AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Vol.42—No.124
6-28-77
PAGES
32761-33020

federal register

MULTNOMAH LAW LIBRARY

MULTNOMAH LAW LIBRARY
JUL 6 1977

TUESDAY, JUNE 28, 1977



highlights

SUNSHINE ACT MEETINGS 32874

EXPORT OF FIREARMS
State temporarily suspends rule allowing persons leaving U.S. to export three or fewer firearms for personal use without an export license (2 documents); effective 6-30-77, comments by 7-20-77 ..... 32770, 32806

EMERGENCY SCHOOL AID
HEW/OE amends regulations on approval of waivers of ineligibility in the case of discriminatory assignments of students to classes 32783

WINDOW GUARDS
CPSC denies petition to develop rule concerning maximum distance between the horizontal bars designed to prevent young children from falling out of windows 32823

TIMBER SALES
USDA/FS proposes transfer of purchaser credit; comments by 7-28-77 32808

OIL AND GAS OPERATIONS
Interior/GS proposes procedures in case of default by lessee; comments by 8-12-77 32807

CONTROLLED SUBSTANCES
Justice/DEA proposes placement of Lorazepam into schedule IV; comments by 7-28-77 32805

INDIAN EDUCATION
HEW/OE amends application requirements for projects designed to improve educational opportunities 32784
HEW/OE amends regulations for the planning of pilot and demonstration projects 32797

WOMEN'S EDUCATIONAL EQUITY ACT PROGRAM
HEW/OE amends preapplication process, eliminates priority areas for general grants, and adjust evaluation criteria and the basis for award decisions (Part IV of this issue) 33005

SAVINGS AND LOAN ASSOCIATIONS
FHLBB adopts statement of policy concerning participation in large pools of loans; effective 6-30-77 32766
FHLBB amends regulations on construction, alteration, repair, or improvement loans for residential property; effective 6-30-77 32765

SYNTHETIC NATURAL GAS
FEA requests comments by 7-15-77 regarding reevaluation of current synthetic natural gas feedstock allocation program 32838

CONTINUED INSIDE

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/NHTSA—Defect and noncompliance notification..... 56813; 12–30–76

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
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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

federal register

Area Code 202 Phone 523–5240

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

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:

Subscription orders (GPO)	202–783–3238
Subscription problems (GPO)	202–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

MOTOR CARRIERS OF PROPERTY
ICC proposes revisions to 1977 annual reports for Class I and II common and contract carriers; comments by 8–5–77 3814

RAILROAD TRACK MAINTENANCE
ICC proposes new schedules in annual report for class I railroads to report track maintenance data; comments by 8–15–77 32819

POSTAL SERVICE
PRC amends format for filing periodic reports; comments by 7–20–77 32809

HIGHER EDUCATION GRANTS PROGRAM
HEW/OE establishes alternative methods of determining maintenance of effort by participating institutions; comments by 7–28–77 32812

AVIATION SERVICES
FCC authorizes posting of verified statement in lieu of radio operator's original license 32800

RURAL HOUSING LOANS AND GRANTS
USDA/FmHA proposes amendments on financing of more than two-story rental housing projects; comments by 7–28–77 32803

LIFE INSURANCE COMPANIES
SEC requests comments by 9–6–77 regarding offer and sale of certain contracts 32861

MOTOR VEHICLES
EPA publishes 1977–79 model year certification regulations (Part III of this issue) 32905

COMMUNITY DEVELOPMENT BLOCK GRANTS
HUD amends regulations regarding the closeout of discretionary grants and the Lead-Based Paint Poisoning Prevention Act: effective 6–28–77 33017

MEETINGS—
CRC: State Advisory Committees:
Arkansas, 7–16–77 32822
California, 7–13, 7–15 and 7–29–77 32822
Kansas, 7–15, 7–18 and 7–19–77 32822
Michigan, 7–18–77 32823
Minnesota, 7–22–77 32823
Ohio, 7–23–77 32823
CSC: Federal Employees Pay Council, 7–13 and 7–20–77 32823
HEW/OE: National Advisory Council on Indian Education, 7–8 thru 7–10–77 32844
Secy: Advisory Committee on National Health Insurance Issues, 7–13 and 7–14–77 32844
Interior/BLM: Outer Continental Shelf Environmental Studies Advisory Committee, 7–19–77 32850
National Advisory Council on the Education of Disadvantaged Children, 7–15 and 7–16–77 32855
NCPC: Environmental impact statement on Washington, D.C. Civic Center, 7–6–77 32855
VA: Station Committee on Educational Allowances, 7–11–77 32865

CANCELLED MEETINGS—
Labor/ETA: Subcommittee on Equal Apprenticeship Opportunity, 6–27–77 32852

HEARINGS—
FEA: Synthetic natural gas feedstock allocation program, 7–18–77 32838
HEW/FDA: Good Manufacturing Practice for Medical Devices, 8–5–77 32805

OE: Elementary and Secondary Education Act, 7–13–77 32840
ITC: Bolts, nuts and large screws of iron or steel, 10–11–77 32852
Office of the Special Representative for Trade Negotiations: Trade Policy Staff Committee, 7–14–77 32859

SEPARATE PARTS OF THIS ISSUE

Part II, FEC 32901
Part III, EPA 32905
Part IV, HEW/OE 33005
Part V, HUD 33017

contents

AGRICULTURAL MARKETING SERVICE
Rules
Celery grown in Fla 32762
Cherries (sweet) grown in Wash 32761
Proposed Rules
Pears, plums, and peaches (fresh) grown in Calif 32802
Prunes (fresh) grown in Wash. and Oreg 32802

AGRICULTURE DEPARTMENT
See also Agricultural Marketing Service; Farmers Home Administration; Forest Service.
Rules
Procurement; contract termination regulations; editorial changes 32783

ALCOHOL, TOBACCO AND FIREARMS BUREAU
Notices
Gun control; published firearms laws of political subdivisions and States; correction 32864

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM
Notices
Procurement list, 1977; additions and deletions 32823

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Caribbean area service investigation 32820
International Air Transport Association 32821
Refund provisions for unused tickets 32820

CIVIL RIGHTS COMMISSION
Notices
Meetings, State advisory committees:
Arkansas 32822
California (3 documents) 32822
Kansas (2 documents) 32822
Michigan 32823
Minnesota 32823
Ohio 32823

CIVIL SERVICE COMMISSION
Rules
Excepted service:
Labor Department 32761
Notices
Meetings:
Federal Employees Pay Council 32823

COMMUNITY PLANNING AND DEVELOPMENT, OFFICE OF ASSISTANT SECRETARY
Rules
Community development block grants:
Grant administration and other program requirements 33017

CONSUMER PRODUCT SAFETY COMMISSION
Notices
Window guards; safety standards; petition denied 32823

DRUG ENFORCEMENT ADMINISTRATION
Proposed Rules
Schedules of controlled substances:
Lorazepam 32805

EDUCATION OF DISADVANTAGED CHILDREN, NATIONAL ADVISORY COUNCIL
Notices
Meetings 32855

EDUCATION OFFICE
Rules
Emergency school aid:
Ineligibility waivers; discriminatory assignments of students to classes 32783
Indian adults; financial assistance for improvement of educational opportunities 32797
Indian children; special programs for improvement of educational opportunities 32784
Women's educational equity program 33005
Proposed Rules
Instructional equipment grants program; maintenance of effort; revisions 32812
Notices
Elementary and Secondary Education Act programs, hearing 32840
Meetings:
Indian Education National Advisory Council 32844

EMPLOYMENT AND TRAINING ADMINISTRATION
Notices
Meetings:
Apprenticeship, Federal Committee Subcommittee on Equal Apprenticeship Opportunity; cancellation 32852

ENVIRONMENTAL PROTECTION AGENCY
Rules
Air pollution control, new motor vehicles and engines:
Certification; 1977, 1978, and 1979 model years 32905
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Thiabendazole 32782
Proposed Rules
Air quality implementation plans; various States, etc.:
Maryland 32811
Toxic substances:
Inventory reporting and general provisions; reproposal intent 32811
Notices
Environmental statements; availability, etc.:
Albuquerque, N. Mex., Wastewater Treatment Facility 32824
St. Charles Parish, La., Shell Chemical Co., Polypropylene Plant 32825

FARMERS HOME ADMINISTRATION
Proposed Rules
Rural housing loans and grants:
Rental housing, more than two-story rental housing projects 32803

FEDERAL COMMUNICATIONS COMMISSION
Rules
Aviation services:
Operator's license; posting of verified statement 32800
FM broadcast stations; table of assignments:
Iowa and Nebraska; correction 32800
Proposed Rules
FM broadcast stations; table of assignments:
Michigan 32813

Notices
Television broadcasting and cable television; economic relationship, inquiry 32825

FEDERAL ELECTION COMMISSION
Notices
Advisory opinion requests 32901

FEDERAL ENERGY ADMINISTRATION
Notices
Environmental statements; availability, etc.:
Washington energy conservation plan 32838
Industrial energy conservation and consumption report; efficiency reporting form 32831
Natural gas plants:
Synthetic, facility; allocation of petroleum feedstock; inquiry 32838
Refiners price rules on recovery of increased nonproduct costs; deadline for filing applications for exception; extension of time 32831

FEDERAL HOME LOAN BANK BOARD
Rules
Federal home loan bank system:
IRA and Keogh accounts; minimum maturity term 32764
Federal Savings and Loan Insurance Corporation:
Loan pools, large; participation interests 32766
Federal savings and loan system:
Construction, alteration, repair, or improvement loans; operations 32765

FEDERAL TRADE COMMISSION
Rules
Prohibited trade practices:
Albano Enterprises, Inc., et al 32767
Alexander's Inc 32766
Genesco Inc 32767
Proposed Rules
Consent orders:
Fisher Foods, Inc.; correction 32803
Detergent labeling; use of common name and ingredient; withdrawal 32804
Trade practice rules, various industry guides:
Rescissions or revisions; inquiry; correction 32804
Notices
Rulemaking proceedings, public participation in; guidelines; correction (2 documents) 32839, 32340

FISH AND WILDLIFE SERVICE
Rules
Hunting:
Hatchie National Wildlife Refuge, Tenn 32801

FOOD AND DRUG ADMINISTRATION
Rules
Animal drugs, feeds, and related products:
Melengestrol acetate; correction 32770
Organization and authority delegations:
Regional Food and Drug Directors and District Directors; minor violations reports 32769
Proposed Rules
Medical devices:
Good manufacturing practices; hearing 32805
Peas, canned; identity, quality, and fill of container standards; correction; republished 32805
Notices
GRAS status or prior sanction determinations; hearings; correction 32840
Human drugs:
Elixir daldrin et al.; approval withdrawn; correction 32840

FOREST SERVICE
Rules
Administration:
Administrative review procedures 32780
Proposed Rules
Timber; sale and disposal; transfer of purchaser credit 32808

GENERAL ACCOUNTING OFFICE
Notices
Regulatory reports review; proposals, approvals, etc 32840

GEOLOGICAL SURVEY
Rules
Coal mining operating regulations:
Colorado; surface reclamation standards 38777
Proposed Rules
Oil and gas operating regulations:
Default by lessee; noncompliance and assessment of liquidated damages 32807

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Education Office; Food and Drug Administration; Social Security Administration.
Notices
Meetings:
National Health Insurance Issues Advisory Committee 32844
Organization, functions, and authority delegations:
Health, Assistant Secretary for, et al 32845
Museum Services Institute 32844
Personnel Administration, Office of Assistant Secretary 32846
Social Security Administration (2 documents) 32846, 32847

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See Community Planning and Development, Office of Assistant Secretary.

INDIAN AFFAIRS BUREAU
Notices
Land transfer:
Badlands Air Force Gunnery Range, S. Dak 32849

INTERIOR DEPARTMENT
See also Fish and Wildlife Service; Geological Survey; Indian Affairs Bureau; Land Management Bureau.
Rules
Property management; regulation system; correction 32783
Notices
Agua Caliente Indian Reservation; city and State laws applying to reservation revoked 32851
Environmental statements; availability, etc.:
Oil shale resources; Colony Development Operation, Colorado 32851

INTERNAL REVENUE SERVICE
Notices
Authority delegations:
Assistant Commissioner (Employee Plans and Exempt Organizations); prohibited transactions (2 documents) 32864

INTERNATIONAL TRADE COMMISSION
Notices
Import investigations:
Bolts, nuts, large screws, iron or steel 32852

INTERSTATE COMMERCE COMMISSION
Proposed Rules
Motor carriers:
Accounts, uniform system; class I and II carriers 32814
Rail carriers:
Track maintenance, reports 32819
Notices
Fourth section applications for relief 32865
Hearing assignments 32865
Motor carriers:
Temporary authority applications (2 documents) 32865, 32869

JUSTICE DEPARTMENT
See also Drug Enforcement Administration.
Rules
Federal employees, defense of suits against; participants in National Swine Flu Immunization Program; status of program participants 32770
Notices
Pollution control; consent judgments; U. S. versus listed companies, etc.:
Providence, R.I 32852
United States Steel Corp 32852

CONTENTS

LABOR DEPARTMENT

See also Employment and Training Administration; Pension and Welfare Benefit Programs Office.

Rules

Worker adjustment assistance:
Certification of Eligibility 32771

Notices

Adjustment assistance:
ABC Industries, Inc., et al 32853
Airco Electronics 32853
Garland Corp 32853
General Electric Co 32854
Harley-Davidson, Inc 32854
Ion Capacitor Corp 32854
Rockwell International 32854
Sheller Globe Corp 32854
V-M Corp 32854
Warwick Electronics, Inc 32855
Wilson Sporting Goods 32855

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
Montana 32850
Meetings:
Outer Continental Shelf Environmental Studies Advisory Committee 32850
Motor vehicles, off-road; road closures; area designations:
Oregon 32849
Withdrawal and reservation of lands, proposed, etc.:
Washington 32850

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests 32859

NATIONAL CAPITAL PLANNING COMMISSION

Notices

Washington Civic Center, location and program for; environmental statement preparation and meeting 32855

NUCLEAR REGULATORY COMMISSION

Notices

Meetings:
Reactor Safeguards Advisory Committee (3 documents) ... 32856, 32858

PENSION AND WELFARE BENEFIT PROGRAMS OFFICE

Proposed Rules

Employee benefit pension plans; minimum standards; seasonal industries; inquiry 32807

PENSION BENEFIT GUARANTY CORPORATION

Rules

Plan benefits valuation; additional PBGC rates 32777

POSTAL RATE COMMISSION

Proposed Rules

Practice rules:
Reports filing, periodic; modification 32809

SECURITIES AND EXCHANGE COMMISSION

Notices

Life insurance companies; offer and sale of contractual arrangements; inquiry 32861
Self-regulatory organizations; proposed rule changes:
Midwest Stock Exchanges, Inc ... 32862
Pacific Stock Exchange, Inc ... 32863
Hearings, etc.:
American General Bond Fund, Inc., et al 32859
General Public Utilities Corp ... 32860
New England Electric System ... 32863

SMALL BUSINESS ADMINISTRATION

Notices

Disaster areas:
California 32864
Illinois 32864

SOCIAL SECURITY ADMINISTRATION

Notices

Authority delegations:
Retirement and Survivors Insurance Bureau; Benefit payment certifications under National Master Beneficiary Record 32848

STATE DEPARTMENT

Rules

International traffic in arms:
Unclassified arms, ammunition and implements of war, licenses for; firearms export without licenses suspension 32770

Proposed Rules

International traffic in arms:
Unclassified arms, ammunition and implements of war, licenses for; firearms export without licenses, revocation 32806

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE

Notices

Generalized system of preferences, articles eligible for; hearing 32859

TREASURY DEPARTMENT

See Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service.

VETERANS ADMINISTRATION

Notices

Meetings:
Educational Allowances Station Committee 32865

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

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

5 CFR

213 32761

7 CFR

923 32761
967 32762

PROPOSED RULES:

917 32802
924 32802
1822 32803

12 CFR

526 32764
545 32765
571 32766

16 CFR

13 (3 documents) 32766, 32767

PROPOSED RULES:

13 32803
23 32804
26 32804
34 32804
36 32804
40 32804
41 32804
46 32804
54 32804
56 32804
57 32804
60 32804
61 32804
62 32804
67 32804
74 32804
103 32804
114 32804
117 32804
118 32804
131 32804
142 32804
146 32804
150 32804
152 32804
154 32804
157 32804
160 32804

16 CFR—Continued

PROPOSED RULES—Continued

162 32804
165 32804
175 32804
192 32804
197 32804
205 32804
209 32804
210 32804
214 32804
215 32804
216 32804
221 32804
223 32804
224 32804
502 32804

21 CFR

5 32769
558 32770

PROPOSED RULES:

155 32805
820 32805
1308 32805

22 CFR

123 32770

PROPOSED RULES:

123 32806

24 CFR

570 33018

28 CFR

15 32770

29 CFR

90 32771
2610 32777

PROPOSED RULES:

2530 32807

30 CFR

211 32777

30 CFR—Continued

PROPOSED RULES:

221 32801

36 CFR

211 32780

PROPOSED RULES:

223 32808

39 CFR

PROPOSED RULES:

3001 32809

40 CFR

86 32906
180 32782

PROPOSED RULES:

Ch. I 32811
52 32811

41 CFR

4–8 32783
114–1 32783

45 CFR

160f 33006
185 32783
187 32784
188 32797

PROPOSED RULES:

171 32812

47 CFR

73 32800
87 32800

PROPOSED RULES:

73 32813

49 CFR

PROPOSED RULES:

1207 32814
1241 32819

50 CFR

32 32801

CUMULATIVE LIST OF PARTS AFFECTED DURING JUNE

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during June.

3 CFR

EXECUTIVE ORDERS:

11861 (Amended by EO 11995) ... 29841
11905 (Amended by EO 11994) ... 28869
11968 (Revoked by 11997) ... 31759
11985 (See EO 11994) ... 28869
11994 ... 28869
11995 ... 29841
11996 ... 30489
11997 ... 31759
September 3, 1867 (Revoked in part by PLO 5618) ... 30370
July 19, 1915 (See PLO 5619) ... 30180
November 21, 1916 (See PLO 5620) ... 32539
December 20, 1916 (See PLO 5619) ... 30180
February 25, 1919 (See PLO 5619) ... 30180
April 22, 1919 (See PLO 5619) ... 30180

PROCLAMATIONS:

4445 (Revoked in part by Proc. 4509) ... 30829
4477 (See Proc. 4509) ... 30829
4505 ... 29471
4506 ... 30143
4507 ... 30351
4508 ... 30353
4509 ... 30829
4510 ... 32430
4511 ... 32747

MEMORANDUMS:

June 2, 1977 ... 29843

5 CFR

213 ... 28515, 28989, 29845, 29846, 29879, 30355 30831, 31455, 31456, 31604, 32250, 32251, 32761
294 ... 32252
752 ... 28516
754 ... 28516
771 ... 28516
831 ... 29846

PROPOSED RULES:

831 ... 29880

7 CFR

2 ... 32254
26 ... 30145
68 ... 30599
270 ... 32254
908 ... 30600
210 ... 30355
271 ... 28516, 30831
401 ... 28871–28873, 28989
402 ... 31427
411 ... 28873
413 ... 28141
724 ... 29847
730 ... 30355
905 ... 27875
908 ... 28144, 29487, 31761, 32513
910 ... 28516, 29848, 30831, 32255
911 ... 30147
916 ... 30491
918 ... 29487
922 ... 30492
923 ... 32761
932 ... 31761
967 ... 32762
1004 ... 29848
1207 ... 29295
1427 ... 29849
1446 ... 28989, 30832
1464 ... 32513

7 CFR—Continued

1472 ... 29854
1474 ... 30832
1488 ... 30833
1701 ... 32255
Ch. XXVIII ... 32514
1809 ... 31762
1832 ... 31762
1872 ... 31762

PROPOSED RULES:

51 ... 30626
53 ... 29313
270 ... 32256
271 ... 28546
275 ... 32256
905 ... 30198
911 ... 30513
915 ... 30513
916 ... 27911, 30206, 32553
917 ... 28146, 30513, 30514, 30626, 32802
921 ... 29489, 31797
922 ... 30514
923 ... 27912, 31797
924 ... 32256, 32802
989 ... 27913
1006 ... 30627
1011 ... 31797
1012 ... 30627
1013 ... 30627
1030 ... 27921
1040 ... 29881
1065 ... 28897
1094 ... 30627
1096 ... 30627
1205 ... 29313
1435 ... 30409
1446 ... 32257
1701 ... 29012, 31457
1822 ... 29885, 32803
1933 ... 29885

8 CFR

223 ... 28113
238 ... 28990, 29871

PROPOSED RULES:

100 ... 28547
244 ... 30845

9 CFR

1 ... 31022, 31561
2 ... 31022, 31561
3 ... 31561
73 ... 32223
78 ... 28517, 32223
105 ... 31430
112 ... 28519, 29854

PROPOSED RULES:

94 ... 30844
95 ... 30844
113 ... 28548, 28549

10 CFR

2 ... 28893
21 ... 28893
31 ... 28896
34 ... 28896
35 ... 28896
40 ... 28896
70 ... 28896
Ch. II ... 31143
211 ... 27908
212 ... 27908
214 ... 29295
430 ... 27896, 30401
440 ... 27899
745 ... 30492

10 CFR—Continued

PROPOSED RULES:

2 ... 31167
70 ... 28147
73 ... 28147
202 ... 28147
211 ... 27936
212 ... 27936, 29490
430 ... 27941, 27951, 30206, 30210, 30401, 30627, 32553
450 ... 29906

12 CFR

207 ... 29299
210 ... 31763
226 ... 28520, 30148, 31430
264 ... 27876
265 ... 28521, 30601
268 ... 28522
526 ... 32764
545 ... 29473, 32765
561 ... 29473
571 ... 32766
611 ... 32226
615 ... 32226
618 ... 32227
748 ... 30493

PROPOSED RULES:

340 ... 27955
543 ... 29511
545 ... 29512
550 ... 31803
566 ... 31803
584 ... 29512
611 ... 31167
614 ... 31167
615 ... 31167

13 CFR

107 ... 31767
112 ... 28530
121 ... 29300

PROPOSED RULES:

113 ... 29317
116 ... 32257

14 CFR

23 ... 30601
39 ... 28873, 29474, 30603–30605, 31151–31156, 31767–31770, 32519–32528
71 ... 28113–28114, 28874, 29475, 29476, 30149, 30606–30610, 31157, 31771, 31772, 32528, 32529
73 ... 29475
75 ... 30149, 30611
91 ... 30601, 32531
95 ... 28115
97 ... 28120, 29477, 31158, 32530
133 ... 32531
152 ... 32630
154 ... 32630
221 ... 28874–28876, 32227
372a ... 28121
378a ... 28122
384 ... 32228

PROPOSED RULES:

1 ... 28148
23 ... 29688

14 CFR—Continued

PROPOSED RULES—Continued

25 ... 29688
27 ... 29688
29 ... 29688
33 ... 29688
39 ... 28897, 29513, 31171, 31172
71 ... 28129, 29513–29516, 30210–30213, 30638–30642, 31173, 31174, 31805–31808, 32553–32555
73 ... 30642
77 ... 30642
107 ... 30766
Ch. II ... 28898
298 ... 28150
378 ... 30376
1241 ... 31605

15 CFR

379 ... 28998

16 CFR

3 ... 31591
4 ... 30150
13 ... 27877, 28531, 29012, 29478, 30493, 31164, 32532, 32533, 32766, 32767
25 ... 31591
42 ... 31591
132 ... 31591
158 ... 31592
176 ... 31592
182 ... 31592
186 ... 31592
194 ... 31592
201 ... 31592
207 ... 31592
1025 ... 31431
1026 ... 31446
1201 ... 31164
1301 ... 30296
1500 ... 28060, 31773

PROPOSED RULES:

