waters and sediments. It should be noted that "normal ambient concentrations" refers to concentrations that would be present were there no dumping in the area. It should also be noted that, within areas for which a natural ambient concentration has been identified, deviations in mercury concentration up to 100 percent are not uncommon; allowing for a change of 50 percent of the average ambient levels therefore falls within the range of devi-

ation which occurs naturally in ocean waters.

There are some organohalogens for which marine water quality criteria have not been set at this time. When such compounds are present in the liquid phase of a waste, bioassay data on those specific compounds must be presented by the applicant, either through his own efforts or from a search of the scientific literature. Alternatively, a bioassy may be performed on the waste itself rather than on these specific constituents, but such bioassays must be of such a nature as to provide data on chronic toxicity and bioaccumulation potential.

For suspended particulate and solid phases, however, the state-of-the-art has not yet advanced to the point where sediment quality criteria can be set. In fact, research on benthic bioassays is only now at the stage where interim procedures can be developed and used. Nevertheless, there was general agreement among the participants at the technical workshop that even the interim procedures now available provide much better information on the impact of solid phases of waste materials on the marine ecosystem than does any form of bulk analysis. Therefore, bioassays on the solid phase are called for in the criteria, recognizing that interim procedures must be used for a period of several months until standard procedures are developed by EPA and Corps of Engineers research activities. EPA and the Corps of Engineers will publish jointly, in the very near future, standard benthic bioassay procedures. Until that time, guidance on interim procedures will be supplied by the Regional Administrator or the District Engineer. Interim and final benthic bioassay procedures acceptable for implementation of this section will deal with the chronic toxic effects or the bioaccumulation of mercury, cadmium, organohalogens, oils and greases.

The criterion for acceptability of a waste based on the solid phase bioassay is absence of significant difference between the control bioassay and the test bioassay due to the presence of any of the constituents listed in this section.

This section also recognizes that there may be carcinogens, mutagens, and teratogens, for which water quality criteria do not presently exist. In such cases, special studies may be required to establish appropriate limits. It is the intent of this section that such studies will be required, unless there is sufficient information in the scientific literature for the Regional Administrator to determine acceptable levels of these constituents for ocean dumping. If there is insufficient information in the scientific literature and the applicant is unwilling to conduct special studies, a special permit will be denied under § 227.5(c), which prohibits the dumping of materials whose properties are insufficiently described to permit application of the Criteria.

3. Provision is made for the continuing use of the existing numerical levels for solid phases as an interim measure for those cases in which satisfactory interim bioassay procedures are not available.

The present levels allow about a 50 percent deviation from normal ambient values. This is a very stringent requirement and it should be retained as a basic requirement for use when further information is not available. The language has, however, been changed to allow the application, in the case of solid materials, of a limit not more than 50 percent greater than the normal ambient value in the vicinity of the proposed dump site. This is in response to comments pointing out that the data base on which these criteria were set is quite small and may not be representative of actual oceanic sediments which may contain significantly lower concentrations of these materials than is reflected in the numerical criteria.

This section, as redrafted, applies to all materials to be dumped, including dredged materials. The terms "liquid phase", "suspended particulate", and "solid phase" are defined in § 227.32, and apply to all materials containing soluble and insoluble materials.

Section 227.7—Limits established for specific wastes or waste constituents.

Paragraph (a) has been modified to clarify its application only to liquid materials immiscible with sea-water, not those which may interact with seawater. Paragraph (c) has been changed to clarify that the intent of the paragraph is to protect human health and that of the marine ecosystem. Paragraph (d) has been changed to include a requirement for no more than 10 percent change in acidity or alkalinity for neutralization of wastes.

Section 227.10—Hazards to fishing, navigation, shorelines, and beaches. This section has been changed to include the term "unacceptable" interference or damage rather than "no" interference or damage. This change was made in response to comments which pointed out the impossibility of proving that there is no possibility of interference or damage. Applicants will be required to present reasonable evidence that interference or damage will be avoided, and the Regional Administrator will have discretion to determine what is "unacceptable".

Section 227.13—Dredged materials. This section has been completely redrafted in response to comments pointing out that the dredged material criteria were not comparable to those for other materials. As redrafted, dredged material, as well as all other wastes containing liquid, suspended particulate and solid phases, must meet the requirements of §§ 227.5, 227.6, 227.9, 227.10, 227.13, and Subpart G, in order to be environmentally acceptable for ocean disposal.

An initial screening procedure is incorporated which is similar to the requirement of § 227.12 for inert natural wastes, except that the exclusions in § 227.13 are more specific than those in § 227.12. The rationale for these exclusions is presented in the final EIS. Dredged materials which cannot meet these requirements are subject to further testing of both the liquid and solid phases. To be environmentally acceptable for ocean dumping, the liquid phase, suspended particulate phase, and solid phase must meet both the trace contaminant requirements of § 227.6 and the Limiting Permissible Concentration requirements of § 227.27.

Since the concepts of liquid phase, suspended particulate phase, and solid phase apply to all multiphase materials, the definition of the liquid phase for dredged material (i.e., the elutriate) has been removed from § 227.13 and incorporated in the definitions of Subpart G as part of § 227.32.

Section 227.15—Factors considered in determining the need for ocean dumping. Paragraph (a) has been changed to require that treatment be useful as well as feasible. Paragraph (c) has been changed to include a provision for evaluating risks to the environment for the use of alternatives. This change is also reflected in § 227.16.

Section 227.18—Factors considered. A requirement for considering impact on potential recreational and commercial use is included.

Section 227.19—Assessment of impact. A requirement for assessing the impact of alternatives is included.

Section 227.27—Limiting Permissible Concentration (LPC). This section has been redrafted to define LPC for the liquid, suspended particulate, and solid phases. The liquid phase LPC has been associated, wherever possible, with the applicable marine water quality criteria, and the suspended particulate and solid phases have been based on the avoidance of overall chronic toxicity after allowance for initial dispersion. Procedures for conducting the appropriate bioassays will be published in the near future by EPA and the Corps of Engineers. Until such procedures are published, interim guidance can be obtained from the Regional Administrator or the District Engineer.

Some commenters pointed out that the proposed regulations do not explicitly require analysis of wastes for those constituents listed in Annex II of the Convention. EPA has not specifically enumerated these constituents since it is not necessary to do so in order to determine whether or not a waste is environmentally acceptable for dumping. Section 227.27(a)(1) requires compliance with all applicable marine water quality criteria; there are criteria for all materials listed in Annex II, except fluorides. Section 227.27(a)(2) requires a bioassay to be conducted on the waste, which will reveal toxic levels of any fluorides present, as well as of other chemical constituents which, though not listed in the Convention, may be toxic. The purpose of the Act and the Convention is to prevent unacceptable or unreasonable degradation of the marine environment. The combination of bioassay procedures specified in the criteria provide information on adverse impact directly for the entire waste. Thus, the presence or absence of any specific constituent, other than those listed in Section 227.6, is not a significant factor as long as the overall impact of the waste is known.

A provision has been added in this section to allow for changes in the applica-

tion factor used to determine the LPC if there is reasonable scientific evidence on a specific waste to support such a claim. When such evidence is presented, on this or other scientific aspects of the criteria, EPA may convene an appropriate scientific review panel to examine the reasonableness of the evidence prior to taking action.

Section 227.29—Initial mixing. Initial mixing for the solid phase is included. Field data and mathematical models for predicting dispersion may be used where available; when they are not available, solid phases are assumed to be evenly distributed over the ocean bottom in an area equivalent to that of the release zone. This is an assumption, but it is a conservative one which would err on the side of environmental protection. Provision is also made in this section for using different approaches to initial mixing based on reasonable scientific evidence in specific cases.

Section 227.30—High-level radioactive wastes. It is noted that this definition, which is given in the Act, is more restrictive than that provisionally recommended by the International Atomic Energy Agency, which is the minimum standard binding on Contracting Parties to the Convention.

Section 227.31—Applicable marine water quality criteria. This is a new section added to define the applicable marine water quality criteria as being the criteria presented for marine waters in the EPA publication "Quality Criteria for Water" as amended by subsequent publications.

Section 227.32—Liquid, suspended particulate, and solid phases of materials. This is a new section added to define, for the purpose of these regulations, how liquid, suspended particulate, and solid phases are determined for different types of materials. Because some materials may interact with seawater, a general provision is included to give the Regional Administrator direction to require the use of elutriation with seawater when he has reason to believe that the elutriation procedure may reveal toxic effects which might otherwise remain hidden. These definitions apply to any multi-phase material regardless of origin; i.e., sewage sludge as well as dredged material.

The definition of the liquid phase of dredged material is the same as the definition of the elutriate in § 227.13(c) of the regulations proposed on June 28, 1976. For other materials containing both soluble and insoluble matter, the relative proportions of waste material and seawater are to be determined by EPA on a case-by-case basis. This gives EPA discretion to select the best proportions for measuring the maximum effect a material might have when dumped in seawater.

PART 228

Section 228.2—Definitions. The first sentence in this section has been changed to make that sentence consistent with other statements in Part 228. The term "disposal site" means an interim or final approved site, since the conditions of Part 228 clearly apply to those interim sites for which final Environmental Impact Statements have not yet been conducted and for which final designations, therefore, have yet to be made.

Section 228.4—Procedures for designation of sites. Paragraph (e) of this section has been revised in response to criticisms concerning the proposed procedures for designation of dredged material disposal sites. This section now explicitly states that EPA will designate dredged material disposal sites and describes the procedures that will be used.

These procedures are the same that are to be used in the designation of disposal sites for the dumping of materials under special and interim permits. The Act allows the Corps of Engineers to use other sites than those recommended by EPA when the use of EPA-designated sites is not feasible. This section requires that the same criteria be used by the Corps of Engineers in site designation as are used by EPA.

Section 228.12—Delegation of management authority for interim ocean dumping sites. The Coast Guard has withdrawn its request to have disposal sites reoriented to use LORAN-C time delay coordinates, and this section has been changed accordingly. The dredged material sites designated in § 228.4 have been added to the list of sites in the table following § 228.12.

ENVIRONMENTAL AND INFLATIONARY IMPACT STATEMENTS

Although the Agency is not required by law to prepare an Environmental Impact Statement in connection with revision of the regulations and criteria pertaining to ocean disposal, it has chosen to prepare such a statement with respect to the proposed revision to Part 227. See 39 FR 37419 (October 21, 1974). A final Environmental Impact Statement has been prepared and is available for inspection in the office noted in the last paragraph of this preamble. In addition, there are a limited number of the statements available to persons who have an interest in reviewing that document. Requests for copies should be sent to the address noted below.

Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by agencies of the Executive Branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated; OMB Circular A-107 (January 28, 1975) prescribes guidelines for the identification and evaluation of major proposals requiring preparation of inflationary impact certifications. The Administrator has directed that EPA regulatory actions will require certification when they are likely to result in: (1) annualized costs exceeding $100,000,000; (2) total additional costs of production of any major project exceeding 5 percent of selling price; or (3) increase in net national energy consumption by the equivalent of 25,000 barrels of oil per day. None of these limiting criteria is exceeded by the proposed revisions announced today and, therefore, an inflationary impact statement has not been prepared.

These regulations and criteria will become effective February 10, 1977, and all ocean dumping permits issued after that date must be in compliance with these regulations and criteria.

The Agency will consider all written comments on these final regulations and criteria in making any future revisions. Comments should be provided in triplicate and addressed to Chief, Marine Protection Branch (WH-548), Oil and Special Materials Control Division, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.

(33 U.S.C. 1412 and 1418.)

Dated: December 30, 1976.

RUSSELL E. TRAIN,
Administrator.

Subchapter H of Chapter I of Title 40 is hereby amended to read as follows:

SUBCHAPTER H—OCEAN DUMPING

Part

220 General.
221 Applications for Ocean Dumping Permits under section 102 of the Act.
222 Action on Ocean Dumping Permit applications under section 102 of the Act.
223 Contents of permits.
224 Records and reports required of ocean dumping permittees under section 102 of the Act.
225 Corps of Engineers Dredged Material Permits.
226 Enforcement.
227 Criteria for the evaluation of permit applications for ocean dumping of materials.
228 Criteria for the management of disposal sites for ocean dumping.
229 General permits.

PART 220—GENERAL

Sec.

220.1 Purpose and scope.
220.2 Definitions.
220.3 Categories of permits.
220.4 Authorities to issue permits.

AUTHORITY: 33 U.S.C. 1412 and 1418.

§ 220.1 Purpose and scope.

(a) *General.* This Subchapter H establishes procedures and criteria for the issuance of permits by EPA pursuant to section 102 of the Act. This Subchapter H also establishes the criteria to be applied by the Corps of Engineers in its review of activities involving the transportation of dredged material for the purpose of dumping it in ocean waters pursuant to section 103 of the Act. Except as may be authorized by a permit issued pursuant to this Subchapter H, or pursuant to section 103 of the Act, and subject to other applicable regulations promulgated pursuant to section 108 of the Act:

(1) No person shall transport from the United States any material for the purpose of dumping it into ocean waters;

(2) In the case of a vessel or aircraft registered in the United States or flying the United States flag or in the case of a United States department, agency, or in-

strumentality, no person shall transport from any location any material for the purpose of dumping it into ocean waters; and

(3) No person shall dump any material transported from a location outside the United States:

(i) Into the territorial sea of the United States; or

(ii) Into a zone contiguous to the territorial sea of the United States, extending to a line twelve nautical miles seaward from the base line from which the breadth of the territorial sea is measured, to the extent that it may affect the territorial sea or the territory of the United States.

(b) *Relationship to international agreements.* In accordance with section 102(a) of the Act, the regulations and criteria included in this Subchapter H apply the standards and criteria binding upon the United States under the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter to the extent that application of such standards and criteria do not relax the requirements of the Act.

(c) *Exclusions.* (1) *Fish wastes.* This Subchapter H does not apply to, and no permit hereunder shall be required for, the transportation for the purpose of dumping or the dumping in ocean waters of fish wastes unless such dumping occurs in:

(i) Harbors or other protected or enclosed coastal waters; or

(ii) Any other location where the Administrator finds that such dumping may reasonably be anticipated to endanger health, the environment or ecological systems.

(2) *Fisheries resources.* This Subchapter H does not apply to, and no permit hereunder shall be required for, the placement or deposit of oyster shells or other materials for the purpose of developing, maintaining or harvesting fisheries resources; provided, such placement or deposit is regulated under or is a part of an authorized State or Federal program certified to EPA by the agency authorized to enforce the regulation, or to administer the program, as the case may be; and provided further, that the National Oceanic and Atmospheric Administration, the U.S. Coast Guard, and the U.S. Army Corps of Engineers concur in such placement or deposit as it may affect their responsibilities and such concurrence is evidenced by letters of concurrence from these agencies.

(3) *Vessel propulsion and fixed structures.* This Subchapter H does not apply to, and no permit hereunder shall be required for:

(i) Routine discharges of effluent incidental to the propulsion of vessels or the operation of motor-driven equipment on vessels; or

(ii) Construction of any fixed structure or artificial island, or the intentional placement of any device in ocean waters or on or in the submerged land beneath such waters, for a purpose other than disposal when such construction or such placement is otherwise regulated by Federal or State law or made pursuant to an authorized Federal or State program certified to EPA by the agency authorized to enforce the regulations or to administer the program, as the case may be.

(4) *Emergency to safeguard life at sea.* This Subchapter H does not apply to, and no permit hereunder shall be required for, the dumping of material into ocean waters from a vessel or aircraft in an emergency to safeguard life at sea to the extent that the person owning or operating such vessel or aircraft files timely reports required by § 224.2(b).

§ 220.2 Definitions.

As used in this Subchapter H:

(a) "Act" means the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1401);

(b) "FWPCA" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251);

(c) "Ocean" or "ocean waters" means those waters of the open seas lying seaward of the baseline from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639); this definition includes the waters of the territorial sea, the contiguous zone and the oceans as defined in section 502 of the FWPCA.

(d) "Material" means matter of any kind or description, including, but not limited to, dredged material, solid waste, incinerator residue, garbage, sewage, sewage sludge, munitions, radiological, chemical, and biological warfare agents, radioactive materials, chemicals, biological and laboratory waste, wreck or discarded equipment, rock, sand, excavation debris, industrial, municipal, agricultural, and other waste, but such term does not mean sewage from vessels within the meaning of section 312 of the FWPCA. Oil within the meaning of section 311 of the FWPCA shall constitute "material" for purposes of this Subchapter H only to the extent that it is taken on board a vessel or aircraft for the primary purpose of dumping.

(e) "Dumping" means a disposition of material: Provided, That it does not mean a disposition of any effluent from any outfall structure to the extent that such disposition is regulated under the provisions of the FWPCA, under the provisions of section 13 of the River and Harbor Act of 1899, as amended (33 U.S.C. 407), or under the provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), nor does it mean a routine discharge of effluent incidental to the propulsion of, or operation of motor-driven equipment on, vessels: Provided further, That it does not mean the construction of any fixed structure or artificial island nor the intentional placement of any device in ocean waters or on or in the submerged land beneath such waters, for a purpose other than disposal, when such construction or such placement is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program; And provided further, That it does not include the deposit of oyster shells, or other materials when such deposit is made for the purpose of developing, maintaining, or harvesting fisheries resources and is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program.

(f) "Sewage Treatment Works" means municipal or domestic waste treatment facilities of any type which are publicly owned or regulated to the extent that feasible compliance schedules are determined by the availability of funding provided by Federal, State, or local governments.

(g) "Criteria" means the criteria set forth in Part 227 of this Subchapter H.

(h) "Dredged Material Permit" means a permit issued by the Corps of Engineers under section 103 of the Act (see 33 CFR 209.120) and any Federal projects reviewed under section 103(e) of the Act (see 33 CFR 209.145).

(i) Unless the context otherwise requires, all other terms shall have the meanings assigned to them by the Act.

§ 220.3 Categories of permits.

This § 220.3 provides for the issuance of general, special, emergency, interim and research permits for ocean dumping under section 102 of the Act.

(a) *General permits.* General permits may be issued for the dumping of certain materials which will have a minimal adverse environmental impact and are generally disposed of in small quantities, or for specific classes of materials that must be disposed of in emergency situations. General permits may be issued on application of an interested person in accordance with the procedures of Part 221 or may be issued without such application whenever the Administrator determines that issuance of a general permit is necessary or appropriate.

(b) *Special permits.* Special permits may be issued for the dumping of materials which satisfy the criteria and shall specify an expiration date no later than three years from the date of issue.

(c) *Emergency permits.* For any of the materials listed in § 227.6, except as trace contaminants, after consultation with the Department of State with respect to the need to consult with parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter that are likely to be affected by the dumping, emergency permits may be issued to dump such materials where there is demonstrated to exist an emergency requiring the dumping of such materials, which poses an unacceptable risk relating to human health and admits of no other feasible solution. As used herein, "emergency" refers to situations requiring action with a marked degree of urgency, but is not limited in its application to circumstances requiring immediate action. Emergency permits may be issued for other materials, except those prohibited by § 227.5, without consultation with the Department of State

when the Administrator determines that there exists an emergency requiring the dumping of such materials which poses an unacceptable risk to human health and admits of no other feasible solution.

(d) *Interim permits.* Prior to April 23, 1978, interim permits may be issued in accordance with Subpart A of Part 227 to dump materials which are not in compliance with the environmental impact criteria of Subpart B of Part 227, or which would cause substantial adverse effects as determined in accordance with the criteria of Subparts D or E of Part 227 or for which an ocean disposal site has not been designated on other than an interim basis pursuant to Part 228 of this Subchapter H; provided, however, no permit may be issued for the ocean dumping of any materials listed in § 227.5, or for any of the materials listed in § 227.6, except as trace contaminants; provided further that the compliance date of April 23, 1978, does not apply to the dumping of wastes by existing dumpers when the Regional Administrator determines that the permittee has exercised his best efforts to comply with all requirements of a special permit by April 23, 1978, and has an implementation schedule adequate to allow phasing out of ocean dumping or compliance with all requirements necessary to receive a special permit by December 31, 1981, at the latest. No interim permit will be granted for the dumping of waste from a facility which has not previously dumped wastes in the ocean (except when the facility is operated by a municipality now dumping such wastes), from a new facility, or for the dumping of an increased amount of waste from the expansion or modification of an existing facility, after the effective date of these regulations. No interim permit will be issued for the dumping of any material in the ocean for which an interim permit had previously been issued unless the applicant demonstrates that he has exercised his best efforts to comply with all provisions of the previously issued permits.

(e) *Research permits.* Research permits may be issued for the dumping of any materials, other than materials specified in § 227.5 or for any of the materials listed in § 227.6 except as trace contaminants, unless subject to the exclusion of § 227.6(g), into the ocean as part of a research project when it is determined that the scientific merit of the proposed project outweighs the potential environmental or other damage that may result from the dumping. Research permits shall specify an expiration date no later than 18 months from the date of issue.

(f) *Permits for incineration at sea.* Permits for incineration of wastes at sea will be issued only as research permits or as interim permits until specific criteria to regulate this type of disposal are promulgated, except in those cases where studies on the waste, the incineration method and vessel, and the site have been conducted and the site has been designated for incineration at sea in accordance with the procedures of § 228.4(b). In all other respects the requirements of Parts 220–228 apply.

§ 220.4 Authorities to issue permits.

(a) *Determination by Administrator.* The Administrator, or such other EPA employee as he may from time to time designate in writing, shall issue, deny, modify, revoke, suspend, impose conditions on, initiate and carry out enforcement activities and take any and all other actions necessary or proper and permitted by law with respect to general, special, emergency, interim, or research permits.