13 ... 28550, 29516, 29915, 30515, 30516, 32258, 32803
23 ... 29916, 31457, 32804
26 ... 31457, 32804
34 ... 31457, 32804
36 ... 31457, 32804
40 ... 31457, 32804
41 ... 31457, 32804
46 ... 31457, 32804
54 ... 31457, 32804
56 ... 31457, 32804
57 ... 31457, 32804
60 ... 31457, 32804
61 ... 31457, 32804
62 ... 31457, 32804
67 ... 31457, 32804
74 ... 31457, 32804
103 ... 31457, 32804
114 ... 31457, 32804
117 ... 31457, 32804
118 ... 31457, 32804
131 ... 31457, 32804
142 ... 31457, 32804
146 ... 31457, 32804
150 ... 31457, 32804
152 ... 31457, 32804
154 ... 31457, 32804
157 ... 31457, 32804
160 ... 31457, 32804
162 ... 31457, 32804

16 CFR—Continued

PROPOSED RULES—Continued

165 ... 31457, 32804
175 ... 31457, 32804
192 ... 31457, 32804
197 ... 31457, 32804
205 ... 31457, 32804
209 ... 31457, 32804
210 ... 31457, 32804
214 ... 31457, 32804
215 ... 31457, 32804
216 ... 31457, 32804
221 ... 31457, 32804
223 ... 31457, 32804
224 ... 31457, 32804
441 ... 28551
444 ... 32259
456 ... 29917
502 ... 32804
1026 ... 31458
1500 ... 31808

17 CFR

200 ... 30833, 30834
210 ... 27879
211 ... 28999
240 ... 27879, 27880, 31774, 31778, 32404, 32534
241 ... 31780
270 ... 31781
271 ... 28999
275 ... 29300

PROPOSED RULES:

1 ... 31740, 32261
9 ... 30472
200 ... 30378
230 ... 30378, 30379
231 ... 31458
239 ... 29012, 29716
240 ... 29918, 30845, 31810, 32415, 32418
241 ... 30066
249 ... 29918, 30845
270 ... 29716, 29228, 30215
274 ... 29716

18 CFR

1 ... 30356
2 ... 30612
33 ... 30613
34 ... 30613
35 ... 30155, 30613
101 ... 30156, 30613
104 ... 30614
125 ... 30614
131 ... 30615
141 ... 30157, 30615
154 ... 30157, 30615
157 ... 29001
201 ... 30159
204 ... 30616
260 ... 30160, 30617

PROPOSED RULES:

201 ... 30846
260 ... 30846

19 CFR

1 ... 32534
159 ... 28531, 28532, 31449
210 ... 31783

PROPOSED RULES:

210 ... 31811

20 CFR

260 ... 29302
320 ... 29302
337 ... 29486
404 ... 30357
416 ... 30357
656 ... 29855

21 CFR

Ch. I ... 31449
5 ... 28533, 29855, 32769
73 ... 32228
81 ... 32228
101 ... 31449
155 ... 30358, 30359, 31449, 31812
173 ... 29856, 32229
177 ... 28533
193 ... 29857
369 ... 31449
436 ... 29857, 31449
452 ... 29858
501 ... 31449
505 ... 31449
510 ... 29858, 31450
520 ... 28534, 29003
522 ... 28535, 31450, 32229
539 ... 29003
555 ... 29859
558 ... 28535, 32770
561 ... 29857
610 ... 29859
620 ... 29859
630 ... 29859
640 ... 29859, 31450
650 ... 29859
660 ... 29859
701 ... 30361, 32229
740 ... 31449
801 ... 31449
1306 ... 28877, 30495
1308 ... 30495

PROPOSED RULES:

15 ... 30383
25 ... 30383
131 ... 29919
137 ... 30389
155 ... 29014, 32805
166 ... 30389
172 ... 30389, 30390
173 ... 30389
175 ... 30389
176 ... 30389
177 ... 30389
178 ... 30389
180 ... 30389
181 ... 30389
182 ... 29925, 30389, 30390, 30865
184 ... 29925, 30390, 30865
186 ... 30390, 30865
193 ... 32262
201 ... 30867
510 ... 29928
558 ... 29928
561 ... 32262
808 ... 30383
820 ... 32805
1308 ... 32805
1309 ... 28560
1316 ... 31460

22 CFR

41 ... 32535
42 ... 32535
123 ... 32770

22 CFR—Continued

PROPOSED RULES:

123 ..... 28551, 29929, 30391, 32806
124 ..... 28551, 29929, 30391
127 29929
128 29929

23 CFR

635 30835
645 30835
646 30835
650 30835
720 30835
740 30835
750 30835
771 30835
922 28535

24 CFR

16 ..... 29479, 30617
25 30361
203 ..... 28538, 29303
204 29303
209 29303
211 29303
213 ..... 28538, 29303
220 29304
221 29304
222 29304
226 29304
227 29304
228 29304
233 29305
234 ..... 25838, 29305
235 29306
237 29306
240 29307
279 31752
570 ..... 31783, 33018
1914 ..... 29428–29431, 30304, 31254–31257
1915 ..... 29433, 30305
1916 ..... 29307, 30344
1917 31259–31271
1920 ..... 28878–28882, 29859–29870, 30160–30174
1930 29479
1931 29479

PROPOSED RULES:

1908 29692
1911 29692
1912 29692
1913 29692
1914 29692
1917 ..... 31272–31280, 31546–31553, 31708–31720, 31952–31960
1921 29692
1922 29692
1923 29692

25 CFR

114 32229
191 30367
192 30367
193 30367
194 30367
195 30367
196 30367
197 30367
198 30367
199 30367
200 30367
201 30367
221 ..... 28538, 30367
256 31450

25 CFR—Continued

PROPOSED RULES:

54 30647
221 30867
258 28552
260 30216

26 CFR

1 ..... 30496, 32536
11 27881
54 ..... 27882, 31159, 32384

PROPOSED RULES:

1 ..... 29517, 31462
301 30868

27 CFR

250 30835

PROPOSED RULES:

4 30517

28 CFR

0 ..... 29003, 32537
2 31784
15 32770
17 29307

PROPOSED RULES:

2 29934

29 CFR

29 30836
90 32771
97 30367
775 32253
1952 30368
2550 32389
2610 32777

PROPOSED RULES:

1601 31174
1910 ..... 29021, 32263
1952 29024
2530 32807
2610 29318

30 CFR

55 29418
56 29420
57 29422
211 ..... 30175, 32777

PROPOSED RULES:

55 30772
56 30772
57 30772
70 28151
221 32801

31 CFR

51 27883
530 31453

32 CFR

353 32537

PROPOSED RULES:

276 27963
286b 29935
643 31032

33 CFR

1 31159
110 30618
114 28882
115 28882

33 CFR—Continued

117 ..... 30178, 30179
127 30179
161 29480
205 30368
266 31159
401 29308

PROPOSED RULES:

117 30216–30218
154 32670
155 32670
156 32670
157 32684
209 29025

36 CFR

2 30501
7 31453
200 32230
211 32780
221 28252
222 30836
223 28252
231 30836
261 ..... 30503, 31788

PROPOSED RULES:

223 32808

37 CFR

3 ..... 27883, 31159

PROPOSED RULES:

1 ..... 30522, 31812
3 31812
5 31812

38 CFR

36 28883

PROPOSED RULES:

8a 30392

39 CFR

10 29488
111 ..... 27892, 29308, 29488, 31592
224 29308
601 29488
952 30504
954 30504
958 30504

PROPOSED RULES:

111 28153
3001 32809

40 CFR

35 29481
52 ..... 27892, 28122, 28539, 28883, 29004, 30369, 30504, 31812
60 32426
61 29005
85 28123
86 ..... 28130, 31159, 32906
180 ..... 28540, 32782
416 29871
1516 32537

PROPOSED RULES:

Ch. I 32811
52 ..... 28553–28555, 29937, 30218, 30219, 30393–30369, 30648, 31174, 31609, 32811
60 32264
61 28154
85 31813

40 CFR—Continued

PROPOSED RULES—Continued

86 ... 28970
162 ... 31284, 31813
173 ... 31284
211 ... 31722, 31730
600 ... 28970
761 ... 32555

41 CFR

3-3 ... 29871
3-30 ... 30190
4-2 ... 28871, 32230
4-8 ... 32783
4-50 ... 31454
7-7 ... 28540
7-30 ... 30619
8-1 ... 28541
9-1 ... 32232
9-5 ... 29873, 31160
9-7 ... 32232
9-51 ... 29308
9-55 ... 29308
Ch. 14 ... 30196
15-19 ... 30509
101-38 ... 31454
101-45 ... 31455
101-47 ... 31455
114-1 ... 30196, 32783

PROPOSED RULES:

3-4 ... 29872, 29937, 32264
5B-2 ... 27966
29-1 ... 31462
29-2 ... 31462
29-3 ... 31462
29-12 ... 31462
29-61 ... 31462
105-65 ... 29319
110-26 ... 28556

42 CFR

51e ... 28692
66 ... 29482
110 ... 29400, 32234

PROPOSED RULES:

67 ... 29518

43 CFR

7 ... 32538
29 ... 31789
2360 ... 28720

PROPOSED RULES:

422 ... 29682

PUBLIC LAND ORDERS:

5604 (amended in part by PLO 5619) ... 30180
5607 (corrected by PLO 5620) ... 32539
5618 ... 30370
5619 ... 30180
5620 ... 32539

45 CFR

144 ... 31794
160f ... 33006
175 ... 31794
176 ... 31794
177 ... 29009
185 ... 32783
187 ... 32784
188 ... 32797
201 ... 28884
249 ... 28700
304 ... 28885
1067 ... 29873

45 CFR—Continued

PROPOSED RULES:

12 ... 27966
85 ... 32264
122a ... 28706
136 ... 28899
163 ... 28159
163a ... 28159
171 ... 32812
197 ... 30290
1067 ... 29523

46 CFR

Ch. I ... 32539
1 ... 31160
2 ... 28886
5 ... 31160
31 ... 28886
151 ... 28886
187 ... 29483
401 ... 30619, 31160
549 ... 31161

PROPOSED RULES:

Ch. I ... 32700
30 ... 30220
32 ... 30220
34 ... 30649
50 ... 29026, 30220
54 ... 29026, 30220
56 ... 29026, 30220
58 ... 29026, 30220
61 ... 29026, 30220
76 ... 30649
95 ... 30649
107 ... 29026, 30220
108 ... 29026, 30220
109 ... 29026, 30220
162 ... 30649, 32686
167 ... 30649
193 ... 30649
507 ... 29524
536 ... 30399
543 ... 30584, 31175

47 CFR

0 ... 30370
1 ... 27894, 28887, 30180, 31794
2 ... 31006, 31594, 32234
21 ... 27894
23 ... 27894
68 ... 29010, 32234
73 ... 27894, 29011, 29483, 29874, 29875, 30180, 30371, 30622, 32539, 32800
74 ... 27895, 29483
81 ... 27895, 28542, 31008, 32540
83 ... 29309, 31012, 32540
87 ... 27895, 29483, 32540, 32800
89 ... 27895
89 ... 27895, 30511, 31594
91 ... 27895, 30511
93 ... 27895, 30512
95 ... 27895
97 ... 27895, 29485, 30623
99 ... 27895

PROPOSED RULES:

0 ... 32268
43 ... 31175
61 ... 32556
64 ... 27971
67 ... 30220, 30221
68 ... 28559, 32269
73 ... 27971, 27973, 29027, 30400, 31813, 32813
76 ... 30222, 30401
83 ... 28164

47 CFR—Continued

PROPOSED RULES—Continued

87 ... 30222
89 ... 27974
91 ... 27974
93 ... 27974
95 ... 27974

49 CFR

Ch. I ... 28888
172 ... 28132
173 ... 28133
174 ... 28135
178 ... 28135
179 ... 28135
228 ... 27895
258 ... 28976, 30840
567 ... 31161
568 ... 31161
571 ... 28135, 30188, 30620, 31162
804 ... 31794
1002 ... 31163
1003 ... 31163
1033 ... 28542, 28543, 28888, 30840, 30841, 31163
1043 ... 31163
1045A ... 31163
1048 ... 31795
1063 ... 29309
1100 ... 29311
1104 ... 32541
1109 ... 31602
1124 ... 31795
1307 ... 28889 30190, 31795

PROPOSED RULES:

173 ... 31815
174 ... 31815
178 ... 31815
179 ... 31815
258 ... 32277
260 ... 32277
571 ... 30653
575 ... 30655
581 ... 30655
Ch. X ... 28560
1124 ... 29526
1207 ... 32814
1241 ... 32819

50 CFR

10 ... 32377
13 ... 32377
17 ... 28052, 28136, 28543, 32377
26 ... 29312
32 ... 28545, 30373, 30621, 32248, 32552, 32801
33 ... 29312, 30621, 32248
217 ... 28137
222 ... 28137
255 ... 32249
258 ... 30621
280 ... 32249
285 ... 30373
371 ... 30841
651 ... 29876
661 ... 29485, 32250

PROPOSED RULES:

17 ... 28165, 28903, 29527
18 ... 30659
32 ... 30524
91 ... 30524
216 ... 28904, 29533
255 ... 32557
611 ... 30875

FEDERAL REGISTER PAGES AND DATES—JUNE

Pages	Date	Pages	Date	Pages	Date
27875–28112	June 1	29841–30142	10	31427–31590	21
28113–28513	2	30143–30350	13	31591–31758	22
28515–28868	3	30351–30487	14	31759–32221	23
28869–28987	6	30489–30598	15	32223–32512	24
28989–29293	7	30599–30827	16	32513–32759	27
29295–29470	8	30829–31141	17	32761–33020	28
29471–29840	9	31143–31426	20		

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 I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Labor

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Executive Assistant to the Deputy Under Secretary for International Affairs because the position is confidential in nature.

EFFECTIVE DATE: June 28, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3315(a)(16) is amended to read as follows:

§ 213.3315 Department of Labor.

(a) Office of the Secretary. * * *

(16) One Confidential Assistant and one Executive Assistant to the Deputy Under Secretary for International Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

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

[FR Doc.77-18560 Filed 6-27-77;8:45 am]

Title 7—Agriculture

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

[Cherry Reg. 16]

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Regulation by Grade, Size, and Container

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade, size, and container requirements for sweet cherries grown in six counties in the State of Washington for the 1977 season. These requirements are needed to provide orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: Notice was published in the June 1, 1977, issue of the FEDERAL REGISTER (42 FR 27912), that the Department was considering a proposed regulation to be made effective pursuant to the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington.

This notice allowed interested persons 16 days during which they could submit written data, views, or arguments pertaining to this proposed regulation. None were submitted. The regulation was recommended by the Washington Cherry Marketing Committee established pursuant to the said marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Under the regulation, shipments of cherries, except those of the Rainier, Royal Anne and similar varieties commonly referred to as "light sweet cherries", would be required to grade U.S. No. 1 or better, except for a small increase in the tolerance for defects. The cherries would also be required to be $^{48}/_{64}$ inch in diameter or larger in all containers, except for those in face-packed containers, 20-pound containers or larger, or experimental containers, for which the minimum size would be $^{54}/_{64}$ inch. The container requirements would specify the minimum amount of cherries, by weight required in the various types of containers. Individual shipments of cherries up to 100 pounds sold for home use and not for resale would be excepted from the grade, size, and container requirements, if certain conditions are met to prevent their movement into commercial markets.

The Washington sweet cherry crop is estimated by the Washington Cherry Marketing Committee at 43,000 tons of which 36,000 tons would be required by the fresh market. Eliminations of the lower quality and smaller sized cherries from such market is appropriate in the circumstances and will tend to promote orderly marketing conditions.

Ample supplies of the more desirable grades and sizes are available to serve consumers' needs. The container requirements are designed to prevent deceptive packaging practices and to promote buyer confidence.

After consideration of all relevant matters presented, including the proposal set forth in aforesaid notice, the recommendation and information submitted by the committee, and other available information, it is hereby found and determined that the regulation, as hereinafter set forth, is in accordance with the provisions of the said marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this regulation allowing 16 days for filing written comments was published in the FEDERAL REGISTER, and no objection to the regulation or its effective date was received; (2) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (3) shipment of sweet cherries from the production area is now in progress, and this regulation should be applicable, insofar as practicable, to all shipments of such cherries in order to effectuate the declared policy of the act.

Accordingly, § 923.316 is added as follows:

§ 923.316 Cherry Regulation 16.

Order. (a) *Grade and sizes.* During the period July 1, 1977, through June 30, 1978, no handler shall handle, except as otherwise provided in paragraphs (b) and (c) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne and similar varieties commonly referred to as "light sweet cherries" unless such cherries meet each of the following applicable requirements:

(1) U.S. No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the United States Standards for Grades of Sweet Cherries:

(i) A total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided*, That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $^{48}/_{64}$ inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) and paragraph (b)(3) of this section.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than $^{54}/_{64}$ inch in diameter and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(b) *Containers.* During the period July 1, 1977, through June 30, 1978, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of 15⅛ by 10½ by 4 inches shall not be less than 20 pounds; and all containers of cherries shall contain at least 12 pounds, net weight, of cherries.

(2) Subject to the provisions of paragraphs (b)(2) (i) and (ii), of this section shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee.

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than $^{54}/_{64}$ inch in diameter, and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(c) *Exceptions.* Notwithstanding any other provisions of this section, any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraph (a) and (b) of this section, and of §§ 923.41 and 923.55.

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(d) *Definitions.* Terms used in the marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said marketing agreement and order: "U.S. No. 1" and "diameter" shall have the same meaning as when used in the United States Standards for Grades of Sweet Cherries (7 CFR 51.2646–51.2660); and "face-packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container.

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

Dated: June 23, 1977.

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

[FR Doc.77-18437 Filed 6-27-77;8:45 am]

[Docket No. AO-354-A2]

PART 967—CELERY GROWN IN FLORIDA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amended order.

SUMMARY: This amends the Federal marketing agreement and order for celery grown in Florida. All celery producers voting in the May 25–31 referendum favored the amendment. The amendment provides a method for producers to enter the celery industry and increase the size of existing celery operations. It also adds a public member to the administrative committee, and provides authority to fund production research under the order.

EFFECTIVE DATE: June 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing published January 13, 1977 (42 FR 2691) with a supplement on January 28, 1977 (42 FR 5362).

Notice of Recommended Decision issued March 29, 1977 and published April 1, 1977 (42 FR 17458).

Secretary's Decision issued May 16, 1977, and published May 20, 1977 (42 FR 25872).

PRELIMINARY STATEMENT

A public hearing was held on proposed further amendment of the marketing agreement, as amended, and Order No. 967, as amended (7 CFR Part 967), (hereinafter referred to collectively as the "order") regulating the handling of celery grown in Florida. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the appliacable rules of practice (7 CFR Part 900), at Orlando, Florida, on February 1, 1977, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on March 29, 1977, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity file written exceptions there to through April 18, 1977, later extended to May 1, 1977.

One exception was filed and the Secretary's Decision and referendum order was issued May 16, 1977. The unanimous approval of producers voting in the May 25–31 referendum was announced by a press release issued June 6, 1977.

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 967, as amended (7 CFR Part 967, regulating the handling of celery grown in Florida.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of celery grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of celery grown in the production area; and

(5) All handling of celery grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order, as amended, effective upon signing. Any delay beyond that date would tend to disrupt the orderly marketing of celery grown in Florida because: (1) Planning and seed bed plantings for the 1977–78 season should be underway and the amendment should be made effective as soon as possible so producers may avail themselves of any benefits derivable from the amendment. Also, the Florida Celery Committee's organizational meeting is set for June 15, and the amended order would be a significant factor in their recommendations for 1977–78 program operations; (2) the provisions of this amended order are known to celery handlers, producers and other

interested persons by reason of the public hearing, the recommended decision and the Secretary's decision thereon; (3) the producer referendum was held May 25-31, 1977, when a copy of the proposed amendment was mailed to all known producers and handlers; (4) the changes effected by this amendment will not require advance preparation by handlers which cannot be completed by the effective date and no useful purpose will be served by postponing the effective date beyond that specified herein.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order effective upon signing, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Amended, Regulating the Handling of Celery Grown in Florida" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping covered by the said order, as amended, and as hereby further amended) who, during the period August 1, 1976, through May 15, 1977, handled not less than 50 percent of the volume of such celery covered by the said order, as amended, and as hereby further amended, and

(2) The issuance of this amendatory order, amending the aforeseaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period August 1, 1976, through May 15, 1977 (which has been deemed to be a representative period), have been engaged within the production area in the production of celery for fresh market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of celery grown in Florida, shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Acting Administrator on March 29, 1977, and published in the FEDERAL REGISTER on April 1, 1977 (42 FR 17458), with a slight modification in § 967.38(e), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. Revise § 967.15 to read as follows:

§ 967.15 Uniform percentage.

"Uniform Percentage" means the percentage for any given season resulting from dividing the Marketable Quantity by the total Base Quantities registered by producers as provided in § 967.38.

2. Revise § 967.25 to read as follows:

§ 967.25 Establishment and membership.

There is hereby established a Florida Celery Committee consisting of 16 members, including 15 producer or handler members and one public member to administer the terms and provisions of this part. Each shall have a respective alternate who shall have the same qualifications as the member.

3. Revise § 967.26 to read as follows:

§ 967.26 Eligibility.

Each member and alternate of the committee, except for the public member and alternate, shall be at the time of his selection and during his term of office, a producer or handler, or an officer or employee of a producer or handler in the group for which selected. The public member shall be neither a producer nor handler and shall have no direct financial interest in the production or marketing, except as a consumer, of agricultural products.

4. Revise § 967.27 by adding a new paragraph (f) to read as follows:

§ 967.27 Nominations.

* * * * *

(f) The members of the committee selected by the Secretary pursuant to § 967.32 shall nominate a public member and alternate member of the committee. The committee shall recommend rules for receiving names of persons to be considered for nomination to the public member and alternate positions. Rules shall also be recommended for establishing eligibility of persons nominated to the public member and alternate positions. The persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by July 1 of each year together with information deemed pertinent by the committee or as requested by the Secretary.

5. Amend § 967.31 by adding paragraph (m) to read as follows:

§ 967.31 Duties.

* * * * *

(m) To secure suitable candidates for the public member and alternate positions, and to nominate persons for such positions on the committee.

6. Amend § 967.37 to read as follows:

§ 967.37 Base Quantities.

(a)(1) Base Quantities for producers with a history of production and order participation for the period 1965-66 through 1976-77 shall be Base Quantities in effect for the 1976-77 season, as recorded by the Florida Celery Committee on December 15, 1976, subject to modifications relating to current production and marketing experience specified in (b) through (e) of this section, or to transfers pursuant to § 967.39.

(2) Base Quantities for other producers shall be established pursuant to Base Quantity reserve as specified in paragraph (d) of this section, subject to modifications relating to current production and marketing experience specified in (b) through (e) of this section, or to transfer pursuant to § 967.39.

(b) Periodically, but at least once each five years, the committee shall review Base Quantities and recommend any change in the formula, to be prescribed by the Secretary, for determining Base Quantities which may be deemed appropriate.

* * * * *

(d)(1) Beginning with the 1978/79 season, a reserve in the amount of six percent of the total Base Quantities shall be established annually. Such reserve shall be used for the issuance of Base Quantities to new producers and adjustments in Base Quantities for producers with existing Base Quantities, with 50 percent being made available for new producers and 50 percent available for adjustments for producers with existing Base Quantities.

(2) Base Quantities issued to new producers shall be permanent, subject to requirements of § 967.37(e). Base Quantities issued to new producers shall not be transferrable within three years after issuance. Any adjustments in Base Quantities issued to producers with existing Base Quantities shall be effective for one season only and a new request by such producers for adjustment in Base Quantity shall be submitted each season.

(3) The committee may recommend rules for establishing such reserve and for procedures whereby persons may apply for Base Quantities thereunder. Such rules shall be subject to approval by the Secretary. Rules may provide for open informal hearings by the committee on applicants' requests and may establish guides or standards for equitable and thorough consideration of pertinent factors relating to each case, including but not limited to past production of celery by applicant, acreage planted, average yields, the production capacity of the farm or land the applicant expects to use, land, labor, and equipment available to applicant for celery production, economic and marketing factors, and other factors deemed pertinent.

(4) Each person filing an application hereunder for a new Base Quantity or adjustment in an established Base Quantity shall be notified by the committee of its determination thereon. Such determination and considerations appertaining thereto shall be subject to review by the Secretary. If a Base Quantity is issued to an applicant hereunder, the requirements of § 967.38(c) shall then apply.

(e) A condition for the continuing validity of a Base Quantity is production of celery thereunder. If no bona fide effort is made to produce and sell celery thereunder for two consecutive seasons commencing with the 1977-78 season, the Base Quantity may be declared invalid due to lack of use and cancelled at the end of the second season of nonproduc-

tion. The committee shall determine criteria, subject to approval by the Secretary, as to whether a bona fide effort has been made to produce and sell celery, including one requirement that the producer must have sold at least 50 percent of each of his seasonal Marketable Allotments, unless prevented from doing so by acts of God or other circumstances beyond his control.

(f) Annual registration of Base Quantity holders will be required no later than May 1 or such other date as may be approved pursuant to regulations. For the 1977–78 season Base Quantity holders shall register within 30 days following the effective date of this part but no later than July 31, 1977. Any Base Quantity holder who does not register or who has not made firm and substantial commitments to produce celery for the forthcoming season shall have his Base Quantity eliminated from the calculations in determining the Uniform Percentage. However, such procedure will not cause the Base Quantity holder to lose his Base Quantity.

7. Amend § 967.38 to read as follows:

§ 967.38 Marketable Allotments.

(a) When the Secretary establishes a season's Marketable Quantity, a percentage shall be determined by dividing the amount fixed as the season's Marketable Quantity by the total Base Quantities of producers who have registered with the committee pursuant to § 967.37(f).

* * * * *

(e) When the Marketable Quantity is equal to or smaller than total Base Quantities, the first 37,500 crates of each producer's Base Quantity shall be subtracted from both the Marketable Quantity and total Base Quantities when the Uniform Percentage is calculated in this section (§ 967.38(a)), and the Uniform Percentage for the first 37,500 crates will be 100 percent. In the event the Marketable Quantity exceeds total Base Quantities, there shall be no exemption for the first 37,500 crates and the Uniform Percentage shall be applied to each producer's total Base Quantity.

(f) Marketable allotments shall be issued only to producers who have registered by May 1, or such other date prescribed by the Secretary, and indicated firm and substantial commitments for the production of celery for the forthcoming season.

8. Revise the section heading and the first two sentences of § 967.44 to read as follows:

§ 967.44 Research and development.

The committee may, with the approval of the Secretary, establish or provide for the establishment of projects involving production research, marketing research and development projects, and marketing promotion including paid advertising, designed to assist, improve or promote the marketing, distribution and consumption or efficient production of celery. The expenses of such projects shall be paid by funds collected pursuant to §§ 967.61 or 967.63.* * *

9. Add a new § 967.63 to read as follows.

§ 967.63 Contributions.

The committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 967.44. Furthermore, such contributions shall be free from any encumbrances by the donor and the committee shall retain complete control of their use.

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

Signed at Washington, D.C., on June 22, 1977 to become effective upon signing.

JOHN C. WHITE,
Acting Secretary.

JUNE 22, 1977.

[FR Doc.77-18494 Filed 6-27-77;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 77-386]

PART 526—LIMITATIONS ON RATE OF RETURN

Minimum Maturity Term on IRA and Keogh Accounts

JUNE 22, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This rule lowers from six years to three years the minimum required term to maturity for IRA and Keogh certificate accounts on which member institutions of the Federal Home Loan Bank System may pay a rate of return up to 7.75 percent per year. The Board has taken this action so that member institutions may offer these retirement accounts on the same terms as member banks of the Federal Reserve System. The effect of this rule will be to allow member savings and loans to offer IRA and Keogh certificate accounts with no minimum deposit, and a rate of return up to 7.75 percent annually, if the accounts have a term to maturity of no less than three years.

EFFECTIVE DATE: July 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board (202–376–3556).

SUPPLEMENTARY INFORMATION: By order dated April 7, 1977, the Board of Governors of the Federal Reserve System amended Regulation Q (Interest on Deposits) (12 CFR Part 217) respecting time deposits for Individual Retirement Accounts (IRA accounts) and Keogh (H.R. 10) Plan accounts to permit member banks to pay a rate of return up to 7.75 percent per annum on such accounts with minimum terms to maturity of at least three years (42 FR 20284). This amendment becomes effective July 6, 1977.

To retain parity between member institutions of the Federal Home Loan Bank System and member banks of the Federal Reserve System with respect to their offering of such accounts, the Federal Home Loan Bank Board deems it desirable to amend paragraph (c) of § 526.5 of the regulations for the Federal Home Loan Bank System (12 CFR Part 526) to add thereto an exception permitting member institutions to pay on IRA and Keogh accounts with minimum terms of not less than three years the highest rate of return permissible for certificate accounts (currently 7.75 percent per annum).

In order to permit existing retirement savers to obtain the most advantageous IRA and Keogh programs, member institutions may at their option agree to modify the terms of existing IRA and Keogh accounts entered into prior to the effective date of this amendment without imposition of an early withdrawal or interest conversion penalty otherwise required under the Board's regulations.

Since this amendment relieves restriction, and it is in the public interest that it become effective without delay, the Board hereby finds that notice and public procedure with respect to such amendment is contrary to the public interest and unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of such amendment for the period of time specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of such amendment would, in the opinion of the Board, likewise be unnecessary for the same reasons, the Board hereby provides that such amendment shall become effective as stated below.

Accordingly, the Board hereby amends paragraph (c) of § 526.5 to read as set forth below, effective July 6, 1977.

§ 526.5 Maximum rates of return payable on certificate accounts of less than $100,000.

* * * * *

(c) *Exceptions as to fixed or minimum term or qualifying period.* A member institution may pay a return at a rate not in excess of the highest rate permitted under paragraph (a) of this section on any certificate account which is (1) a public unit account of $1,000 or more having a fixed or minimum term or qualifying period of not less than 30 days, or (2) a certificate account which qualifies as a retirement account under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, as amended, and has a fixed or minimum term of not less than 3 years.

(Sec. 4, Stat. 623 (12 U.S.C. 1425b); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.77-18459 Filed 6-27-77;8:45 am]

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 77-387]

PART 545—OPERATIONS

Construction, Alteration, Repair, or Improvement Loans

JUNE 22, 1977.

AGENCY: Federal Home Loan Bank Board (FHLBB).

ACTION: Final rule.

SUMMARY: This rule (1) revises regulations relating to certain lending powers of Federal saving and loan associations as to loans to construct, alter, repair, or improve residential property, (2) is needed to encourage upgrading certain existing residential property (especially inner-city residences), and (3) effects the intended action by permitting loans to be made for the purpose of substantially altering, repairing, or improving certain existing residential property, with deferment of principal payment until completion of the work and permitting such loans to be combined with permanent long-term loans. After the effective date of this rule, construction loans and loans for the purpose of substantial alteration, repair, or improvement of residential property are subject to the same regulatory provisions.

EFFECTIVE DATE: June 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, at 320 First Street, N.W., Washington, D.C. 20552 or telephone number 202-376-3556.

SUPPLEMENTARY INFORMATION: On November 10, 1976, the Federal Home Loan Bank Board published proposed rule No. 76-821, dated November 3, 1976, (41 F.R. 49639-49640) to revise certain paragraphs of § 545.6-1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.6-1) for the principal purpose of liberalizing certain provisions applicable to alteration, repair, or improvement loans secured by residential property. The period for receiving comments from interested persons ended on December 13, 1976. Eighteen comments were received and are summarized as follows: 12 approved, as proposed; 2 approved, suggesting additional amendment; 2 approved, suggesting clarification; and 2 no comment.

DISCUSSION OF MAJOR COMMENTS

SUGGESTED CLARIFICATION

Two commenters stated in substance that the proposed § 545.6-1(a)(7) should be clarified as to combining a construction, alteration, repair, or improvement loan with an existing permanent loan having an unpaid principal balance exceeding 80 percent of the value of the security property.

The Board agrees with that suggestion. This final rule clarifies that matter by providing that a loan for construction, alteration, repair, or improvement may be combined with an existing over-80 percent-of-value loan, but that the disbursement of construction, alteration, repair, or improvement funds is limited to 80 percent of the value of the security property until the work on the property is completed and applicable regulatory provisions are met concerning over-80 percent-of-value loans.

Also, this final rule simplifies the last sentence of former § 546.6-1(a)(7) and extends the provisions thereof, regarding combining into a single loan a permanent loan with a loan under that section, to all loans made pursuant to that section. It is noted that the new regulation applies for the first time to certain loans made pursuant to § 545.6-1(a)(6); i.e., certain home loans if at least that portion of such loans which exceeds 80 percent of the value of the security property is insured or guaranteed by an agency or instrumentality of a State whose full faith and credit is pledged to the support of such insurance or guarantee.

SUGGESTED ADDITIONAL AMENDMENT

The Board agrees with the suggestion that § 545.6-12(a), regarding loan plans approved for use by Federal savings and loan associations, should be changed to: (1) Exclude loans to finance substantial alteration, repair, or improvement from a requirement that payments on certain loans must begin not later than 60 days after the advance of the loan and (2) apply the provisions regarding payments of principal and interest on certain construction loans to payments of principal and interest on similar loans for substantial alteration, repair, or improvement. The new regulation effects those changes.

Revised § 545.6-12(a) does not define the word "substantial", but associations are expected to act responsibly, i.e. the special provisions regarding alteration, repair, or improvement do not apply if there is only "token" work done on the security property. Also, the Board intends that the words "alteration, repair, or improvement" include, for example, enlargement, rebuilding, reconstruction, rehabilitation, remodeling, restoring, or similar change.

The Federal Home Loan Bank Board finds that publication of this rule for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to effective date is unnecessary, because the rule relieves restrictions.

Accordingly, 12 CFR Part 545 is amended, effective June 30, 1977, as follows:

1. By revising paragraphs (a)(7), (b)(2), and (b)(3) of § 545.6-1 to read as follows:

§ 545.6-1 Lending powers under sections 13 and 14 of Charter K.

Any Federal association which has Charter K may, under sections 13 and 14 thereof, make the following types of loans on the security of first liens on improved real estate and the use by such an association of loan plans, practices, and procedures which comply with the applicable provisions of §§ 545.6 to 545.6-13, are hereby approved by the Board:

(a) *Homes or combination of homes and business property—*

* * * * *

(7) *Construction, alteration, repair, or improvement loans.* If the members of an association have authorized loans on homes or combination of homes and business property to be made without full amortization in excess of 50 percent of the value thereof, such loans may be made for the purpose of construction or substantial alteration, repair, or improvement up to the percent of value permissible under this paragraph (a), but disbursement of any amount of such a loan in excess of 80 percent of the value of the security property shall not be made until completion of such construction or substantial alteration, repair, or improvement and compliance with applicable provisions of paragraphs (a)(4), (a)(5), or (a)(6) of this section; and such loans may be made for a term of not more than 18 months and with interest payable at least semiannually without regard to any requirement of this part for amortization of principal prior to the end of the term. A permanent loan under this paragraph (a) may be combined into a single loan with a loan under this paragraph (a)(7), and the term of the permanent loan shall be considered to begin at the end of the term allowed under this paragraph (a)(7) for construction or substantial alteration, repair, or improvement.

* * * * *

(b) *Other dwelling units; combination of dwelling units, including homes, and business property involving only minor or incidental business use.* * * *

(2) *Other installment loans.* * * *

(ii) *Partially-amortized loans.* Partially-amortized monthly installment loans may be made in an amount not in excess of 80 percent of the value of the real estate. Both monthly installment loans under subparagraph (1) of this paragraph and other installment loans under this subparagraph (2) may be combined into a single loan with a loan for the purpose of construction or substantial alteration, repair, or improvement which meets the requirements of subparagraph (3)(ii) of this paragraph, and the term of the monthly installment loan shall be considered to begin at the end of the term allowed for construction or substantial alteration, repair, or improvement.

(3) *Loans without full amortization.* Any loan of a type that such an association may make on a monthly installment basis may also be made without full amortization of principal, but with interest payable at least semiannually, for an amount not in excess of 50 percent of the value of the security and for a term of not more than 5 years: *Provided*, That

the requirements of this subparagraph with respect to semiannual payment of interest and the limitations of this subparagraph with respect to maximum percentage or other amounts and maximum terms of loans shall not be applicable to insured or guaranteed loans: *Provided further*, That, when the members of such association have authorized loans to be made without full amortization for an amount exceeding 50 percent of the value, such loans may be made up to the percentage of value authorized by the members but not in excess of:

(i) 60 percent of the value and for a term of not more than 3 years; and

(ii) If such loan is made for the purpose of construction or substantial alteration, repair, or improvement, 80 percent of the value of the property securing such loan after completion thereof. A loan made pursuant to this subdivision may be made for a term of not more than 36 months without regard to any requirement of this part for amortization of principal prior to the end of the term.

* * * * *

2. By revising paragraph (a) of § 545.6–12 to read as follows:

§ 545.6–12 Loan payments.

(a) *Payments on monthly installment loans and flexible payment loans.* Payments on all monthly installment loans and flexible payment loans, other than construction loans, loans to finance substantial alteration, repair, or improvement, insured loans, and guaranteed loans, shall begin not later than 60 days after the advance of the loan. Insured loans and guaranteed loans may be repayable upon terms acceptable to the insuring or guaranteeing agency. The Board hereby approves for use by any Federal association a loan plan whereby payments on any monthly installment loan or flexible payment loan which includes construction, or substantial alteration, repair, or improvement may begin not later than 36 months after the date of the first advance, but not later than 18 months if the loan is secured by real estate consisting solely of one or more homes or combination of home and business property; interest shall be payable at least semi-annually until regular periodic payments become due.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.77–18460 Filed 6–27–77;8:45 am]

SUBCHAPTER D—INSURANCE OF ACCOUNTS

[No. 77–385]

PART 571—STATEMENTS OF POLICY

Participation Interests in Large Pools of Loans

JUNE 22, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final amendment.

SUMMARY: This amendment authorizes alternative documentation procedures in connection with the purchase by insured institutions of participations in large loan pools originated and serviced by certain Federally-regulated institutions. Such action is needed because present documentation requirements are impracticable with regard to such transactions. The amendment is intended to provide greater secondary-market flexibility for sellers and purchasers of such participations.

EFFECTIVE DATE: June 30, 1977.

FOR FURTHER INFORMATION, CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, at 320 First Street, NW., Washington, D.C. 20552 or telephone number 202–376–3556.

SUPPLEMENTARY INFORMATION:

Since this amendment relieves restriction, and it is in the public interest that it become effective without delay, the Board hereby finds that notice and public procedure with respect to such amendment are unnecessary under the provisions of 5 U.S.C. 553(b) and 12 CFR 508.11, and publication of such amendment for the period of time specified in 5 U.S.C. 553(d) and 12 CFR 508.14 prior to effective date is likewise unnecessary for the same reason, and the Board therefore provides that such amendment shall become effective as stated hereinabove.

Accordingly, the Board hereby amends Part 571 by adding thereto a new § 571.13, to read as set forth below.

§ 571.13 Participation interests in large pools of loans.

(a) Where an insured institution purchases a participation interest in a large pool of loans, compliance with the documentation requirements of §§ 563.10 (c), (e), and (f) and 563.17–1(c) may be impracticable. Where this is the case, and the pool of loans is originated and serviced by an insured institution or an institution which is a member of the Federal Reserve System or insured by the Federal Deposit Insurance Corporation, the documentation requirements of those provisions will be deemed satisfied if:

(1) Access to the records referred to therein is provided without charge by such originator/servicer, upon request, to any insured institution investing in, or any trustee of, the pool, and to the Board, the Corporation, and their examiners or Supervisory Agents;

(2) The originator/servicer warrants as to each loan in the pool to or for the benefit of each insured institution investing in the pool that as of the date participation interests in the pool were first issued:

(i) No loan was 30 or more days delinquent;

(ii) Each loan met the requirements for investment by a Federal association therein;

(iii) Each loan was secured by a valid first lien;

(iv) There were no delinquent tax or assessment liens or mechanics' liens on the security properties and they were free of substantial damage and in good repair; and

(v) Each loan complied with applicable State and Federal laws, including usury, equal credit opportunity, and disclosure laws; and

(3) The originator/servicer has agreed to provide each insured institution investing in the pool with the following:

(i) A monthly report of loan delinquencies separately indicating the number and aggregate principal amount of loans delinquent one month and two or more months, the book value of any real estate acquired by the pool through foreclosure or a deed in lieu of foreclosure, and the aggregate dollar amount of loans made by the pool, if any, on the security of such real estate if such loans are as described in § 561.15(d);

(ii) a report as of the date participation interests in the pool were first issued and a report at least quarterly thereafter of the aggregate principal amount of all loans in the pool not exceeding $55,000 ($82,500 for loans secured by property in Alaska, Guam, or Hawaii) and secured by first liens on single family dwellings; and

(iii) disclosure, at the time of investment by such insured institution in the pool, of (*a*) the location by State of the property securing the loans in the pool and (*b*) at the request of the insured institution, specific information sufficient to enable it to determine the extent, if any, to which property securing the loans (*1*) is outside its regular lending area or normal lending territory, and (2) must be included in percentage-of-assets limitations or other restricted investment categories to which an insured institution may be subject.

(b) Although this Statement of Policy is principally addressed to compliance with regulatory requirements for purchase by insured institutions of participation interests in large pools of mortgages, it would also apply to sale of participation interests in such pools by Federal associations and other insured institutions having legal authority to sell participation interests in mortgages.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; (12 U.S.C. 1725, 1726, 1730). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.77–18458 Filed 6–27–77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C–2892]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

Alexander's, Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts or practices, this consent order, among other things, requires a New York City department store chain to cease failing to notify those individuals denied employment or terminated based on a consumer reporting agency report, the name and address of the reporting agency furnishing the report. Further, the firm must retroactively provide such information to those individuals denied employment or terminated because of adverse consumer reports during the two years preceding issuance of this order.

DATES: Complaint and order issued May 31, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Richard A. Givens, Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007 (212-264-1207).

SUPPLEMENTARY INFORMATION: On Thursday, March 24, 1977, there was published in the FEDERAL REGISTER (42 FR 15968) a proposed consent agreement with analysis In the Matter of Alexander's, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order. No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart—Collecting, Assembling, Furnishing, or Utilizing Consumer Reports: § 13.382 Collecting, assembling, furnishing, or utilizing consumer reports; 13.382 Confidentiality, accuracy, relevancy, and proper utilization; 13.382-1(a) Fair Credit Reporting Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 84 Stat. 1127-36; 15 U.S.C. 1601, et seq.)

CAROL M. THOMAS,
Secretary.

[FR Doc.77-18403 Filed 6-27-77;8:45 am]

[Docket C-2891]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

Albano Enterprises, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order among other things, requires a Santa Ana, Calif., manufacturer and distributor of automatic gas-saver devices to cease misrepresenting the performance or efficacy of its products; that its devices will fit all engines; that these products are patented; or that they have been tested, inspected, or recommended by government agencies. Further, the firm is required to substantiate all product claims; withdraw and destroy any promotional material containing false or unsubstantiated representations; make refunds to dissatisfied customers, within one year from time of product purchase; and disclose this refund policy in all advertising material. The order additionally requires the firm to maintain prescribed records and institute a program of continued surveillance to ensure that its distributors conform to the terms of the agreement.

DATES: Complaint and order issued May 31, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

William A. Arbitman, Director, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Avenue, San Francisco, Calif. 94102 (415-556-1270).

SUPPLEMENTARY INFORMATION: On Monday, March 28, 1977, there was published in the FEDERAL REGISTER (42 FR 16481) a proposed consent agreement with analysis in the matter of Albano Enterprises, Inc., a corporation, and Louis Albano, individually and as an officer of said corporation, and Joseph Albano, individually, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections; 13.15-30 Connections or arrangements with others; 13.15-90 Government endorsement; 13.15-95 Government registration; § 13.85 Government approval, action, connection, or standards; 13.85-65 States; 13.85-70 Tests and investigations; 13.85-75 Use; § 13.110 Endorsements, approval, and testimonials; § 13.135 Nature of product or service; § 13.145 Patent or other rights; § 13.160 Promotional sales plans; § 13.185 Refunds, repairs, and replacements; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.265 Tests and investigations. Subpart—Claiming or Using Endorsements or Testimonials Falsely or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly; 13.330-85 State agencies. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-15 Destruction of records and/or data; 13.533-20 Disclosures; 13.533-45 Maintain records; 13.533-53 Recall of merchandise, advertising material, etc.; 13.533-55 Refunds, rebates and/or credits. Subpart—Failing to Maintain Records: § 13.1051 Failing to maintain records. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1430 Government endorsement, sanction or sponsorship. —Goods: § 13.1632 Government endorsement or recommendation; § 13.1635 Government inspection; §13.1665 Endorsements; § 13.1685 Nature; § 13.1700 Patent rights; § 13.1725 Refunds; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; 13.1762 Tests, purported. —Promotional Sales Plan: § 13.1830 Promotional sales plans. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1870 Nature; § 13.1895 Scientific or other relevant facts. Subpart—Offering Unfair, Improper, and Deceptive Inducements to Purchase or Deal: § 13.2063 Scientific or other relevant facts.

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

CAROL M. THOMAS,
Secretary.

[FR Doc.77-18404 Filed 6-27-77;8:45 am]

[Docket No. 9019]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Genesco Inc.

AGENCY: Federal Trade Commission.

ACTION: Final Order.

SUMMARY: In response to complaint alleging violations of Federal law prohibiting unfair acts and practices, this order, among other things, requires a Nashville, Tenn., operator of a retail clothing chain to cease writing off credit balances; and failing to furnish statements advising customers of credit balances, and their right to request and receive refunds. The order further requires the firm to refund monies due customers from January 1, 1972 to date; and main-

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

[1] Copies of the complaint and the decision and order filed with the original document.

tain prescribed information for a period of three years.

DATES: Complaint issued March 11, 1975. Final Order issued May 17, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Justin Dingfelder, Attorney, Division of Special Statutes, Federal Trade Commission, Washington, D.C. 20580, 202-724-1141.

SUPPLEMENTARY INFORMATION: In the Matter of Genesco Incorporated. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-45 Maintain records; 13.533-55 Refunds, rebates and/or credits. Subpart-Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart-Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

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

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

FINAL ORDER

Both complaint counsel and respondent filed notices of an intention to appeal the initial decision, but filed a "Joint Motion to Withdraw Notices of Appeal" on February 7, 1977, while requesting the Commission to stay further proceedings pending consideration of a proposed order jointly submitted by the parties in lieu of the order recommended by the administrative law judge. The Commission has elected to treat this matter as an unappealed initial decision, and has placed this matter on its own docket for review of the limited question of the appropriateness of the order recommended by the administrative law judge, in conformity with §§ 3.51(a) and 3.54 of its rules.

In response to the Commission's request for clarification of the parties' intentions, the respondent in a letter of March 3, 1977, advised us that it

> Would have no objection to * * * the Commission adopting the proposed order submitted by the parties and, in the event findings of fact and conclusions of law were deemed necessary and appropriate, adopting those set forth by the Administrative Law Judge in his initial decision.

Such findings and conclusions are indeed necessary and appropriate under the Commission's rules. We therefore accept respondent's offer and, pursuant to § 3.51(a) of our rules, "the initial decision shall become the decision of the Commission."

We also accept and hereby enter the jointly proposed order, which differs from the law judge's proposed order in several respects. These differences are decribed in complaint counsel's memorandum of February 7, 1977, in support of the "Joint Motion to Withdraw Notice of Appeal." We attach that memorandum as an appendix to this Final Order, since there is no need to repeat that analysis here.