(b) *Authority delegated to Regional Administrators.* Regional Administrators, or such other EPA employees as they may from time to time designate in writing, are delegated the authority to issue, deny, modify, revoke, suspend, impose conditions on, initiate and carry out enforcement activities, and take any and all other actions necessary or proper and permitted by law with respect to special and interim permits for:

(1) The dumping of material in those portions of the territorial sea which are subject to the jurisdiction of any State within their respective Regions, and in those portions of the contiguous zone immediately adjacent to such parts of the territorial sea; and in the oceans with respect to approved waste disposal sites designated pursuant to Part 228 of this Subchapter H, and

(2) Where transportation for dumping is to originate in one Region and dumping is to occur at a location within another Region's jurisdiction conferred by order of the Administrator, the Region in which transportation is to originate shall be responsible for review of the application and shall prepare the technical evaluation of the need for dumping and alternatives to ocean dumping. The Region having jurisdiction over the proposed dump site shall take all other actions required by this Subchapter H with respect to the permit application, including without limitation, determining to issue or deny the permit, specifying the conditions to be imposed, and giving public notice. If both Regions do not concur in the disposition of the permit application, the Administrator will make the final decision on all issues with respect to the permit application, including without limitation, issuance or denial of the permit and the conditions to be imposed.

(c) *Review of Corps of Engineers Dredged Material Permits.* Regional Administrators have the authority to review, to approve or to disapprove or to propose conditions upon Dredged Material Permits for ocean dumping of dredged material at locations within the respective Regional jurisdictions. Regional jurisdiction to act under this paragraph (c) of § 220.4 is determined by the Administrator in accordance with § 228.4(e).

PART 221—APPLICATIONS FOR OCEAN DUMPING PERMITS UNDER SECTION 102 OF THE ACT

Sec.
221.1 Applications for permits.
221.2 Other information.
221.3 Applicant.
221.4 Adequacy of information in application.
221.5 Processing fees.

AUTHORITY: 33 U.S.C. 1412 and 1418.

§ 221.1 Applications for permits.

Applications for general, special, emergency, interim and research permits under section 102 of the Act may be filed with the Administrator or the appropriate Regional Administrator, as the case may be, authorized by Section 220.4 to act on the application. Applications shall be made in writing and shall contain, in addition to any other material which may be required, the following:

(a) Name and address of applicant;

(b) Name of the person or firm transporting the material for dumping, the name of the person(s) or firm(s) producing or processing all materials to be transported for dumping, and the name or other identification, and usual location, of the conveyance to be used in the transportation and dumping of the material to be dumped, including information on the transporting vessel's communications and navigation equipment;

(c) Adequate physical and chemical description of material to be dumped, including results of tests necessary to apply the Criteria, and the number, size, and physical configuration of any containers to be dumped;

(d) Quantity of material to be dumped;

(e) Proposed dates and times of disposal;

(f) Proposed dump site, and in the event such proposed dump site is not a dump site designated in this Subchapter H, detailed physical, chemical and biological information relating to the proposed dump site and sufficient to support its designation as a site according to the procedures of Part 228 of this Subchapter H;

(g) Proposed method of releasing the material at the dump site and means by which the disposal rate can be controlled and modified as required;

(h) Identification of the specific process or activity giving rise to the production of the material;

(i) Description of the manner in which the type of material proposed to be dumped has been previously disposed of by or on behalf of the person(s) or firm(s) producing such material;

(j) A statement of the need for the proposed dumping and an evaluation of short and long term alternative means of disposal, treatment or recycle of the material. Means of disposal shall include without limitation, landfill, well injection, incineration, spread of material over open ground; biological, chemical or physical treatment; recovery and recycle

of material within the plant or at other plants which may use the material, and storage. The statement shall also include an analysis of the availability and environmental impact of such alternatives; and

(k) An assessment of the anticipated environmental impact of the proposed dumping, including without limitation, the relative duration of the effect of the proposed dumping on the marine environment, navigation, living and non-living marine resource exploitation, scientific study, recreation and other uses of the ocean.

§ 221.2 Other information.

In the event the Administrator, Regional Administrator, or a person designated by either to review permit applications, determines that additional information is needed in order to apply the Criteria, he shall so advise the applicant in writing. All additional information requested pursuant to this § 221.2 shall be deemed part of the application and for purposes of applying the time limitation of §222.1, the application will not be considered complete until such information has been filed.

§ 221.3 Applicant.

Any person may apply for a permit under this Subchapter H even though the proposed dumping may be carried on by a permittee who is not the applicant; provided however, that the Administrator or the Regional Administrator, as the case may be, may, in his discretion, require that an application be filed by the person or firm producing or processing the material proposed to be dumped. Issuance of a permit will not excuse the permittee from any civil or criminal liability which may attach by virtue of his having transported or dumped materials in violation of the terms or conditions of a permit, notwithstanding that the permittee may not have been the applicant.

§ 221.4 Adequacy of information in application.

No permit issued under this Subchapter H will be valid for the transportation or dumping of any material which is not accurately and adequately described in the application. No permittee shall be relieved of any liability which may arise as a result of the transportation or dumping of material which does not conform to information provided in the application solely by virtue of the fact that such information was furnished by an applicant other than the permittee.

§ 221.5 Processing fees.

(a) A processing fee of $1,000 will be charged in connection with each application for a permit for dumping in an existing dump site designated in this Subchapter H.

(b) A processing fee of an additional $3,000 will be charged in connection with each application for a permit for dumping in a dump site other than a dump site designated in this Subchapter H.

(c) Notwithstanding any other provision of this § 221.5, no agency or instrumentality of the United States or of a State or local government will be required to pay the processing fees specified in paragraphs (a) and (b) of this section.

PART 222—ACTION ON OCEAN DUMPING PERMIT APPLICATIONS UNDER SECTION 102 OF THE ACT

Sec.

222.1 General.
222.2 Tentative determinations.
222.3 Notice of applications.
222.4 Initiation of hearings.
222.5 Time and place of hearings.
222.6 Presiding Officer.
222.7 Conduct of public hearing.
222.8 Recommendations of Presiding Officer.
222.9 Issuance of permits.
222.10 Appeal to adjudicatory hearing.
222.11 Conduct of adjudicatory hearings.
222.12 Appeal to Administrator.
222.13 Computation of time.

AUTHORITY: 33 U.S.C. 1412 and 1418.

§ 222.1 General.

Decisions as to the issuance, denial, or imposition of conditions on general, special, emergency, interim and research permits under section 102 of the Act will be made by application of the criteria of Parts 227 and 228. Final action on any application for a permit will, to the extent practicable, be taken within 180 days from the date a complete application is filed.

§ 222.2 Tentative determinations.

(a) Within 30 days of the receipt of his initial application, an applicant shall be issued notification of whether his application is complete and what, if any, additional information is required. No such notification shall be deemed to foreclose the Administrator or the Regional Administrator, as the case may be, from requiring additional information at any time pursuant to § 221.2.

(b) Within 30 days after receipt of a completed permit application, the Administrator or the Regional Administrator, as the case may be, shall publish notice of such application including a tentative determination with respect to issuance or denial of the permit. If such tentative determination is to issue the permit, the following additional tentative determinations will be made:

(1) Proposed time limitations, if any;

(2) Proposed rate of discharge from the barge or vessel transporting the waste;

(3) Proposed dumping site; and

(4) A brief description of any other proposed conditions determined to be appropriate for inclusion in the permit in question.

§ 222.3 Notice of applications.

(a) *Contents.* Notice of every complete application for a general, special, interim, emergency and research permit shall, in addition to any other material, include the following:

(1) A summary of the information included in the permit application;

(2) Any tentative determinations made pursuant to paragraph (b) of § 222.2;

(3) A brief description of the procedures set forth in § 222.5 for requesting a public hearing on the application including specification of the date by which requests for a public hearing must be filed;

(4) A brief statement of the factors considered in reaching the tentative determination with respect to the permit and, in the case of a tentative determination to issue the permit, the reasons for the choice of the particular permit conditions selected; and

(5) The location at which interested persons may obtain further information on the proposed dumping, including copies of any relevant documents.

(b) *Publication.*

(1) *Special, interim and research permits.* Notice of every complete application for special, interim and research permits shall be given by:

(i) Publication in a daily newspaper of general circulation in the State in closest proximity to the proposed dump site; and

(ii) Publication in a daily newspaper of general circulation in the city in which is located the office of the Administrator or the Regional Administrator, as the case may be, giving notice of the permit application.

(2) *General permits.* Notice of every complete application for a general permit or notice of action proposed to be taken by the Administrator to issue a general permit, without an application, shall be given by publication in the FEDERAL REGISTER.

(3) *Emergency permits.* Notice of every complete application for an emergency permit shall be given by publication in accordance with paragraphs (b)(1) (i) and (ii) of this section; provided, however, that no such notice and no tentative determination in accordance with § 222.2 shall be required in any case in which the Administrator determines:

(i) That an emergency, as defined in paragraph (c) of § 220.3 exists;

(ii) That the emergency poses an unacceptable risk relating to human health;

(iii) That the emergency admits of no other feasible solution; and

(iv) That the public interest requires the issuance of an emergency permit as soon as possible.

Notice of any determination made by the Administrator pursuant to this paragraph (b)(3) shall be given as soon as practicable after the issuance of the emergency permit by publication in accordance with paragraphs (b)(1) (i) and (ii) and with paragraphs (a), (c)–(i) of this section.

(c) *Copies of notice sent to specific persons.* In addition to the publication of notice required by paragraph (b) of this section, copies of such notice will be mailed by the Administrator or the Regional Administrator, as the case may be, to any person, group or Federal, State or local agency upon request. Any such request may be a standing request for copies of such notices and shall be submitted in writing to the Administrator or to any Regional Administrator and shall relate to all or any class of permit applications which may be acted upon by the Admin-

istrator or such Regional Administrator, as the case may be.

(d) *Copies of notice sent to States.* In addition to the publication of notice required by paragraph (b) of this section, copies of such notice will be mailed to the State water pollution control agency and to the State agency responsible for carrying out the Coastal Zone Management Act, if such agency exists, for each coastal State within 500 miles of the proposed dumping site.

(e) *Copies of notice sent to Corps of Engineers.* In addition to the publication of notice required by paragraph (b) of this section, copies of such notice will be mailed to the office of the appropriate District Engineer of the U.S. Army Corps of Engineers for purposes of section 106 (c) of the Act (pertaining to navigation, harbor approaches, and artificial islands on the outer continental shelf).

(f) *Copies of notice sent to Coast Guard.* In addition to the publication of notice required by paragraph (b) of this section, copies of such notice will be sent to the appropriate district office of the U.S. Coast Guard for review and possible suggestion of additional conditions to be included in the permit to facilitate surveillance and enforcement.

(g) *Fish and Wildlife Coordination Act.* The Fish and Wildlife Coordination Act, Reorganization Plan No. 4 of 1970, and the Act require that the Administrator or the Regional Administrator, as the case may be, consult with appropriate regional officials of the Departments of Commerce and Interior, the Regional Director of the NMFS–NOAA, and the agency exercising administrative jurisdiction over the fish and wildlife resources of the States subject to any dumping prior to the issuance of a permit under this Subchapter H. Copies of the notice shall be sent to the persons noted in paragraph (g) of this section.

(h) *Copies of notice sent to Food and Drug Administration.* In addition to the publication of notice required by paragraph (b) of this section, copies of such notice will be mailed to Food and Drug Administration, Shellfish Sanitation Branch (HF–417), 200 C Street SW., Washington, D.C. 20204.

(i) *Failure to give certain notices.* Failure to send copies of any public notice in accordance with paragraphs (c) through (h) of this section shall not invalidate any notice given pursuant to this section nor shall such failure invalidate any subsequent administrative proceeding.

(j) *Failure of consulted agency to respond.* Unless advice to the contrary is received from the appropriate Federal or State agency within 30 days of the date copies of any public notice were dispatched to such agency, such agency will be deemed to have no objection to the issuance of the permit identified in the public notice.

§ 222.4 Initiation of hearings

(a) In the case of any permit application for which public notice in advance of permit issuance is required in accordance with paragraph (b) of § 222.3, any person may, within 30 days of the date on which all provisions of paragraph (b) of § 222.3 have been complied with, request a public hearing to consider the issuance or denial of, or the conditions to be imposed upon, such permit. Any such request for a public hearing shall be in writing, shall identify the person requesting the hearing, shall state with particularity any objections to the issuance or denial of, or to the conditions to be imposed upon, the proposed permit, and shall state the issues which are proposed to be raised by such person for consideration at a hearing.

(b) Whenever (1) a written request satisfying the requirements of paragraph (a) of this section has been received and the Administrator or Regional Administrator, as the case may be, determines that such request presents genuine issues, or (2) the Administrator or Regional Administrator, as the case may be, determines in his discretion that a public hearing is necessary or appropriate, the Administrator or the Regional Administrator, as the case may be, will set a time and place for a public hearing in accordance with § 222.5, and will give notice of such hearing by publication in accordance with § 222.3.

(c) In the event the Administrator or the Regional Administrator, as the case may be, determines that a request filed pursuant to paragraph (a) of this section does not comply with the requirements of such paragraph (a) or that such request does not present substantial issues of public interest, he shall advise, in writing, the person requesting the hearing of his determination.

§ 222.5 Time and place of hearings.

Hearings shall be held in the State in closest proximity to the proposed dump site, whenever practicable, and shall be set for the earliest practicable date no less than 30 days after the receipt of an appropriate request for a hearing or a determination by the Administrator or the Regional Administrator, as the case may be, to hold such a hearing without such a request.

§ 222.6 Presiding Officer.

A hearing convened pursuant to this Subchapter H shall be conducted by a Presiding Officer. The Administrator or Regional Administrator, as the case may be, may designate a Presiding Officer. For adjudicatory hearings held pursuant to § 222.11, the Presiding Officer shall be an Administrative Law Judge.

§ 222.7 Conduct of public hearing.

The Presiding Officer shall be responsible for the expeditious conduct of the hearing. The hearing shall be an informal public hearing, not an adversary proceeding, and shall be conducted so as to allow the presentation of public comments. When the Presiding Officer determines that it is necessary or appropriate, he shall cause a suitable record, which may include a verbatim transcript, of the proceedings to be made. Any person may appear at a public hearing convened pursuant to § 222.5 whether or not he requested the hearing, and may be represented by counsel or any other authorized representative. The Presiding Officer is authorized to set forth reasonable restrictions on the nature or amount of documentary material or testimony presented at a public hearing, giving due regard to the relevancy of any such information, and to the avoidance of undue repetitiveness of information presented.

§ 222.8 Recommendations of Presiding Officer.

Within 30 days following the adjournment of a public hearing convened pursuant to § 222.5, or within such additional period as the Administrator or the Regional Administrator, as the case may be, may grant to the Presiding Officer for good cause shown, and after full consideration of the comments received at the hearing, the Presiding Officer will prepare and forward to the Administrator or to the Regional Administrator, as the case may be, written recommendations relating to the issuance or denial of, or conditions to be imposed upon, the proposed permit and the record of the hearing, if any. Such recommendations shall contain a brief statement of the basis for the recommendations including a description of evidence relied upon in justification either (1) for permit provisions which differ from any tentative determinations issued prior to the hearing or (2) for any permit denial. Copies of the Presiding Officer's recommendations shall be provided to any interested person on request, without charge. Copies of the record will be provided in accordance with 40 CFR 2.

§ 222.9 Issuance of permits.

(a) Within 30 days following receipt of the Presiding Officer's recommendations or, where no hearing has been held, following the close of the 30-day period for requesting a hearing as provided in § 222.4, the Administrator or the Regional Administrator, as the case may be, shall make a determination with respect to the issuance, denial, or imposition of conditions on, any permit applied for under this Subchapter H and shall give notice to the applicant and to all persons who registered their attendance at the hearing by providing their name and mailing address, if any, by mailing a letter stating the determination and stating the basis therefor in terms of the Criteria.

(b) Any determination to issue or deny any permit after a hearing held pursuant to § 222.7 shall take effect no sooner than:

(1) 10 days after notice of such determination is given if no request for an adjudicatory hearing is filed in accordance with § 222.10(a); or

(2) 20 days after notice of such determination is given if a request for an adjudicatory hearing is filed in accordance with paragraph (a) of § 222.10 and the Administrator or the Regional Administrator, as the case may be, denies such request in accordance with paragraph (c) of § 222.10; or

(3) The date on which a final determination has been made following an

adjudicatory hearing held pursuant to § 222.11.

(c) The Administrator or Regional Administrator, as the case may be, may extend the term of a previously issued permit pending the conclusion of the proceedings held pursuant to §§ 222.7–222.9.

(d) A copy of each permit issued shall be sent to the appropriate District Office of the U.S. Coast Guard.

§ 222.10 Appeal to adjudicatory hearing.

(a) Within 10 days following the receipt of notice of the issuance or denial of any permit pursuant to § 222.9 after a hearing held pursuant to § 222.7, any interested person who participated in such hearing may request that an adjudicatory hearing be held pursuant to § 222.11 for the purpose of reviewing such determination, or any part thereof. Any such request for an adjudicatory hearing shall be filed with the Administrator or the Regional Administrator, as the case may be, and shall be in writing, shall identify the person requesting the adjudicatory hearing and shall state with particularity the objections to the determination, the basis therefor and the modification requested.

(b) Whenever a written request satisfying the requirements of paragraph (a) of this section has been received and the Administrator or Regional Administrator, as the case may be, determines that an adjudicatory hearing is warranted, the Administrator or the Regional Administrator, as the case may be, will set a time and place for an adjudicatory hearing in accordance with § 222.5, and will give notice of such hearing by publication in accordance with § 222.3.

(c) Prior to the conclusion of the adjudicatory hearing and appeal process, the Administrator or the Regional Administrator, as the case may be, in his discretion may extend the duration of a previously issued permit until a final determination has been made pursuant to §§ 222.11 or 222.12.

(d) In the event the Administrator or the Regional Administrator, as the case may be, determines that a request filed pursuant to paragraph (a) of this section does not comply with the requirements of such paragraph (a) or that such request does not present substantial issues of public interest, he shall advise, in writing, the person requesting the adjudicatory hearing of his determination.

(e) Any person requesting an adjudicatory hearing or requesting admission as a party to an adjudicatory hearing shall state in his written request, and shall by filing such request consent, that he and his employees and agents shall submit themselves to direct and cross-examination at any such hearing and to the taking of an oath administered by the Presiding Officer.

§ 222.11 Conduct of adjudicatory hearings.

(a) *Parties.* Any interested person may at a reasonable time prior to the commencement of the hearing submit to the Presiding Officer a request to be admitted as a party. Such request shall be in writing and shall set forth the information which would be required to be submitted by such person if he were requesting an adjudicatory hearing. Any such request to be admitted as a party which satisfies the requirements of this paragraph (a) shall be granted and all parties shall be informed at the commencement of the adjudicatory hearing of the parties involved. Any party may be represented by counsel or other authorized representative. EPA staff representing the Administrator or Regional Administrator who took action with respect to the permit application shall be deemed a party.

(b) *Filing and service.*

(1) An original and two (2) copies of all documents or papers required or permitted to be filed shall be filed with the Presiding Officer.

(2) Copies of all documents and papers filed with the Presiding Officer shall be served upon all other parties to the adjudicatory hearing.

(c) *Consolidation.* The Administrator, or the Regional Administrator in the case of a hearing arising within his Region and for which he has been delegated authority hereunder, may, in his discretion, order consolidation of any adjudicatory hearings held pursuant to this section whenever he determines that consolidation will expedite or simplify the consideration of the issues presented. The Administrator may, in his discretion, order consolidation and designate one Region to be responsible for the conduct of any hearings held pursuant to this section which arise in different Regions whenever he determines that consolidation will expedite or simplify the consideration of the issues presented.

(d) *Pre-hearing conference.* The Presiding Officer may hold one or more pre-hearing conferences and may issue a pre-hearing order which may include without limitation, requirements with respect to any or all of the following:

(1) Stipulations and admissions;

(2) Disputed issues of fact;

(3) Disputed issues of law;

(4) Admissibility of any evidence;

(5) Hearing procedures including submission of oral or written direct testimony, conduct of cross-examination, and the opportunity for oral arguments;

(6) Any other matter which may expedite the hearing or aid in disposition of any issues raised therein.

(e) *Adjudicatory hearing procedures.*

(1) The burden of going forward with the evidence shall:

(i) In the case of any adjudicatory hearing held pursuant to § 222.10(b)(1), be on the person filing a request under § 222.10(a) as to each issue raised by the request; and

(ii) In the case of any adjudicatory hearing held pursuant to § 223.2 or pursuant to Part 226, be on the Environmental Protection Agency.

(2) The Presiding Officer shall have the duty to conduct a fair and impartial hearing, to take action to avoid unnecessary delay in the disposition of proceedings, and to maintain order. He shall have all powers necessary or appropriate to that end, including without limitation, the following:

(i) To administer oaths and affirmations;

(ii) To rule upon offers of proof and receive relevant evidence;

(iii) To regulate the course of the hearing and the conduct of the parties and their counsel;

(iv) To consider and rule upon all procedural and other motions appropriate to the proceedings; and

(v) To take any action authorized by these regulations and in conformance with law.

(3) Parties shall have the right to cross-examine a witness who appears at an adjudicatory hearing to the extent that such cross-examination is necessary or appropriate for a full disclosure of the facts. In multi-party proceedings the Presiding Officer may limit cross-examination to one party on each side if he is satisfied that the cross-examination by one party will adequately protect the interests of other parties.

(4) When a party will not be unfairly prejudiced thereby, the Presiding Officer may order all of part of the evidence to be submitted in written form.

(5) Rulings of the Presiding Officer on the admissibility of evidence, the propriety of cross-examination, and other procedural matters, shall be final and shall appear in the record.

(6) Interlocutory appeals may not be taken.

(7) Parties shall be presumed to have taken exception to an adverse ruling.

(8) The proceedings of all hearings shall be recorded by such means as the Presiding Officer may determine. The original transcript of the hearing shall be a part of the record and the sole official transcript. Copies of the transcript shall be available from the Environmental Protection Agency in accordance with 40 CFR 2.

(9) The rules of evidence shall not apply.

(f) *Decision after adjudicatory hearing.*

(1) Within 30 days after the conclusion of the adjudicatory hearing, or within such additional period as the Administrator or the Regional Administrator, as the case may be, may grant to the Presiding Officer for good cause shown, the Presiding Officer shall submit to the Administrator or the Regional Administrator, as the case may be, proposed findings of fact and conclusions of law, his recommendation with respect to any and all issues raised at the hearing, and the record of the hearing. Such findings, conclusions and recommendations shall contain a brief statement of the basis for the recommendations. Copies of the Presiding Officer's proposed findings of fact, conclusions of law and recommendations shall be provided to all parties to the adjudicatory hearing on request, without charge.