This matter having been docketed for review by the Commission for the limited purpose of considering the appropriateness of the order recommended by the administrative law judge in his initial decision, and the Commission having considered the modifications of that order proposed by respondent and complaint counsel in their "Joint Motion to Withdraw Notices of Appeal" from the initial decision, and the Commission having concluded that the proposed modifications would be in the public interest:

It is ordered, That pages 1-35 of the initial decision be, and they hereby are, the Findings of Fact and Conclusions of Law of the Commission.[2]

It is further ordered, That the following Final Order to cease and desist be entered, to become effective on the date of service.

ORDER

I

It is ordered, That respondent Genesco Incorporated, a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the handling of credit balances on retail consumer open end credit accounts or other retail consumer charge accounts created incident to the business of selling consumer merchandise and services at retail, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall:

A. Mail or deliver to each charge account customer having a credit balance in excess of one dollar ($1.00) created after or existing as of the date of service of this order a periodic statement each billing period following the creation of the credit balance, clearly setting forth such credit balance; *Provided, however,* That no periodic statement need be sent once a credit balance is refunded or a fully offsetting purchase is made.

B. Notify each charge account customer having a credit balance created after the date of service of this order of the customer's right to request and receive a refund in the amount of such credit balance, such notice to be accomplished by a clear and conspicuous disclosure on or enclosed with each periodic statement required by Paragraph I A and accompanied by a return enevelope, if it is the customary practice of the division or unit to accompany periodic billing statements with return envelopes. Such first disclosure shall in all material respects be consistent with, but need not be identical to, the following:

NO PAYMENT REQUIRED

The Credit Balance shown on the enclosed statement represents money we owe you. You may obtain a refund by presenting (your) (this) statement at our store or by returning it in the enclosed envelope. If you do not charge against this credit or request a refund, a check will be mailed to you within six (6) months. A credit balance of $1 or less will not be refunded unless specifically requested, and it will not be credited against future purchases after expiration of a six (6) month period". Each subsequent periodic statement issued thereafter shall be identical in all respects to the first such statement except that each must show the time in months remaining before the refund or a credit against future purchases will be made. *Provided, however,* If respondent refunds without request credit balances of one dollar ($1.00) or less, and credit amounts under one dollar ($1.00) against future purchases, the disclosure may be amended to accurately reflect this practice.

The disclosure furnished in compliance with this paragraph shall not provide any additional information relating to credit balances, shall be set forth separately from any other written matter, and shall be made either entirely on the face of the periodic statement, or entirely on the reverse side of the periodic statement, or entirely on one side of a separate page. In the event such disclosure is not on the face of the periodic statement, then the periodic statement shall state clearly and conspicuously on its face: "Credit balance. Do not pay. For refund see (enclosed instructions) OR (reverse side)."

C. Refund to each charge account customer with a credit balance of more than one dollar ($1.00) created after the date of service of this order the full amount of said credit balance no later than thirty-one (31) days from the end of the sixth consecutive month during which a credit balance exists and the customer neither transacts any business on the account nor requests a refund, unless such credit balance is not in fact owed to the customer; provided, however, that nothing contained in this Paragraph shall prevent such a refund being made by giving a credit certificate(s) in the full amount of the credit balance which shall be redeemable, at the customer's option, in merchandise or cash. Such a certificate(s) or an accompanying notice attached to the certificate shall clearly and conspicuously disclose that it is redeemable for cash if the customer so requests in person or if the customer returns the certificate(s) by mail with a request for cash redemption.

D. Refrain from writing off or deleting or transferring any credit balance of more than one dollar ($1.00) created after the date of service of this order from a customer's account before a refund has been made or the customer has made a fully offsetting purchase, unless such credit balance is not in fact owed to the customer or unless there has been

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

[2] With the proviso that "Temmessee" be modified to read "Tennessee" in the third line of the law judge's second "Conclusion of Law."

compliance with Section III of this Order.

II

It is further ordered, That respondent shall:

A. Within one hundred and twenty days (120) after entry of this Order notify each charge account customer from whose account a credit balance of more than one dollar ($1.00) was transferred at any time within the period January 1, 1972 to the date of service of this order which credit balance has not been refunded to the customer as of the date of service of this order or the customer has not made a fully offsetting purchase as of the date of service of this order, of the amount of the credit balance that was transferred and of the customer's right to request and receive a refund in the amount of such credit balance, unless such credit balance is not in fact owed to the customer. Such notice shall contain language, which is consistent with, but not necessarily identical to, the following:

NO PAYMENT REQUIRED

The amount shown is a credit balance in your favor as a result of a past transaction. You may obtain a refund of this balance by signing the notice and returning it in the enclosed envelope. If you do not request a reinstatement or a refund it will not be placed on your account for use against future purchases.

The notice furnished in compliance with this paragraph shall be clear and conspicuous and shall be set forth separately from any other written matter except that it should be in close conjunction with the amount of such credit balance as disclosed therein. Such notice shall be accompaied by a return envelope.

B. Refund to each charge account customer, required to be notified by respondent of a credit balance pursuant to Paragraph II A, who requests a refund, the full amount of such credit balance by check or credit certificate.

III

A. *It is further ordered*, That each refund required to be made by this order shall be given to the customer either in person or by mailing a check or credit certificate(s) payable to the order of the customer. Each check or periodic statement sent pursuant to the terms of this order and each notice sent pursuant to Paragraph II A of this order shall be mailed to the customer at the last known address shown in respondent's records for said customer with the notation "Address Correction Requested" appropriately placed on the envelopes. In the event that any such statement, check or notice reflecting a credit in the amount of ten dollars ($10.00) or more is returned to respondent by reason of the fact that the customer to whom it was mailed is not located at the address to which it was sent, respondent shall then obtain from a credit bureau the most current address available for the customer by means of an in-file report or other report on information then existing in the credit bureau's file. If a new address is obtained, respondent shall remail the check, statement, notice or credit certificate to the customer at such address. For all customers whose credit balances were created prior to the date of service of the order herein, and have not been located by any of the preceding methods, respondent shall have no further obligation under this order. For all customers whose credit balances have been created after service of this order, and have not been located by any of the preceding methods, respondent shall retain or reinstate the full amount of the credit balance on the customer's account, to remain thereon for one year from the date on which the remailed check or statement was returned so that offsetting purchases can be made, and respondent shall be relieved of any further obligation to send any additional notice and/or any refund with respect to the credit balance in question. *Provided, however*, That in the event said customer should subsequently request a refund of any such credit balance, respondent shall treat such request in the manner provided in Paragraph III B.

B. When a customer requests, in person or by mail, a refund of a credit balance in any amount which had been reflected at any time on such customer's account, respondent shall, within thirty (30) days from receipt of such request, either refund the entire amount requested, if owed, or furnish the customer with an individualized written explanation, with supporting documentation, when requested and available, of the reason(s) for refusing to refund the amount requested.

IV

It is further ordered, That a credit balance shall be deemed to be created at the end of the billing cycle in which the credit balance is first recorded on a customer's account and at the end of the billing cycle in which the recorded amount of an existing credit balance is changed due to a customer's use of the account. Whenever the recorded amount of an existing credit balance is changed, respondent's obligations under this order with respect to the credit balance existing prior to such charge shall automatically be terminated and replaced by its obligations under this order with respect to the new credit balance created by said change.

V

It is further ordered, That, notwithstanding the foregoing, the provisions of this order shall not be applicable to credit balances on accounts administered by third parties or to transactions arising out of lay-away plans or installment sales contracts.

VI

It is further ordered, That respondent shall maintain a list for each of its retail operating divisions which contains the following data: name and address of each customer who received an automatic refund of a credit balance; the date the credit balance was created and the date it was refunded; and the amount of the credit balance. Respondent shall also maintain for each such division a separate list which contains the following data: The names and addresses of all customers who requested in person or by mail a refund of a credit balance but whose request was refused; the date the request was made; the date a refusal was sent to the customer; the amount of the credit balance; a copy of any written explanation of reason for the refusal sent to the customer; and, if no written explanation for the refusal was made, a statement of the reasons for the refusal.

VII

It is further ordered, That respondent shall retain the records required to be maintained by Paragraph VI of this order for a period of three (3) and, upon request, produce said records for the purpose of examination and copying by representatives of the Federal Trade Commission.

VIII

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

IX

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

X

It is further ordered, That respondent shall, within one hundred twenty (120) days after entry of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-18506 Filed 6-27-77;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 77N-0128]

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart B—Redelegations of Authority From the Commissioner of Food and Drugs

REPORTS OF MINOR VIOLATIONS

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority regarding issuance of reports of minor

violations by adding additional delegatees. This action formalizes current agency policy and will not mean any substantive change in agency procedures.

EFFECTIVE DATE: June 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert L. Miller, Office of Administration (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: This amendment to § 5.37 (21 CFR 5.37, formerly § 5.42, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)) formalizes agency policy by delegating authority to Regional Food and Drug Directors and District Directors to issue reports of minor violations.

Further redelegation of the authority delegated by this amendment is not authorized. Authority redelegated by this amendment to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting", or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended in § 5.37 by adding paragraph (a)(6) to read as follows:

§ 5.37 Issuance of reports of minor violations.

(a) * * *

(6) Regional Food and Drug Directors and District Directors.

* * * * *

Effective date: This regulation shall become effective June 28, 1977.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: June 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-18441 Filed 6-27-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Melengestrol Acetate

Correction

In FR Doc. 77-15687 appearing at page 28535 in the issue of Friday, June 3, 1977, in the third column, eighth line down, the date now reading, "June 2," should be corrected to read "June 3,".

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER M—INTERNATIONAL TRAFFIC IN ARMS

[Departmental Reg. 108.740]

PART 123—LICENSES FOR UNCLASSIFIED ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

Licenses for Export of Firearms

AGENCY: Department of State.

ACTION: Suspension of rule.

SUMMARY: This notice temporarily suspends a rule under the International Traffic in Arms regulations which allows persons leaving the U.S. to export three or fewer firearms and accompanying ammunition for their personal use without an export license. This action is being taken to prevent the possible circumvention of the policies and purposes of the regulation, and will remain in effect until the completion of a rule-making procedure to determine whether the rule should be permanently revoked.

EFFECTIVE DATE: June 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Clyde G. Bryant, Jr., 703-235-9758.

SUPPLEMENTARY INFORMATION: This rule (22 CFR 123.31) was originally adopted to allow U.S. citizens to export firearms for their personal use without an export license. A recent study by the Office of Munitions Control revealed that this exemption is rarely used by U.S. citizens. On the contrary, it is used repeatedly by non-U.S. citizens, some of whom enter and leave the United States several times in one year. By permitting them to carry firearms and cartridges without a license, the exemption creates undesirable risks that weapons may be disposed of abroad in circumvention of the International Traffic in Arms regulations. The destination of these unlicensed firearms could include countries to which the U.S. Government would not license the export of firearms. Such a practice is clearly inconsistent with the original intent of the rule. Accordingly, under authority of 22 CFR 126.02, the Director of the Office of Munitions Control, Department of State, has ordered the temporary suspension of the regulation [1] in the interest of furthering the objectives of world peace and the security and foreign policy of the United States.

[1] For a document proposing the permanent revocation of this rule, see FR Doc. 77-18582, appearing under the Department of State in the Proposed Rules section of this issue of the FEDERAL REGISTER.

§ 123.31 [Suspended]

(Section 38 of the Arms Export Control Act (22 U.S.C. 2778) and Executive Order 11958.)

Dated: June 23, 1977.

WILLIAM B. ROBINSON,
Director, Office of Munitions Control.

[FR Doc.77-18581 Filed 6-27-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Civil Division Directive No. 90-77]

PART 15—DEFENSE OF CERTAIN SUITS AGAINST FEDERAL EMPLOYEES, AND CERTIFICATION AND DEFENSE OF CERTAIN SUITS AGAINST PROGRAM PARTICIPANTS UNDER THE NATIONAL SWINE FLU IMMUNIZATION PROGRAM OF 1976

Delegation of Authority to Certify Status of Program Participants Under the National Swine Flu Immunization Program of 1976

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Existing regulations authorize the Assistant Attorney General in charge of the Civil Division to redelegate to subordinate officials certain authority concerning certifications under the National Swine Flu Immunization Program of 1976, subject to the approval of the Associate Attorney General. This Civil Division Directive redelegates the authority to certify the status of program participants to any Deputy Assistant Attorney General of the Civil Division, to the Section Chief of the Tort Section and to the Assistant Section Chief of the Tort Section for Swine Flu Litigation.

EFFECTIVE DATE: June 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Neil R. Peterson, Civil Division, Department of Justice, Washington, D.C. 20530, 202-739-4393.

Part 15 is amended by adding the following Appendix:

CIVIL DIVISION

[Directive No. 90-77]

1. By virtue of the authority vested in me by Part 15 of Title 28 of the Code of Federal Regulations, particularly § 15.3(b), it is hereby ordered as follows:

2. The authority delegated to the Assistant Attorney General in charge of the Civil Division to certify the status of program participants under the National Swine Flu Immunization Program of 1976, as that term is defined in 42 U.S.C. 247b(k)(2)(B), and as required under 42 U.S.C. 247b(k)(4-(5), is hereby delegated to any Deputy Assistant Attorney General of the Civil Division, to the Chief of the Tort Section and to the Assistant Chief of the Tort Section in charge of Swine Flu Litigation, and any one of whom may individually exercise the authority in

any given instance. This delegation also includes the authority to withdraw the certification and file appropriate motions as set forth in § 15.3(b) of Title 28 of the Code of Federal Regulations.

Dated: June 14, 1977.

BARBARA A. BABCOCK,
Assistant Attorney General, Civil Division.

Approved:

MICHAEL J. EGAN,
Associate Attorney General.

[FR Doc.77-18401 Filed 6-27-77;8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 90—CERTIFICATION OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: This rule provides for administrative reconsideration of negative determinations of the Secretary regarding certification of eligibility to apply for worker adjustment assistance under the provisions of the Trade Act of 1974. This rule also make other technical and clarifying amendments. Reconsideration of negative determinations will permit an administrative review without the expense of litigation, when there is reason to believe the decision of the Secretary is erroneous.

EFFECTIVE DATE: July 28, 1977.

FOR FURTHER INFORMATION CONTACT:

John R. Garson, Counsel for International Affairs, Division of General Legal Services, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20210 (202-523-8205).

SUPPLEMENTARY INFORMATION: On January 14, 1977, a document was published in the FEDERAL REGISTER (42 FR 2981) proposing to revise the rules pertaining to worker adjustment assistance as administered by the Department of Labor. The document provided that interested persons could submit written comments regarding the proposed revision before February 10, 1977. On January 28, 1977, a correction notice was published in the FEDERAL REGISTER (42 FR 5372) providing that comments could be submitted before February 14, 1977. On February 15, 1977, a document was published in the FEDERAL REGISTER (42 FR 9190) extending the time for public comment until March 16, 1977. All comments with respect to the proposed revision were given due consideration.

This rule amends 29 CFR Part 90, the regulations pertaining to certification of eligibility to apply for worker adjustment assistance pursuant to sections 221-250 of the Trade Act of 1974 (19 U.S.C. 2271-2322). The most significant amendment of 29 CFR Part 90 is the addition of a new § 90.18 to provide for administrative reconsideration of negative determinations of the Secretary under section 223 of the Act (19 U.S.C. 2273). New § 90.18 sets forth procedures by which a party aggrieved by a determination of the Secretary may seek reconsideration of a determination, when there is reason to believe the determination is erroneous. Anyone seeking reconsideration retains the right to judicial review. The reconsideration regulations are designed to provide those who have been aggrieved by a negative determination with an alternative to appeal via judicial review, which is often time consuming and costly.

These regulations also give those who have been denied adjustment assistance a more informal and simplified avenue to relief, in addition to the right to judicial review.

A. The following other technical and clarifying amendments to 29 CFR Part 90 have also been made:

1. The definition of "firm" in § 90.2 has been expanded to cover predecessors and successors-in-interest and affiliated firms which are controlled or substantially beneficially owned by substantially the same persons. The purpose of this amendment is to clarify that the Act was intended to cover firms which may be involved solely in providing a service or producing a component part, but which are owned or controlled by firms producing an article. This revision eliminates an anomaly which prevents workers at an affiliated service firm from being certified, while those at an "appropriate subdivision" (as it is defined in § 90.2) engaged in services may be certified.

2. Section 90.14 has been amended to clarify the method of service of and time for compliance with a subpena.

3. Section 90.16(g) has been added to provide for notices of determinations which contain both a certification of, and a denial of, eligibility to apply for adjustment assistance. Such notices are necessary when certain identifiable segments of workers in a firm or an appropriate subdivision do not meet the statutory criteria for certification of eligibility to apply for adjustment assistance, although other identifiable segments of workers do satisfy the statutory criteria.

4. Section 90.17(d) has been amended in order to make it clear that a notice of termination of certification shall not have a retroactive effect which would require workers to repay previously disbursed benefit payments.

5. Section 90.17(e) has been added to provide for notices of partial termination of certification when the termination affects only a portion of the group of workers previously covered and when the certifying officer determines that a certification should not be totally terminated. Section 90.17(f) has been added to provide for notices of continuation of certification when the certifying officer determines that a certification should be continued.

6. Section 90.18 has been amended to become new § 90.19 and is further amended to make it clear that negative determinations regarding applications for reconsideration, revised certifications, revised determinations and negative determinations on reconsideration are final determinations for purposes of judicial review under section 250 of the Act.

7. Section 90.36 has been added to clarify the Department's method of computing time periods specified in § 90.13 (a), new § 19.18(a), new § 90.19(a) and section 223 of the Act.

B. As a result of comments received and our further review, the following changes in the revised rules are made, including language changes for clarification:

1. The time for filing an application for reconsideration of a negative determination under new § 90.18(a) has been changed from fifteen (15) days to thirty (30) days after notice of the determination has been published in the FEDERAL REGISTER.

2. For clarification, new § 90.18(e) has been revised to provide that, upon reaching a negative determination regarding an application for reconsideration, the certifying officer shall promptly publish in the FEDERAL REGISTER a summary of the determination, including the reasons therefor.

C. Certain other recommendations have been carefully considered but have not been accepted. The following suggestions were not adopted for the reasons set forth below:

1. We received one comment suggesting that the definition of "appropriate subdivision" in § 90.2 be revised to provide that a grouping of workers from multiple plants of a firm could be considered to be one "appropriate subdivision." Section 90.2 currently provides in part that an "appropriate subdivision" is "an establishment in a multi-establishment firm which produces the domestic article in question or a distinct part or section of an establishment * * * where the articles are produced." We do not agree with the suggested modification of the definition. The current definition of "appropriate subdivision" is based on the legislative history and previous interpretations of the term. The purpose of the worker adjustment assistance provisions is to certify those workers whose separations are directly related to the adverse impact of import competiton. To define "appropriate subdivision" to include groups of plants, would tend to mask any direct link between separations and imports because firm responses to import competition may lead to different results at each facility where an import impacted article is produced. For example, if a firm realigns its domestic production schedules of an import impacted article in response to import competition and the realignment results in the elimination or reduction of production at some domestic facilities and in an increase in production at other facilities, those facilities losing domestic production of the affected article are clearly affected differently than those experiencing an increase in production.

Plants receiving increased production of an import impacted article have benefited from the realignment and workers who may have become unemployed for other reasons are not intended to be covered by the Act.

2. Several comments were received suggesting that the term "date of petition" in § 90.2 be modified to provide that the date of a petition could be no more than 120 days before the date of filing, in lieu of the current provision that the date may be no more than 30 days before the date of filing. We have rejected this suggestion. The purpose of the provision concerning "date of petition" is to prevent back dating of petitions, since under section 223(b) of the Act (19 U.S.C. 2273(b)) the impact date of a certification may be no earlier than one year before the date of a petition. It is our opinion that the 30-day requirement is adequate to take care of delays in mailing and delivery.

3. One comment received suggested that the term "like or directly competitive" in § 90.2 be redefined to cover cases where an imported article uses a component which is competitive with an item manufactured in the United States. We have not accepted this suggestion. The current definition of "like or directly competitive" in § 90.2 is based on the language used by both the House Ways and Means Committee and the Senate Finance Committee to interpret the meaning of the phrase for purposes of industry relief (H. Rept. No. 93-571, 93rd Cong., 1st Sess. 45; S. Rept. No. 93-298, 93rd Cong., 2d Sess. 121). Although the legislative history of the Act does not address itself to the meaning of "like or directly competitive" in the context of adjustment assistance, there is no evidence to suggest that the meaning ascribed to the term for the purposes of industry relief does not apply with equal force to the adjustment assistance provisions of the Act. It is furthermore clear that the Congress, in setting forth the meaning of "like or directly competitive," agreed with previous court interpretations of the term holding that imported finished articles are not "like or directly competitive" with the domestic component parts thereof (S. Rept. supra at 122).

4. Several comments were received suggesting that the definition of "significant number or proportion of workers" in § 90.2 be changed to mean two (2) percent of the workers or three (3) workers or more. The current requirement is that there be a total unemployment of five (5) percent of the workers or 50 workers, whichever is less. The proposed change has not been adopted. The present requirements are based on the stated intent of Congress that the total or partial separation of a significant number or proportion of the workers would be the equivalent of a total unemployment of five (5) percent of the workers or 50 workers, whichever is less (H.R. Rept., supra at 54; S. Rept., supra at 133).

5. One comment received suggested eliminating the requirement of new § 90.18(b) that an application for reconsideration include a statement of reasons for believing that the determination complained of is erroneous. We have not accepted this suggestion. It is our opinion that administrative reconsideration should be limited to those cases where there is a showing that the determination was erroneous. The Department does not have the resources to and should not be expected to reconsider every case which includes a negative determination, merely because a petitioner is dissatisfied with a decision. Since the addition of new § 90.18 does not preclude judicial review, nor is it a prerequisite to judicial review, every petitioner aggrieved by a determination retains the automatic right to have the determination reviewed by the courts.

6. We received one comment which suggested that a member of the public be able to apply for reconsideration of certifications. Since the proposed reconsideration regulations are designed to provide those who have been aggrieved by a negative determination with a more informal and simplified avenue for relief, in addition to judicial review, we have limited the right to seek administrative reconsideration to those who would have the right to seek judicial review under section 250 of the Act.

7. Finally, we received one comment suggesting that the regulations be revised to provide for benefits to workers engaged in the production of import impacted articles, who subsequently replace ("bump") workers with less seniority in non-import impacted production and are then laid off. This suggestion went beyond the scope of the proposed rulemaking and would require an amendment to the Act.

This rule was drafted under the supervision and direction of Donald S. Shire, Associate Solicitor, Division of General Legal Services, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210 (202-523-8286).

Accordingly, 29 CFR Part 90 is revised as set forth below.

Signed at Washington, D.C., this 23d day of June 1977.

HERBERT N. BLACKMAN,
Acting Deputy Under Secretary, International Affairs.

Subpart A—General

Sec.
90.1 Purpose.
90.2 Definitions.
90.3 Applicability of part.

Subpart B—Petitions and Determinations of Eligibility To Apply for Adjustment Assistance

90.11 Petitions.
90.12 Investigation.
90.13 Public hearings.
90.14 Subpena power.
90.15 Recommendation.
90.16 Determinations and certifications of eligibility to apply for adjustment assistance.
90.17 Termination of certifications of eligibility.
90.18 Reconsideration of determinations.
90.19 Judicial review of determinations.

Subpart C—Initiation and Conduct of Study With Respect to Workers in Industry Which is the Subject of an Investigation for Industry Import Relief

Sec.
90.21 Study.
90.22 Dissemination of program knowledge and assistance to workers.

Subpart D—General Provisions

90.31 Filing of documents.
90.32 Availability of information.
90.33 Confidential business information.
90.34 Notice procedures.
90.35 Transitional provisions.
90.36 Computation of time.

AUTHORITY: Sec. 248, Pub. L. 93-618, 88 Stat. 2029 (19 U.S.C. 2320), Secretary's Order 3-75 (40 FR 17863).

SOURCE: 40 FR 14909, Apr. 3, 1975, unless otherwise noted.

Subpart A—General

§ 90.1 Purpose.

The purpose of this Part 90 is to set forth regulations relating to the responsibilities vested in the Secretary of Labor by the Trade Act of 1974 (Pub. L. 93-618) concerning petitions and determinations of eligibility to apply for worker adjustment assistance. Section 248 of the Act directs the Secretary of Labor to prescribe regulations which will implement the provisions relating to adjustment assistance for workers. This part will provide for the prompt and effective disposition of workers' petitions for certification of eligibility to apply for adjustment assistance. It reflects delegations of authority which were published in the FEDERAL REGISTER (40 FR 17863, 40 FR 22048).

§ 90.2 Definitions.

As used in this part, the term:

"Act" means the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 1978, 2011-2030 (19 U.S.C. 2271-2322).

"Appropriate subdivision" means an establishment in a multi-establishment firm which produces the domestic articles in question or a distinct part or section of an establishment (whether or not the firm has more than one establishment) where the articles are produced. The term "appropriate subdivision" includes auxiliary facilities operated in conjunction with (whether or not physically separate from) production facilities.

"Certifying officer" means an official in the Bureau of International Labor Affairs, U.S. Department of Labor, who has been delegated responsibility to make determinations and issue certifications of eligibility to apply for adjustment assistance, preside at public hearings under section 221(b) of the Act, issue subpenas, and perform such further duties as may be required by the Secretary or by this Part 90.

"Commission" means the United States International Trade Commission, formerly named the United States Tariff Commission.

"Date of the petition" means the date thereon, but which in no event shall be more than 30 days before the date of filing.

"Date of filing" means the date on which petitions and other documents are received in the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C. 20210.

"Date of issuance" means the date on which a certification of eligibility to apply for adjustment assistance is signed by the certifying officer.

"Director" means the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C. The Director is responsible for the conduct of worker investigations under this part and for recommending to the certifying officer whether or not to issue certifications of eligibility to apply for adjustment assistance.

"Firm" includes an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustee in bankruptcy, and receiver under decree of any court. A firm, together with any predecessor or successor-in-interest, or together with any affiliated firm controlled or substantially beneficially owned by substantially the same persons, may be considered a single firm.

"Group" means three or more workers in a firm or an appropriate subdivision thereof.

"Increased imports" means that imports have increased either absolutely or relatively, and would generally mean those increases as have occurred from a representative base period subsequent to the effectiveness of the most recent trade agreement concessions proclaimed by the President beginning in 1968.

"Layoff" means a suspension from pay status for lack of work initiated by the employer and expected to last for no less than seven (7) consecutive calendar days.

"Like or directly competitive" means that "like" articles are those which are substantially identical in inherent or intrinsic characteristics (i.e., materials from which the articles are made, appearance, quality, texture, etc.); and "directly competitive" articles are those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes (i.e., adapted to the same uses and essentially interchangeable therefor).

An imported article is "directly competitive with" a domestic article at an earlier or later stage of processing, and a domestic article is "directly competitive with" an imported article at an earlier or later stage of processing, if the importation of the article has an economic effect on producers of the domestic article comparable to the effect of importation of articles in the same stage of processing as the domestic article.

"Partial separation" means, with respect to an individual who has not been totally separated, that:

(a) The worker's hours of work have been reduced to 80 percent or less of the worker's average weekly hours at the firm or appropriate subdivision thereof, and

(b) The worker's wages have been reduced to 80 percent or less of the worker's average weekly wage at the firm or appropriate subdivision thereof.

"Secretary" means the Secretary of Labor, U.S. Department of Labor.

"Significant number or proportion of the workers" means that:

(a) In most cases the total or partial separations, or both, in a firm or appropriate subdivision thereof, are the equivalent to a total unemployment of five percent (5 percent) of the workers or 50 workers, whichever is less; or

(b) At least three workers in a firm (or appropriate subdivision thereof) with a work force of fewer than 50 workers would ordinarily have to be affected.

"Threatened to begin" means, in the context of impending total or partial separations, the date on which it could reasonably be predicted that separations were imminent.

"Total separation" means the layoff or severance of an individual from a firm or an appropriate subdivision thereof.

§ 90.3 Applicability of part.

This Part 90 generally relates to certifications of eligibility made under the Act. Subpart B specifically applies to the initiation and conduct of worker investigations and the issuance of determinations and certifications of eligibility to apply for adjustment assistance. Subpart C applies to studies of workers in industries which are the subject of investigations for industry import relief. Subpart D contains general provisions with respect to filing of documents and public availability of documents.

Subpart B—Petitions and Determinations of Eligibility To Apply for Adjustment Assistance

§ 90.11 Petitions.

(a) *Who may file petitions.* A petition under section 221(a) of the Act and this Subpart B shall be filed by a group of workers for a certification of eligibility to apply for adjustment assistance or by their certified or recognized union or other duly authorized representative.

(b) *Identification of petitioners.* Every petition filed with the Department shall clearly state the group of workers on whose behalf the petition is filed and the name(s) and address(es) of the person(s) by whom the petition is filed. Every petition shall be signed by at least three individuals of the petitioning group or by an official of a certified or recognized union or other duly authorized representative. Signing of a petition shall constitute acknowledgement that each signer has read the entire petition, that to the best of the signer's knowledge and belief the statements therein are true, and that each signer is duly authorized to sign such a petition.

(c) *Contents.* Petitions may be filed on a U.S. Department of Labor form. Copies of this form may be obtained at State Employment Security Agency local offices or by writing the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C. 20210. Every petition shall include: (1) The name(s), address(es), and telephone number(s) of the petitioner(s); (2) The name or a description of the group of workers on whose behalf the petition is filed (e.g., all hourly and salaried employees of the XYZ plant of ABC corporation); (3) The name and address of the workers' firm or appropriate subdivision thereof; (4) the name, address, telephone number, and title of an official of the firm; (5) The approximate date(s) on which the total or partial separation of a significant number or proportion of the workers in the workers' firm or subdivision began and continued, or threatened to begin, and the approximate number of workers affected by such actual or threatened total or partial separation; (6) A statement of reasons for believing that increases of like or directly competitive imports contributed importantly to total or partial separations and to the decline in the sales or production (or both) of the firm or subdivision (e.g., company statements, articles in trade association publications, etc.); and (7) A description of the articles produced by the workers' firm or appropriate subdivision, the production or sales of which are adversely affected by increased imports, and a description of the imported articles concerned. If available, the petition also should include information concerning the method of manufacture, end uses, and wholesale or retail value of the domestic articles produced and the United States tariff provision under which the imported articles are classified.

(d) *Number of copies.* One (1) signed original and two (2) clear copies of the petition shall be filed. The name(s) of the person(s) signing the petition shall be typewritten or otherwise clearly reproduced.

§ 90.12 Investigation.

Upon receipt of a petition, properly filed, the Director of the Office of Trade Adjustment Assistance shall promptly publish notice in the FEDERAL REGISTER that the petition has been received. The Director shall initiate, or order to be initiated, such investigation as he determines to be necessary and appropriate. The investigation may include one or more field visits to verify information furnished by the petitioner(s) and to elicit other relevant information. In the course of the field investigation representatives of the Department shall be authorized to meet with and obtain information from responsible company officials, union officials, employees and other interested parties, or organizations, both private and public as may be necessary to marshal all relevant facts to recommend an appropriate finding with respect to the issuance of a determination of eligibility to apply for

adjustment assistance. Upon conclusion of the investigation a report thereof, including a recommendation regarding group eligibility shall be made, as more specifically defined in § 90.16 of this Part 90.

§ 90.13 Public hearings.

(a) *When held.* A public hearing shall be held in connection with an investigation instituted under § 90.12 whenever, not later than ten (10) days after the date of publication in the FEDERAL REGISTER of the notice of receipt of the petition, such a hearing is requested in writing by:

(1) The petitioner; or

(2) Any other person found by the Secretary or certifying officer to have a substantial interest in the proceedings. Such petitioner and other interested persons shall be afforded an opportunity to be present, to produce evidence, and to be heard.

(b) *Form of request.* A request for public hearing shall be filed in the same manner as provided for filing of petitions and other documents under § 90.-31(a). A request by a person other than the petitioner shall contain:

(1) The name, address, and telephone number of the person, organization, or group requesting the hearing; and

(2) A complete statement of the relationship of the person, organization, or group requesting the hearing to the petitioner or the subject matter of the petition and a statement of the nature of its interest in the proceeding.

(c) *Time and place.* Public hearings will be held at the time and place specified in a notice published in the FEDERAL REGISTER. Such notice shall be published at least seven (7) calendar days before the scheduled hearing.

(d) *Presiding officers.* A certifying officer shall conduct and preside over public hearings.

(e) *Order of testimony.* Witnesses will testify in the order designated by the presiding officer. Each witness, after being duly sworn, will proceed with testimony. After testifying, a witness may be questioned by the presiding officer or an agent designated by the presiding officer. Any person who has entered an appearance in accordance with paragraph (k) of this section may direct questions to the witness, but only for the purpose of assisting the presiding officer in obtaining relevant and material facts with respect to the subject matter of the hearing.

(f) *Evidence.* Witnesses may produce evidence of a relevant and material nature to the subject matter of the hearing.

(g) *Briefs.* Briefs of the evidence produced at the hearing and arguments thereon may be presented to the presiding officer by parties who have entered an appearance. Three (3) copies of such briefs shall be filed with the presiding officer within ten (10) days of the completion of the hearing.

(h) *Oral argument.* The presiding officer shall provide opportunity for oral argument after conclusion of the testimony in a hearing. The presiding officer will determine in each instance the time to be allowed for argument and the allocation thereof.

(i) *Authentication of evidence.* Evidence, oral or written, submitted at hearings, will upon order of the presiding officer be subject to verification from books, papers, and records of the parties submitting such evidence and from any other available sources.

(j) *Transcripts.* All hearings will be stenographically reported. Persons interested in transcripts of the hearings may inspect them at the U.S. Department of Labor in Washington, D.C., or purchase copies as provided in 29 CFR 70.62(c).

(k) *Appearances.* The petitioner or any other person showing a substantial interest in the proceedings may enter an appearance at a hearing, either in person or by a duly authorized representative.

§ 90.14 Subpena power.

(a) The Secretary or certifying officer may require by subpena the attendance and testimony of witnesses and the production of evidence necessary to make a determination.

(b) If a person refuses to obey a subpena issued under paragraph (a) of this section, the Secretary or a certifying officer may petition the United States district court within the jurisdiction of which the proceeding is being conducted requesting an order requiring compliance with such subpena.

(c) Witnesses subpenaed under this section shall be paid the same fees and mileage as are paid for like services in the District Court of the United States. The witness fees and mileage shall be paid by the United States Department of Labor.

(d) Subpenas issued under paragraph (a) of this section shall be signed by a certifying officer and shall be served either in person by an authorized representative of the Department of Labor or by certified mail, return receipt requested. The date for compliance shall be not earlier than seven (7) calendar days following service of the subpena.

§ 90.15 Recommendation.

As promptly as possible, but in any event not later than 45 days after the filing of a worker petition, the Director of the Office of Trade Adjustment Assistance shall submit to the certifying officer recommendations concerning whether or not to issue a certification of eligibility to apply for adjustment assistance. These recommendations shall be forwarded together with an investigative report, proposed findings of fact, transcripts of any public hearing conducted under this subpart, and other material developed during the investigation.

§ 90.16 Determinations and certifications of eligibility to apply for adjustment assistance.

(a) *General.* Not later than 15 days after receipt of the recommendations forwarded pursuant to § 90.15, the certifying officer shall make a determination on the petition and where affirmative issue a certification of eligibility as provided below.

(b) *Requirements for determinations.* After reviewing the material submitted under § 90.15, including any supplemental material which may be required in reaching a determination the certifying officer shall make findings of fact concerning whether:

(1) A significant number or proportion of the workers in such workers' firm (or an appropriate subdivision of the firm) have become, or are threatened to become, totally or partially separated;

(2) Sales or production, or both, of such firm or subdivision have decreased absolutely; and

(3) Increases (absolute or relative) of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production. For purposes of this paragraph and part, the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

(c) *Notice of affirmative determination and certification of eligibility.* Upon reaching a determination on a petition that a group of workers has met all the requirements set forth in section 222 of the Act and paragraph (b) of this section, the certifying officer shall issue a certification of eligibility to apply for adjustment assistance and shall promptly publish in the FEDERAL REGISTER a summary of the determination together with the reasons for making such determination (with the exception of information which the certifying officer determines to be confidential). Such summary shall include the certification of eligibility and shall constitute a Notice of Determination and Certification of Eligibility.

(d) *Contents of certification of eligibility.* The certification shall specify in detail:

(1) The firm or subdivision thereof at which the workers covered by the certification have been employed (which need not be limited to the unit specified in the petition), and may identify individual workers by name; and

(2) The impact date(s) on which the total or partial separations of the workers covered by the certification began or threatened to begin. When applicable, the certification shall specify the date(s) after which the total or partial separations of the petitioning group of workers from the firm or subdivision thereof specified in the certification are no longer attributable to the conditions set forth in paragraph (b) of this section. For purposes of this section, the "impact date" is the earliest date on which any part of the total or partial separations involving a significant number or proportion of workers began or threatened to begin.

(e) *Exclusions from coverage of a certification of eligibility.* A certification

of eligibility to apply for adjustment assistance shall not apply to any worker:

(1) Whose last total or partial separation from the firm or appropriate subdivision occurred more than one (1) year before the date of the petition; or

(2) Whose last total or partial separation from the firm or appropriate subdivision occurred before October 3, 1974.

(f) *Notice of negative determination.* Upon reaching a determination that a group of workers has not met all the requirements set forth in section 222 of the Act and paragraph (b) of this section, the certifying officer shall promptly publish in the FEDERAL REGISTER a summary of the determination together with the reasons for making such determinations (with the exception of information which the certifying officer determines to be confidential). Such summary shall constitute a Notice of Negative Determination.

(g) *Notice of Determinations.* A notice of certification may contain a notice of negative determination with respect to certain segments of workers. Such notice shall constitute a Notice of Determinations.

§ 90.17 Termination of certifications of eligibility.

(a) *Investigation.* Whenever the Director of the Office of Trade Adjustment Assistance has reason to believe, with respect to any certification of eligibility that the total or partial separations from a firm or appropriate subdivision thereof are no longer attributable to the conditions specified in section 222 of the Act and § 90.16(b), the Director shall promptly make an investigation. Notice of the initiation of the investigation shall be published in the FEDERAL REGISTER and shall be transmitted to the group of workers concerned.

(b) *Opportunity for comment and hearing.* Within 10 days after publication of the notice under paragraph (a) of this section, the group of workers or other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated. If a hearing is requested under this paragraph, such hearing shall be conducted in accordance with § 90.13.

(c) *Recommendation.* Upon the conclusion of any public hearing conducted under this section, and after consideration of any written comments received under paragraph (b) of this section, the Director shall recommend to the certifying officer whether or not the certification should be terminated.

(d) *Notice of termination.* Within ten (10) days of receipt of a report recommending termination of a certification of eligibility, the certifying officer shall determine whether or not such certification shall be terminated. Upon reaching a determination that the certification of eligibility shall be terminated, the certifying officer shall make findings of fact and shall promptly have published in FEDERAL REGISTER a summary of the determination and the reasons therefor (with the exception of information which the certifying officer determines to be confidential). Such summary shall constitute a Notice of Termination. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the certifying officer. The termination date specified by the certifying officer shall be not sooner than the date on which notice of such termination is published in the FEDERAL REGISTER.

(e) *Notice of Partial Termination.* A notice of termination may cover only a portion of the group of workers specified in the certification. Such notice shall constitute a Notice of Partial Termination.

(f) *Notice of Continuation of Certification.* Upon reaching a determination that the certification of eligibility should be continued, the certifying officer shall promptly publish in the FEDERAL REGISTER a summary of the determination with the reasons therefor. Such summary shall constitute a Notice of Continuation of Certification.

§ 90.18 Reconsideration of determinations.

(a) *Determinations subject to reconsideration; time for filing.* Any worker, group of workers, certified or recognized union, or authorized representatives of such worker or group, aggrieved by a determination issued pursuant to the Act and §§ 90.16(c), 90.16(f), 90.16(g), or 90.17(d) may file an application for reconsideration of the determination with the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, Washington, D.C. 20210. All applications must be in writing and must be filed no later than thirty (30) days after the notice of the determination has been published in the FEDERAL REGISTER.

(b) *Contents of application for reconsideration.* An application for reconsideration shall include: (1) Name(s), address(es), and telephone number of the applicant(s); (2) The name or a description of the group of workers on whose behalf the application for reconsideration is filed; (3) The name and case number of the determination complained of; and (4) A statement of reasons for believing that the determination complained of is erroneous. If the application is based, in whole or in part, on facts not previously considered in the determination, such facts shall be specifically set forth. If the application is based, in whole or in part, on an allegation that the determination complained of was based on mistake of facts which were previously considered, such mistake of facts shall be specifically set forth. If the application is based, in whole or in part, on an allegation as to a misinterpretation of facts or of the law, such misinterpretation shall be specifically set forth.

(c) *Determination regarding application for reconsideration.* Not later than fifteen (15) days after receipt of the application for reconsideration, the certifying officer shall make and issue a determination granting or denying reconsideration. The certifying officer may grant an application for reconsideration under the following circumstances: (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous; (2) If it appears that the determination complained of was based on mistake in the determination of facts previously considered; or (3) If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the determination.

(d) *Notice of affirmative determination regarding application for reconsideration.* Upon reaching a determination that an application for reconsideration meets the requirements of paragraph (c) of this section, the certifying officer shall issue an affirmative determination regarding the application and shall promptly publish notice in the FEDERAL REGISTER that the application for reconsideration has been received and granted. Such notice shall constitute a Notice of Affirmative Determination Regarding Application for Reconsideration.

(e) *Notice of negative determination regarding application for reconsideration.* Upon reaching a determination that an application for reconsideration does not meet the requirements of paragraph (c) of this section, the certifying officer shall issue a negative determination regarding the application and shall promptly publish in the FEDERAL REGISTER a summary of the determination, including the reasons therefor. Such summary shall constitute a Notice of Negative Determination Regarding Application for Reconsideration. A negative determination issued pursuant to this paragraph shall constitute a final determination for purposes of judicial review pursuant to section 250 of the Act and § 90.19(a).

(f) *Opportunity for comment.* Within ten (10) days after publication of a notice under paragraph (d) of this section, the group of workers or other persons showing an interest in the proceedings may make written submissions to show why the determination under reconsideration should or should not be modified.

(g) *Determinations on reconsideration.* Not later than forty-five (45) days after reaching an Affirmative Determination Regarding Application for Reconsideration, the certifying officer shall make a determination on the reconsideration.

(h) *Notice of revised certification of eligibility and notice of revised determination.* Upon reaching a determination on reconsideration that a group of workers has met all the requirements set forth in Section 222 of the Act and paragraph (b) of § 90.16, the certifying officer shall issue a revised determination concerning certification of eligibility to apply for adjustment assistance and shall promptly publish in the FEDERAL REGISTER a summary of the revised determination together with the reasons for making such revised determination (with the exception of information which the certifying officer determines to be

confidential). Such summary shall include a certification of eligibility in accordance with paragraph (d) of § 90.16. The summary shall constitute a Notice of Revised Certification of Eligibility when the determination under reconsideration was a certification of eligibility. The summary shall constitute a Notice of Revised Determination when the determination under reconsideration was a negative determination or a certification containing a negative determination. A determination issued pursuant to this paragraph shall constitute a final determination for purposes of judicial review pursuant to section 250 of the Act and § 90.19(a).

(i) *Notice of negative determination on reconsideration.* Upon reaching a determination on reconsideration that a group of workers has not met all the requirements set forth in section 222 of the Act and paragraph (b) of § 90.16, the certifying officer shall issue a negative determination on reconsideration and shall promptly publish in the FEDERAL REGISTER a summary of the determination together with the reasons for making such determination (with the exception of information which the certifying officer determines to be confidential). Such summary shall constitute a Notice of Negative Determination on Reconsideration. A determination issued pursuant to this paragraph shall constitute a final determination for purposes of judicial review pursuant to section 250 of the Act and § 90.19(a).

§ 90.19 Judicial review of determinations.

(a) *General.* Pursuant to section 250 of the Act, any worker, group of workers, certified or recognized union, or authorized representative of such worker or group, aggrieved by a final determination issued pursuant to the Act and §§ 90.16(c), 90.16(f), 90.16(g), 90.17(d), 90.18(e), 90.18(h) or § 90.18(i) may file a petition for review of such determination with the United States court of appeals for the circuit in which such worker or group is located or in the United States Court of Appeals for the District of Columbia Circuit. The party seeking judicial review must file for review in the appropriate court within sixty (60) days after the notice of determination has been published in the FEDERAL REGISTER.

(b) *Certified record of the Secretary.* Upon receiving a copy of the petition for review from the clerk of the appropriate court of appeals, the certifying officer shall promptly certify and file in such court the record on which the determination was based. The record shall include transcripts of any public hearings, recommendations received pursuant to § 90.15, the findings of fact made pursuant to §§ 90.16(b), 90.18(e), 90.18(h) or § 90.18(i), and other documents on which the determination was based.

(c) *Further proceedings.* If a case is remanded to the Secretary by the court of appeals for the taking of further evidence, the certifying officer shall direct that further proceedings be conducted in accordance with the provisions of Subpart B of this part, including the taking of further evidence. The certifying officer, after the conduct of such further proceedings, may make new or modified findings of fact and may modify or affirm the previous determination. Upon the completion of such further proceedings, the certifying officer shall certify and file in the appropriate court of appeals the record of such further proceedings.

(d) *Substantial evidence.* The findings of fact by the certifying officer shall be conclusive if the appropriate court of appeals determines that such findings of fact are supported by substantial evidence.

Subpart C—Initiation and Conduct of Study With Respect to Workers in Industry Which is the Subject of an Investigation for Industry Import Relief

§ 90.21 Study.

(a) *Initiation.* Upon notification by the Commission, pursuant to section 224 of the Act, that the Commission has begun an investigation under section 201 with respect to an industry import relief action, the Secretary shall direct the Director of the Office of Trade Adjustment Assistance to immediately begin a study of (1) The number of workers in the domestic industry producing the like or directly competitive article(s) who have been or are likely to be certified eligible for adjustment assistance; and (2) The extent to which the adjustment of such workers to the import competition may be facilitated through the use of existing programs.

(b) *Report.* The report of the Secretary of the study under section 224(a) of the Act and paragraph (a) of this section shall be made to the President not later than fifteen (15) days after the day on which the Commission makes its report under section 201.

(c) *Release of report.* Upon making the report of the study to the President, the Secretary shall also promptly make the report public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the FEDERAL REGISTER.

§ 90.22 Dissemination of program knowledge and assistance to workers.

Whenever the Commission makes an affirmative finding under section 201(b) of the Act that increased imports are a substantial cause of serious injury or threat thereof with respect to an industry, the Secretary shall, to the extent feasible, make available to the workers in such industry full information about programs which may facilitate their adjustment to the import competition. He shall provide assistance to such workers in the preparation and processing of petitions and applications for program benefits.

Subpart D—General Provisions

§ 90.31 Filing of documents.

(a) *Where to file, date of filing.* Petitions and all other documents shall be filed at the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C. 20210. If properly filed, such documents shall be deemed filed on the date on which they are actually received in the Office of Trade Adjustment Assistance.

(b) *Conformity with rules.* Documents filed in support of the initiation of an investigation by the Director of the Office of Trade Adjustment Assistance shall be considered properly filed if they conform with the pertinent rules prescribed in this Part 90. The Director may accept documents in substantial compliance with the pertinent rules of this part provided good and sufficient reason is stated in the document for inability to comply fully with the pertinent rules. The Director cannot waive full compliance with a rule which is required by the Act.

§ 90.32 Availability of information.

(a) *Information available to the public.* Upon request to the Director of the Office of Trade Adjustment Assistance, members of the public may inspect petitions and other documents filed with the Director under the provisions of this Part 90; transcripts of testimony taken and exhibits submitted at public hearings held under the provisions of this Part 90, recommendations to the certifying officer concerning determinations on petitions for certification of eligibility and determinations on termination of the effect of certifications of eligibility, summaries of the certifying officer's determinations concerning certifications of eligibility and terminations of the effect of certifications of eligibility, public notices concerning worker assistance under the Act and other reports and documents issued for general distribution.