(2) Within 20 days following submission of the Presiding Officer's proposed findings of fact, conclusions of law and recommendations, any party may sub-

mit written exceptions, no more than 30 pages in length, to such proposed findings, conclusions and recommendations and within 30 days following the submission of the Presiding Officer's proposed findings, conclusions and recommendations any party may file written comments, no more than 30 pages in length, on another party's exceptions. Within 45 days following the submission of the Presiding Officer's proposed findings, conclusions and recommendations, the Administrator or the Regional Administrator, as the case may be, shall make a determination with respect to all issues raised at such hearing and shall affirm, reverse or modify the previous or proposed determination, as the case may be. Notice of such determination shall set forth the determination for each such issue, shall briefly state the basis therefor and shall be given by mail to all parties to the adjudicatory hearing.

§ 222.12 Appeal to Administrator.

(a) Within 10 days following receipt of the determination of the Regional Administrator pursuant to paragraph (f)(2) of § 222.11, any party to an adjudicatory hearing held in accordance with § 222.11 may appeal such determination to the Administrator by filing a written notice of appeal, or the Administrator may, on his own initiative, review any prior determination.

(b) The notice of appeal shall be no more than 40 pages in length and shall contain:

(1) The name and address of the person filing the notice of appeal;

(2) A concise statement of the facts on which the person relies and appropriate citations to the record of the adjudicatory hearing;

(3) A concise statement of the legal basis on which the person relies;

(4) A concise statement setting forth the action which the person proposes that the Administrator take; and

(5) A certificate of service of the notice of appeal on all other parties to the adjudicatory hearing.

(c) The effective date of any determination made pursuant to paragraph (f)(2) of § 222.11 may be stayed by the Administrator pending final determination by him pursuant to this section upon the filing of a notice of appeal which satisfies the requirements of paragraph (b) of this section or upon initiation by the Administrator of review of any determination in the absence of such notice of appeal.

(d) Within 20 days following the filing of a notice of appeal in accordance with this section, any party to the adjudicatory hearing may file a written memorandum, no more than 40 pages in length, in response thereto.

(e) Within 45 days following the filing of a notice of appeal in accordance with this section, the Administrator shall render his final determination with respect to all issues raised in the appeal to the Administrator and shall affirm, reverse, or modify the previous determination and briefly state the basis for his determination.

(f) In accordance with 5 U.S.C. section 704, the filing of an appeal to the Administrator pursuant to this section shall be a prerequisite to judicial review of any determination to issue, deny or impose conditions upon any permit, or to modify, revoke or suspend any permit, or to take any other enforcement action, under this Subchapter H.

§ 222.13 Computation of time.

In computing any period of time prescribed or allowed in this part, except unless otherwise provided, the day on which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or a legal holiday in which the Environmental Protection Agency is not open for business, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. Intermediate Saturdays, Sundays and legal holidays shall be excluded from the computation when the period of time prescribed or allowed is seven days or less.

PART 223—CONTENTS OF PERMITS

Sec.
223.1 Contents of permits.
223.2 Generally applicable conditions of permits.

AUTHORITY: 33 U.S.C. 1412 and 1418.

§ 223.1 Contents of permits.

Permits, other than general permits, which may be issued on forms to be published by EPA and must be displayed on the vessel engaged in dumping, will include at a minimum the following:

(a) Name of permittee;

(b) Means of conveyance and methods and procedures for disposal of material to be dumped; and, in the case of permits for the transportation of material for dumping, the port through or from which such material will be transported;

(c) A complete description, including all relevant chemical and physical properties and quantities, of the material to be dumped;

(d) The disposal site;

(e) The times at which the permitted dumping may occur;

(f) Such monitoring relevant to the assessment of the impact of permitted dumping activities on the marine environment at the disposal site as the Administrator determines is feasible; and

(g) Any other terms and conditions, including those with respect to release procedures, determined to be necessary and adequate in order to conform the permitted dumping activities to the factors set forth in Section 102(a) of the Act, and the criteria set forth in Part 227.

§ 223.2 Generally applicable conditions of permits.

(a) *Modification or revocation.* Any permit issued under this Part shall be subject to modification, or revocation in whole or in part for cause, as follows:

(1) Violation of any term or condition of the permit;

(2) Misrepresentation, inaccuracy, or failure to disclose all relevant facts in the permit application;

(3) Changed circumstances, such as changes in conditions obtaining at the designated dumping site, and newly discovered scientific data relevant to the granting of the permit;

(4) Failure to keep the records, and to notify appropriate officials of dumping activities, as specified in §§ 224.1 and 224.2.

(b) *Suspension.* In addition to the conditions of a permit imposed pursuant to paragraph (a) of this section, each permit shall be subject to suspension by the Administrator or Regional Administrator if he determines that the permitted dumping has resulted, or is resulting, in imminent and substantial harm to human health or welfare or the marine environment. Such suspension shall be effective immediately upon receipt of notification thereof by the permittee.

(c) *Hearings.* Within 30 days after receipt of notice of revocation or modification pursuant to paragraph (a) of this section, or of suspension pursuant to paragraph (b) of this section, a permittee or other interested person may request in writing a hearing on the issues raised by any such revocation or suspension. Upon receipt of any such request, the Administrator or Regional Administrator shall appoint a hearing officer to conduct an adjudicatory hearing as may be required by law and by this subchapter as now or hereafter in effect.

PART 224—RECORDS AND REPORTS REQUIRED OF OCEAN DUMPING PERMITTEES UNDER SECTION 102 OF THE ACT

Sec.
224.1 Records of permittees.
224.2 Reports.

AUTHORITY: 33 U.S.C. 1412 and 1418.

§ 224.1 Records of permittees.

Each permittee named in a special, interim, emergency or research permit under section 102 of the Act and each person availing himself of the privilege conferred by a general permit, shall maintain complete records of the following information, which will be available for inspection by the Administrator, Regional Administrator, the Commandant of the U.S. Coast Guard, or their respective designees:

(a) The physical and chemical characteristics of the material dumped pursuant to the permit;

(b) The precise times and locations of dumping;

(c) Any other information required as a condition of a permit by the Administrator or the Regional Administrator, as the case may be.

§ 224.2 Reports.

(a) *Periodic reports.* Information required to be recorded pursuant to § 224.1 shall be reported to the Administrator or the Regional Administrator, as the case may be, for the periods indicated within 30 days of the expiration of such periods:

(1) For each six-month period, if any, following the effective date of the permit;

(2) For any other period of less than six months ending on the expiration date of the permit; and

(3) As otherwise required in the conditions of the permit.

(b) *Reports of emergency dumping.* If material is dumped without a permit pursuant to paragraph (c)(4) of § 220.1, the owner or operator of the vessel or aircraft from which such dumping occurs shall as soon as feasible inform the Administrator, Regional Administrator, or the nearest Coast Guard district of the incident by radio, telephone, or telegraph and shall within 10 days file a written report with the Administrator or Regional Administrator containing the information required under § 224.1 and a complete description of the circumstances under which the dumping occurred. Such description shall explain how human life at sea was in danger and how the emergency dumping reduced that danger. If the material dumped included containers, the vessel owner or operator shall immediately request the U.S. Coast Guard to publish in the local Notice to Mariners the dumping location, the type of containers, and whether the contents are toxic or explosive. Notification shall also be given to the Food and Drug Administration, Shellfish Sanitation Branch, Washington, D.C. 20204, as soon as possible.

PART 225—CORPS OF ENGINEERS DREDGED MATERIAL PERMITS

Sec.

225.1 General.
225.2 Review of Dredged Material Permits.
225.3 Procedure for invoking economic impact.
225.4 Waiver by Administrator.

AUTHORITY: 33 U.S.C. 1412 and 1418.

§ 225.1 General.

Applications and authorizations for Dredged Material Permits under section 103 of the Act for the transportation of dredged material for the purpose of dumping it in ocean waters will be evaluated by the U.S. Army Corps of Engineers in accordance with the criteria set forth in Part 227 and processed in accordance with 33 CFR 209.120 with special attention to § 209.120(g)(17) and 33 CFR 209.145.

§ 225.2 Review of Dredged Material Permits.

(a) The District Engineer shall send a copy of the public notice to the appropriate Regional Administrator, and set forth in writing all of the following information:

(1) The location of the proposed disposal site and its physical boundaries;

(2) A statement as to whether the site has been designated for use by the Administrator pursuant to section 102 (c) of the Act;

(3) If the proposed disposal site has not been designated by the Administrator, a statement of the basis for the proposed determination why no previously designated site is feasible and a description of the characteristics of the proposed disposal site necessary for its designation pursuant to Part 228 of this Subchapter H;

(4) The known historical uses of the proposed disposal site;

(5) Existence and documented effects of other authorized dumpings that have been made in the dumping area (e.g., heavy metal background reading and organic carbon content);

(6) An estimate of the length of time during which disposal will continue at the proposed site;

(7) Characteristics and composition of the dredged material; and

(8) A statement concerning a preliminary determination of the need for and/or availability of an environmental impact statement.

(b) The Regional Administrator will within 15 days of the date the public notice and other information required to be submitted by paragraph (a) of § 225.2 are received by him, review the information submitted and request from the District Engineer any additional information he deems necessary or appropriate to evaluate the proposed dumping.

(c) Using the information submitted by the District Engineer, and any other information available to him, the Regional Administrator will within 15 days after receipt of all requested information, make an independent evaluation of the proposed dumping in accordance with the criteria and respond to the District Engineer pursuant to paragraphs (d) or (e) of this section. The Regional Administrator may request an extension of this 15 day period to 30 days from the District Engineer.

(d) When the Regional Administrator determines that the proposed dumping will comply with the criteria, he will so inform the District Engineer in writing.

(e) When the Regional Administrator determines that the proposed dumping will not comply with the criteria he shall so inform the District Engineer in writing. In such cases, no Dredged Material Permit for such dumping shall be issued unless and until the provisions of § 225.3 are followed and the Administrator grants a waiver of the criteria pursuant to § 225.4.

§ 225.3 Procedure for invoking economic impact.

(a) When a District Engineer's determination to issue a Dredged Material Permit for the dumping of dredged material into ocean waters has been rejected by a Regional Administrator upon application of the Criteria, the District Engineer may determine whether, under § 103 (d) of the Act, there is an economically feasible alternative method or site available other than the proposed dumping in ocean waters. If the District Engineer makes any such preliminary determination that there is no economically feasible alternative method or site available, he shall so advise the Regional Administrator setting forth his reasons for such determination and shall submit a report of such determination to the Chief of Engineers in accordance with 33 CFR §§ 209.120 and 209.145.

(b) If the decision of the Chief of Engineers is that ocean dumping at the designated site is required because of the unavailability of feasible alternatives, he shall so certify and request that the Secretary of the Army seek a waiver from the Administrator of the Criteria or of the critical site designation in accordance with § 225.4.

§ 225.4 Waiver by Administrator.

The Administrator shall grant the requested waiver unless within 30 days of his receipt of the notice, certificate and request in accordance with paragraph (b) of § 225.3 he determines in accordance with this section that the proposed dumping will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Notice of the Administrator's final determination under this section shall be given to the Secretary of the Army.

PART 226—ENFORCEMENT

Sec.

226.1 Civil penalties.
226.2 Enforcement hearings.
226.3 Determinations.
226.4 Final action.

AUTHORITY: 33 U.S.C. 1412 and 1418.

§ 226.1 Civil penalties.

In addition to the criminal penalties provided for in section 105(b) of the Act, the Administrator or his designee may assess a civil penalty of not more than $50,000 for each violation of the Act and of this subchapter. Upon receipt of information that any person has violated any provision of the Act or of this subchapter, the Administrator or his designee will notify such person in writing of the violation with which he is charged, and will convene a hearing no sooner than 60 days after such notice, at a convenient location, before a hearing officer. Such hearing shall be conducted in accordance with the procedures of § 226.2.

§ 226.2 Enforcement hearings.

Hearings convened pursuant to § 226.1 shall be hearings on a record before a hearing officer. Parties may be represented by counsel and will have the right to submit motions, to present evidence in their own behalf, to cross-examine adverse witnesses, to be apprised of all evidence considered by the hearing officer, and to receive copies of the transcript of the proceedings. Formal rules of evidence will not apply. The hearing officer will rule on all evidentiary matters, and on all motions, which will be subject to review pursuant to § 226.3.

§ 226.3 Determinations.

Within 30 days following adjournment of the hearing, the hearing officer will in all cases make findings of facts and recommendations to the Administrator including, when appropriate, a recommended appropriate penalty, after consideration of the gravity of the violation, prior violations by the person charged,

and the demonstrated good faith by such person in attempting to achieve rapid compliance with the provisions of the Act and this subchapter. A copy of the findings and recommendations of the hearing officer shall be provided to the person charged at the same time they are forwarded to the Administrator. Within 30 days of the date on which the hearing officer's findings and recommendations are forwarded to the Administrator, any party objecting thereto may file written exceptions with the Administrator.

§ 226.4 Final action.

A final order on a proceeding under this Part will be issued by the Administrator, or by such other person designated by the Administrator to take such final action, no sooner than 30 days following receipt of the findings and recommendations of the hearing officer. A copy of the final order will be served by registered mail (return receipt requested) on the person charged or his representative. In the event the final order assesses a penalty, it shall be payable within 60 days of the date of receipt of the final order, unless judicial review of the final order is sought by the person against whom the penalty is assessed.

PART 227—CRITERIA FOR THE EVALUATION OF PERMIT APPLICATIONS FOR OCEAN DUMPING OF MATERIALS

Subpart A—General

Sec.
227.1 Applicability.
227.2 Materials which satisfy the environmental impact criteria of Subpart B.
227.3 Materials which do not satisfy the environmental impact criteria of Subpart B.

Subpart B—Environmental Impact

227.4 Criteria for evaluating environmental impact.
227.5 Prohibited materials.
227.6 Constituents prohibited as other than trace contaminants.
227.7 Limits established for specific wastes or waste constituents.
227.8 Limitations on the disposal rates of toxic wastes.
227.9 Limitations on quantities of waste materials.
227.10 Hazards to fishing, navigation, shorelines or beaches.
227.11 Containerized wastes.
227.12 Insoluble wastes.
227.13 Dredged Materials.

Subpart C—Need for Ocean Dumping

227.14 Criteria for evaluating the need for ocean dumping and alternatives to ocean dumping.
227.15 Factors considered.
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Subpart D—Impact of the Proposed Dumping on Esthetic, Recreational and Economic Values

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Subpart A—General

§ 227.1 Applicability.

(a) Section 102 of the Act requires that criteria for the issuance of ocean disposal permits be promulgated after consideration of the environmental effect of the proposed dumping operation, the need for ocean dumping, alternatives to ocean dumping, and the effect of the proposed action on esthetic, recreational and economic values and on other uses of the ocean. This Part 227 and Part 228 of this Subchapter H together constitute the criteria established pursuant to section 102 of the Act. The decision of the Administrator, Regional Administrator or the District Engineer, as the case may be, to issue or deny a permit and to impose specific conditions on any permit issued will be based on an evaluation of the permit application pursuant to the criteria set forth in this Part 227 and upon the requirements for disposal site management pursuant to the criteria set forth in Part 228 of this Subchapter H.

(b) With respect to the criteria to be used in evaluating disposal of dredged materials, this section and Subparts C, D, E, and G apply in their entirety. To determine whether the proposed dumping of dredged material complies with Subpart B, only §§ 227.4, 227.5, 227.6, 227.9, 227.10 and 227.13 apply. An applicant for a permit to dump dredged material must comply with all of Subparts C, D, E, G and applicable sections of B, to be deemed to have met the EPA criteria for dredged material dumping promulgated pursuant to section 102(a) of the Act. If, in any case, the Chief of Engineers finds that, in the disposition of dredged material, there is no economically feasible method or site available other than a dumping site, the utilization of which would result in noncompliance with the criteria established pursuant to Subpart B relating to the effects of dumping or with the restrictions established pursuant to section 102(c) of the Act relating to critical areas, he shall so certify and request that the Secretary of the Army seek a waiver from the Administrator pursuant to Part 225.

(c) The Criteria of this Part 227 are established pursuant to section 102 of the Act and apply to the evaluation of proposed dumping of materials under Title I of the Act. The Criteria of this Part 227 deal with the evaluation of proposed dumping of materials on a case-by-case basis from information supplied by the applicant or otherwise available to EPA or the Corps of Engineers concerning the characteristics of the waste and other considerations relating to the proposed dumping.

(d) After consideration of the provisions of §§ 227.28 and 227.29, no permit will be issued when the dumping would result in a violation of applicable water quality standards.

§ 227.2 Materials which satisfy the environmental impact criteria of Subpart B.

(a) If the applicant satisfactorily demonstrates that the material proposed for ocean dumping satisfies the environmental impact criteria set forth in Subpart B, a permit for ocean dumping will be issued unless:

(1) There is no need for the dumping, and alternative means of disposal are available, as determined in accordance with the criteria set forth in Subpart C; or

(2) There are unacceptable adverse effects on esthetic, recreational or economic values as determined in accordance with the criteria set forth in Subpart D; or

(3) There are unacceptable adverse effects on other uses of the ocean as determined in accordance with the criteria set forth in Subpart E.

(b) If the material proposed for ocean dumping satisfies the environmental impact criteria set forth in Subpart B, but the Administrator or the Regional Administrator, as the case may be, determines that any one of the considerations set forth in paragraphs (a) (1), (2) or (3) of this section applies, he will deny the permit application; provided however, that he may issue an interim permit for ocean dumping pursuant to paragraph (d) of § 220.3 and Subpart F of this Part 227 when he determines that:

(1) The material proposed for ocean dumping does not contain any of the materials listed in § 227.5 or listed in § 227.6, except as trace contaminants; and

(2) In accordance with Subpart C there is a need to ocean dump the material and no alternatives are available to such dumping; and

(3) The need for the dumping and the unavailability of alternatives, as determined in accordance with Subpart C, are of greater significance to the public interest than the potential for adverse effect on esthetic, recreational or economic values, or on other uses of the ocean, as determined in accordance with Subparts D and E, respectively.

§ 227.3 Materials which do not satisfy the environmental impact criteria set forth in Subpart B.

If the material proposed for ocean dumping does not satisfy the environmental impact criteria of Subpart B, the Administrator or the Regional Administrator, as the case may be, will deny the permit application; provided however, that he may issue an interim permit pursuant to paragraph (d) of § 220.3 and

Subpart F of this Part 227 when he determines that:

(a) The material proposed for dumping does not contain any of the materials listed in Section 227.6 except as trace contaminants, or any of the materials listed in § 227.5;

(b) In accordance with Subpart C there is a need to ocean dump the material; and

(c) Any one of the following factors is of greater significance to the public interest than the potential for adverse impact on the marine environment, as determined in accordance with Subpart B:

(1) The need for the dumping, as determined in accordance with Subpart C; or

(2) The adverse effects of denial of the permit on recreational or economic values as determined in accordance with Subpart D; or

(3) The adverse effects of denial of the permit on other uses of the ocean, as determined in accordance with Subpart E.

Subpart B—Environmental Impact

§ 227.4 Criteria for evaluating environmental impact.

This Subpart B sets specific environmental impact prohibitions, limits, and conditions for the dumping of materials into ocean waters. If the applicable prohibitions, limits, and conditions are satisfied, it is the determination of EPA that the proposed disposal will not unduly degrade or endanger the marine environment and that the disposal will present:

(a) No unacceptable adverse effects on human health and no significant damage to the resources of the marine environment;

(b) No unacceptable adverse effect on the marine ecosystem;

(c) No unacceptable adverse persistent or permanent effects due to the dumping of the particular volumes or concentrations of these materials; and

(d) No unacceptable adverse effect on the ocean for other uses as a result of direct environmental impact.

§ 227.5 Prohibited materials.

The ocean dumping of the following materials will not be approved by EPA or the Corps of Engineers under any circumstances:

(a) High-level radioactive wastes as defined in § 227.30;

(b) Materials in whatever form (including without limitation, solids, liquids, semi-liquids, gases or organisms) produced or used for radiological, chemical or biological warfare;

(c) Materials insufficiently described by the applicant in terms of their compositions and properties to permit application of the environmental impact criteria of this Subpart B;

(d) Persistent inert synthetic or natural materials which may float or remain in suspension in the ocean in such a manner that they may interfere materially with fishing, navigation, or other legitimate uses of the ocean.

§ 227.6 Constituents prohibited as other than trace contaminants.

(a) Subject to the exclusions of paragraphs (f), (g) and (h) of this section, the ocean dumping, or transportation for dumping, of materials containing the following constituents as other than trace contaminants will not be approved on other than an emergency basis:

(1) Organohalogen compounds;

(2) Mercury and mercury compounds;

(3) Cadmium and cadmium compounds;

(4) Oil of any kind or in any form, including but not limited to petroleum, oil sludge, oil refuse, crude oil, fuel oil, heavy diesel oil, lubricating oils, hydraulic fluids, and any mixtures containing these, transported for the purpose of dumping insofar as these are not regulated under the FWPCA;

(5) Known carcinogens, mutagens, or teratogens or materials suspected to be carcinogens, mutagens, or teratogens by responsible scientific opinion.

(b) These constituents will be considered to be present as trace contaminants only when they are present in materials otherwise acceptable for ocean dumping in such forms and amounts in liquid, suspended particulate, and solid phases that the dumping of the materials will not cause significant undesirable effects, including the possibility of danger associated with their bioaccumulation in marine organisms.

(c) The potential for significant undesirable effects due to the presence of these constituents shall be determined by application of results of bioassays on liquid, suspended particulate, and solid phases of wastes according to procedures acceptable to EPA, and for dredged material, acceptable to EPA and the Corps of Engineers. Materials shall be deemed environmentally acceptable for ocean dumping only when the following conditions are met:

(1) The liquid phase does not contain any of these constituents in concentrations which will exceed applicable marine water quality criteria after allowance for initial mixing; provided that mercury concentrations in the disposal site, after allowance for initial mixing, may exceed the average normal ambient concentrations of mercury in ocean waters at or near the dumping site which would be present in the absence of dumping, by not more than 50 percent; and

(2) Bioassay results on the suspended particulate phase of the waste do not indicate occurrence of significant mortality or significant adverse sublethal effects including bioaccumulation due to the dumping of wastes containing the constituents listed in paragraph (a) of this section. These bioassays shall be conducted with appropriate sensitive marine organisms as defined in § 227.27(c) using procedures for suspended particulate phase bioassays approved by EPA, or, for dredged material, approved by EPA and the Corps of Engineers. Procedures approved for bioassays under this section will require exposure of organisms for a sufficient period of time and under appropriate conditions to provide reasonable assurance, based on consideration of the statistical significance of effects at the 95 percent confidence level, that, when the materials are dumped, no significant undesirable effects will occur due either to chronic toxicity or to bioaccumulation of the constituents listed in paragraph (a) of this section; and

(3) Bioassay results on the solid phase of the wastes do not indicate occurrence of significant mortality or significant adverse sublethal effects due to the dumping of wastes containing the constituents listed in paragraph (a) of this section. These bioassays shall be conducted with sensitive benthic organisms using benthic bioassay procedures approved by EPA, or, for dredged material, approved by EPA and the Corps of Engineers. Procedures approved for bioassays under this section will require exposure of organisms for a sufficient period of time to provide reasonable assurance, based on considerations of statistical significance of effects at the 95 percent confidence level, that, when the materials are dumped, no significant undesirable effects will occur due either to chronic toxicity or to bioaccumulation of the constituents listed in paragraph (a) of this section; and

(4) For persistent organohalogens not included in the applicable marine water quality criteria, bioassay results on the liquid phase of the waste show that such compounds are not present in concentrations large enough to cause significant undesirable effects due either to chronic toxicity or to bioaccumulation in marine organisms after allowance for initial mixing.

(d) When the Administrator, Regional Administrator or District Engineer, as the case may be, has reasonable cause to believe that a material proposed for ocean dumping contains compounds identified as carcinogens, mutagens, or teratogens for which criteria have not been included in the applicable marine water quality criteria, he may require special studies to be done prior to issuance of a permit to determine the impact of disposal on human health and/or marine ecosystems. Such studies must provide information comparable to that required under paragraph (e)(3) of this section.

(e) The criteria stated in paragraphs (c) (2) and (3) of this section will become mandatory as soon as announcement of the availability of acceptable procedures is made in the FEDERAL REGISTER. At that time the interim criteria contained in paragraph (e) of this section shall no longer be applicable. As interim measures the criteria of paragraphs (c) (2) and (3) of this section may be applied on a case-by-case basis where interim guidance on acceptable bioassay procedures is provided by the Regional Administrator or, in the case of dredged material, by the District Engineer; or, in the absence of such guidance, permits may be issued for the dumping of any material only when the following conditions are met, except under an emergency permit:

(1) Mercury and its compounds are present in any solid phase of a material in concentrations less than 0.75 mg/kg,

or less than 50 percent greater than the average total mercury content of natural sediments of similar lithologic characteristics as those at the disposal site; and

(2) Cadmium and its compounds are present in any solid phase of a material in concentrations less than 0.6 mg/kg, or less than 50 percent greater than the average total cadmium content of natural sediments of similar lithologic characteristics as those at the disposal site; and

(3) The total concentration of organohalogen constituents in the waste as transported for dumping is less than a concentration of such constituents known to be toxic to marine organisms. In calculating the concentration of organohalogens, the applicant shall consider that these constituents are all biologically available. The determination of the toxicity value will be based on existing scientific data or developed by the use of bioassays conducted in accordance with approved EPA procedures; and

(4) The total amounts of oils and greases as identified in paragraph (a) (4) of this section do not produce a visible surface sheen in an undisturbed water sample when added at a ratio of one part waste material to 100 parts of water.

(f) The prohibitions and limitations of this section do not apply to the constituents identified in paragraph (a) of this section when the applicant can demonstrate that such constituents are (1) present in the material only as chemical compounds or forms (e.g., inert insoluble solid materials) non-toxic to marine life and non-bioaccumulative in the marine environment upon disposal and thereafter, or (2) present in the material only as chemical compounds or forms which, at the time of dumping and thereafter, will be rapidly rendered non-toxic to marine life and non-bioaccumulative in the marine environment by chemical or biological degradation in the sea; provided they will not make edible marine organisms unpalatable; or will not endanger human health or that of domestic animals, fish, shellfish, or wildlife.

(g) The prohibitions and limitations of this section do not apply to the constituents identified in paragraph (a) of this section for the granting of research permits if the substances are rapidly rendered harmless by physical, chemical or biological processes in the sea; provided they will not make edible marine organisms unpalatable and will not endanger human health or that of domestic animals.

(h) The prohibitions and limitations of this section do not apply to the constituents identified in paragraph (a) of this section for the granting of permits for the transport of these substances for the purpose of incineration at sea if the applicant can demonstrate that the stack emissions consist of substances which are rapidly rendered harmless by physical, chemical or biological processes in the sea. Incinerator operations shall comply with requirements which will be established on a case-by-case basis.

§ 227.7 Limits established for specific wastes or waste constituents.

Materials containing the following constituents must meet the additional limitations specified in this section to be deemed acceptable for ocean dumping:

(a) Liquid waste constituents immiscible with or slightly soluble in seawater, such as benzene, xylene, carbon disulfide and toluene, may be dumped only when they are present in the waste in concentrations below their solubility limits in seawater. This provision does not apply to materials which may interact with ocean water to form insoluble materials;

(b) Radioactive materials, other than those prohibited by § 227.5, must be contained in accordance with the provisions of § 227.11 to prevent their direct dispersion or dilution in ocean waters;

(c) Wastes containing living organisms may not be dumped if the organisms present would endanger human health or that of domestic animals, fish, shellfish and wildlife by:

(1) Extending the range of biological pests, viruses, pathogenic microrganisms or other agents capable of infesting, infecting or extensively and permanently altering the normal populations of organisms;

(2) Degrading uninfected areas; or

(3) Introducing viable species not indigenous to an area.

(d) In the dumping of wastes of highly acidic or alkaline nature into the ocean, consideration shall be given to: (1) the effects of any change in acidity or alkalinity of the water at the disposal site; and (2) the potential for synergistic effects or for the formation of toxic compounds at or near the disposal site. Allowance may be made in the permit conditions for the capability of ocean waters to neutralize acid or alkaline wastes; provided, however, that dumping conditions must be such that the average total alkalinity or total acidity of the ocean water after allowance for initial mixing, as defined in § 227.29, may be changed, based on stoichiometric calculations, by no more than 10 per cent during all dumping operations at a site to neutralize acid or alkaline wastes.

(e) Wastes containing biodegradable constituents, or constituents which consume oxygen in any fashion, may be dumped in the ocean only under conditions in which the dissolved oxygen after allowance for initial mixing, as defined in § 227.29, will not be depressed by more than 25 per cent below the normally anticipated ambient conditions in the disposal area at the time of dumping.

§ 227.8 Limitations on the disposal rates of toxic wastes.

No wastes will be deemed acceptable for ocean dumping unless such wastes can be dumped so as not to exceed the limiting permissible concentration as defined in § 227.27; provided that this § 227.8 does not apply to those wastes for which specific criteria are established in § 227.11 or 227.12. Total quantities of wastes dumped at a site may be limited as described in § 228.8.

§ 227.9 Limitations on quantities of waste materials.

Substances which may damage the ocean environment due to the quantities in which they are dumped, or which may seriously reduce amenities, may be dumped only when the quantities to be dumped at a single time and place are controlled to prevent long-term damage to the environment or to amenities.

§ 227.10 Hazards to fishing, navigation, shorelines or beaches.

(a) Wastes which may present a serious obstacle to fishing or navigation may be dumped only at disposal sites and under conditions which will ensure no unacceptable interference with fishing or navigation.

(b) Wastes which may present a hazard to shorelines or beaches may be dumped only at sites and under conditions which will insure no unacceptable danger to shorelines or beaches.

§ 227.11 Containerized wastes.

(a) Wastes containerized solely for transport to the dumping site and expected to rupture or leak on impact or shortly thereafter must meet the appropriate requirements of §§ 227.6, 227.7, 227.8, 227.9 and 227.10.

(b) Other containerized wastes will be approved for dumping only under the following conditions:

(1) The materials to be disposed of decay, decompose or radiodecay to environmentally innocuous materials within the life expectancy of the containers and/or their inert matrix; and

(2) Materials to be dumped are present in such quantities and are of such nature that only short-term localized adverse effects will occur should the containers rupture at any time; and

(3) Containers are dumped at depths and locations where they will cause no threat to navigation, fishing, shorelines, or beaches.

§ 227.12 Insoluble wastes.

(a) Solid wastes consisting of inert natural minerals or materials compatible with the ocean environment may be generally approved for ocean dumping provided they are insoluble above the applicable trace or limiting permissible concentrations and are rapidly and completely settleable, and they are of a particle size and density that they would be deposited or rapidly dispersed without damage to benthic, demersal, or pelagic biota.

(b) Persistent inert synthetic or natural materials which may float or remain in suspension in the ocean as prohibited in paragraph (d) of § 227.5 may be dumped in the ocean only when they have been processed in such a fashion that they will sink to the bottom and remain in place.

§ 227.13 Dredged materials.

(a) Dredged materials are bottom sediments or materials that have been dredged or excavated from the navigable waters of the United States, and their

disposal into ocean waters is regulated by the U.S. Army Corps of Engineers using the criteria of applicable sections of Parts 227 and 228. Dredged material consists primarily of natural sediments or materials which may be contaminated by municipal or industrial wastes or by runoff from terrestrial sources such as agricultural lands.

(b) Dredged material which meets the criteria set forth in the following paragraphs (1), (2), or (3) is environmentally acceptable for ocean dumping without further testing under this section:

(1) Dredged material is composed predominantly of sand, gravel, rock, or any other naturally occurring bottom material with particle sizes larger than silt, and the material is found in areas of high current or wave energy such as streams with large bed loads or coastal areas with shifting bars and channels; or

(2) Dredged material is for beach nourishment or restoration and is composed predominantly of sand, gravel or shell with particle sizes compatible with material on the receiving beaches; or

(3) When: (i) The material proposed for dumping is substantially the same as the substrate at the proposed disposal site; and

(ii) The site from which the material proposed for dumping is to be taken is far removed from known existing and historical sources of pollution so as to provide reasonable assurance that such material has not been contaminated by such pollution.

(c) When dredged material proposed for ocean dumping does not meet the criteria of paragraph (b) of this section, further testing of the liquid, suspended particulate, and solid phases, as defined in § 227.32, is required. Based on the results of such testing, dredged material can be considered to be environmentally acceptable for ocean dumping only under the following conditions:

(1) The material is in compliance with the requirements of § 227.6; and

(2) (i) All major constituents of the liquid phase are in compliance with the applicable marine water quality criteria after allowance for initial mixing; or

(ii) When the liquid phase contains major constituents not included in the applicable marine water quality criteria, or there is reason to suspect synergistic effects of certain contaminants, bioassays on the liquid phase of the dredged material show that it can be discharged so as not to exceed the limiting permissible concentration as defined in paragraph (a) of § 227.27; and

(3) Bioassays on the suspended particulate and solid phases show that it can be discharged so as not to exceed the limiting permissible concentration as defined in paragraph (b) of § 227.27.

(d) For the purposes of paragraph (c) (2), major constituents to be analyzed in the liquid phase are those deemed critical by the District Engineer, after evaluating and considering any comments received from the Regional Administrator, and considering known sources of discharges in the area.

Subpart C—Need for Ocean Dumping

§ 227.14 Criteria for evaluating the need for ocean dumping and alternatives to ocean dumping.

This Subpart C states the basis on which an evaluation will be made of the need for ocean dumping, and alternatives to ocean dumping. The nature of these factors does not permit the promulgation of specific quantitative criteria of each permit application. These factors will therefore be evaluated if applicable for each proposed dumping on an individual basis using the guidelines specified in this Subpart C.

§ 227.15 Factors considered.

The need for dumping will be determined by evaluation of the following factors:

(a) Degree of treatment useful and feasible for the waste to be dumped, and whether or not the waste material has been or will be treated to this degree before dumping;

(b) Raw materials and manufacturing or other processes resulting in the waste, and whether or not these materials or processes are essential to the provision of the applicant's goods or services, or if other less polluting materials or processes could be used;

(c) The relative environmental risks, impact and cost for ocean dumping as opposed to other feasible alternatives including but not limited to:

(1) Land fill;

(2) Well injection;

(3) Incineration;

(4) Spread of material over open ground;

(5) Recycling of material for reuse;

(6) Additional biological, chemical, or physical treatment of intermediate or final waste streams;

(7) Storage.

(d) Irreversible or irretrievable consequences of the use of alternatives to ocean dumping.

§ 227.16 Basis for determination of need for ocean dumping.

(a) A need for ocean dumping will be considered to have been demonstrated when a thorough evaluation of the factors listed in § 227.15 has been made, and the Administrator, Regional Administrator or District Engineer, as the case may be, has determined that the following conditions exist where applicable:

(1) There are no practicable improvements which can be made in process technology or in overall waste treatment to reduce the adverse impacts of the waste on the total environment;

(2) There are no practicable alternative locations and methods of disposal or recycling available, including without limitation, storage until treatment facilities are completed, which have less adverse environmental impact or potential risk to other parts of the environment than ocean dumping.

(b) For purposes of paragraph (a) of this section, waste treatment or improvements in processes and alternative methods of disposal are practicable when they are available at reasonable incremental cost and energy expenditures, which need not be competitive with the costs of ocean dumping, taking into account the environmental benefits derived from such activity, including the relative adverse environmental impacts associated with the use of alternatives to ocean dumping.

(c) The duration of permits issued under Subchapter H and other terms and conditions imposed in those permits shall be determined after taking into account the factors set forth in this section. Notwithstanding compliance with Subparts B, D, and E of this Part 227 permittees may, on the basis of the need for and alternatives to ocean dumping, be required to terminate all ocean dumping by a specified date, to phase out all ocean dumping over a specified period or periods, to continue research and development of alternative methods of disposal and make periodic reports of such research and development in order to provide additional information for periodic review of the need for and alternatives to ocean dumping, or to take such other action as the Administrator, the Regional Administrator, or District Engineer, as the case may be, determines to be necessary or appropriate.

Subpart D—Impact of the Proposed Dumping on Esthetic, Recreational and Economic Values

§ 227.17 Basis for determination.

(a) The impact of dumping on esthetic, recreational and economic values will be evaluated on an individual basis using the following considerations:

(1) potential for affecting recreational use and values of ocean waters, inshore waters, beaches, or shorelines;

(2) potential for affecting the recreational and commercial values of living marine resources.

(b) For all proposed dumping, full consideration will be given to such nonquantifiable aspects of esthetic, recreational and economic impact as:

(1) responsible public concern for the consequences of the proposed dumping;

(2) consequences of not authorizing the dumping including without limitation, the impact on esthetic, recreational and economic values with respect to the municipalities and industries involved.

§ 227.18 Factors considered.

The assessment of the potential for impacts on esthetic, recreational and economic values will be based on an evaluation of the appropriate characteristics of the material to be dumped, allowing for conservative rates of dilution, dispersion, and biochemical degradation during movement of the materials from a disposal site to an area of significant recreational or commercial value. The following specific factors will be considered in making such an assessment:

(a) Nature and extent of present and potential recreational and commercial use of areas which might be affected by the proposed dumping;

(b) Existing water quality, and nature and extent of disposal activities, in the areas which might be affected by the proposed dumping;

(c) Applicable water quality standards;

(d) Visible characteristics of the materials (e.g., color, suspended particulates) which result in an unacceptable esthetic nuisance in recreational areas;

(e) Presence in the material of pathogenic organisms which may cause a public health hazard either directly or through contamination of fisheries or shellfisheries;

(f) Presence in the material of toxic chemical constituents released in volumes which may affect humans directly;

(g) Presence in the material of chemical constituents which may be bioaccumulated or persistent and may have an adverse effect on humans directly or through food chain interactions;

(h) Presence in the material of any constituents which might significantly affect living marine resources of recreational or commercial value.

§ 227.19 Assessment of impact.

An overall assessment of the proposed dumping and possible alternative methods of disposal or recycling will be made based on the effect on esthetic, recreational and economic values based on the factors set forth in this Subpart D, including where applicable, enhancement of these values, and the results of the assessment will be expressed, where possible, on a quantitative basis, such as percentage of a resource lost, reduction in user days of recreational areas, or dollars lost in commercial fishery profits or the profitability of other commercial enterprises.

Subpart E—Impact of the Proposed Dumping on Other Uses of the Ocean

§ 227.20 Basis for determination.

(a) Based on current state-of-the-art, consideration must be given to any possible long-range effects of even the most innocuous substances when dumped in the ocean on a continuing basis. Such a consideration is made in evaluating the relationship of each proposed disposal activity in relationship to its potential for long-range impact on other uses of the ocean.

(b) An evaluation will be made on an individual basis for each proposed dumping of material of the potential for effects on uses of the ocean for purposes other than material disposal. The factors to be considered in this evaluation include those stated in Subpart D, but the evaluation of this Subpart E will be based on the impact of the proposed dumping on specific uses of the ocean rather than on overall esthetic, recreational and economic values.

§ 227.21 Uses considered.

An appraisal will be made of the nature and extent of existing and potential uses of the disposal site itself and of any areas which might reasonably be expected to be affected by the proposed dumping, and a quantitative and qualitative evaluation made, where feasible, of the impact of the proposed dumping on each use. The uses considered shall include, but not be limited to:

(a) Commercial fishing in open ocean areas;

(b) Commercial fishing in coastal areas;

(c) Commercial fishing in estuarine areas;

(d) Recreational fishing in open ocean areas;

(e) Recreational fishing in coastal areas;

(f) Recreational fishing in estuarine areas;

(g) Recreational use of shorelines and beaches;

(h) Commercial navigation;

(i) Recreational navigation;

(j) Actual or anticipated exploitation of living marine resources;

(k) Actual or anticipated exploitation of non-living resources, including without limitation, sand and gravel places and other mineral deposits, oil and gas exploration and development and offshore marine terminal or other structure development; and

(l) Scientific research and study.

§ 227.22 Assessment of impact.

The assessment of impact on other uses of the ocean will consider both temporary and long-range effects within the state of the art, but particular emphasis will be placed on any irreversible or irretrievable commitment of resources that would result from the proposed dumping.

Subpart F—Special Requirements for Interim Permits Under Section 102 of the Act

§ 227.23 General requirement.

Each interim permit issued under section 102 of the Act will include a requirement for the development and implementation, as soon as practicable, of a plan which requires, at the discretion of the Administrator or Regional Administrator, as the case may be, either:

(a) Elimination of ocean disposal of the waste, or

(b) Bringing the waste into compliance with all the criteria for acceptable ocean disposal.

§ 227.24 Contents of environmental assessment.

A plan developed pursuant to this Subpart F must include an environmental assessment of the proposed action, including without limitation:

(a) Description of the proposed action;

(b) A thorough review of the actual need for dumping;

(c) Environmental impact of the proposed action;

(d) Adverse impacts which cannot be avoided should the proposal be implemented;

(e) Alternatives to the proposed action;

(f) Relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(g) Irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented; and

(h) A discussion of problems and objections raised by other Federal, State and local agencies and by interested persons in the review process.

§ 227.25 Contents of plans.

In addition to the environmental assessment required by § 227.24, a plan developed pursuant to this Subpart F must include a schedule for eliminating ocean dumping or bringing the wastes into compliance with the environmental impact criteria of Subpart B, including without limitation, the following:

(a) If the waste is treated to the degree necessary to bring it into compliance with the ocean dumping criteria, the applicant should provide a description of the treatment and a scheduled program for treatment and a subsequent analysis of treated material to prove the effectiveness of the process.

(b) If treatment cannot be effected by post-process techniques the applicant should, determining the offending constituents, examine his raw materials and his total process to determine the origin of the pollutant. If the offending constituents are found in the raw material the applicant should consider a new supplier and provide an analysis of the new material to prove compliance. Raw materials are to include all water used in the process. Water from municipal sources complying with drinking water standards is acceptable. Water from other sources such as private wells should be analyzed for contaminants. Water that has been used in the process should be considered for treatment and recycling as an additional source of process water.

(c) If offending constituents are a result of the process, the applicant should investigate and describe the source of the constituents. A report of this information will be submitted to EPA and the applicant will then submit a proposal describing possible alternatives to the existing process or processes and level of cost and effectiveness.

(d) If an acceptable alternative to ocean dumping or additional control technology is required, a schedule and documentation for implementation of the alternative or approved control process shall be submitted and shall include, without limitation:

(1) Engineering plan;

(2) Financing approval;

(3) Starting date for change;

(4) Completion date;

(5) Operation starting date.

(e) If an acceptable alternative does not exist at the time the application is submitted, the applicant will submit an acceptable in-house research program or employ a competent research institution to study the problem. The program of research must be approved by the Administrator or Regional Administrator, as the case may be, before the initiation

of the research. The schedule and documentation for implementation of a research program will include, without limitation:

(1) Approaches;
(2) Experimental design;
(3) Starting date;
(4) Reporting intervals;
(5) Proposed completion date;
(6) Date for submission of final report.

§ 227.26 Implementation of plans.

Implementation of each phase of a plan shall be initiated as soon as it is approved by the Administrator or Regional Administrator, as the case may be.

Subpart G—Definitions

§ 227.27 Limiting permissible concentration (LPC).

(a) The limiting permissible concentration of the liquid phase of a material is:

(1) That concentration of a constituent which, after allowance for initial mixing as provided in § 227.29, does not exceed applicable marine water quality criteria; or, when there are no applicable marine water quality criteria,

(2) That concentration of waste or dredged material in the receiving water which, after allowance for initial mixing, as specified in § 227.29, will not exceed a toxicity threshold defined as 0.01 of a concentration shown to be acutely toxic to appropriate sensitive marine organisms in a bioassay carried out in accordance with approved EPA procedures.