(b) *Information not available to the public.* Confidential business information, defined in § 90.33 of this Part 90, shall not be available to the public.

§ 90.33 Confidential business information.

(a) *Definition.* Confidential business information means trade secrets and commercial or financial information which are obtained from a person and are privileged or confidential, as set forth in 5 U.S.C. 552(b) and 29 CFR Part 70.

(b) *Identification of information submitted in confidence.* Business information which is to be treated as confidential shall be submitted on separate sheets each clearly marked at the top, "Business Confidential." When submitted at hearings, such business information shall be offered as a confidential exhibit with a brief description of the nature of the information.

(c) *Acceptance of information in confidence.* The Director of the Office of Trade Adjustment Assistance may refuse to accept in confidence any information which he determines is not entitled to confidential treatment under this section. In the event of such refusal, the person submitting such information shall

be notified and shall be permitted to withdraw such information.

§ 90.34 Notice procedures.

Formal notice of a certification, negative determination, or termination shall be transmitted promptly to the group of workers concerned and to all State Employment Security Agencies concerned whenever such notices are published in the FEDERAL REGISTER.

§ 90.35 Transitional provisions.

As more particularly provided in section 246 of the Act, a group of workers, their certified or recognized union, or other duly authorized representative who filed a petition under section 301(a)(2) of the Trade Expansion Act of 1962 before December 3, 1974, may file a new petition under section 221 of this Act if:

(a) The Commission has not rejected such previous petition before April 3, 1975; and

(b) No certification has been issued to the petitioning group under section 302(c) of the Trade Expansion Act of 1962 before April 3, 1975; and

(c) The new petition under section 221 of the Act is filed not later than July 2, 1975.

§ 90.36 Computation of time.

(a) The time periods specified in §§ 90.13(a), 90.18(a), and 90.19(a) will be computed by counting the day after publication in the FEDERAL REGISTER as one, and by counting each succeeding day, including Saturdays, Sundays, and holidays. However, when the final day would fall on a Saturday, Sunday or holiday, the time period will terminate at the end of the next succeeding Federal business day.

(b) The 60-day time period specified in Section 223(a) of the Act will be computed in the same manner as set forth in paragraph (a) of this section, except that the day after the date of filing of the petition shall be counted as the first day.

[FR Doc.77-18497 Filed 6-27-77;8:45 am]

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2610—INTERIM REGULATION ON VALUATION OF PLAN BENEFITS

Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to the interim regulation.

SUMMARY: This amendment to the interim regulation on valuation of plan benefits prescribes the rates and factors to be used for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 for plans that terminated on or after September 1, 1976, but before December 1, 1976. It is necessary to finalize the valuation rates and factors for plans that terminated during the period covered by the rule. The rule's effect is to provide notice of the rates and factors that will be used to value benefits provided under such plans.

EFFECTIVE DATE: June 28, 1977.

FOR FURTHER INFORMATION CONTACT:

William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006 (202-254-4895).

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 et seq.). The regulation included an appendix containing rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975.

On January 13, 1977, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after September 2, 1974, but before September 1, 1976 (41 FR 48503 et seq.).

On January 26, 1977, the PBGC published for comment in the FEDERAL REGISTER additional rates and factors for valuing benefits in plans that terminated on or after September 1, 1976, but before December 1, 1976 (42 FR 4862 et seq.). No comments were received regarding that proposed amendment to the interim regulation, and accordingly the PBGC hereby adopts the proposed interest rates and factors without change.

Because of the need to provide immediate guidance for the valuation of benefits in plans that terminated before December 1, 1976, and because no adjustment by on-going plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the interim regulation effective immediately.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Code of Federal Regulations is amended by adding a new Table VI to Appendix B as set forth below.

Issued at Washington, D.C., on this 13th day of June 1977.

RAY MARSHALL,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue same.

HENRY ROSE,
Secretary, Pension Benefit Guaranty Corporation.

The following table is added to Appendix B of 29 CFR Part 2610:

* * * * *

VI. The following interest rates and quantities used to value benefits shall be effective for plans which terminate on or after September 1, 1976 and on or before November 30, 1976:

Table I—*Interest rate for valuing immediate annuities.* An interest rate of 7 percent shall be used to value immediate annuities, to compute the quantity "G" in § 2610.6, and for valuing both portions of a cash refund annuity.

Table II—*Interest rate for valuing death benefits.* An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

Table III—*Interest rates and quantities used to value deferred annuities.* The following factors shall be used to value deferred annuities pursuant to § 2610.6:

$k_1 = 1.06$
$k_2 = 1.0475$
$k_3 = 1.035$
$n_1 = 8$
$n_2 = 10$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b)(1)(A)).)

[FR Doc.77-18227 Filed 6-27-77;8:45 am]

Title 30—Mineral Resources

CHAPTER II—GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

PART 211—COAL MINING OPERATING REGULATIONS

Adoption of Procedures to Govern Surface Coal Mining Reclamation Operations on Federal Coal Leases in Colorado

AGENCY: Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: This document adopts as Federal regulations a Cooperative Agreement between the Department of the Interior and the State of Colorado that governs the administration and enforcement of reclamation laws affecting Federal coal leases in Colorado. These regulations will minimize the duplication of existing Federal and State administration and enforcement actions on Federal coal leases.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Uram, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4803.

SUPPLEMENTARY INFORMATION: On May 23, 1977, the Department proposed to enter into a Cooperative Agreement with Colorado that would govern the administration and enforcement of reclamation standards on federal coal leases in Colorado. 42 FR 26218. The proposed agreement gives Colorado the basic responsibility for enforcing coal reclamation standards in that State.

The Agreement is made under regulations to govern the management of federally owned coal resources that the Department adopted on May 17, 1976. 41 FR 20252. Those regulations authorize the Department to enter into cooperative agreements with states in which Federal coal leases have been or will be issued for the purpose of avoiding duality in the administration and enforcement of surface coal mine reclamation operations. 30 CFR 211.75(b).

A fuller explanation of the background of this agreement may be found in the preamble to the proposal and in the pre-

amble to the May 17, 1976, regulations.

The Department allowed public comment on the proposed adoption of the Cooperative Agreement until June 6, 1977; no comments were received.

Only 1 change from the proposal has been made in the final rules published today: an effective date of July 1, 1977, has been inserted in the Cooperative Agreement.

Dated: June 22, 1977.

CECIL D. ANDRUS,
Secretary.

1. Title 20 CFR 211.10 is amended by adding a new paragraph (e)(6) to read as follows:

§ 211.10 Exploration and mining plans.

* * * * *

(e) *States with § 211.75(b) agreements.* * * *

(6) Colorado. A Federal coal lessee in the State of Colorado who must submit a mining plan or permit under both State and Federal law shall submit in lieu of the mining plan required in this section, a mining plan containing the information required by,

(i) 34-32-112, C.R.S. (1973);

(ii) Colorado Mined Land Reclamation Board Rules and Regulations, Rule 2, Section 2.1 (referred to as "Board Rule");

(iii) 30 CFR 211.10(c); and

(iv) A statement certifying that a copy of the plan has been given to the State of Colorado and the Secretary.

2. Title 30, § 211.74 is amended by adding a new paragraph (g)(6) to read as follows:

§ 211.74 Variances.

* * * * *

(g) *States with § 211.75(b) agreements* * * *

(6) Colorado. A Federal coal lessee in the State of Colorado shall request and receive variances from the State of Colorado and the Secretary under the provisions of 30 CFR 211.74.

3. Title 30 § 211.77 is amended by adding a new paragraph (f) to read as follows:

§ 211.77 States with cooperative agreements.

* * * * *

(f) Colorado. The administration and enforcement of reclamation requirements on federal coal leases in Colorado subject to this part shall be done according to the Cooperative Agreement between the State of Colorado and the Department of the Interior. The Cooperative Agreement is published at [date and page of publication of final rule to be inserted], and is available at appropriate offices of the Department of the Interior.

4. The State of Colorado and the Department of the Interior enter into a Cooperative Agreement to designate the State of Colorado as the principal party to administer surface coal mine reclamation operations on Federal coal leases in Colorado to read as follows:

Cooperative Agreement Between the United States Department of the Interior and the State of Colorado under Section 32 of the Mineral Leasing Act of 1920, 30 U.S.C. Section 189, and Section 307 of the Federal Land Policy and Management Act of 1976, and 30 CFR 211.75(b).

This agreement (referred to as the Cooperative Agreement) is made between the State of Colorado acting by and through Governor Richard D. Lamm (referred to as the Governor) and the United States Department of the Interior, acting by and through the Secretary of the Interior (referred to as the Secretary).

ARTICLE I—PURPOSE

This Cooperative Agreement provides for a cooperative program between the United States Department of the Interior and the State of Colorado with respect to the administration and enforcement of coal surface mine reclamation requirements under coal leases issued by the Department of the Interior under the Mineral Leasing Act of 1920. The basic purpose of the agreement is to prevent duality of administration and enforcement of surface reclamation requirements by designating the State of Colorado to the extent possible, as the principal entity to enforce reclamation laws and regulations on Federal coal leases in Colorado.

ARTICLE II—EFFECTIVE DATE

The Cooperative Agreement is effective on the 1st day of July, 1977, and remains in effect until terminated as provided in Article IX.

ARTICLE III—REQUIREMENTS FOR COOPERATIVE AGREEMENT

The Governor affirms that the State of Colorado will comply with all of the provisions of this Cooperative Agreement and will continue to meet all the conditions and requirements specified in this Article upon which the approval of the Secretary is based.

A. *Responsible Administrative Agency.* The Colorado Department of Natural Resources and the Colorado Mined Land Reclamation Board (referred to as the State Agency) are, and shall continue to be, the agencies responsible for administering this Cooperative Agreement on behalf of the Governor on Federal coal leases throughout the State.

B. *Authority of State Agency.* The State Agency designated in Paragraph A of this Article has, and shall continue to have, authority to carry out this Cooperative Agreement.

C. *State Reclamation Law.* The State Agency shall ensure that all mining plans approved under this agreement shall afford general protection of the environment at least as stringent as would occur under the exclusive application of 30 CFR part 211, and that the standards used to approve a mining plan of a Federal lessee will not unreasonably impair coal mining that is in the overriding national interest.

D. *Effectiveness of State Procedures.* The existing procedures of the State of Colorado shall be, in the judgment of the Secretary, substantially as effective for the purpose of enforcing the reclamation requirements of 30 CFR part 211 as the procedures of the Department of the Interior.

E. *Inspection of Mines.* The Governor affirms that the State Agency will inspect all mines on Federal coal leases located in the State, in accordance with the minimum schedule in Article V.

F. *Enforcement.* The Governor affirms that the State Agency will enforce the Agreement in a manner that ensures effective environmental protection.

G. *Qualified Personnel.* The State Agencies will have an adequate number of fully qualified personnel necessary for the enforcement of this Cooperative Agreement.

H. *Funds.* The State Agency will, subject to appropriations from the Colorado General Assembly, devote adequate funds for the administration and enforcement of reclamation requirements on Federal coal leases in the State.

I. *Reports and Records.* The State Agencies shall make reports to the Secretary, containing information about its compliance with the terms of this Cooperative Agreement, as the Secretary shall from time to time require. The State Agencies shall also make available to the Secretary, upon request, information developed under this Cooperative Agreement.

The Secretary affirms that the Department of the Interior will comply with all of the provisions of this Cooperative Agreement.

ARTICLE IV—MINE PLANS

Federal regulations, 30 CFR 211.10(c), and State laws and regulations require that the operator of lands leased, permitted or licensed for coal mining receive approval of a mining plan or permit prior to conducting operations.

A. *Contents of Mining Plans and Permits.* The State Agencies and the Secretary agree that a Federal coal lessee must submit a mining plan or permit application under both State and Federal law, which plan or permit must include, at a minimum, the following information:

1. The information required by:

a. 34-32-112, C.R.S. (1973);

b. Colorado Mined Land Reclamation Board Rules and Regulations, Rule 2, Section 2.1 (referred to as "Board Rule"); and

c. 30 CFR 211.10(c).

2. A Statement certifying that a copy of the mining plan or permit application has been given to both the State Agency and the Secretary.

If either the State Agency or the Secretary requires the operator to submit additional information the operator shall submit the information to both the State Agency and the Secretary. The operator will request variances from the mining plan in accordance with 30 CFR 211.74, and shall file the request with the State Agency and the Secretary.

B. *Review of Plan.* The State Agency and the Secretary shall each review and analyze the adequacy of the plan, permit, or request for an amendment or a variance from the plan or permit.

C. *Approval of Mining Plans.* The State Agency shall review the adequacy of the mining plan or permit or any request for a variance from a plan as provided in 34-32-108 and 34-32-112. The State Agency shall notify the Secretary of its action pursuant to such provisions. The Secretary shall then independently review and take action on the mining plan or permit as required by 30 CFR 211.10(d), or request for a variance as required by 30 CFR 211.74, or a change to an approved mining plan or permit which was acted upon by the State Agency. The Secretary shall notify the State Agency of his action and the State Agency shall reconsider the action if necessary to comply with this Cooperative Agreement.

ARTICLE V—INSPECTIONS

A. The State Agency shall inspect as authorized by 34-32-121, C.R.S. (1973), and Board Rule 8, Section 8.1, as frequently as necessary but at least quarterly the operations area of all Federal Coal leases, permits and licenses where operations affecting the reclamation of mined lands are conducted or are to be conducted, for the purpose of determining whether the operator is complying with all applicable laws, regulations and orders and all requirements of approved mining plans that affect the reclamation of

mined lands. The State Agency shall also perform all inspections required under 30 CFR 211.41. Such inspections performed in accordance with 30 CFR 211.41 shall be considered in meeting the quarterly inspection requirement.

B. The State Agency will, subsequent to conducting any inspection, file with the Secretary a report on (1) the general conditions of the lands under coal lease, permit or license, (2) the manner in which the operations are being conducted and (3) whether the operator is complying with applicable reclamation requirements. A copy of this report shall be furnished to the operator on request, and shall be made available for public inspection during normal business hours at the offices of the Federal Mining Supervisor.

C. For the purpose of evaluating the manner in which the Cooperative Agreement is being carried out and to ensure that reclamation is being effectively performed, the Secretary may inspect from time to time mines on Federal coal leases within the State. Inspections by the Secretary may be made in association with the regular inspection by the State Agency.

D. The Secretary may conduct inspections on Federal coal leases to determine whether the operator is complying with requirements that are unrelated to reclamation.

ARTICLE VI—ENFORCEMENT

A. If the State Agency determines that the operator is not complying with a requirement that relates to the reclamation of lands disturbed by surface mining, it shall take such steps as required by 34-32-124, C.R.S. (1973), and Board Rule 8, Section 8.2.

B. If, in the judgment of the State Agency, an operator is conducting activities on lands subject to this Agreement which fail to comply with a requirement that relates to reclamation and those activities threaten immediate and serious damage to the environment, the State Agency shall take immediate action, as authorized by 34-32-124 (2), C.R.S. (1973).

C. The State Agency shall notify the Secretary of all violations of applicable laws regarding reclamation on Federal coal leases including violations of Federal laws and regulations or lease terms and of all actions taken under 34-32-124, and Board Rule 8, Section 8.2.

D. This section does not limit the Secretary's authority to seek cancellation of a Federal coal lease under Federal laws and regulations, or prevent the Secretary from taking appropriate steps to correct actions that violate Federal law, but not State law, or from taking appropriate measures to remedy violations of a mining plan or other appropriate requirements.

E. Failure to adequately enforce the reclamation laws and regulations shall be grounds for termination of this Cooperative Agreement.

ARTICLE VII—SURETY OR BONDS

A. *Amount and Responsibility.* The State Agency may require Federal coal lessees subject to the provisions of 30 CFR Part 211 to submit surety as provided in 34-32-117, C.R.S. (1973). The Secretary shall reduce the Federal bond required for reclamation purposes under 43 CFR 3041.3 and 30 CFR 211.3, by the amount of the surety required by the State Agency only if the release of all or any portion of the State Agency's surety is conditioned on compliance with the requirements of the approved plan, and the amount released is appropriate to the work completed. Where the surface of the lands is not owned by the United States, the State Agency shall notify the surface owner and solicit and take into account his comments before recommending release of the surety.

B. *Notification.* Prior to releasing the surety provided for in 34-32-117, C.R.S. (1973), for lands the surface on which is owned by the Federal Government, the State Agency shall consult with and seek the advice and consent of the Secretary.

C. *Release of Surety.* The State Agency shall hold the operator responsible and liable for successful reclamation as required by 34-32-117, 34-32-118, C.R.S. (1973).

ARTICLE VIII—OPPORTUNITY TO COMPLY WITH COOPERATIVE AGREEMENT

The Secretary may, at his sole discretion, and without instituting or commencing proceedings for withdrawal of approval of the Cooperative Agreement, notify the State Agency that it has failed to comply with the provisions of the Cooperative Agreement. The Secretary shall specify how the State Agency has failed to comply and shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him that the State Agency has remedied the defects in administration and is in compliance with and has met the requirements of the Secretary. The time period specified shall not be less than 30 days. Upon failure of the State Agency to meet the requirements of the Secretary within the time specified, the Secretary may institute proceedings for withdrawal of approval of the Cooperative Agreement as set forth in Article IX.

ARTICLE IX—TERMINATION OF COOPERATIVE AGREEMENT

The Cooperative Agreement may be terminated as follows:

A. *Termination by the State.* The Cooperative Agreement may be terminated by the Governor upon written notice to the Secretary, specifying the date upon which the Cooperative Agreement shall be terminated, but which date of termination shall not be less than 60 days from the date of the notice.

B. *Termination by the Secretary.* The Cooperative Agreement may be terminated by the Secretary whenever the Secretary finds, after giving due notice to the State Agency and affording the State Agency an opportunity for a hearing:

1. That the State Agency has failed to comply substantially with any provision of the Cooperative Agreement; or

2. That the State Agency has failed to comply with any assurance given by the State Agency upon which the Cooperative Agreement is based, or any condition or requirement which, is specified in Article III; or

3. That action unrelated to surface coal mine reclamation will unreasonably and substantially prevent the mining of Federal coal.

C. *Termination by Operation of Law.* This Cooperative Agreement shall terminate by operation of law when no longer authorized by Federal laws and regulations or Colorado laws and regulations.

D. *Notice or Proposed Termination.* Whenever the Secretary proposes to terminate the Cooperative Agreement he shall:

1. Give written notice to the Governor and to the State Agency;

2. Specify and set out in the written notice the grounds upon which he proposes to terminate the Cooperative Agreement;

3. Specify the date upon which and the place where the State Agency will be afforded an opportunity for hearing and to show cause why the Cooperative Agreement should not be terminated by the Secretary. The date upon which such hearing shall be held shall not be less than 30 days from the date of such notice, and the place of hearing shall be in the State.

4. The Secretary shall also publish a notice in the FEDERAL REGISTER containing the items in 1-3 of this paragraph.

5. Within 30 days of the date of the written notice specifying the date of the hearing, the State Agency may file a written notice with the Secretary stating whether or not it will appear and participate in the hearing. The notice shall specify the issues and grounds specified by the Secretary for termination which the State Agency will oppose or contest and a statement of its reasons and grounds for opposing or contesting. Failure to file a written notice in the Office of the Secretary within 30 days shall constitute a waiver of the opportunity for hearing, but the State Agency may present or submit before the time fixed for the hearing written arguments and reasons why the Cooperative Agreement should not be terminated, and within the discretion of the Secretary may be permitted to appear and confer in person and present oral or written statements, and other documents relative to the proposed termination.

E. *Conduct of Hearing.* The hearing will be conducted by the Secretary. A record shall be made of the hearing and the Governor shall be entitled to obtain a copy of the transcript. The Governor shall be entitled to have legal and technical and other representatives present at the hearing or conference, and may present, either orally or in writing, evidence, information, testimony, document, records, and materials as may be relevant and material to the issues involved.

F. *Notice of Withdrawal of Approval of Cooperative Agreement.* After a hearing has been held, or the right to a hearing has been waived or forfeited by the State Agency, the Secretary, after consideration of the evidence, information, testimony, and arguments presented to him shall advise the Governor of his decision. If the Secretary determines to withdraw approval of the Cooperative Agreement, he shall notify the State Agency of the intended withdrawal and shall afford the State Agency an opportunity to present evidence satisfactory to the Secretary that the State Agency has remedied the specified defects in its administration of the Cooperative Agreement. The Secretary shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him, and upon failure of the State Agency to do so within the time stated, the Secretary may thereupon withdraw his approval of the Cooperative Agreement without any further opportunity afforded to the State Agency for a hearing.

ARTICLE X—REINSTATEMENT OF COOPERATIVE AGREEMENT

The Cooperative Agreement which has been terminated may be reinstated upon application by the Governor and upon giving evidence satisfactory to the Secretary that the State Agency can and will comply with all the provisions of the Cooperative Agreement and has remedied all defects in administration for which the Cooperative Agreement was terminated.

ARTICLE XI—AMENDMENTS OF COOPERATIVE AGREEMENT

This Cooperative Agreement may be amended by mutual agreement of the Governor and the Secretary. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected

shall state the reasons for rejection. Upon acceptance by the Governor and the Secretary, the amendment shall be adopted after Federal rulemaking.

ARTICLE XII—CHANGES IN STATE OR FEDERAL STANDARDS

The Secretary of the Interior or the State of Colorado may from time to time revise and promulgate new or revised reclamation requirements or enforcement and administration procedures. The Secretary and the State Agency shall immediately inform the other of any final changes in their respective laws or regulations. Each party shall, if it determines it to be necessary to keep this Cooperative Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes. For changes which require legislative authorization, each party has until the close of its next legislative session at which such legislation can be considered in which to make the changes. If such changes are not made, then the termination provision of Article IX may be invoked.

ARTICLE XIII—QUALIFICATIONS AND EXPERIENCE OF PERSONNEL

The State Agency shall be adequately staffed with, or have readily available to it an adequate number of qualified personnel to carry out fully the requirements of the Cooperative Agreement. The personnel of the State Agency shall be so qualified that the end result of their efforts is comparable to that which would have resulted from administration by Department of the Interior personnel.

ARTICLE XIV—CONFLICT OF INTEREST

No employee of the State Agency responsible for the administration of the State law and rules and regulations relating to this Cooperative Agreement shall participate in the review, analysis, administration, decision-making, or enforcement actions relating to any operation subject to this Cooperative Agreement if such person has, directly or indirectly, any financial interest in a company, partnership, organization, or corporation (parent or subsidiary) which owns, operates or has a financial interest in such operation subject to this Cooperative Agreement.

ARTICLE XV—EQUIPMENT AND LABORATORIES

The State Agency shall have equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses which are necessary to carry out the requirements of the Cooperative Agreement can be performed or determined or have access to such facilities.

ARTICLE XVI—EXCHANGE OF INFORMATION

A. *Organizational and Functional Statement.* The Governor and the Secretary shall advise each other of the organization, structure, functions, and duties of the offices, departments, divisions, and persons within their organizations. Each shall advise promptly the other in writing of changes in personnel, officials, heads of departments or divisions, or a change in the function or duties of persons occupying the principal offices within the organization. The State Agency and the Secretary shall advise each other in writing the location of its various offices, addresses, telephone numbers, and the names, location, telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible, and shall advise promptly of any changes in such.

B. *Laws, Rules and Regulations.* The Governor and the Secretary shall provide to each other copies of their respective laws, rules, regulations and standards, pertaining to the enforcement and administration of this Cooperative Agreement and promptly furnish copies of any final revision of such laws, rules, regulations, and standards when the revision becomes effective.

ARTICLE XVII—RESERVATION OF RIGHTS

This Cooperative Agreement shall not be construed as waiving or preventing the assertion of any rights the State of Colorado and the Secretary may have under the Mineral Leasing Act, the Constitution of the United States, or the Constitution or laws of the State of Colorado.