(3) When there is reasonable scientific evidence on a specific waste material to justify the use of an application factor other than 0.01 as specified in paragraph (a)(2) of this section, such alternative application factor shall be used in calculating the LPC.

(b) The limiting permissible concentration of the suspended particulate and solid phases of a material means that concentration which will not cause unreasonable acute or chronic toxicity or other sublethal adverse effects based on bioassay results using appropriate sensitive marine organisms in the case of the suspended particulate phase, or appropriate sensitive benthic marine organisms in the case of the solid phase; or which will not cause accumulation of toxic materials in the human food chain. These bioassays are to be conducted in accordance with procedures approved by EPA, or, in the case of dredged material, approved by EPA and the Corps of Engineers.[1]

(c) "Appropriate sensitive marine organisms" means at least one species each representative of phytoplankton or zooplankton, crustacean or mollusk, and fish species chosen from among the most sensitive species documented in the scientific literature or accepted by EPA as being reliable test organisms to determine the anticipated impact of the wastes on the ecosystem at the disposal site. Bioassays, except on phytoplankton or zooplankton, shall be run for a minimum of 96 hours under temperature, salinity, and dissolved oxygen conditions representing the extremes of environmental stress at the disposal site. Bioassays on phytoplankton or zooplankton may be run for shorter periods of time as appropriate for the organisms tested at the discretion of EPA, or EPA and the Corps of Engineers, as the case may be.

(d) "Appropriate sensitive benthic marine organisms" means at least one species each representing filter-feeding, deposit-feeding, and burrowing species chosen from among the most sensitive species accepted by EPA as being reliable test organisms to determine the anticipated impact on the site; provided, however, that until sufficient species are adequately tested and documented, interim guidance on appropriate organisms available for use will be provided by the Administrator, Regional Administrator, or the District Engineer, as the case may be.

§ 227.28 Release zone.

The release zone is the area swept out by the locus of points constantly 100 meters from the perimeter of the conveyance engaged in dumping activities, beginning at the first moment in which dumping is scheduled to occur and ending at the last moment in which dumping is scheduled to occur. No release zone shall exceed the total surface area of the dumpsite.

§ 227.29 Initial mixing.

(a) Initial mixing is defined to be that dispersion or diffusion of liquid, suspended particulate, and solid phases of a waste which occurs within four hours after dumping. The limiting permissible concentration shall not be exceeded beyond the boundaries of the disposal site during initial mixing, and shall not be exceeded at any point in the marine environment after initial mixing. The maximum concentration of the liquid, suspended particulate, and solid phases of a dumped material after initial mixing shall be estimated by one of these methods, in order of preference:

(1) When field data on the proposed dumping are adequate to predict initial dispersion and diffusion of the waste, these shall be used, if necessary, in conjunction with an appropriate mathematical model acceptable to EPA or the District Engineer, as appropriate.

(2) When field data on the dispersion and diffusion of a waste of characteristics similar to that proposed for discharge are available, these shall be used in conjunction with an appropriate mathematical model acceptable to EPA or the District Engineer, as appropriate.

(3) When no field data are available, theoretical oceanic turbulent diffusion relationships may be applied to known characteristics of the waste and the disposal site.

(b) When no other means of estimation are feasible,

(1) The liquid and suspended particulate phases of the dumped waste may be assumed to be evenly distributed after four hours over a column of water bounded on the surface by the release zone and extending to the ocean floor, thermocline, or halocline if one exists, or to a depth of 20 meters, whichever is shallower, and

(2) The solid phase of a dumped waste may be assumed to settle rapidly to the ocean bottom and to be distributed evenly over the ocean bottom in an area equal to that of the release zone as defined in § 227.28.

(c) When there is reasonable scientific evidence to demonstrate that other methods of estimating a reasonable allowance for initial mixing are appropriate for a specific material, such methods may be used with the concurrence of EPA after appropriate scientific review.

§ 227.30 High-level radioactive waste.

High-level radioactive waste means the aqueous waste resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated waste from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels or irradiated fuel from nuclear power reactors.

§ 227.31 Applicable marine water quality criteria.

Applicable marine water quality criteria means the criteria given for marine waters in the EPA publication "Quality Criteria for Water" as published in 1976 and amended by subsequent supplements or additions.

§ 227.32 Liquid, suspended particulate, and solid phases of a material.

(a) For the purposes of these regulations, the liquid phase of a material, subject to the exclusions of paragraph (b) of this section, is the supernatant remaining after one hour undisturbed settling, after centrifugation and filtration through a 0.45 micron filter. The suspended particulate phase is the supernatant as obtained above prior to centrifugation and filtration. The solid phase includes all material settling to the bottom in one hour. Settling shall be conducted according to procedures approved by EPA.

(b) For dredged material, other material containing large proportions of insoluble matter, materials which may interact with ocean water to form insoluble matter or new toxic compounds, or materials which may release toxic compounds upon deposition, the Administrator, Regional Administrator, or the District Engineer, as the case may be, may require that the separation of liquid, suspended particulate, and solid phases of the material be performed upon a mixture of the waste with ocean water rather than on the material itself. In

[1] An implementation manual is being developed jointly by EPA and the Corps of Engineers, and announcement of the availability of the manual will be published in the FEDERAL REGISTER. Until this manual is available, interim guidance on the appropriate procedures can be obtained from the Marine Protection Branch, WH-548, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, or the Corps of Engineers, as the case may be.

such cases the following procedures shall be used:

(1) For dredged material, the liquid phase is considered to be the centrifuged and 0.45 micron filtered supernatant remaining after one hour undisturbed settling of the mixture resulting from a vigorous 30-minute agitation of one part bottom sediment from the dredging site with four parts water (vol/vol) collected from the dredging site or from the disposal site, as appropriate for the type of dredging operation. The suspended particulate phase is the supernatant as obtained above prior to centrifugation and filtration. The solid phase is considered to be all material settling to the bottom within one hour. Settling shall be conducted by procedures approved by EPA and the Corps of Engineers.

(2) For other materials, the proportion of ocean water used shall be the minimum amount necessary to produce the anticipated effect (e.g., complete neutralization of an acid or alkaline waste) based on guidance provided by EPA on particular cases, or in accordance with approved EPA procedures. For such materials the liquid phase is the filtered and centrifuged supernatant resulting from the mixture after 30 minutes of vigorous shaking followed by undisturbed settling for one hour. The suspended particulate phase is the supernatant as obtained above prior to centrifugation and filtration. The solid phase is the insoluble material settling to the bottom in that period.

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

Sec.

228.1 Applicability.
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228.12 Delegation of management authority for interim ocean dumping sites.
228.13 Guidelines for ocean disposal site baseline or trend assessment surveys under Section 102 of the Act.

AUTHORITY: 33 U.S.C. 1412 and 1418.

§ 228.1 Applicability.

The criteria of this Part 228 are established pursuant to section 102 of the Act and apply to the evaluation of proposed ocean dumping under Title I of the Act. The criteria of this Part 228 deal with the evaluation of the proposed dumping of material in ocean waters in relation to continuing requirements for effective management of ocean disposal sites to prevent unreasonable degradation of the marine environment from all wastes being dumped in the ocean. This Part 228 is applicable to dredged material disposal sites only as specified in §§ 228.4(e), 228.9, and 228.12.

§ 228.2 Definitions.

(a) The term "disposal site" means an interim or finally approved and precise geographical area within which ocean dumping of wastes is permitted under conditions specified in permits issued under sections 102 and 103 of the Act. Such sites are identified by boundaries established by (1) coordinates of latitude and longitude for each corner, or by (2) coordinates of latitude and longitude for the center point and a radius in nautical miles from that point. Boundary coordinates shall be identified as precisely as is warranted by the accuracy with which the site can be located with existing navigational aids or by the implantation of transponders, buoys or other means of marking the site.

(b) The term "baseline" or "trend assessment" survey means the planned sampling or measurement of parameters at set stations or in set areas in and near disposal sites for a period of time sufficient to provide synoptic data for determining water quality, benthic, or biological conditions as a result of ocean disposal operations. The minimum requirements for such surveys are given in § 228.13.

(c) The term "disposal site evaluation study" means the collection, analysis, and interpretation of all pertinent information available concerning an existing disposal site, including but not limited to, data and information from trend assessment surveys, monitoring surveys, special purpose surveys of other Federal agencies, public data archives, and social and economic studies and records of affected areas.

(d) The term "disposal site designation study" means the collection, analysis and interpretation of all available pertinent data and information on a proposed disposal site prior to use, including but not limited to, that from baseline surveys, special purpose surveys of other Federal agencies, public data archives, and social and economic studies and records of areas which would be affected by use of the proposed site.

(e) The term "management authority" means the EPA organizational entity assigned responsibility for implementing the management functions identified in § 228.3.

(f) "Statistical significance" shall mean the statistical significance determined by using appropriate standard techniques of multivariate analysis with results interpreted at the 95 percent confidence level and based on data relating species which are present in sufficient numbers at control areas to permit a valid statistical comparison with the areas being tested.

(g) "Valuable commercial and recreational species" shall mean those species for which catch statistics are compiled on a routine basis by the Federal or State agency responsible for compiling such statistics for the general geographical area impacted, or which are under current study by such Federal or State agencies for potential development for commercial or recreational use.

(h) "Normal ambient value" means that concentration of a chemical species reasonably anticipated to be present in the water column, sediments, or biota in the absence of disposal activities at the disposal site in question.

§ 228.3 Disposal site management responsibilities.

Management of a site consists of regulating times, rates, and methods of disposal and quantities and types of materials disposed of; developing and maintaining effective ambient monitoring programs for the site; conducting disposal site evaluation and designation studies; and recommending modifications in site use and/or designation (e.g., termination of use of the site for general use or for disposal of specific wastes).

Each site, upon interim or continuing use designation, will be assigned to either an EPA Regional office or to EPA Headquarters for management. These designations will be consistent with the delegation of authority in § 220.4. The designated management authority is fully responsible for all aspects of the management of sites within the general requirements specified in § 220.4 and this section. Specific requirements for meeting the management responsibilities assigned to the designated management authority for each site are outlined in §§ 228.5 and 228.6.

§ 228.4 Procedures for designation of sites.

(a) *General Permits.* Geographical areas or regions within which materials may be dumped under a general permit will be published as part of the promulgation of each general permit.

(b) *Special and Interim Permits.* Areas where ocean dumping is permitted subject to the specific conditions of individual special or interim permits, will be designated by promulgation in this Part 228, and such designation will be made based on environmental studies of each site, regions adjacent to the site, and on historical knowledge of the impact of waste disposal on areas similar to such sites in physical, chemical, and biological characteristics. All studies for the evaluation and potential selection of dumping sites will be conducted in accordance with the requirements of §§ 228.5 and 228.6.

The Administrator may, from time to time, designate specific locations for temporary use for disposal of small amounts of materials under a special permit only without disposal site designation studies when such materials satisfy the Criteria and the Administrator determines that the quantities to be disposed of at such sites will not result in significant impact on the environment. Such designations will be done by promulgation in this Part 228, and will be for a specified period of time and for specified quantities of materials.

(c) *Emergency Permits.* Dumping sites for materials disposed of under an emergency permit will be specified by the Administrator as a permit condition and will be based on an individual appraisal

of the characteristics of the waste and the safest means for its disposal.

(d) *Research Permits.* Dumping sites for research permits will be determined by the nature of the proposed study. Dumping sites will be specified by the Administrator as a permit condition.

(e) *Dredged Material Permits.*

(1) Areas where ocean dumping of dredged material is permitted subject to the specific conditions of Dredged Material permits issued by the U.S. Army Corps of Engineers will be designated by EPA by promulgation in this Part 228, and such designation will be made based on environmental studies of each site, regions adjacent to the site, and on historical knowledge of the impact of dredged material disposal on areas similar to such sites in physical, chemical, and biological characteristics. All studies for the evaluation and potential selection of dredged material disposal sites will be conducted in accordance with the appropriate requirements of §§ 228.5 and 228.6, except that:

(i) Baseline or trend assessment requirements may be developed on a case-by-case basis from the results of research, including that now in progress by the Corps of Engineers.

(ii) An environmental impact assessment for all sites within a particular geographic area may be prepared based on complete disposal site designation or evaluation studies on a typical site or sites in that area. In such cases, sufficient studies to demonstrate the generic similarity of all sites within such a geographic area will be conducted.

(2) In those cases where a recommended disposal site has not been designated by the Administrator, or where it is not feasible to utilize a recommended disposal site that has been designated by the Administrator, the District Engineer shall, in consultation with EPA, select a site in accordance with the requirements of §§ 228.5 and 228.6(a). Concurrence by EPA in permits issued for the use of such site for the dumping of dredged material at the site will constitute EPA approval of the use of the site for dredged material disposal only.

(3) Sites designated for the ocean dumping of dredged material in accordance with the procedures of paragraphs (e)(1) or (e)(2) of this section shall be used only for the ocean dumping of dredged material under permits issued by the U.S. Army Corps of Engineers.

§ 228.5 General criteria for the selection of sites.

(a) The dumping of materials into the ocean will be permitted only at sites or in areas selected to minimize the interference of disposal activities with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation.

(b) Locations and boundaries of disposal sites will be so chosen that temporary perturbations in water quality or other environmental conditions during initial mixing caused by disposal operations anywhere within the site can be expected to be reduced to normal ambient seawater levels or to undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery.

(c) If at anytime during or after disposal site evaluation studies, it is determined that existing disposal sites presently approved on an interim basis for ocean dumping do not meet the criteria for site selection set forth in §§ 228.5-228.6, the use of such sites will be terminated as soon as suitable alternate disposal sites can be designated.

(d) The sizes of ocean disposal sites will be limited in order to localize for identification and control any immediate adverse impacts and permit the implementation of effective monitoring and surveillance programs to prevent adverse long-range impacts. The size, configuration, and location of any disposal site will be determined as a part of the disposal site evaluation or designation study.

(e) EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites that have been historically used.

§ 228.6 Specific criteria for site selection.

(a) In the selection of disposal sites, in addition to other necessary or appropriate factors determined by the Administrator, the following factors will be considered:

(1) Geographical position, depth of water, bottom topography and distance from coast;

(2) Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases;

(3) Location in relation to beaches and other amenity areas;

(4) Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any;

(5) Feasibility of surveillance and monitoring;

(6) Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any;

(7) Existence and effects of current and previous discharges and dumping in the area (including cumulative effects);

(8) Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean;

(9) The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys;

(10) Potentiality for the development or recruitment of nuisance species in the disposal site;

(11) Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.

(b) The results of a disposal site evaluation and/or designation study based on the criteria stated in paragraphs (1)-(11) will be presented in support of the site designation promulgation as an environmental assessment of the impact of the use of the site for disposal, and will be used in the preparation of an environmental impact statement for each site where such a statement is required by EPA policy. By publication of a notice in accordance with this Part 228, an environmental impact statement, in draft form, will be made available for public comment not later than the time of publication of the site designation as proposed rulemaking, and a final EIS will be made available at the time of final rulemaking.

§ 228.7 Regulation of disposal site use.

Where necessary, disposal site use will be regulated by setting limitations on times of dumping and rates of discharge, and establishing a disposal site monitoring program.

§ 228.8 Limitations on times and rates of disposal.

Limitations as to time for and rates of dumping may be stated as part of the promulgation of site designation. The times and the quantities of permitted material disposal will be regulated by the EPA management authority so that the limits for the site as specified in the site designation are not exceeded. This will be accomplished by the denial of permits for the disposal of some materials, by the imposition of appropriate conditions on other permits and, if necessary, the designation of new disposal sites under the procedures of § 228.4. In no case may the total volume of material disposed of at any site under special or interim permits cause the concentration of the total materials or any constituent of any of the materials being disposed of at the site to exceed limits specified in the site designation.

§ 228.9 Disposal site monitoring.

(a) The monitoring program, if deemed necessary by the Regional Administrator or the District Engineer, as appropriate, may include baseline or trend assessment surveys by EPA, NOAA, other Federal agencies, or contractors, special studies by permittees, and the analysis and interpretation of data from remote or automatic sampling and/or sensing devices. The primary purpose of the monitoring program is to evaluate the impact of disposal on the marine environment by referencing the monitoring results to a set of baseline conditions. When disposal sites are being used on a continuing basis, such programs may consist of the following components:

(1) Trend assessment surveys conducted at intervals frequent enough to assess the extent and trends of environmental impact. Until survey data or other information are adequate to show that changes in frequency or scope are necessary or desirable, trend assessment and baseline surveys should generally conform to the applicable requirements of § 228.13. These surveys shall be the responsibility of the Federal government.

(2) Special studies conducted by the permittee to identify immediate and short-term impacts of disposal operations.

(b) These surveys may be supplemented, where feasible and useful, by data collected from the use of automatic sampling buoys, satellites or in situ platforms, and from experimental programs.

(c) EPA will require the full participation of permittees, and encourage the full participation of other Federal and State and local agencies in the development and implementation of disposal site monitoring programs. The monitoring and research programs presently supported by permittees may be incorporated into the overall monitoring program insofar as feasible.

§ 228.10 Evaluating disposal impact.

(a) Impact of the disposal at each site designated under section 102 of the Act will be evaluated periodically and a report will be submitted as appropriate as part of the Annual Report to Congress. Such reports will be prepared by or under the direction of the EPA management authority for a specific site and will be based on an evaluation of all data available from baseline and trend assessment surveys, monitoring surveys, and other data pertinent to conditions at and near a site.

(b) The following types of effects, in addition to other necessary or appropriate considerations, will be considered in determining to what extent the marine environment has been impacted by materials disposed of at an ocean disposal site:

(1) Movement of materials into estuaries or marine sanctuaries, or onto oceanfront beaches, or shorelines;

(2) Movement of materials toward productive fishery or shellfishery areas;

(3) Absence from the disposal site of pollution-sensitive biota characteristic of the general area;

(4) Progressive, non-seasonal, changes in water quality or sediment composition at the disposal site, when these changes are attributable to materials disposed of at the site;

(5) Progressive, non-seasonal, changes in composition or numbers of pelagic, demersal, or benthic biota at or near the disposal site, when these changes can be attributed to the effects of materials disposed of at the site;

(6) Accumulation of material constituents (including without limitation, human pathogens) in marine biota at or near the site.

(c) The determination of the overall severity of disposal at the site on the marine environment, including without limitation, the disposal site and adjacent areas, will be based on the evaluation of the entire body of pertinent data using appropriate methods of data analysis for the quantity and type of data available. Impacts will be categorized according to the overall condition of the environment of the disposal site and adjacent areas based on the determination by the EPA management authority assessing the nature and extent of the effects identified in paragraph (b) of this section in addition to other necessary or appropriate considerations. The following categories shall be used:

(1) *Impact Category I:* The effects of activities at the disposal site shall be categorized in Impact Category I when one or more of the following conditions is present and can reasonably be attributed to ocean dumping activities:

(i) There is identifiable progressive movement or accumulation, in detectable concentrations above normal ambient values, of any waste or waste constituent from the disposal site within 12 nautical miles of any shoreline, marine sanctuary designated under Title III of the Act, or critical area designated under section 102(c) of the Act; or

(ii) The biota, sediments, or water column of the disposal site, or of any area outside the disposal site where any waste or waste constituent from the disposal site is present in detectable concentrations above normal ambient values, are adversely affected by the toxicity of such waste or waste constituent to the extent that there are statistically significant decreases in the populations of valuable commercial or recreational species, or of specific species of biota essential to the propagation of such species, within the disposal site and such other area as compared to populations of the same organisms in comparable locations outside such site and area; or

(iii) Solid waste material disposed of at the site has accumulated at the site or in areas adjacent to it, to such an extent that major uses of the site or of adjacent areas are significantly impaired and the Federal or State agency responsible for regulating such uses certifies that such significant impairment has occurred and states in its certificate the basis for its determination of such impairment; or

(iv) There are adverse effects on the taste or odor of valuable commercial or recreational species as a result of disposal activities; or

(v) When any toxic waste, toxic waste constituent, or toxic byproduct of waste interaction, is consistently identified in toxic concentrations above normal ambient values outside the disposal site more than four hours after disposal.

(2) *Impact Category II:* The effects of activities at the disposal site which are not categorized in Impact Category I shall be categorized in Impact Category II.

§ 228.11 Modification in disposal site use.

(a) Modifications in disposal site use which involve the withdrawal of designated disposal sites from use or permanent changes in the total specified quantities or types of wastes permitted to be discharged to a specific disposal site will be made through promulgation of an amendment to the disposal site designation set forth in this Part 228 and will be based on the results of the analyses of impact described in § 228.10 or upon changed circumstances concerning use of the site.

(b) Modifications in disposal site use promulgated pursuant to paragraph (a) of this section shall not automatically modify conditions of any outstanding permit issued pursuant to this Subchapter H, and provided further that unless the EPA management authority for such site modifies, revokes or suspends such permit or any of the terms or conditions of such permit in accordance with the provisions of § 228.2 based on the results of impact analyses as described in § 228.10 or upon changed circumstances concerning use of the site, such permit will remain in force until its expiration date.

(c) When the EPA management authority determines that activities at a disposal site have placed the site in Impact Category I, the Administrator or the Regional Administrator, as the case may be, shall place such limitations on the use of the site as are necessary to reduce the impacts to acceptable levels.

(d) The determination of the Administrator as to whether to terminate or limit use of a disposal site will be based on the impact of disposal at the site itself and on the Criteria.

§ 228.12 Delegation of management authority for interim ocean dumping sites.

(a) The following sites are approved for dumping the indicated materials on an interim basis pending completion of baseline or trend assessment surveys and designation for continuing use or termination of use. Management authority for all sites is delegated to the EPA organizational entity under which each site is listed. The sizes and use specifications are based on historical usage and do not necessarily meet the criteria stated in this Part. This list of interim sites will remain in force for a period not to exceed three years from the date of final promulgation of this Part 228, except for those sites approved for continuing use or disapproved for use by promulgation in this Part during that period of time.

Approved interim dumping sites

Location (latitude, longitude)	EPA region	Primary use
43°33'00" N., 69°55'00" W., 1 nautical mile radius	I	Industrial wastes.
42°25'42" N., 70°35'00" W., 1 nautical mile radius	I	Do.
40°22'30" N. to 40°25'00" N., 73°41'30" W. to 73°45'00" W	II	Municipal sewage sludge.
40°16'00" N. to 40°20'00" N., 73°36'00" W. to 73°40'00" W	II	Acid wastes.
38°40'00" N. to 39°00'00" N., 72°00'00" W. to 72°30'00" W	II	Industrial wastes.
40°23'00" N., 73°49'00" W., 0.6 nautical mile radius	II	Cellar dirt.
40°10'00" N., 73°42'00" W., 0.5 nautical mile radius	II	Wrecks.
19°10'00" N. to 19°20'00" N., 66°35'00" W. to 66°50'00" W	II	Industrial wastes.
38°30'00" N. to 38°35'00" N., 74°15'00" W. to 74°25'00" W	III	Acid wastes.
38°20'00" N. to 38°25'00" N., 74°10'00" W. to 74°20'00" W	III	Municipal sewage sludge.
31°46'00" N., 80°36'00" W., 31°47'00" N., 80°29'00" W., 31°45'00" N., 80°30'30" W., 31°46'30" N., 80°32'00" W.	IV	Industrial wastes.
27°12'00" N. to 27°28'00" N., 96°28'00" W. to 96°44'00" W	VI	Do.
28°00'00" N. to 28°10'00" N., 89°15'00" W. to 89°30'00" W	VI	Do.

DREDGED MATERIAL SITES

(All dredged material sites will be retained under EPA Headquarters management until formally approved for continuing use or otherwise assigned for Regional management prior to such designation.)

LOCATION (LAT., LONG.)

Marblehead, MA—42°25'42" N., 70°34'00" W. (2 N. Mi. diameter).

Boston, MA—41°49'00" N., 70°25'00" W. (1 N. Mi. diameter).

Portland, ME—43°32'18" N., 70°06'06" W. (1 Mi. diameter).

Cape Arundel, ME—43°17'45" N., 70°27'12" W. (500 yds. diameter).

Absecon Inlet—39°21'07" N., 74°23'40" W.; 39°21'18" N., 74°23'53" W.

Cold Spring Inlet—38°55'41" N., 74°53'05" W.; 38°55'38" N., 74°53'23" W.

Manasquan Inlet—40°06'22" N., 74°01'46" W.; 40°06'38" N., 74°01'39" W.

East Rockaway—40°34'36" N., 73°49'00" W.; 40°35'06" N., 73°47'06" W.; 40°34'10" N., 73°48'36" W.; 40°34'12" N., 73°47'17" W.

Jones Inlet—40°34'32" N., 73°39'14" W.; 40°-34'32" N., 73°37'06" W.; 40°33'48" N., 73°-37'06" W.; 40°33'48" N., 73°39'14" W.

Fire Island—40°36'40" N., 73°23'50" W.; 40°-37'12" N., 73°21'30" W.; 40°36'41" N., 73°-21'20" W.; 40°36'10" N., 73°23'40" W.

Mud Dump—40°23'48" N., 73°51'28" W.; 40°-21'48" N., 73°50'00" W.; 40°21'48" N., 73°-51'28" W.; 40°23'48" N., 73°50'00" W.

Shark River—40°12'48" N., 73°59'45" W.; 40°12'44" N., 73°59'06" W.; 40°11'36" N., 73°59'28" W.; 40°11'42" N., 74°00'12" W.

Rockaway Inlet—40°32'30" N., 73°55'00" W.; 40°32'30" N., 73°54'00" W.; 40°32'00" N., 73°54'00" W.; 40°32'00" N., 73°55'00" W.

San Juan Harbor—18°30'10" N., 66°08'29" W.; 18°30'10" N., 66°09'31" W.

Mayaguez Harbor—18°14'30" N., 67°13'29" W.; 18°15'30" N., 67°14'31" W.

Arecibo Harbor—18°30'00" N., 66°42'45" W.; 18°31'00" N., 66°43'47" W.

Ponce Harbor—17°55'30" N., 66°38'29" W.; 17°54'30" N., 66°39'31" W.

Dam Neck—36°50'06" N., 75°53'17" W.; 36°46'28" N., 75°53'17" W.; 36°46'28" N., 75°-54'19" W.; 36°50'05" N., 75°54'19" W.

Wilmington Harbor, NC—Hopper dredge disposal in area east of a line beginning 33°-50'00" and 78°02'30" to 33°48'45" and 78°-04'00" to 33°45'00" and 78°05'00".

Morehead City Harbor—Maintenance dredging hoper dredge disposal area 3 miles x 3 miles; approximate latitude and longitude, bounded north 34°40'00", south 34°38'30", east 76°41'00", west 76°49'00".

Georgetown Harbor—33°11'18" N., 79°07'26" W.; 33°11'18" N., 79°05'29" W.; 33°10'38" N., 79°07'21" W.; 33°10'38" N., 79°05'24" W.

Charleston Harbor—32°48'00" N., 79°41'57" W.; 32°40'43" N., 79°47'30" W.; 32°39'04" N., 79°46'21" W.; 32°36'29" N., 79°49'48" W.

Port Royal Harbor—32°10'11" N., 80°36'00" W.; 32°10'06" N., 80°36'35" W.; 32°08'41" N., 80°35'49" W.; 32°08'38" N., 80°36'23" W.

Port Royal Harbor—32°05'46" N., 80°35'30" W.; 32°05'42" N., 80°36'27" W.; 32°04'27" N., 80°35'18" W.; 32°04'22" N., 80°36'16" W.

Brunswick Harbor—Atlantic outlet, Ga., St. Simons Sound, Brunswick Harbor Bar Channel, maintenance dredging disposal area 1 nautical mile wide by 2 nautical miles long adjacent to the channel located on the south side of the entrance and being 6.6 nautical miles from shore at a point of beginning at 31°02'35" N. and 81°17'40" W., thence due east to 31°02'35" N. and 81°16'30" W., thence due south to 31°00'-30" N. and 81°16'30" W., thence due west to 31°00'30" N. and 81°16'30" W., thence due north to the point of beginning.

Savannah River—Atlantic outlet, Ga., Savannah River Bar Channel, maintenance dredging disposal area 2 nautical miles wide by 2 nautical miles long adjacent to the channel, located on the southeast side and being 6 nautical miles from shore at point of beginning at 31°57'55" N. and 80°46'58" W., thence due east to 31°57'55" N. and 80°44'20" W., thence due south to 31°55'53" N. and 80°46'48" W., thence northward to the point of beginning.

Canaveral Harbor—28°19'53" N., 80°31'08" W.; 28°18'50" N., 80°29'40" W.; 28°17'35" N., 80°30'52" W.; 28°18'38" N., 80°32'20" W.

Fort Pierce Harbor—27°28'30" N., 80°12'33" W.; 27°28'30" N., 80°11'27" W.; 27°27'30" N., 80°11'27" W.; 27°27'30" N., 80°12'33" W.

Jacksonville Harbor—30°21'30" N., 81°18'34" W.; 30°21'30" N., 81°17'26" W.; 30°20'30" N., 81°17'26" W.; 30°20'30" N., 81°18'34" W.

Miami Beach—25°45'30" N., 80°03'54" W.; 25°45'30" N., 80°02'50" W.; 25°44'30" N., 80°02'50" W.; 25°44'30" N., 80°03'54" W.

Palm Beach Harbor—26°46'10" N., 80°02'00" W.; 26°45'54" N., 80°02'06" W.; 26°45'54" N., 80°02'13" W.; 26°46'10" N., 80°02'07" W.

Port Everglades Harbor—26°07'00" N., 80°04'30" W.; 26°07'00" N., 80°03'30" W.; 26°06'00" N., 80°03'30" W.; 26°06'00" N., 80°04'30" W.

St. Augustine Harbor—29°51'33" N., 81°15'24" W.; 29°51'33" N., 81°15'00" W.; 29°50'33" N., 81°15'00" W.; 29°50'33" N., 81°15'24" W.

St. Augustine Harbor—29°55'04" N., 81°17'04" W.; 29°55'19" N., 81°16'11" W.; 29°54'30" N., 81°15'53" W.; 29°54'19" N., 81°16'51" W.

St. Lucie Inlet—27°09'59" N., 80°09'30" W.; 27°09'58" N., 80°08'42" W.; 27°09'53" N., 80°08'42" W.; 27°09'53" N., 80°09'30" W.

Charlotte Harbor—26°37'36" N., 82°19'55" W.; 26°37'36" N., 82°18'47" W.; 26°36'36" N., 82°18'47" W.; 26°36'36" N., 82°19'55" W.

Tampa Harbor—27°38'08" N., 82°55'06" W.; 27°38'08" N., 82°54'00" W.; 27°37'08" N., 82°54'00" W.; 27°37'08" N., 82°55'06" W.

Tampa Harbor—27°37'28" N., 83°00'09" W.; 27°37'34" N., 82°59'19" W.; 27°36'43" N., 82°59'13" W.; 27°36'37" N., 83°00'03" W.

Fernandina Harbor—30°42'00" N., 81°19'05" W.; 30°42'00" N., 81°17'55" W.; 30°41'00" N., 81°17'55" W.; 30°41'00" N., 81°19'05" W.

Ponce de Leon Inlet—29°06'05" N., 80°55'50" W.; 29°06'10" N., 80°55'40" W.; 29°05'34" N., 80°55'10" W.; 29°05'28" N., 80°55'20" W.

Ponce de Leon Inlet—29°04'46" N., 80°53'40" W.; 29°04'36" N., 80°53'40" W.; 29°04'36" N., 80°54'26" W.; 29°04'46" N., 80°54'26" W.

Palm Beach Harbor—26°46'00" N., 79°58'55" W.; 26°46'00" N., 79°57'47" W.; 26°45'00" N., 79°57'47" W.; 26°45'00" N., 79°58'55" W.

Largo Sound—25°06'06" N., 80°24'42" W.; 25°05'58" N., 80°24'05" W.; 25°05'50" N., 80°24'10" W.; 25°05'58" N., 80°24'47" W.

Key West—24°27'24" N., 81°45'38" W.; 24°27'24" N., 81°44'32" W.; 24°26'20" N., 81°44'32" W.; 24°26'20" N., 81°45'38" W.

Anclote, FL—28°09'00" N., 83°51'48" W.; 28°09'00" N., 83°50'54" W.; 28°08'30" N., 83°50'54" W.; 28°08'30" N., 83°51'48" W.

Pithlachascotee River, FL—28°17'02" N., 82°46'21" W.; 28°17'02" N., 82°45'12" W.; 28°16'25" N., 82°45'00" W.; 28°16'42" N., 82°45'00" W.; 28°16'42" N., 82°46'21" W.

Withlacoochee River, FL—29°59'54" N., 82°47'14" W.; 29°00'28" N., 82°46'06" W.; 29°00'14" N., 82°45'58" W.; 28°59'40" N., 82°47'06" W.

Withlacoochee River, FL—28°59'06" N., 82°48'48" W.; 28°59'32" N., 82°47'40" W.; 28°59'18" N., 82°47'32" W.; 28°58'54" N., 82°48'40" W.

Cedar Keys, FL—29°08'43" N., 83°07'53" W.; 29°08'43" N., 83°07'03" W.; 29°08'33" N., 83°07'03" W.; 29°08'33" N., 83°07'53" W.

Cedar Keys, FL—29°04'06" N., 83°04'06" W.; 29°04'01" N., 83°03'54" W.; 29°03'28" N., 83°04'12" W.; 29°03'35" N., 83°04'24" W.

Horseshoe Cove, FL—29°25'23" N., 83°17'53" W.; 29°25'18" N., 83°17'43" W.; 29°25'09" N., 83°17'49" W.; 29°25'14" N., 83°17'59" W.

Horseshoe Cove, FL—29°25'58" N., 83°17'32" W.; 29°25'53" N., 83°17'22" W.; 29°25'44" N., 83°17'28" W.; 29°25'49" N., 83°17'38" W.

Mobile, AL—30°10.0' N., 88°07.7' W.; 30°10.4' N., 88°05.2' W.; 30°09.4' N., 88°04.7' W.; 30°08.5' N., 88°05.2' W.; 30°08.5' N., 88°08.2' W.

Pascagoula, MS—30°11.9' N., 88°33.1' W.; 30°11.9' N., 88°32.3' W.; 30°11.6' N., 88°33.4' W.; 30°11.6' N., 88°32.1' W.; 30°10.5' N., 88°33.2' W.; 30°10.6' N., 88°34.0' W.

Gulfport, MS—30°12.0' N., 89°00.5' W.; 30°12.0' N., 88°59.5' W.; 30°11.0' N., 89°00.0' W.; 30°07.0' N., 89°56.5' W.; 30°06.6' N., 88°57.0' W.; 30°10.5' N., 89°00.6' W.

Gulfport, MS—30°11.3' N., 88°58.4' W.; 30°11.2' N., 88°57.5' W.; 30°07.6' N., 88°54.4' W.; 30°07.4' N., 88°54.8' W.

Pensacola, FL—30°16.8' N., 87°19.0' W.; 30°16.7' N., 87°18.3' W.; 30°16.3' N., 87°18.2' W.; 30°16.0' N., 87°19.4' W.; 30°16.5' N., 87°19.4' W.

Panama City, FL—30°07.1' N., 85°45.0' W.; 30°06.9' N., 85°45.5' W.; 30°06.9' N., 85°45.1' W.; 30°06.7' N., 85°45.6' W.

Port St. Joe, FL—29°50.9' N., 85°29.0' W.; 29°51.3' N., 85°29.5' W.; 29°49.9' N., 85°28.2' W.; 29°49.0' N., 85°28.8' W.

Port St. Joe, FL—29°53.9' N., 85°31.8' W.; 29°54.1' N., 85°31.3' W.; 29°52.2' N., 85°30.1' W.; 29°52.2' N., 85°30.8' W.

SABINE-NECHES WATERWAY, TEXAS

Disposal Area No. 1—Beginning at lat. 29°28'03", long. 93°41'14"; thence to lat. 29°26'11", long. 93°41'14"; thence to lat. 29°26'11", long. 93°44'14"; thence to point of beginning.

Disposal Area No. 2—Beginning at lat. 29°30'41", long. 93°43'49"; thence to lat. 29°28'42", long. 93°41'33"; thence to lat. 29°28'42", long. 93°44'49"; thence to lat. 29°26'11", long. 3°44'11"; thence to point of beginning.

Disposal Area No. 3—Beginning at lat. 29°34'24", long. 93°48'13"; thence to lat. 29°32'47", long. 93°46'16"; thence to lat. 29°32'06", long. 93°46'29"; thence to lat. 29°31'42", long. 93°48'16"; thence to lat. 29°32'59", long. 93°49'48"; thence to point of beginning.

Disposal Area No. 4—Beginning at lat. 29°38'09", long. 93°49'23"; thence to lat. 29°35'53", long. 93°48'18"; thence to lat. 29°35'06", long. 93°50'24"; thence to lat. 29°36'37", long. 93°51'09"; thence to lat. 29°37'00", long. 93°50'06"; thence to lat. 29°37'46", long. 93°50'26"; thence to point of beginning.

GALVESTON HARBOR AND CHANNEL, TEXAS

Disposal Area No. 1—Beginning at lat. 29°18'00", long. 94°39'30"; thence to lat. 29°15'54", long. 94°37'06"; thence to lat. 29°14'24", long. 94°38'42"; thence to lat. 29°16'54", long. 94°41'30"; thence to point of beginning.

FREEPORT HARBOR, TEXAS

Disposal Area No. 1—Beginning at lat. 28°54'42", long. 95°17'38"; thence to lat. 28°54'-3"; long. 95°16'54"; thence to lat. 28°53'48", long. 95°17'27"; thence to lat. 28°54'21", long. 95°18'03"; thence to point of beginning.

MATAGORDA SHIP CHANNEL

Disposal Area No. 1—Beginning at lat. 28°24'31", long. 96°18'48"; thence to lat. 28°23'27", long. 96°17'38"; thence to lat. 28°23'15", long 96°17'54"; thence to lat. 28°24'18", long. 96°19'03"; thence to point of beginning.

CORPUS CHRISTI SHIP CHANNEL

Disposal Area No. 1—Beginning at lat. 27°49'34", long. 97°01'51"; thence to lat. 27°48'28", long. 96°59'49"; thence to lat. 27°48'18", long. 96°59'56"; thence to lat. 27°49'23", long. 97°01'58"; thence to point of beginning.

PORT MANSFIELD CHANNEL

Disposal Area No. 1—Beginning at lat. 26°34'09", long. 97°15'52"; thence to lat. 26°34'09", long. 97°15'18"; thence to lat. 26°33'57", long. 97°15'18"; thence to lat. 26°33'57", long. 97°15'52"; thence to point of beginning.

Disposal Area No. 1-A—Beginning at lat. 26°34'17", long. 97°16'12"; thence to lat. 26°34'18", long. 97°15'55"; thence to lat. 26°33'59", long. 97°15'52"; thence to lat. 26°33'58", long. 97°16'11"; thence to point of beginning.

BRAZOS ISLAND HARBOR

Disposal Area No. 1—Beginning at lat. 26°04'38", long. 97°07'52"; thence to lat. 26°04'38", long. 97°06'42"; thence to lat. 26°04'05", long. 97°06'42"; thence to lat. 26°04'05", long. 97°07'52"; thence to point of beginning.

Mississippi River, Gulf Outlet, La.—Breton Sound and Bar Channel. Maintenance dredging disposal area 0.5 mile wide by 12.5 miles long, parallel to the channel and located on the south side. Beginning at 29°32'23" N. and 89°12'20" W., following channel centerline (azimuth 308°47') in Breton Sound to 29°29'15" N. and 89°07'06" W., following centerline (azimuth 300°36') of the gulf entrance channel to 29°25'06" N. and 88°59'54" W., thence to 29°24'45" N. and 89°00'09" W., thence to 29°28'53" N., and 89°08'08" W., thence to 29°31'41" N. and 89°12'09" W., thence to the point of beginning.

Mississippi River, Baton Rouge to the Gulf of Mexico, La.—South Pass, Maintenance dredging disposal area 0.5 mile square, parallel to the channel and located on the west side. Beginning at 28°58'33" N. and 89°07'00" W., following channel centerline (azimuth 295°41') of the gulf entrance channel to 28°58'24" N. and 89°06'30" W., thence to 28°57'54" N. and 89°06'42" W., thence to 28°58'06" N. and 89°07'18" W., thence to the point of beginning.

Mississippi River, Baton Rouge to the Gulf of Mexico, La.—Southwest Pass, Maintenance dredging disposal area 2 miles square, parallel to the channel and located on the west side. Beginning at 28°54'24" N. and 89°26'03" W., following channel centerline (azimuth 0°09') of the gulf entrance channel to 28°52'18" N. and 89°26'03" W., thence to 28°52'18" N. and 89°27'48" W., thence to 28°54'24" N. and 89°27'48" W., thence to the point of beginning.

Mississippi River Outlets, Venice, La.—Tiger Pass. Maintenance dredging disposal area 0.5 mile wide by 1.5 miles long, parallel to the channel and located on the north side. Beginning at 29°08'18" N. and 89°25'45" W., following channel centerline (azimuth 63°54') of the gulf entrance channel to 29°07'36" N. and 89°26'51" W., thence to 29°07'48" N. and 89°27'00" W., thence to 29°08'36" N. and 89°25'57" W., thence to the point of beginning.

Waterway from Empire, La. to the Gulf of Mexico—Bar channel. Maintenance dredging disposal area 0.5 mile wide by 1 mile long, parallel to the channel and located on the west side. Beginning at 29°15'06" N. and 89°36'30" W., following channel centerline (azimuth 11°08') of the gulf entrance channel to 29°14'30" N. and 89°36'36" W., thence to 29°14'36" N. and 89°36'48" W., thence to 29°15'12" N. and 89°36'42" W., thence to the point of beginning.

Barataria Bay Waterway, La.—Bar channel. Maintenance dredging disposal area 0.5 mile wide by 3 miles long, parallel to the channel and located on the east side. Beginning at 29°16'18" N. and 89°56'12" W., following channel centerline (azimuth 312°07') of the gulf entrance channel to 29°14'42" N. and 89°54'36" W., thence to 29°14'30" N. and 89°54'24" W., thence to 29°16'06" N. and 89°56'24" W., thence to the point of beginning.

Bayou Lafourche and Lafourche—Jump Waterway, La.—Bell Pass. Maintenance dredging disposal area 2,000 feet wide by 1.5 miles long, parallel to the channel and located on the west side. Beginning at 29°05'00" N. and 90°13'45" W., following Bell Pass centerline (azimuth 12°55') in the gulf entrance channel to 29°03'51" N. and 90°14'06" W., thence to 29°03'57" N. and 90°14'21" W., thence to 29°05'06" N. and 90°14'03" W., thence to the point of beginning.

Houma Navigation Canal, La.—Cat Island Pass. Maintenance dredging disposal area 0.5 mile wide by 5 miles long, parallel to the Cat Island channel and located on the west side. Beginning at 29°04'45" N. and 90°34'48" W., following Cat Island centerline (azimuth 358°41') of the gulf entrance channel to 29°03'42" N. and 90°34'34" W., following Cat Island centerline (azimuth 354°00') of the gulf entrance channel to 29°00'24" N. and 90°34'12" W., thence to 29°00'21" N. and 90°34'36" W., thence to 29°03'42" N. and 90°34'58" W., thence to 29°04'48" N. and 90°35'18" W., thence to the point of beginning.

Atchafalaya River—Morgan City to the Gulf of Mexico, La. and Atchafalaya River and Bayous Chene, Boeuf and Black, La.—Bar channel. Maintenance dredging disposal area 0.5 mile wide by 12 miles long, parallel to the bar channel and located on the east side. Beginning at 29°20'50" N. and 91°24'03" W., following channel centerline (azimuth 37°57') of the gulf entrance channel to 29°11'35" N. and 91°32'10" W., thence to 29°11'21" N. and 91°31'37" W., thence to 29°20'36" N. and 91°23'27" W., thence to the point of beginning.