RICHARD D. LAMM,
Governor,
State of Colorado.

CECIL D. ANDRUS,
Secretary,
Department of the Interior.

MAY 12, 1977.

[FR Doc.77-18396 Filed 6-27-77;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 211—ADMINISTRATION

Administrative Review Procedures

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the administrative review procedures of the Forest Service by deleting regulation 36 CFR 211.2 and substituting new material in 36 CFR 211.19. The revision is designed to improve the review process by modifying time periods and clarifying the appeal stages and appropriate documents involved.

EFFECTIVE DATE: June 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Don D. Seaman, Range Management Staff, Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone 703-235-8139.

SUPPLEMENTARY INFORMATION: The proposed revision was published for comment on December 13, 1976 (41 FR 54200). Interested parties were given until January 17, 1977, to submit written data, views, or objections pertaining to the proposed revision. Significant changes include the following: (1) Clarification of appeals on procedural matters; (2) clarification of notification requirements when a decision is made; (3) modification of time limits; (4) deletion of formalized reconsideration as an appeal procedure; (5) clarification of the oral presentation procedure, including its discretionary character; and (6) clarification of provisions for multiple party participation in the review process.

The comments filed in response to the notice of proposed revision have been carefully considered. Many of the suggested clarifications and modifications concerned syntax, format, and grammatical consistency. More substantive comments submitted and results of their consideration are summarized as follows:

Comment. The regulations are too restrictive as to time periods and do not allow appellants adequate opportunity for discovery, filing of motions, and participation in more formally structured oral hearing procedures; matters subject to review are too limited by the language "any written decision."

Response. Time periods for filing appeals and related documents are consistent with those of the preceding regulation (36 CFR 211.2) which were found in practice to be reasonable for both appellants and the Forest Service. In fact, the time periods were made more flexible, in conjunction with specific notification requirements to allow appropriate periods for appellants entitled to specific notice of a decision as distinct from those whose notification would be in a generalized manner such as media publication. Also, time periods for appealing procedural decisions were extended from 15 to 30 days. While some specific guidelines are necessary for this review procedure to function effectively, it is not intended to be an adjudicatory process with attendant formalized discovery and adversary procedures. The regulation refines an informal process, accessible to a wide variety of potential appellants, with a minimum of legalistic procedures. Paragraph (a) was revised to expand the matters subject to review beyond decisions which are "written," because it was recognized that not all decisions which may be appellable are reduced to writing.

Comment. Reconsideration should be retained in the regulation to allow a Forest Officer the opportunity to change a decision before it is necessary to go through the whole appeal process.

Response. Deletion of this procedure does not prohibit a Forest Officer from discussing a decision with a potential appellant and reconsidering informally, thus obviating the need for proceeding with a full appeal. However, experience under the superseded regulation (36 CFR 211.2) has indicated that formalized reconsideration often operates to delay a final decision, while duplicating other measures which serve equally well to create a record and clarify the issues in dispute.

Comment. Appeal papers should not be submitted to the officer who made the decision because his objectivity is questionable.

Response. The deciding officer has no authority regarding any rulings on the appeal. Because he made the disputed decision he is familiar with the record and is the logical person to assemble all necessary documents for transmittal to the Reviewing Officer.

Comment. The appeal record should be defined.

Response. A new paragraph (1) has been added, specifying those documents which comprise the administrative review record.

Comment. The regulation should provide for appeal to the Secretary of any

decision by the Chief, not just original decisions by the Chief.

Response. A provision is added which requires that the Secretary be provided with copies of all Chief's decisions. While an appellant has no right to request Secretarial review of nonoriginal decision by the Chief, the Secretary is entitled, on his own motion, to review such decisions within a limited period of time.

Comment. Intervention in an appeal should be available to any interested party without being limited to the Reviewing Officer's discretion.

Response. Paragraph (p) was revised to accommodate two types of multiple party situations. Any person or organization may submit comments on an appeal and the comments will be added to the record. Intervention in the appeal, however, is limited to those having an immediate interest and is at the Reviewing Officer's discretion. To solve the problem of notifying all parties of interventions, appellants and intervenors are required to furnish each other copies of all relevant documents.

A new section, Continuance of Appeals, was added to clarify any applicability of the superseded regulations and the dates involved. Two procedural decisions—rulings on timeliness and rulings on intervention—were added to paragraph (c). This regulation is being renumbered as § 211.19 in order to place it under Subpart B where it logically belongs.

Other than reflected above, there are no changes in substance.

The regulations are hereby amended as follows:

§ 211.2 [Reserved]

(1) By deleting and reserving § 211.2 and § 211.20–211.37, and

(2) By setting forth a new § 211.19 of Subpart B to read as follows:

§ 211.19 Review of decisions of forest officers.

(a) *Matters subject to review.* Any administrative decision of a Forest Service officer concerning the National Forest System and not excluded in paragraph (b) of this section is subject to administrative review under this section.

(b) *Matters excluded from review under this section.* (1) Decisions which are appealable to the Board of Contract Appeals of the Department of Agriculture under 7 CFR Part 24.

(2) Decisions which involve Freedom of Information Act denials under 7 CFR Part 1, Subpart A, or Privacy Act determinations under 7 CFR 1.118.

(3) Decisions in which jurisdiction of another Government agency, the Comptroller General, or a Court supersedes that of the Department of Agriculture.

(4) Decisions which are reviewable under separate procedures, including, but not limited to, those under 36 CFR 252.14, 36 CFR 292.15(1), and 7 CFR 21.104.

(5) Decisions concerning contracts under the Federal Property and Administrative Services Act of 1949.

(6) Decisions which involve personnel matters.

(7) Decisions where the relief sought is reformation of a contract or the award of monetary damages.

(c) *Decisions on procedural matters.* Procedural decisions shall be appealed within 30 days after they are made. Such decisions include, but are not limited to, the following:

(1) Available levels of review.

(2) Rulings on requests for stay.

(3) Rulings on requests for extensions of deadlines.

(4) Rulings as to whether matters are excluded from review under this section.

(5) Rulings on timeliness.

(6) Rulings on intervention.

(d) *Notice.* (1) Written notice of a decision shall be provided to the party or parties to a written instrument issued by the Forest Service and affected by the decision, and to any other interested person who has requested in writing notification of the specific decision.

(2) For persons not included under paragraph (d)(1) of this section, notification of a decision may be provided through publication in a newspaper of general circulation.

(e) *Decisions final unless appealed within 45 days.* Except as provided in paragraph (c) of this section, a decision shall be final unless an appeal is filed (or a stay is granted) within 45 days of the date of the decision or within 30 days of the date of receipt of the decision by parties entitled to notification under paragraph (d)(1) of this section. Implementation shall not be affected by the right to appeal unless a stay is granted.

(f) *Timely appeals.* Appeals must be filed in writing within the time limits of paragraph (e) of this section. Any paper filed pursuant to this section shall be deemed to have been filed when it is postmarked, or when it is received if other than the United States mails are used to accomplish delivery. If the date of mailing cannot be determined from the postmark, other evidence of mailing may be required by the Forest Officer. Saturdays, Sundays, and Federal holidays shall be included in computing the time allowed for filing, but when such time expires on a Saturday, Sunday, or Federal holiday, the time shall be extended to include the next following business day.

(g) *No extension for filing appeals.* The time for filing a notice of appeal may not be extended.

(h) *Format for appeal notice.* A notice of appeal must be in writing and must be filed with the Forest Officer who made the decision being appealed. The notice should identify specifically the decision being appealed, including its date, subject, the Forest Officer responsible for the decision, and the Reviewing Officer to whom the appeal is directed. The relief requested should be described specifically. Any statement of reasons supporting the appeal must be included, or submitted within 15 days of the filing of the notice of appeal.

(i) *Stay of decision pending appeal.* A stay shall be considered only if the appellant submits information explaining the request for stay. The Forest Officer receiving such information shall immediately transmit the request to the Reviewing Officer, who shall, within 10 days of receipt, grant or deny the stay and notify the appellant in writing. No decision on the merits, in a case in which a stay was granted, shall be implemented during the 10-day period following the date of that decision.

(j) *Levels of review.* (1) The available levels of review are limited to the following sequence and number:

(i) Initial decisions of a District Ranger are subject to review by the Forest Supervisor, and, subsequently, by the Regional Forester.

(ii) Initial decisions of a Forest Supervisor are subject to review by the Regional Forester, and, subsequently, by the Chief.

(iii) Initial decisions of a Regional Forester are subject to review by the Chief.

(iv) Initial decisions of the Chief may be reviewed by the Secretary of Agriculture at his discretion. The request for review is deemed denied if the Secretary takes no action within 30 days after receiving the appeal.

(2) Decisions on review by the Chief shall be made available to all parties and to the Secretary. On his own initiative the Secretary may decide to review such a decision within 10 days of receipt. The Secretary will not consider any request for such review.

(3) The entry of additional parties at any stage does not extend the levels of review available or alter time requirements.

(4) A decision of a subordinate to a contracting officer of the Forest Service as defined in 7 CFR 24.10(d) on a contractual matter appealable to the Board of Contract Appeals under 7 CFR 24.4 (e) shall be subject to review by such contracting officer in accordance with the procedures of this section but shall be limited to a one-level review under this section.

(k) *Procedures for review.* At each level of review, the Forest Officer responsible for the decision shall, following receipt of a statement of reasons, prepare a responsive statement concerning the decision being contested. Such a statement shall be prepared within 30 days of receipt of appellant's statement of reasons and a copy shall be furnished to appellant. The appellant does not have to reply to this responsive statement, but may choose to do so by filing a concise reply within 15 days after receiving the statement. After compiling the review record as it is defined in paragraph (l) of this section, the Forest Officer shall transmit the entire record to the Reviewing Officer for his consideration.

(l) *Administrative review record.* The administrative review record shall consist of one identifiable set of documents, open for public inspection, containing the

following: All notices of appeal, comments, statements of reasons by appellants and third parties, procedural determinations, all correspondence, summaries of oral presentations and accompanying documents, decisions of reviewing officers, and such other documents or materials as may, in the discretion of any reviewing officer, be considered necessary to reach a decision.

(m) *Decision on review.* A review decision shall be based only on the record, as defined in paragraph (l) of this section, and should be made within 30 days of the Reviewing Officer's receipt of the complete record. If it becomes necessary for the decision period to exceed 30 days, the Reviewing Officer shall so notify the appellant in writing.

(n) *Remand for additional information or further action.* If, on review, the record is considered inadequate to support a decision on the appeal, the Reviewing Officer may request such additional evidence or information as may be appropriate or may remand the case with instructions for further action.

(o) *Oral presentation.* The appellant may, at the time of filing the statement of reasons in an appeal, request in writing the opportunity to present his views orally to the Reviewing Officer or his designee, and to include documentary evidence relevant to such oral presentation. The request shall be submitted to the Forest Officer responsible for the decision being appealed. The Reviewing Officer shall, within 15 days of the request, grant or deny the request and notify the appellant in writing of his decision. If an oral presentation is allowed, the Reviewing Officer shall determine the date, location, and Forest Service representative to hear the presentation. Subsequently, the appeal record shall include a brief summary of the oral presentation and any documentary evidence received at the presentation.

(p) *Multiple parties.* (1) Any person or organization may participate in an administrative review at any level by submitting written comments to the Reviewing Officer. Such comments will be added to the review record.

(2) At the discretion of the Reviewing Officer, any person or organization having an immediate interest in the subject of an administrative review may intervene at any level of the review process, subject to the same procedural requirements as the original appellants.

(i) Appellants and intervenors must concurrently furnish copies of all submissions to each other; otherwise, such submissions may be removed from the review record.

(ii) Any party seeking review of a decision at a higher level must furnish copies of a notice of appeal to the decisionmaking officer and to all other named parties to the administrative review.

(iii) In reviews involving multiple parties, the Reviewing Officer may prescribe such special procedures as may be necessary to expedite the decisionmaking process.

(q) *Consolidation of appeals.* Multiple appeals of the same decision may be consolidated by the Reviewing Officer through the issuance of one appeal decision with copies to be sent to all parties.

(r) *Scope of appeal.* The appellant and any intervenor shall, throughout all levels of review, be confined to the subject matter of the decision originally appealed.

(s) *Administrative finality.* Decisions at the final level of review specified in paragraph (j) of this section shall constitute the final administrative determinations of the Department of Agriculture.

(t) *Continuance of appeals.* The provisions of 36 CFR 211.20 to 211.37 and the Rules of Procedure of the Board of Forest Appeals (36 CFR 211.101 to 211.119) shall remain in effect for cases pending on September 25, 1974. The provisions of 36 CFR 211.2 shall remain in effect for cases filed between September 26, 1974, and the effective date of 36 CFR 211.19 (July 28, 1977).

§§ 211.20–211.37 [Reserved]

(30 Stat. 35 as amended, 50 Stat. 526 (16 U.S.C. 551, 7 U.S.C. 1011(f), 5 U.S.C. 301).)

M. RUPERT CUTLER,
Assistant Secretary.

JUNE 22, 1977.

[FR Doc.77-18492 Filed 6-27-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 753-2; PP 4F1646/R132]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Thiabendazole

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the fungicide thiabendazole. The amendment was requested by Merck & Co. This rule establishes a maximum permissible level for residues of thiabendazole on soybeans.

EFFECTIVE DATE: June 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Eugene Wilson, Product Manager (PM) 21, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, DC 20460, 202-426-2456.

SUPPLEMENTARY INFORMATION: On July 25, 1975, notice was given (39 FR 26929) that Merck & Co., Inc., PO Box 2000, Rahway, NJ 07065, had filed a pesticide petition (PP 4F1646) with the EPA.

This petition proposed that 40 CFR 180.242 be amended to establish a tolerance for residues of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) in or on the raw agricultural commodity soybeans at 0.1 part per million (ppm).

No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated, and the pesticide is considered to be useful for the purpose for which the tolerance is sought.

The data supporting this petition does not include a second carcinogenic study (mouse). However, the chronic feeding study in the rat was performed under a protocol considered adequate for carcinogenic potential evaluation. This study did not provide any evidence that thiabendazole would be considered a presumptive carcinogenic risk. Thus the Agency considers that the 0.1 ppm tolerance is adequate to protect the public health. The requirement for carcinogenic potential evaluation in a second species (mouse) is not waived and the petitioner will be required results of such a study to the Agency within 36 months of final issuance of this regulation. Should oncogenic effects be found in the study when submitted, the petitioner has agreed not to contest revocation of the subject regulation.

The scientific data considered in support of the tolerance were two-year rat and dog-feeding studies, rat and mouse reproduction studies, and subacute studies on rats, sheep, and other farm animals. Based on a rat study, the no-effect level is 10 milligrams (mg)/kilogram (kg)/day. This results in an allowable daily intake (ADI) of 0.1 mg/kg/day and a maximum permissible intake (MPI) of 6 mg/day. Existing and proposed tolerances result in a maximum theoretical exposure of 1 mg/day. Tolerances have previously been established for residues of thiabendazole in or on a variety of raw agricultural commodities, ranging from 10 ppm to 0.1 ppm. An adequate analytical method (spectrophotofluorometry) is available to enforce the tolerance established by this amendment. Tolerances for residues of thiabendazole on wheat grain and wheat straw are currently pending (PP 4F1518).

The existing meat and milk tolerances are adequate to cover any residues resulting from the proposed use as delineated in 40 CFR 180.6(a)(2), and there is no reasonable expectation of residues in eggs and poultry (40 CFR 180.6(a)(3)). It has been determined that the tolerance established by amending 40 CFR 180.242 will protect the public health, and it is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, on or before July 28, 1977, file written objections with the Hearing Clerk, EPA, East Tower, Rm. 1019, 401 M St. SW., Washington DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing

is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on July 28, 1977. Part 180 is amended as set forth below.

(Sec. 408(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Dated: June 15, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.242 is revised in its entirety by editorially reformatting the section into two alphabetized columnar listings and alphabetically inserting a tolerance of 0.1 ppm on soybeans in paragraph (a) to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) Tolerances are established for residues of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Apples (post-h)	10
Bananas (post-h)	3
Bananas, pulp (post-h)	.4
Beets, sugar without tops (pre-h)	.25
Beets, sugar, tops	10
Citrus fruits (post-h)	10
Pears (post-h)	10
Potatoes (pre and post-h)	3
Soybeans	.1
Squash, Hubbard	1

(b) Tolerances are established for combined residues of thiabendazole and its metabolite 5-hydroxythiabendazole in the following raw agricultural commodities:

Commodity:	*Parts per million*
Cattle, fat	0.1
Cattle, mbyp	.1
Cattle, meat	.1
Goats, fat	.1
Goats, mbyp	.1
Goats, meat	.1
Hogs, fat	.1
Hogs, mbyp	.1
Hogs, meat	.1
Horses, fat	.1
Horses, mbyp	.1
Horses, meat	.1
Milk	.1
Sheep, fat	.1
Sheep, mbyp	.1
Sheep, meat	.1

[FR Doc.77-18517 Filed 6-27-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 4—DEPARTMENT OF AGRICULTURE

PART 4-8—TERMINATION OF CONTRACTS

Procurement

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This amendment is a general update of contract termination regulations including editorial revisions and organizational name changes. These amendments correct and clarify existing policy.

DATE: This rule is effective on June 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Douglas I. Metzger, Procurement, Grants and Agreements Management Staff, Office of Operations, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7527.

SUPPLEMENTARY INFORMATION: This amendment involves matters relating to agency management and contracting and, while not subject by law to the notice and public procedure requirements for rulemaking under 5 U.S.C. 553, is subject to the Secretary's Statement of Policy (36 FR 13804). The amendment corrects or clarifies existing policy. No useful purpose would be served by public participation, and it is found upon good cause, in accordance with the Secretary's Policy Statement, that notice and other public procedures with respect to the amendment are impracticable and unnecessary.

1. The Table of Contents is amended by deleting §§ 4-8.211 and 4-8.211-2.

Sec.

* * * * *

4-8.211 [Deleted]
4-8.211-2 [Deleted]

* * * * *

2. The introductory paragraph of § 4-8.201 is amended as follows:

§ 4-8.201 General.

A contract may be terminated in whole or part when in the public interest to do so, regardless of the fact that it contains no provision authorizing such action. In such event, the contractor's settlement claim shall be handled in accordance with the following policy:

* * * * *

§§ 4-8.211 and 4-8.211-2 [Deleted]

3. Sections 4-8.211 and 4-8.211-2 are deleted.

§ 4-8.602 [Amended]

4. Section 4-8.602-3, the fourth sentence reading, "(See 11 Comp. Gen. 81 and 384.)" is deleted.

§ 4-8.650-2 [Amended]

5. Section 4-8.650-2, the third sentence reading, "(See 7 Comp. Gen. 343.)" is deleted.

§ 4-8.650-3 [Amended]

6. Section 4-8.650-3 is amended as follows:

a. In paragraph (a), the third sentence reading, "(Comp. Gen. Decision B-124041 of October 24, 1955)" is deleted.

b. Paragraph (b) is revised to read as follows:

* * * * *

(b) *Determination of excess costs.* The excess costs chargeable against a defaulting contractor are computed at time of completion of the relet contract, i.e., after delivery and after payment has been made; not at time of award. However, where the relet contract calls for partial deliveries with partial payments to be made upon delivery, excess costs are computed and are recoverable at the time and in the amount of each payment. The Government may repurchase for an increased quantity. However, the excess costs to be charged against the account of a defaulting contractor are to be computed on the basis of the quantity required by the original contract, with consideration given to the variation clause, if any. When a default involves more than one item and the subsequent repurchase results in a saving on some items and excess costs on others, computation of damages must be made on the basis of the original contract as a whole. Excess cost liability extends equally to discounts offered which the Government could have taken had the contractor not defaulted.

§ 4-8.650-4 [Amended]

7. Section 4-8.650-4 is amended as follows:

a. In paragraph (c), the second sentence reading, "(See 16 Comp. Gen. 374 and 32 Comp. Gen. 67.)" is deleted.

b. Paragraph (d) is deleted.

§ 4-8.650-5 [Amended]

8. Section 4-8.650-5 is amended as follows:

a. The fourth sentence reading, "(See 32 Comp. Gen. 67; and 31 Comp. Gen. 251.)" is deleted.

b. In the fifth sentence the "Office of Plant and Operations" is changed to read "Office of Operations."

(5 U.S.C. 301, 40 U.S.C. 486(c).)

Done at Washington, D.C., this 21st day of June 1977.

E. ALVAREZ,
Director, Office of Operations.

[FR Doc.77-18490 Filed 6-27-77;8:45 am]

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114-1—INTRODUCTION

Correction

In FR Doc. 77-16653, appearing at page 30196 in the issue for June 13, 1977, on page 30197, in the list in the third column, entry 114N should be changed to read "Bureau of Outdoor Recreation."

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 185—EMERGENCY SCHOOL AID

Waivers of Ineligibility for Discriminatory Assignment of Students to Classes

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: The Commissioner of Education, with the approval of the Assistant Secretary for Education and the Secre-

tary, amends the regulation governing approval of waivers of ineligibility in the case of discriminatory assignments of students to classes. This amendment is intended to clarify the regulation to ensure the proper corrective action in the case of discriminatory assignment of students to groupings, particularly special education classes.

EFFECTIVE DATE: As required by section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject to it become effective on the forty-fifth day following transmission, subject to the provisions in that section concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Mr. Jesse Jordon, 400 Maryland Avenue SW., Room 2011, Federal Office Building, No. 6, Washington, D.C. 20202 (202-245-7965).

SUPPLEMENTARY INFORMATION: On January 25, 1977, there was published in the FEDERAL REGISTER (at 42 FR 4501) under the authority of the Emergency School Aid Act (20 U.S.C. 1601, et seq.) a Notice of Proposed Rulemaking that set out the proposed amended regulation. The preamble to that document included the Commissioner's determination that the present regulation is not adequate to ensure the proper corrective action in the case of discriminatory assignment of students to groupings (particularly special education classes), and described the deficiencies of the present regulation. The preamble also stated the main purposes of the amendments to the regulation, as follows:

(a) Make it clear that waiver applications in the case of discriminatory assignment of students to special education groupings are not approvable if the applicant disbands the groupings even temporarily and reassigns students in them to regular classes;

(b) Condition the approval of waivers in the case of discriminatory assignment of students to special education groupings on the completion of evaluations and placements required for handicapped students under Pub. L. 94-142 (the Education of All Handicapped Children Act of 1975) and section 504 of Pub. L. 93-112 (the Rehabilitation Act of 1973); and

(c) Require that a student reassigned from any discriminatorily constituted grouping to a new grouping be provided transitional services to help the student adjust to the new grouping.

Interested persons were given 45 days to comment on the proposed amendments. Two letters of comment were received. One expressed support for the proposed amendments; the other suggested that sex discrimination be covered by the regulation. Since the regulation implements statutory provisions relating to discrimination on the basis of race, color, or national origin, the suggestion in the second letter cannot be adopted. Therefore, the proposed amendments are adopted without change.

NOTE.—The Commissioner 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.

Accordingly, 45 CFR Part 185 is amended as set forth below.

(Catalog of Federal Domestic Assistance Numbers 13.525, 13.526, 13.528, 13.529, 13.530, 13.531, 13.532, Emergency School Aid.)

Dated: May 4, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: May 10, 1977.

MARY F. BERRY,
Assistant Secretary for Education.

Approved: June 21, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Section 185.44(f)(3) is amended to read as follows:

§ 185.44 Waiver of ineligibilty.

* * * * *

(f) Discrimination against children:

* * * * *

(3) (i) In the case of the assignment of students to racially or ethnically identifiable groups, tracks, or classes which cannot be justified educationally, as described in § 185.43(d)(5), an educational agency shall submit the following information:

(A) If the assignment was to a grouping to provide special education or related services to handicapped students, evidence that the students so assigned have been evaluated and placed in accordance with requirements for evaluation and placement of handicapped students under Pub. L. 94-142 and section 504 of Pub. L. 93-112, and any regulations under those statutes; or

(B) If the assignment was to other groupings, evidence that the students so assigned have been nondiscriminatorily reassigned to groupings that are not racially or ethnically identifiable, or evidence that the students so assigned have been reassigned to groupings in accordance with the criteria in § 185.43(c)(1)-(3).