Freshwater Bayou, La.—Bar channel. Maintenance dredging disposal area 2,000 feet wide by 3.5 miles long, parallel to the channel and located on the west side. Beginning at 29°32'00" N. and 92°18'48" W.; following channel centerline (azimuth 09°25') of the gulf entrance to 29°28'24" N. and 92°19'30" W., thence to 29°28'25" N. and 92°19'42" W., thence to 29°32'01" N. and 92°19'00" W., thence to the point of beginning.

Mermentau River, La. Maintenance dredging disposal areas 0.5 mile wide and 1.5 miles long, parallel to the entrance channels in the Lower Mermentau River and in the Lower Mud Lake, both located on the west side:

Disposal Area "A", Mermentau River, La. Beginning at 29°44'48" N. and 93°07'12" W., following channel centerline (azimuth 256°59') of the gulf entrance to 29°43'39" N. and 93°07'36" W., thence to 29°43'42" N. and 93°07'48" W., thence to 29°44'51" N. and 93°07'24" W., thence to the point of beginning.

Disposal Area "B", Mermentau River, La. Beginning at 29°43'24" N. and 93°01'54" W., following channel centerline (azimuth 359°50') of the gulf entrance to 29°42'33" N. and 93°02'12" W., thence to 29°42'36" N. and 93°02'24" W., thence to 29°43'27" N. and 93°02'06" W., thence to the point of beginning.

Calcasieu River and Pass, La.—Bar channel. Maintenance dredging disposal areas A through G parallel to the channel and located on the east and west side:

Disposal Area "A", Calcasieu River and Pass, La. Maintenance dredging disposal area one mile square parallel to the bar channel on the west bank. Beginning at 29°45'09" N. and 93°20'42" W., following channel centerline (azimuth 351°50') of the first tangent gulfward in the gulf entrance channel to 29°44'39" N. and 93°20'36" W., thence to 29°44'36" N. and 93°21'33" W., thence to 29°45'12" N. and 93°21'42" W., thence to the point of beginning.

Disposal Area "B", Calcasieu River and Pass, La. Maintenance dredging disposal area 1 mile square parallel to the bar channel and located on the east bank. Beginning at 29°45'27" N. and 93°20'33" W., following channel centerline (azimuth 351°50') of the first tangent gulfward in the gulf entrance channel to 29°44'42" N. and 93°20'24" W., thence to 29°44'45" N. and 93°19'30" W., thence to 29°45'39" N. and 93°19'36" W., thence to the point of beginning.

Disposal Area "C", Calcasieu River and Pass, La. Maintenance dredging disposal area 1 mile wide by 5.5 miles long, parallel to the

bar channel and located on the west side. Beginning at 29°44'30" N. and 93°20'36" W., following channel centerline (azimuth 351°50') of the first tangent gulfward in the gulf entrance channel to 29°39'48" N. and 93°19'48" W., thence to 29°39'42" N. and 93°20'48" W., thence to 29°44'24" N. and 93°21'30" W., thence to the point of beginning.

Disposal Area "D", Calcasieu River and Pass, La. Maintenance dredging disposal area 1 mile wide by 5.5 miles long, parallel to the bar channel and located on the west side. Beginning at 29°37'48" N. and 93°19'24" W., following channel centerline (azimuth 351°50') of the first tangent gulfward in the gulf entrance channel to 29°37'24" N. and 93°19'24" W., following channel centerline (azimuth 321°37') of the second tangent gulfward in the gulf entrance channel to 29°34'12" N. and 93°16'18" W., thence to 29°33'06" N. and 93°16'36" W., thence to 29°37'24" N. and 93°20'24" W., thence to 29°37'48" N. and 93°20'24" W., thence to the point of beginning.

Disposal Area "E", Calcasieu River and Pass, La. Maintenance dredging disposal area 0.75 mile wide by 6.75 miles long, parallel to the bar channel and located on the west side. Beginning at 29°33'54" N. and 93°16'24" W., following channel centerline (azimuth 321°37') of the second tangent gulfward in the gulf entrance channel to 29°31'00" N. and 93°18'48" W., following channel centerline (azimuth 358°56') of the third tangent gulfward in the gulf entrance channel to 29°29'00" N. and 93°13'42" W. thence to 29°28'54" N. and 93°14'24" W., thence to 29°30'54" N. and 93°14'24" W., thence to 29°33'12" N. and 93°16'36" W., thence to the point of beginning.

Disposal Area "F", Calcasieu River and Pass, La. Maintenance dredging disposal area 0.75 mile wide by 2.5 miles long, parallel to the bar channel and located on the east side. Beginning at 29°44'42" N. and 93°20'12" W., following channel centerline (azimuth 351°50') of the first tangent gulfward in the gulf entrance channel to 29°42'36" N. and 93°19'48" W., thence to 29°42'42" N. and 93°19'06" W., thence to 29°44'48" N. and 93°19'24" W., thence to the point of beginning.

Disposal Area "G", Calcasieu River and Pass, La. Maintenance dredging disposal area 1 mile wide by 0.5 mile long, parallel to the bar channel and located on the west side. Beginning at 29°44'54" N., and 93°20'36" W., following channel centerline (azimuth 351°50') of the first tangent gulfward in the gulf entrance channel to 29°44'42" N., and 93°20'36" W., thence to 29°44'42" N., and 93°20'48" W., following channel centerline again to 29°44'30" N., and 93°20'42" W., thence to 29°44'24" N. and 93°21'30" W., thence to 29°44'48" N. and 93°21'30" W., thence to the point of beginning.

Crescent City Harbor—41°43'15" N., 124°12'10" W. (1,000 yd. diameter)
Crescent City 100 fathom—41°43'50" N., 124°28'00" W. (1,000 yd. diameter)
Humboldt Bay Harbor—40°45'44" N., 124°15'42" W. (500 yd. diameter)
Noyo River—39°25'45" N., 123°49'42" W. (500 yd. diameter)
Farallon Islands—37°31'45" N., 122°59'00" W. (1,000 yd. radius)
San Francisco Channel Bar—37°45'06" N., 122°35'45" W. (5,000 yds. x 1,000 yds.)
Moss. Landing 100 fathom—36°37'53" N., 121°49'04" W. (500 yd. radius)
Port Hueneme—34°05'00" N., 119°14'00" W. (1,000 yd. radius)
Los Angeles—33°37'06" N., 118°17'24" W. (1,000 yd. radius)
Newport Beach—33°31'42" N., 117°54'48" W. (1,000 yd. radius)
San Diego—Point Loma—32°35'00" N., 117°17'30" W. (1,000 yd. radius)
San Diego 100 fathom—32°36'50" N., 117°20'40" W. (1,000 yd. radius)
Honolulu Harbor—21°14'30" N., 157°54'30" W. (1,000 yd. radius)
Kauai—Nawiliwili—21°55'30" N., 159°17'00" W. (1,000 yd. radius)
Kauai—Hanapepe—21°50'18" N., 159°35'30" W. (1,000 yd. radius)
Guam—Apra Harbor—13°29'30" N., 144°34'30" E. (1,000 yd. radius)
American Samoa—Pago Pago Harbor—14°23'00" S., 170°39'30" W. (1,000 yd. radius)
Mouth of Columbia River—46°14'37" N., 124°10'34" W.; 46°13'53" N., 124°10'01" W.; 46°13'43" N., 124°10'28" W.; 46°14'28" N., 124°10'59" W.
Mouth of Columbia River—46°13'03" N., 124°06'17" W.; 46°12'50" N., 124°05'55" W.; 46°12'13" N., 124°06'43" W.; 46°12'26" N., 124°07'05" W.
Mouth of Columbia River—46°15'43" N., 124°05'21" W.; 46°15'36" N., 124°05'11" W.; 46°15'11" N., 124°05'53" W.; 46°15'18" N., 124°06'03" W.
Mouth of Columbia River—46°12'12" N., 124°09'00" W.; 46°12'00" N., 124°08'42" W.; 46°11'48" N., 124°09'00" W.; 46°12'00" N., 124°09'18" W.
Mouth of Columbia River—46°12'05" N., 124°05'46" W.; 46°11'52" N., 124°05'25" W.; 46°11'15" N., 124°06'14" W.; 46°11'28" N., 124°06'35" W.
Chetco River Entrance—42°01'56" N., 124°16'33" W.; 42°01'56" N., 124°16'09" W.; 42°01'38" N., 124°16'09" W.; 42°01'38" N., 124°16'33" W.
Rogue River Entrance—42°24'16" N., 124°26'48" W.; 42°24'04" N., 124°26'35" W.; 42°23'40" N., 124°27'13" W.; 42°23'52" N., 124°27'26" W.
Coquille River Entrance—43°07'54" N., 124°-27'04" W.; 43°07'30" N., 124°26'27" W.; 43°07'20" N., 124°26'40" W.; 43°07'44" N., 124°27'17" W.
Coos Bay Entrance—43°21'59" N., 124°22'45" W.; 43°21'48" N., 124°21'59" W.; 43°21'35" N., 124°22'05" W.; 43°21'46" N., 124°22'-51" W.
Coos Bay Entrance—43°22'44" N., 124°22'18" W.; 43°22'29" N., 124°21'34" W.; 43°22'-16" N., 124°21'42" W.; 43°22'31" N., 124°-22'26" W.
Umpqua River Entrance—43°40'07" N., 124°-14'18" W.; 43°40'07" N., 124°13'42" W.; 43°39'53" N., 124°13'42" W.; 43°39'53" N., 124°14'18" W.
Salslaw River Entrance—44°01'32" N., 124°-09'37" W.; 44°01'22" N., 124°09'02" W.; 44°01'14" N., 124°09'07" W.; 44°01'24" N., 124°09'42" W.
Tillamook Bay Entrance—45°34'09" N., 123°-59'37" W.; 45°34'09" N., 123°58'45" W.; 45°33'55" N., 123°58'45" W.; 45°33'55" N., 123°59'37" W.
Depoe Bay—44°48'33" N., 124°03'53" W.; 44°-48'32" N., 124°03'43" W.; 44°48'15" N., 124°03'45" W.; 44°48'16" N., 124°03'55" W.
Depoe Bay—44°48'09" N., 124°05'05" W.; 44°-48'09" N., 124°04'55" W.; 44°47'53" N., 124°04'55" W.; 44°47'53" N., 124°05'05" W.
Yaquina Bay and Harbor Entrance—44°36'-31" N., 124°06'04" W.; 44°36'31" N., 124°-05'16" W.; 44°36'17" N., 124°05'16" W.; 44°36'17" N., 124°06'04" W.
Port Orford—42°44'08" N., 124°29'38" W.; 42°44'08" N., 124°29'28" W.; 42°43'52" N., 124°29'28" W.; 42°43'52" N., 124°29'38" W.
Willapa Bay—46°44'00" N., 124°10'00" W.; 46°39'00" N., 124°09'00" W.
Nome—64°30'40" N., 165°25'52" W.; 64°29'-18" N., 165°26'04" W.; 64°29'13" N., 165°-25'22" W.; 64°29'54" N., 165°24'45" W.
Anchorage Harbor—61°14'07" N., 149°53'56" W.; 61°14'16" N., 149°54'15" W.; 61°14'45" N., 149°53'36" W.; 61°14'36" N., 149°53'17" W.

(b) The following sites are designated "Approved Ocean Dumping Sites" for continuing use, subject to the listed restrictions:

(1) Gulf Ocean Incineration Site—Region VI. Location—Latitude and Longitude—27°06'12" N., 93°24'15" W.; 26°32'24" N., 93°15'30" W.; 26°19'00" N., 93°56'00" W.; 26°52'40" N., 94°04'40" W.
Size—(square miles) 1892.
Depth—(feet) 4500.
Primary Use: At sea incineration primarily for organochlorine wastes. Incineration of other wastes will require research studies or equivalent technical documentation to determine acceptability for ocean incineration.
Period of use: Until September 15, 1981.
Restriction: Only one ship will be permitted to burn wastes at a time, except under extreme emergencies.

§ 228.13 Guidelines for ocean disposal site baseline or trend assessment surveys under Section 102 of the Act.

The purpose of a baseline or trend assessment survey is to determine the physical, chemical, geological, and biological structure of a proposed or existing disposal site at the time of the survey. A baseline or trend assessment survey is to be regarded as a comprehensive synoptic and representative picture of existing conditions; each such survey is to be planned as part of a continual monitoring program through which changes in conditions at a disposal site can be documented and assessed. Surveys will be planned in coordination with the ongoing programs of NOAA and other Federal, State, local, or private agencies with missions in the marine environment. The field survey data collection phase of a disposal site evaluation or designation study shall be planned and conducted to obtain a body of information both representative of the site at the time of study and obtained by techniques reproducible in precision and accuracy in future studies. A full plan of study which will provide a record of sampling, analytical, and data reduction procedures must be developed, documented and approved by the EPA management authority. Plans for all surveys which will produce information to be used in the preparation of environmental impact statements will be approved by the Administrator or his designee. This plan of study also shall be incorporated as an appendix into a technical report on the study, together with notations describing deviations from the plan required in actual operations. Relative emphasis on individual aspects of the environment at each site will depend on the type of wastes disposed of at the site and the manner in which such wastes are likely to affect the local environment, but no major feature of the disposal site may be neglected. The observations made and the data obtained are to be based on the information necessary to evaluate the site for ocean dumping. The parameters measured will be those indicative, either directly or in directly, of the immediate and long-term impact of pollutants on the environment at the disposal site and adjacent land or water areas. An

initial disposal site evaluation or designation study should provide an immediate baseline appraisal of a particular site, but it should also be regarded as the first of a series of studies to be continued as long as the site is used for waste disposal.

(a) *Timing.* Baseline or trend assessment surveys will be conducted with due regard for climatic and seasonal impact on stratification and other conditions in the upper layers of the water column. Where a choice of season is feasible, trend assessment surveys should be made during those months when pollutant accumulation within disposal sites is likely to be most severe, or when pollutant impact within disposal sites is likely to be most noticeable.

(1) Where disposal sites are near large riverine inflows to the ocean, surveys will be done with due regard for the seasonal variation in river flow. In some cases several surveys at various river flows may be necessary before a site can be approved.

(2) When initial surveys show that seasonal variation is not significant and surveys at greater than seasonal intervals are adequate for characterizing a site, resurveys shall be carried out in climatic conditions as similar to those of the original surveys as possible, particularly in depths less than 200 meters.

(b) *Duration.* The actual duration of a field survey will depend upon the size and depth of the site, weather conditions during the survey, and the types of data to be collected. For example, for a survey of an area of 100 square miles on the continental shelf, including an average dump site and the region contiguous to it, an on-site operation would be scheduled for completion within one week of weather suitable for on-site operations. More on-site operating time may be scheduled for larger or highly complex sites.

(c) *Numbers and Locations of Sampling Stations.* The numbers and locations of sampling stations will depend in part on the local bathymetry with minimum numbers of stations per site fixed as specified in the following sections. Where the bottom is smooth or evenly sloping, stations for water column measurements and benthic sampling and collections, other than trawls, shall be spaced throughout the survey area in a manner planned to provide maximum coverage of both the disposal site and contiguous control areas, considering known water movement characteristics. Where there are major irregularities in the bottom topography, such as canyons or gullies, or in the nature of the bottom, sampling stations for sediments and benthic communities shall be spaced to provide representative sampling of the major different features.

Sampling shall be done within the dump site itself and in the contiguous area. Sufficient control stations outside a disposal site shall be occupied to characterize the control area environment at least as well as the disposal site itself. Where there are known persistent currents, sampling in contiguous areas shall include at least two stations downcurrent of the dump site, and at least two stations upcurrent of the site.

(d) *Measurements in the Water Column at and near the Dump Site.*

(1) *Water Quality Parameters Measured.* These shall include the major indicators of water quality, particularly those likely to be affected by the waste proposed to be dumped. Specifically included at all stations are measurements of temperature, dissolved oxygen, salinity, suspended solids, turbidity, total organic carbon, pH, inorganic nutrients, and chlorophyll *a*.

(i) At one station near the center of the disposal site, samples of the water column shall be taken for the analysis of the following parameters: mercury, cadmium, copper, chromium, zinc, lead, arsenic, selenium, vanadium, beryllium, nickel, pesticides, petroleum hydrocarbons, and persistent organohalogens. These samples shall be preserved for subsequent analysis by or under the direct supervision of EPA laboratories in accordance with the approved plan of study.

(ii) These parameters are the basic requirements for all sites. For the evaluation of any specific disposal site additional measurements may be required, depending on the present or intended use of the site. Additional parameters may be selected based on the materials likely to be in wastes dumped at the site, and on parameters likely to be affected by constituents of such wastes. Analysis for other constituents characteristic of wastes discharged to a particular disposal site, or of the impact of such wastes on water quality, will be included in accordance with the approved plan of study.

(2) *Water Quality Sampling Requirements.* The number of samples collected from the water column should be sufficient to identify representative changes throughout the water column such as to avoid short-term impact due to disposal activities. The following key locations should be considered in selecting water column depths for sampling:

(i) Surface, below interference from surface waves;

(ii) Middle of the surface layer;

(iii) Bottom of the surface layer;

(iv) Middle of the thermocline or halocline, or both if present;

(v) Near the top of the stable layer beneath a thermocline or halocline;

(vi) Near the middle of a stable layer;

(vii) As near the bottom as feasible;

(viii) Near the center of any zone showing pronounced biological activity or lack thereof.

In very shallow waters where only a few of these would be pertinent, as a minimum, surface, mid-depth and bottom samples shall be taken, with samples at additional depths being added as indicated by local conditions. At disposal sites far enough away from the influence of major river inflows, ocean or coastal currents, or other features which might cause local perturbations in water chemistry, a minimum of 5 water chemistry stations should be occupied within the boundaries of a site. Additional stations should be added when the area to be covered in the survey is more than 20 square miles or when local perturbations in water chemistry may be expected because of the presence of one of the features mentioned above. In zones where such impacts are likely, stations shall be distributed so that at least 3 stations are occupied in the transition from one stable regime to another. Each water column chemistry station shall be replicated a minimum of 2 times during a survey except in waters over 200 meters deep.

(3) *Water Column Biota.* Sampling stations for the biota in the water column shall be as near as feasible to stations used for water quality; in addition at least two night-time stations in the disposal site and contiguous area are required. At each station vertical or oblique tows with appropriately-meshed nets shall be used to assess the microzooplankton, the nekton, and the macrozooplankton. Towing times and distances shall be sufficient to obtain representative samples of organisms near water quality stations. Organisms shall be sorted and identified to taxonomic levels necessary to identify dominant organisms, sensitive or indicator organisms, and organism diversity. Tissue samples of representative species shall be analyzed for pesticides, persistent organohalogens, and heavy metals. Discrete water samples shall also be used to quantitatively assess the phytoplankton at each station.

These requirements are the minimum necessary in all cases. Where there are discontinuities present, such as thermoclines, haloclines, convergences, or upwelling, additional tows shall be made in each water mass as appropriate.

(e) *Measurements of the Benthic Region.*

(1) *Bottom Sampling.* Samples of the bottom shall be taken for both sediment composition and structure, and to determine the nature and numbers of benthic biota.

(i) At each station sampling may consist of core samples, grab samples, dredge samples, trawls, and bottom photography or television, where available and feasible, depending on the nature of the bottom and the type of disposal site. Each type of sampling shall be replicated sufficiently to obtain a representative set of samples. The minimum numbers of replicates of successful samples at each continental shelf station for each type of device mentioned above are as follows:

Cores	3.
Grabs	5.
Dredge	3.
Trawl	20-min. tow

Lesser numbers of replicates may be allowed in water deeper than 200 meters, at those sites where pollution impacts on the bottom are unlikely in the judgment of the EPA management authority.

(ii) Selection of bottom stations will be based to a large extent on the bottom topography and hydrography as determined by the bathymetric survey. On the continental shelf, where the bottom has no significant discontinuities, a

bottom station density of at least three times the water column stations is recommended, depending on the type of site being evaluated. Where there are significant differences in bottom topography, additional stations shall be occupied near the discontinuity and on each side of it. Beyond the continental shelf, lesser densities may be used.

(2) *Bathymetric Survey.* Sufficient tracklines shall be run to develop complete bottom coverage of bathymetry with reasonable assurance of accurate coverage of bottom topography, with trackline direction and spacing as close as available control allows. The site itself is to be developed at the greatest density possible, with data to be collected to a suitable distance about the site as is required to identify major changes in bathymetry which might affect the site. Specifications for each bathymetric survey will vary, depending on control, bottom complexity, depths, equipment, and map scale required. In most cases, a bathymetric map at a scale of 1:25,000 to 1:10,000 will be required, with a minimum of 1–5 meter contour interval except in very flat areas. When the foregoing bathymetric detail is available from recent surveys of the disposal site, bathymetry during a baseline or trend assessment survey may be limited to sonar profiles of bathymetry on transects between sampling stations.

(3) *Nature of Bottom.* The size distribution of sediments, mineral character and chemical quality of the bottom will be determined to a depth appropriate for the type of bottom. The following parameters will be measured at all stations: particle size distribution, major mineral constituents, texture, settling rate, and organic carbon.

(i) At several stations near the center of the disposal site, samples of sediments shall be taken for the analysis of the following parameters: mercury, cadmium, copper, chromium, zinc, lead, arsenic, selenium, vanadium, beryllium, nickel, pesticides, persistent organohalogens, and petroleum hydrocarbons. These samples shall be preserved for subsequent analysis by or under the direct supervision of EPA laboratories in accordance with the approved plan of study.

(ii) These parameters are the basic requirements for all sites. For the evaluation of any specific disposal site additional measurements may be required, depending on the present or intended use of the site. Additional parameters may be selected based on the materials likely to be in wastes dumped at the site, and on parameters likely to be affected by constituents of such wastes. Such additional parameters will be selected by the EPA management authority .

(4) *Benthic Biota.* This shall consist of a quantitative and qualitative evaluation of benthic communities including macroinfauna and macroepifauna, meiobenthos, and microbenthos, and should include an appraisal, based on existing information, of the sensitivity of indigenous species to the waste proposed to be discharged. Organisms shall be sorted and identified to taxonomic levels necessary to identify dominant organisms, sensitive or indicator organisms, and organism diversity. Tissue samples of the following types of organisms shall be analyzed for persistent organohalogens, pesticides, and heavy metals:

(i) A predominant species of demersal fish;

(ii) The most abundant macroinfaunal species; and

(iii) A dominant epifaunal species, with particular preference for a species of economic importance.

(f) *Other Measurements.*

(1) *Hydrodynamic Features.* The direction and speed of water movement shall be characterized at levels appropriate for the site and type of waste to be dumped. Where depths and climatic conditions are great enough for a thermocline or halocline to exist, the relationship of water movement to such a feature shall be characterized.

(i) *Current Measurements.* When current meters are used as the primary source of hydrodynamic data, at least 4 current meter stations with at least 3 meters at depths appropriate for the observed or expected discontinuities in the water column should be operated for as long as possible during the survey. Where feasible, current meters should be deployed at the initiation of the survey and recovered after its completion. Stations should be at least a mile apart, and should be placed along the long axis of the dumping site. For dumping sites more than 10 miles along the long axis, one current meter station every 5 miles should be operated. Where there are discontinuities in surface layers, e.g., due to land runoff, stations should be operated in each water mass.

(ii) *Water Mass Movement.* Acceptable methods include: dye, drogues, surface drifters, side scan sonar, bottom drifters, and bottom photography or television. When such techniques are the primary source of hydrodynamic data, coverage should be such that all significant hydrodynamic features likely to affect waste movement are measured.

(2) *Sea State.* Observations of sea state and of standard meteorological parameters shall be made at 8-hour intervals.

(3) *Surface Phenomena.* Observations shall be made of oil slicks, floating materials, and other visible evidence of pollution; and, where possible, collections of floating materials shall be made.

(g) *Survey Procedures and Techniques.* Techniques and procedures used for sampling and analysis shall represent the state-of-the-art in oceanographic survey and analytical practice. Survey plans shall specify the methods to be used and will be subject to approval by EPA.

(h) *Quality Assurance.* The EPA management authority may require that certain samples be submitted on a routine basis to EPA laboratories for analysis as well as being analyzed by the surveyor, and that EPA personnel participate in some field surveys.

PART 229—GENERAL PERMITS

Sec.
229.1 Burial at sea.
229.2 Transport of target vessels.
229.3 Transportation and disposal of vessels.

AUTHORITY: 33 U.S.C. 1412 and 1418.

§ 229.1 Burial at sea.

(a) All persons subject to Title I of the Act are hereby granted a general permit to transport human remains from the United States and all persons owning or operating a vessel or aircraft registered in the United States or flying the United States flag and all departments, agencies, or instrumentalities of the United States are hereby granted a general permit to transport human remains from any location for the purpose of burial at sea and to bury such remains at sea subject to the following conditions:

(1) Except as herein otherwise provided, human remains shall be prepared for burial at sea and shall be buried in accordance with accepted practices and requirements as may be deemed appropriate and desirable by the United States Navy, United States Coast Guard, or civil authority charged with the responsibility for making such arrangements;

(2) Burial at sea of human remains which are not cremated shall take place no closer than three nautical miles from land and in water no less than one hundred fathoms (six hundred feet) deep and in no less than three hundred fathoms (eighteen hundred feet) from (i) 27°30′00″ to 31°00′00″ North Latitude off St. Augustine and Cape Canaveral, Florida; (ii) 82°20′00″ to 84°00′00″ West Longitude off Dry Tortugas, Florida; and (iii) 87°15′00″ to 89°50′00″ West Longitude off the Mississippi River Delta, Louisiana, to Pensacola, Florida. All necessary measures shall be taken to ensure that the remains sink to the bottom rapidly and permanently; and

(3) Cremated remains shall be buried in or on ocean waters without regard to the depth limitations specified in paragraph (a)(2) of this Section provided that such burial shall take place no closer than three nautical miles from land.

(b) For purposes of this Section and §§ 229.2 and 229.3, "land" means that portion of the baseline from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone, which is in closest proximity to the proposed disposal site.

(c) Flowers and wreaths consisting of materials which are readily decomposable in the marine environment may be disposed of under the general permit set forth in this Section at the site at which disposal of human remains is authorized.

(d) All burials conducted under this general permit shall be reported within 30 days to the Regional Administrator of the Region from which the vessel carrying the remains departed.

§ 229.2 Transport of target vessels.

(a) The United States Navy is hereby granted a general permit to transport vessels from the United States or from

any other location for the purpose of sinking such vessels in ocean waters in testing ordnance and providing related data subject to the following conditions:

(1) Such vessels may be sunk at times determined by the appropriate Navy official;

(2) Necessary measures shall be taken to ensure that the vessel sinks to the bottom rapidly and permanently, and that marine navigation is not otherwise impaired by the sunk vessel;

(3) All such vessel sinkings shall be conducted in water at least 1000 fathoms (6000 feet) deep and at least 50 nautical miles from land, as defined in § 229.1(b); and

(4) Before sinking, appropriate measures shall be taken by qualified personnel at a Navy or other certified facility to remove to the maximum extent practicable all materials which may degrade the marine environment, including without limitation, (i) emptying of all fuel tanks and fuel lines to the lowest point practicable, flushing of such tanks and lines with water, and again emptying such tanks and lines to the lowest point practicable so that such tanks and lines are essentially free of petroleum, and (ii) removing from the hulls other pollutants and all readily detachable material capable of creating debris or contributing to chemical pollution.

(b) An annual report will be made to the Administrator of the Environmental Protection Agency setting forth the name of each vessel used as a target vessel, its approximate tonnage, and the location and date of sinking.

§ 229.3 Transportation and disposal of vessels.

(a) All persons subject to Title I of the Act are hereby granted a general permit to transport vessels from the United States, and all departments, agencies, or instrumentalities of the United States are hereby granted a general permit to transport vessels from any location for the purpose of disposal in the ocean subject to the following conditions:

(1) Except in emergency situations, as determined by the U.S. Army Corps of Engineers and/or the U.S. Coast Guard, the person desiring to dispose of a vessel under this general permit shall, no later than one month prior to the proposed disposal date, provide the following information in writing to the EPA Regional Administrator for the Region in which the proposed disposal will take place:

(i) A statement detailing the need for the disposal of the vessel;

(ii) Type and description of vessel(s) to be disposed of and type of cargo normally carried;

(iii) Detailed description of the proposed disposal procedures;

(iv) Information on the potential effect of the vessel disposal on the marine environment; and

(v) Documentation of an adequate evaluation of alternatives to ocean disposal (i.e., scrap, salvage and reclamation).

(2) Transportation for the purpose of ocean disposal may be accomplished under the supervision of the District Commander of the U.S. Coast Guard or his designee.

(3) Except in emergency situations, as determined by the U.S. Army Corps of Engineers and/or the District Commander of the U.S. Coast Guard, appropriate measures shall be taken, prior to disposal, by qualified personnel to remove to the maximum extent practicable all materials which may degrade the marine environment, including without limitation, (i) emptying of all fuel lines and fuel tanks to the lowest point practicable, flushing of such lines and tanks with water, and again emptying such lines and tanks to the lowest point practicable so that such lines and tanks are essentially free of petroleum, and (ii) removing from the hulls other pollutants and all readily detachable material capable of creating debris or contributing to chemical pollution.

(4) Except in emergency situations, as determined by the U.S. Army Corps of Engineers and/or the U.S. Coast Guard, the dumper shall, no later than 10 days prior to the proposed disposal date, notify the EPA Regional Administrator and the District Commander of the U.S. Coast Guard that the vessel has been cleaned and is available for inspection; the vessel may be transported for dumping only after EPA and the Coast Guard agree that the requirements of paragraph (a)(3) of this Section have been met.

(5) Disposal of these vessels shall take place in a site designated on current nautical charts for the disposal of wrecks or no closer than twenty-two kilometers (twelve miles) from the nearest land and in water no less than fifty fathoms (three hundred feet) deep, and all necessary measures shall be taken to ensure that the vessels sink to the bottom rapidly and that marine navigation is not otherwise impaired.

(6) Disposal shall not take place in established shipping lanes unless at a designated wreck site, nor in a designated marine sanctuary, nor in a location where the hulk may present a hazard to commercial trawling or national defense (see 33 CFR 205).

(7) Except in emergency situations, as determined by the U.S. Army Corps of Engineers and/or the U.S. Coast Guard, disposal of these vessels shall be performed during daylight hours only.

(8) Except in emergency situations, as determined by the U.S. Army Corps of Engineers and/or the District Commander of the U.S. Coast Guard, the Captain-of-the-Port (COTP), U.S. Coast Guard, and the EPA Regional Administrator shall be notified forty-eight (48) hours in advance of the proposed disposal. In addition, the COTP and the EPA Regional Administrator shall be notified by telephone at least twelve (12) hours in advance of the vessel's departure from port with such details as the proposed departure time and place, disposal site location, estimated time of arrival on site, and the name and communication capability of the towing vessel. Schedule changes are to be reported to the COTP as rapidly as possible.

(9) The National Ocean Survey, NOAA, 6010 Executive Blvd., Rockville, MD 20852, shall be notified in writing, within one week, of the exact coordinates of the disposal site so that it may be marked on appropriate charts.

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federal register

TUESDAY, JANUARY 11, 1977

PART VII

THE PRESIDENT

■

EMERGENCY PREPAREDNESS FUNCTIONS

Executive Order 11953

Title 3—The President

Executive Order 11953 • January 7, 1977

Assigning Emergency Preparedness Functions to the Energy Research and Development Administration and Nuclear Regulatory Commission

By virtue of the authority vested in me as President of the United States, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), Reorganization Plan No. 1 of 1973 (87 Stat. 1089), the National Security Act of 1947, as amended (50 U.S.C. 401 *et seq.*), the Defense Production Act of 1950, as amended (50 App. U.S.C. 2061 *et seq.*), and the Federal Civil Defense Act of 1950, as amended (50 App. U.S.C. 2251 *et seq.*), Executive Order No. 11490 of October 28, 1969, as amended by Executive Order No. 11921 of June 11, 1976, is hereby further amended as follows:

SECTION 1. The "Table of Contents" is amended as follows: (a) In Part 14, delete "Atomic Energy Commission" and substitute therefor "Energy Research and Development Administration".

(b) After Part 14 insert "14A Nuclear Regulatory Commission".

SEC. 2. Amend Part 14 to read as follows:

"PART 14—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

"Section 1401. *Functions.* (a) The Administrator of the Energy Research and Development Administration (ERDA) shall prepare emergency plans and develop preparedness programs for the continuing conduct of ERDA activities in any national emergency-type situation, including nuclear attack on the United States. These plans and programs shall include development of a state of readiness in those areas with respect to national emergencies which are governed by applicable provisions of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, and they shall be coordinated with the Federal Preparedness Agency (GSA), Department of Defense, and other departments and agencies as is appropriate.

"(b) The Administrator of the Energy Research and Development Administration shall develop operational plans and procedures and develop a state of readiness so that if, and only if, authorized by lawful authority during a national emergency declared pursuant to statutory or constitutional authorization, the Energy Research and Development Administration will be prepared to:

"(1) *Health and Safety.* (a) Shut down, place in safe standby condition, or curtail operations of and maintain under surveillance, as required, all ERDA-owned facilities and operations which could become or cause a significant hazard to public health and safety in the event they are damaged or destroyed; and (b) bring to bear such ERDA resources as can be made available to assist Federal, State and local officials to alleviate the suffering of the public and to minimize damage to property and to the environment.

"(2) *Nuclear Materials Security.* Assure the security of special nuclear material, fissionable material, or nuclear weapons or devices in ERDA custody; participate in the conduct, direction or coordination of search and recovery operations for nuclear materials, weapons or devices; assist in the identification and deactivation of improvised nuclear devices; and render advice on radiation and damage probabilities in the event of the detonation of an improvised nuclear device.

"(3) *Production.* In an emergency, continue or resume essential:

"(a) Development, manufacture, assembly and control of nuclear weapons, components thereof, and equipment, except to the extent that the control over nuclear weapons and equipment shall have been transferred to the Department of Defense;

"(b) Development of the technology related to the production of power from all forms of energy sources;

"(c) Production and processing of nuclear reactor fuel, special nuclear materials, and other special products;

"(d) Related feed materials procurement, processing, and development; and

"(e) Repair, maintenance, and construction related to the above activities.

"(4) *Priorities and Allocations.* Administer, within the agency, priorities and allocations authority that may be delegated to ERDA, including the authority to authorize procurement and production schedules and make allotments of source materials and strategic and critical materials allocated to ERDA under national emergency industrial mobilization and defense production plans.

"(5) *Scientific and Technical Information.* Organize, reproduce, and disseminate scientific and technical reports and data relating to emergency preparedness for energy research, development, engineering, applications and effects to interested Government agencies, the scientific and technical communities, the public, and approved, friendly and cooperating foreign nations. In the dissemination of such information, utilize, to the extent appropriate, the capabilities of the National Technical Information Service of the Department of Commerce.

"(6) *State Relations.* Maintain in coordination with the Nuclear Regulatory Commission (NRC) general liaison with States concerning ERDA health and safety operations to ensure that these operations are effectively maintained during periods of national emergency.

"(7) *International Liaison.* Maintain, in consultation with the Department of State and in coordination with other departments and agencies as appropriate, with respect to emergency preparedness activities of mutual interest involving nuclear or nonnuclear energy research and development, essential liaison with foreign nations, foreign organizations, and international organizations.".

SEC. 3. Add a new part after Part 14 as follows:

"PART 14A—NUCLEAR REGULATORY COMMISSION

"SEC. 1450. *Functions.* (a) The Nuclear Regulatory Commission shall prepare national emergency plans and develop emergency preparedness programs and procedures for the continuing conduct of the nuclear regulatory activities of the Federal Government as specified in the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974. These emergency preparedness plans and programs shall be designed to develop a state of readiness under conditions of national emergency including emergencies related to the national defense.

"(b) The Nuclear Regulatory Commission shall develop operational plans and procedures and develop a state of readiness so that if, and only if, authorized by lawful authority during a national emergency declared pursuant to statutory or constitutional authorization, the Commission will be prepared to:

"(1) *Regulation.* In an emergency, continue or resume (a) controlling the possession, use, transfer, import, and export of licensed nuclear materials and facilities;

(b) authorizing the operation or continued operation of key facilities important to the national defense, or ordering the suspension of operation of licensed facilities and activities as necessary; and (c) authorizing the recapture from licensees of special nuclear materials where necessary to assure the use, preservation, or safeguarding of such materials for the common defense and security.

"(2) *Health and Safety.* Order the suspension or limitation of operation, if required, of Commission-licensed nuclear facilities and activities which could otherwise constitute an unnecessary hazard to public health and safety; and assure the development and maintenance of emergency preparedness programs by licensed facilities and activities.

"(3) *Contingency Plans.* Implement contingency plans, developed in consultation and coordination with ERDA and other departments and agencies as appropriate, for dealing with threats, thefts, and sabotage relating to special nuclear materials, high-level radioactive wastes, and nuclear facilities resulting from all activities licensed under the Atomic Energy Act of 1954, as amended; and participate in the execution of the plans where necessary to protect the public health and safety and the common defense and security.

"(4) *Facility and Nuclear Materials Security and Safeguards.* Assure the continued maintenance by licensees of security and safeguards programs at licensed facilities and for nuclear materials to provide physical protection to the facilities and their nuclear materials against thefts and sabotage.

"(5) *Scientific and Technical Information.* Organize, reproduce, and disseminate essential scientific and technical reports and information to interested Government agencies, the scientific and technical communities, the public and approved, friendly and cooperating foreign nations regarding the regulation of the construction and operation of licensed nuclear facilities and the use of licensed nuclear facilities and licensed nuclear materials. In the dissemination of such information, utilize, to the extent appropriate, the capabilities of the National Technical Information Service of the Department of Commerce.

"(6) *State Relations.* Maintain, in consultation with other cognizant Federal agencies, general liaison with the several States concerning the Agreement States materials licensing program and the radiological incident emergency planning program, to assure that these programs are effectively maintained to protect public health and safety. (See Radiological Incident Emergency Response Planning; Fixed Facilities and Transportation, 40 F.R. 59494).

"(7) *International Liaison.* Maintain, in consultation with the Department of State and in coordination with other departments and agencies as appropriate, essential liaison with foreign nations with respect to the export licensing program and other activities of mutual interest involving nuclear energy.

"(8) *Priorities and Allocations.* Administer any priorities and allocations authority delegated to the Nuclear Regulatory Commission.".

SEC. 4. Part 9 is amended as follows: (a) In section 901(1) delete "Atomic Energy Commission" and substitute therefor "Energy Research and Development Administration".

(b) In section 901(1)(f) delete "Atomic Energy Commission" and substitute therefor "Energy Research and Development Administration".

Gerald R. Ford

THE WHITE HOUSE,
January 7, 1977.

[FR Doc.77-1099 Filed 1-7-77;4:44 pm]

federal register

TUESDAY, JANUARY 11, 1977

PART VIII

COUNCIL ON ENVIRONMENTAL QUALITY

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PRIVACY ACT OF 1974

Systems of Records

COUNCIL ON ENVIRONMENTAL QUALITY

PRIVACY ACT OF 1974

Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a, the Council on Environmental Quality hereby publishes for comment the following notice of systems of records subject to the Privacy Act of 1974 which are maintained by the Council. Any person interested in commenting on the routine use portions of the system notices may do so by submitting comments in writing to the Office of General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006. Comments should be submitted on or before February 10, 1977. The routine uses of these systems of records will become effective February 10, 1977, unless the Council finds it necessary to modify them in response to comments received from the public. The remainder of the system notices are effective immediately upon publication. The Council's procedures for access to records in the systems are proposed as Title 40 Part 1516 of the Code of Federal Regulations. (See proposal document published January 5, 1977).

Dated at Washington, D.C. on December 29, 1976.

David W. Tunderman,
Acting General Counsel.

0331-0001(CEQ-1)

System name: Payroll Records—Council on Environmental Quality.

System location: General Services Administration, Region 3 Office; copies held by the Council. (GSA holds records for the Council on Environmental Quality under contract.)

Categories of individuals covered by the system: Employees and members of the Council.

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records, requests for deductions; tax forms, W-2 forms, overtime requests; leave data, retirement records. Records are used by Council and GSA employees to maintain adequate payroll information for Council employees, and otherwise by Council and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C. generally. Also The National Environmental Policy Act, 42 U.S.C. 4321 et seq. (P.L. 91-190).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed 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 Administrative Officer, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006. 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

Administrative Officer
Council on Environmental Quality
722 Jackson Place, NW.,
Washington, D.C. 20006

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; released only to authorized personnel, including, among others, GSA Agency Liaison Personnel and payroll, finance, and legal staff.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

Administrative Officer
Council on Environmental Quality
722 Jackson Place, NW.
Washington, D.C. 20006

Notification procedure: Contact Administrative Officer of the Council and refer to the Council's access regulations contained in Part 1516 of the Code of Federal Regulations.

Record access procedures: Contact Administrative Officer of the Council and refer to the Council's access regulations contained in Part 1516 of the Code of Federal Regulations.

Contesting record procedures: The subject individual; the Council.

0331-0002(CEQ-2)

System name: General Financial Records—Council on Environmental Quality.

System location: General Services Administration, Central Office; copies held by the Council. (GSA holds records for the Council on Environmental Quality under contract).

Categories of individuals covered by the system: Employees and members of the Council.

Categories of records in the system: SF-1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Council who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally. Also the National Environmental Policy Act, 42 U.S.C. 4321 et seq. (P.L. 91-190).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and tape.

Retrievability: Manual and automated by name.

Safeguards: Stored in guarded building; released only to authorized personnel, including, among others, GSA Agency Liaison Personnel, and payroll, finance, and legal staff.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition.

System manager(s) and address:

Administrative Officer
Council on Environmental Quality
722 Jackson Place, NW.
Washington, D.C. 20006

Notification procedure: Contact Administrative Officer of the Council or refer to the Council's access regulations contained in Part 1516 of the Code of Federal Regulations.

Record access procedures: Contact Administrative Officer of the Council or refer to the Council's access regulations contained in Part 1516 of the Code of Federal Regulations.

Contesting record procedures: The subject individual; the Council.

0331-0003(CEQ-3)

System name: General Informal Personnel Files—Council on Environmental Quality.

System location: Council on Environmental Quality.

Categories of individuals covered by the system: Employees and members of the Council, past and present.

Categories of records in the system: Personnel qualifications statements (SF 171), personnel action requests and notifications, consultant and/or expert certifications, delegations of authority, background information for security clearances (non-sensitive and critical-sensitive), statements of employment and financial interests, training materials and correspondence with the Council.

Authority for maintenance of the system: Title 5, U.S.C., generally. Also the National Environmental Policy Act, 42 U.S.C. 4321 et seq. (P.L. 91-190).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Manual.

Safeguards: Stored in lockable file cabinets, released only to authorized personnel, including among others, GSA Agency Liaison Personnel and payroll, finance and legal staff.

Retention and disposal: Disposition of records shall be in accordance with the GSA records maintenance and disposition system.

System manager(s) and address:

Administrative Officer
Council on Environmental Quality
722 Jackson Place, NW.
Washington, D.C. 20006

Notification procedure: Contact Administrative Officer of the Council or refer to the Council's access regulations contained in Part 1516 of the Code of Federal Regulations.

Record access procedures: Contact Administrative Officer of the Council or refer to the Council's access regulations contained in Part 1516 of the Code of Federal Regulations.

Contesting record procedures: The subject individual; the Council.

APPENDIX—The Council on Environmental Quality

In the event that a system of records maintained by this agency to carry out its functions indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a "routine use," to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of the 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 as a "routine use" 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 an investigation or settlement or a grievance, complaints, or appeal filed by an employee. A record from this system of records may be disclosed as a "routine use" to the United States Civil Service Commission in accordance with that agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed as a "routine use" to officers and employees of a Federal agency for purposes of audit.

The information contained in the system of records will be disclosed as a "routine use" to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a "routine use" to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed as a "routine use" to officers and employees of the General Services Administration in connection with administrative services provided to the Council under agreement with GSA.

[FR Doc.76-38494 Filed 12-30-76;2:37 pm]

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