(ii) If the educational agency reassigns any student to a new grouping under paragraph (f)(3)(i) of this section, it shall also submit evidence that it has made provision for such transitional services as are necessary to enable the student to participate meaningfully in the educational program of the new grouping.

(Pub. L. 92-318, sections 706(d)(1)-(3))

[FR Doc.77-18385 Filed 6-27-77;8:45 am]

PART 187—INDIAN EDUCATION ACT (PART B)

Educational Opportunities for Indian Children

AGENCY: U.S. Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This document amends the regulation as required by the Education Amendments of 1974 to establish eligibility and application requirements and evaluation criteria governing the competitive review of applications for projects designed to improve educational opportunities for Indian Children.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Lawrence J. LaMoure, Director, Division of Special Projects and Programs, Office of Indian Education, Room 2161, Federal Office Building 6, 400 Maryland Avenue SW., Washington, D.C. 20202 (202-245-7525).

SUPPLEMENTARY INFORMATION: *Purpose of the regulation.* Part B of the Indian Education Act authorizes the Commissioner of Education to assist State and local educational agencies, federally supported elementary and secondary schools for Indian children, Indian tribes, Indian institutions, Indian organizations, institutions of higher education, and public agencies in improving educational opportunities for Indian children. It authorizes programs to prepare educators of Indian children and the awarding of fellowships in business, engneering, law, medicine, forestry, and related fields to Indian students in graduate or professional programs at institutions of higher education.

The regulation for this program establishes eligibility and application requirements and evaluation criteria governing the competitive review of applications. It also contains provisions on the purposes of projects, activities eligible for support, and project requirements.

Public participation. Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on March 25, 1977, at 42 FR 16258. Interested parties were given 30 days to submit comments, suggestions, or objections. Nine letters containing 15 comments and suggestions were received. A summary of these comments, together with responses by the Office of Education, follows.

1. *Comment. Definitions—§ 187.2.* A commenter suggested that the definition of educational model should be revised

so as not to require a "structured" program design.

Response. No change has been made in the regulation. An integral part of the concept of an educational model is its purpose to be replicated and used. In order that a model be replicated and used by other institutions, it is deemed essential to have a structured program design.

2. *Comment. Definitions—§ 187.2.* Two commenters objected that the proposed definition of "Professional degree" as being a post-baccalaureate degree is not appropriate in the natural resource career fields, and most particularly not in forestry. The commenters pointed out that the licensing requirement by all States for professional foresters is a Bachelor of Science degree with a specified minimum number of years of experience and a written examination.

Response. The Office of Education accepts the position that a Bachelor of Science degree may be considered as a "professional degree" for the forestry field. The rule has been amended in §§ 187.2 and 187.71 so as not to limit "professional degree" to a post-baccalaureate degree.

In addition, § 187.74 has been amended by adding a paragraph (b) which provides for the award of additional points, within each area of study, for each year of postsecondary study completed by the applicant. Therefore, for example, an applicant pursuing a degree in forestry at the post-baccalaureate level would earn more priority points than a third year pre-baccalaureate student in forestry. These priority points are added to ensure that limited funds available for the fellowship program have the maximum impact in developing Indian professionals in these fields.

Section 187.73 has also been amended to clarify how the fellowship funds are distributed between the different areas of study.

3. *Comment. Prohibition on use of funds for religious activities—§ 187.4.* A commenter objected to the language used in proposed § 187.4, which would prohibit use of funds:

> For support of religious programs, projects, or schools; religious worship, instruction, or training; a religious vocation; or to teach theological subjects.

The commenter argued that the proposed provision added ambiguous language not contained in the statute and might be understood to contradict other provisions in the statute and regulation for serving private school children.

Response. The additional language is not needed, and the regulation has been modified in accordance with the comment.

4. *Comment. Applications—§§ 187.14(k), 187.24(k), 187.34(k), and 187.55(k)—Provision of services to children enrolled in private nonprofit schools.* A commenter objected that the regulatory language which governs the participation of eligible children enrolled in private nonprofit schools did not closely follow the language in the statute and could be interpreted to require less than the provision of equitable services called for in the statute. The commenter also suggested that these provisions set out in detail the alternatives available to applicants in meeting their obligation to provide services to private school children, as done in regulations for Title I of the Elementary and Secondary Education Act.

Response. The use of the term "documents" in proposed § 187.14(k) and the other sections was not intended to vitiate the obligation of award recipients to provide services on an equitable basis to those eligible children enrolled in private nonprofit schools. On the contrary, the requirement that the applicant document the number of eligible children in the area to be served who attend private nonprofit schools was intended to enable the Office of Education to obtain hard data, instead of a mere promise, with respect to each applicant's obligation. However, the Office of Education accepts the commenter's suggestion that the paragraph should be rewritten to indicate more clearly the recipient's duty to provide services to eligible children enrolled in private nonprofit schools. Sections 187.14(k), 187.24(k), 187.34(k), and 187.55(k) have been changed accordingly. Details on alternatives have not been added, although award recipients would be free to use the alternatives under Title I.

5. *Comment. Criteria—§ 187.32.* One commenter recommended increasing the points assigned in § 187.32 to organizational capability so that it would carry as much weight as program design. The commenter argued that a good design could not be successfully carried out without proper management.

Response. The comment is very well taken by the Office of Education. In fact, the regulation already in effect meets the commenter's concern. Two criteria in § 187.32 have a bearing on proper management of the project: organizational capabilities, which counts for up to 20 points, and personnel, which counts for up to 10 points. No change in the regulation is needed.

6. *Comment. Criteria—§ 187.42(d).* One commenter suggested that § 187.42 (d) on dissemination should include additional points for materials that are deemed practical and usable by classroom teachers

Response. No change has been made in the regulation. Although the practicality of materials is not made an explicit criterion for these projects, this consideration is implicit in other criteria concerning the program design and in § 187.42 (d)(3), concerning the expected potential for utilizing the results of the program in other programs.

7. *Comment. Criteria—§ 187.53(b).* A commenter suggested that language be added to the criteria section concerning consultation by the applicant with teachers about their inservice needs relating to Indian Education.

Response. No change has been made in the regulation. The evaluation criteria do not specifically address consultation with teachers, but they include criteria which are broad enough to encompass that consideration. For example, § 187.53 (b)(1) concerns cooperative planning and maximum use of financial, physical, and human resources of the educational agencies and institutions involved, and § 187.53(b) (2), (3), and (5) concern the relationship of training to the needs of Indian children.

8. *Comment. Institutional Commitment—§ 187.53(e).* One commenter suggested that additional points be awarded to those applicants which promise to continue the training program if not refunded in a subsequent year.

Response. No change has been made in the regulation. Under § 187.53(e)(1), some points are awarded if an applicant provides evidence that it supports the program. This type of support could include a broad range of financial commitments. A commitment to continue the program with non-Federal institutional funds in the event that the institution does not receive continued assistance under this authority could earn points under this criterion.

9. *Comment. Criteria—§ 187.53(c), (e), and (f).* One commenter suggested consolidating § 187.53(e), which measures the quality of an applicant's organizational capability and institutional commitment, with § 187.53(f), which measures the quality of an applicant's personnel. The total number of points for this combined paragraph would be 20 points. At the same time, the commenter would shift 5 points to § 187.53(c) concerning the quality of objectives. Another commenter suggested that similar changes be made to § 187.63.

Response. No change has been made in the regulation. The Office of Education does not believe that the weight assigned to organizational capability and personnel should be reduced. These are essential ingredients in predicting the likely success of a project. Moreover, these criteria give some indication of which institutions will be able to sustain projects when Federal assistance is no longer available. Also, these criteria measure different factors and should be maintained as discrete criteria.

10. *Comment. Use of Auditors—§ 187.81(c).* One commenter suggested that the requirements for independent audits under § 187.81(c) reflect standards of the Comptroller General concerning who would perform audits.

Response. Language has been added to § 187.81(c) to reflect applicable requirements of the Comptroller General.

11. *Comment. General.* Another commenter suggested that "proposals should be taken in the order they are received and acted on so each proposal is judged equally."

Response. It is not clear to the Office of Education what the intent of the comment is. Applications submitted by published closing dates are judged equally against the published evaluation criteria. If the commenter meant to suggest that applications be funded on the basis of the order in which they are received,

that approach would not be appropriate. It is incumbent upon the Office of Education to select for funding those projects which individually and collectively hold the greatest promise of best carrying out the statutory purposes. The evaluation criteria are designed to accomplish this. Whether an application is received shortly before a closing date or much earlier does not bear upon its merits in furthering the program's purposes.

12. *Comment. General.* A commenter suggested that the Office of Education should be cognizant of Indian culture and heritage when reviewing proposals.

Response. The comment is well-taken, and the Office of Education is trying to address the commenter's concern. Among other things, many application reviewers are Indians.

13. *Technical corrections.* Some minor technical corrections were made, particularly in § 187.63 where paragraph (b) was inadvertently deleted. A technical correction notice was published in the FEDERAL REGISTER, May 16, 1977, at 42 FR 24758, giving notice of these corrections to all parties interested or affected. These changes are included in the final regulation. In addition §§ 187.12(g)(3), 187.22(f)(4), 187.32(f)(4), 187.42(e)(3), and 187.63(e)(3) have been modified to conform with § 187.53(e)(3) which clarifies the possible factors which may be used to judge organizational capability.

(Indian Education Act, Title IV of Pub. L. 92-318, as amended by Part C of Title VI of Pub. L. 93-380.)

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

(Catalog of Federal Domestic Assistance Numbers 13.535 and 13.569, Indian Education Act, Part B.)

Dated: June 10, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: June 21, 1977.

JOSEPH A. CALIFANO, Jr.
Secretary of Health, Education, and Welfare.

Title 45 is amended by revising Part 187 in its entirety and the caption is revised as set forth above:

Subpart A—Scope; Definitions; General Provisions; Applicable Related Statute

Sec.
187.1 Scope.
187.2 Definitions.
187.3 Applicability of section 7(b) of the Indian Self-Determination and Education Assistance Act.
187.4 Prohibition on use of funds for religious activities.
187.5 Capacity to carry out the program.
187.6 Continuation awards.

Subpart B—Planning, Pilot, and Demonstration Programs

187.11 Eligible applicants and authorized activities.
187.12 Criteria.
187.13 Priorities.
187.14 Applications.

Subpart C—Educational Services

187.21 Eligible applicants and authorized activities.
187.22 Criteria.
187.23 Priorities.
187.24 Applications.

Subpart D—Exemplary Programs and Centers

187.31 Eligible applicants and authorized activities.
187.32 Criteria.
187.33 Priorities.
187.34 Applications.

Subpart E—Dissemination, Evaluation, and Technical Assistance

187.41 Eligible applicants and authorized activities.
187.42 Criteria.
187.43 Priorities.
187.44 Applications.

Subpart F—Educational Personnel Training Programs

187.51 Eligible applicants and authorized activities.
187.52 Allowable costs.
187.53 Criteria.
187.54 Priorities.
187.55 Applications.

Subpart G—Special Education Training Programs for Educators of Indian Children

187.61 Eligible applicants and authorized activities.
187.62 Allowable costs.
187.63 Criteria.
187.64 Priorities.
187.65 Applications.
187.66 Educational personnel fellowships.

Subpart H—Indian Fellowship Program

187.71 Eligible applicants and authorized activities.
187.72 Allowable costs.
187.73 Criteria.
187.74 Priorities.
187.75 Designation of alternate fellows.
187.76 Applications.
187.77 Responsibility of fellows.
187.78 Continuation of fellowships.
187.79 Discontinuation of fellowships.

Subpart I—Administrative Standards

187.81 General.
187.82 Conflict of interest and nepotism.
187.83 Documents and procedures.
187.84 Violation of grant terms and conditions.

AUTHORITY: Elementary and Secondary Education Act of 1965, as amended by Indian Education Act, Part B, title IV of Pub. L. 93-18 as amended by Part C of title VI of Pub. L. 93-380 (20 U.S.C. 887C-2).

Subpart A—Scope; Definitions; General Provisions; Applicable Related Statute

§ 187.1 Scope.

This part governs: (a) The provision of assistance to State and local educational agencies; Indian tribes, Indian organizations, and Indian institutions; Federally supported elementary and secondary schools for Indian children; and public agencies and institutions of higher education for carrying out special programs to improve educational opportunities for Indian children under the appropriate subsection of section 810 of the Indian Education Act, as amended;

(b) The provision of assistance to institutions of higher education, Indian organizations, and Indian tribes for special programs to prepare educators of Indian children under section 422 of the Indian Education Act; and

(c) The awarding of fellowships in business, engineering, law, medicine, forestry, and related fields to Indian students in graduate and professional programs at institutions of higher education under section 423 of the Indian Education Act.

(20 U.S.C. 887c, 887c-1, and 887c-2.)

§ 187.2 Definitions.

As used in this part:

"Academic year" means a period of time, generally of not less than eight months, in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

(20 U.S.C. 887c-2.)

"Allowance for dependents" means a payment, in a sum approved by the Commissioner, to a recipient of a fellowship, or to a participant in a training program on account of his or her dependents, if any.

"Ancillary educational personnel" means guidance counselors, school administrators, librarians, and others working in education programs, to the extent that they continue to meet the special educational needs of Indian children. This term does not include persons in positions such as clerk, cafeteria personnel, or other jobs not involved in the educational process.

"Community" means an Indian reservation, neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of educational interest needed to provide services to a designated constituency.

(45 CFR 1336.1)

"Comprehensive educational model" means an educational program which addresses the needs of the total child: academic, social, cultural, emotional, and physical.

"Cost of education allowance" means a payment to an institution of higher education attended by the holder of a fellowship under Subparts F, G, or H, in a sum approved by the Commissioner to cover the cost of tuition and fees on behalf of that fellow.

"Demonstration or pilot programs and projects" means programs and projects normally of one to three years in duration which demonstrate a unique educational concept, in theory and/or implementation, and whose applicability may be replicated by other programs or projects.

"Dependent" means any of the following persons over half of whose support, for the calendar year in which the school year begins, was received from the student:

(a) A spouse;

(b) A child, or descendant of such child, or stepchild;

(c) A brother or sister;
(d) A brother or sister by half blood;
(e) A stepbrother or stepsister;
(f) A parent or ancestor of such parent;
(g) A stepfather or stepmother;
(h) A son or daughter or student's father or mother;
(i) A son-in-law, or daughter-in-law, or father-in-law, or mother-in-law, or brother-in-law, or sister-in-law;
(j) A person (other than the student's spouse) who, during the student's entire calendar year, lives in the student's home and is a member of the student's household (but not if the relationship between the person and the student is in violation of local law); or
(k) A cousin (descendant of a brother or sister of the student's father or mother) who, during the student's calendar year, is receiving institutional care on account of a physical or mental disability and before receiving this care was a member of the same household as the student.

A legally adopted child or child placed in the student's home for adoption by an authorized agency is considered to be a child by blood. A citizen of a foreign country may not be claimed as a dependent, unless the citizen is a resident of the United States, Canada, Mexico, Panama, or the Canal Zone, at some time during during the calendar year in which the school year of the student begins, or is a resident of the Philippines born to, or adopted by, a student while a member of the Armed Forces, before January 1, 1956, or is an alien child legally adopted by and living with a student as a member of the student's household for the entire calendar year.

"Educational model" means a demonstration program that has a structured program design which offers innovative alternatives to meet the educational needs of the Indian child. The program design may be structured around one or more curricula units or support services. The needs and resources of the community are to be included in the development of the educational model to ensure maximum benefit to the child and the community.

"Exemplary program" means an educational program, service, or activity designed to be so educationally effective or outstanding that it could be identified as a promising solution to a basic Indian education problem.

(20 U.S.C. 887c (a) (2) and (c).)

"Federally supported elementary and secondary school for Indian children" means an elementary or secondary school for Indian children operated or supported by the Department of Interior.

(20 U.S.C. 887c(b).)

"Fellowship" means an award to a recipient described in Subparts F, G, or H, and consists of a cost of education allowance, a stipend, and an allowance for dependents, if any.

(20 U.S.C. 887c, 887c-1, and 887c-2.)

"Governing body" means those duly elected or appointed representatives who have the authority to provide services to, and enter into contracts, agreements and grants on behalf of, its constituency.

(45 CFR 1336.1.)

"Guidance and counseling" means: (a) Services to Indian pupils to assist them in assessing and understanding their particular abilities, educational needs, and career and vocational interests; and
(b) Assistance in personal and social development, including the development of a positive self-concept for Indian children and their parents.

(20 U.S.C. 887c(c) (1) (D).)

"Handicapped children" means mentally retarded, hard-of-hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health-impaired children or children with specific learning disabilities, who by reason thereof require special educational and related services.

(20 U.S.C. 887c(1) (E).)

"Indian" means any individual, living on or off a reservation, who is:
(a) A member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member;
(b) Considered by the Secretary of the Interior to be an Indian for any purpose; or
(c) An Eskimo or Aleut or other Alaska Native.

(20 U.S.C. 1221h.)

"Indian institution" means a preschool, elementary, secondary or postsecondary school established for the promotion of education of Indians which is:
(a) Controlled by a governing body, the majority of which is Indian; and
(b) If located on an Indian reservation, operates with the sanction or by charter of that Tribe(s).

"Indian organization" means an organization which:
(a) Is legally established, by Tribal Charter or in accordance with State law with appropriate Constitution, bylaws and/or Articles of Incorporation;
(b) Has the primary purpose of promoting the educational, economic, or social self-sufficiency of Indians;
(c) Has a governing board and membership composed of a majority of Indians;
(d) If located on an Indian reservation, operates with the sanction or by charter of that Tribe(s);
(e) If affiliated with a college or university, such affiliation must not limit the service area or Indian community involvement to staff and students of that college or university; and
(f) Is not an organization or subdivision of any college or university, or is not directly under the control of the university or college (such organizations are not considered as Indian organizations for the purposes of this part).

"Indian tribe" means any Federal or State recognized Indian Tribe, Band, Nation, Rancheria, Pueblo, Alaska Native village, or regional or village corporation as established by the Alaska Native Claims Settlement Act (85 Stat. 688), which exercises the power of self-government.

(20 U.S.C. 887.)

"Institution of higher education" means an educational institution in any State which:

(20 U.S.C. 887c.)

(a) Generally admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;
(b) Is legally authorized within the State to provide a program of education beyond high school;
(c) Provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;
(d) Is a public or other nonprofit institution; and
(e) Is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this pragraph, or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: Provided, however, that in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institution, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by these institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify these institutions to participate under this part and shall also determine whether particular institutions meet those standards.

(20 U.S.C. 887c-1 and 887c-2.)

"Immediate family" means wife, husband, son, daughter, mother, father, brother, sister, or legal dependent.

"Local educational agency" means a public board of education or other pub-

lic authority legally constituted within a State for either administrative control or direction of or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State; or a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or seconary schools. This term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(20 U.S.C. 887c.)

"Planning grant" means a grant to support planning activities of generally not more than one year for an educational progam.

"Professional degree" means a degree which is designed to enable a person to obtain a license and function as a fully recognized member of a profession such as medicine, law, engineering, accounting, business, or forestry.

"School administrator" means an individual vested with the duty to administer educational programs. A school administrator can be a superintendent, principal, or other administrative officer.

"State" refers to, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 887c, 887c-1, and 887c-2.)

"State educational agency" means the State board of education, or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(20 U.S.C. 887c.)

"Stipend" means the allowance paid to a participant in training programs under Subpart F, in the fellowship program under Subparts F, G, or H, and in summer training programs which may be funded under Subparts C and D, for subsistence. In addition, it may also include moving expenses (in cases of extreme hardship), book allowances, and other expenses of the participant or fellow, without regard to the participant's dependents, in an amount as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs.

"Teacher" means a classroom teacher. For the purposes of Subpart G, "teacher" may also include ancillary personnel and "teacher aides."

"Teacher aide" means a person who assists a teacher in the performance of the teacher's professional teaching or administrative duties, or in some other activity which assists a teacher in the educational process. The term does not include persons in positions such as clerk, cafeteria personnel, or other jobs not directly involved in the educational process.

(20 U.S.C. 887c.)

§ 187.3 Applicability of section 7(b) of the Indian Self-Determination and Education Assistance Act.

Assistance under this part is subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) and any regulations promulgated thereunder, to the extent that such statutory provisions and regulations are, by their terms, applicable to assistance under this part. Section 7(b) provides for preference to Indians, in the contexts of training and employment and the awarding of subcontracts, in connection with assistance, under Federal legislation for the benefit of Indians. Section 7(b) and provisions in the Indian Education Act additionally provide for preference for the funding of Indian tribes, Indian organizations, Indian institutions, and Indian educational agencies, when awarding grants and contracts. In addition, preference must be given to the training of Indians under Subparts F and G of this part.

(25 U.S.C. 450e(b).)

§ 187.4 Prohibition on use of funds for religious activities.

No funds made aavilable under this part may be used for religious worship or instruction.

(20 U.S.C. 867c; 20 U.S.C. 885.)

§ 187.5 Capacity to carry out the project.

Notwithstanding the specific evaluation criteria in the remainder of this part, the Commissioner will not fund an application under this part unless the Commissioner is satisfied that the applicant has the capacity successfully to carry out the project.

(a) In making this judgment, the Commissioner will consider such factors as:

(1) Both the programmatic and financial management capacities of the applicant organization and its staff;

(2) Past performance by the applicant—

(i) In carrying out any prior grant under this part; or

(ii) In carrying out similar projects with respect to such matters as achievement of objectives, adherence to the project conditions, programmatic and financial management, and the governing board's assumption of responsibility;

(3) Adequacy of facilities and other resources, including consideration of any litigation or dispute which calls into question the continued availability of the facilities and resources to the applicant; and/or

(4) Consideration of local community factors which may prevent the successful operation of the grant.

(b) If the Commissioner decides not to fund an application based upon this section, the Commissioner will do so only after providing reasonable notice and an opportunity to the applicant to rebut, in writing or in an informal meeting with the responsible official of the U.S. Office of Education, the basis for the decision.

(20 U.S.C. 887c.)

§ 187.6 Continuation awards.

(a) Programs funded under this part may be for up to three years' duration.

(b) If the application demonstrates to the Commissioner's satisfaction that multi-year support is needed to carry out the proposed program, the Commissioner may, in the initial notification of grant award for the program (which shall be for up to a twelve month period), indicate an intention to assist the program for one or two successive years through continuation grants.

(c) Continuation awards may be made to programs described in this section, subject to the restriction in paragraph (a) of this section and to the availability of funds.

(d) Applications for continuation awards will be reviewed on a noncompetitive basis to determine:

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

(2) The program's effectiveness to date, or the constructive changes proposed as a result of the ongoing evaluation.

(20 U.S.C. 887c.)

Subpart B—Planning, Pilot, and Demonstration Programs

§ 187.11 Eligible applicants and authorized activities.

State and local educational agencies, federally supported elementary and secondary schools for Indian children, and Indian tribes, Indian organizations, and Indian institutions may apply for grants to support planning, pilot, and demonstration programs which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including:

(a) Innovative programs related to the educational needs of educationally deprived Indian children;

(b) Bilingual and bicultural education programs;

(c) Special health and nutrition services and other related activities which meet the special health, social, and psychological needs of Indian children; and

(d) Coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of these children.

(20 U.S.C. 887c (a)(1) and (b).)

§ 187.12 Criteria.

In considering whether to approve applications submitted under this subpart and in determining the amount of the awards, applications will be evaluated against the following criteria. The number of points which may be awarded for each category of criteria is indicated in parentheses. The maximum number of points that can be awarded is 100.

(a) *Need.* (0 to 15 points.) The national, regional, or local need as indicated by such factors as:

(1) The number of Indian children who require the service;

(2) The degree of need exemplified by percentage of dropouts, specific health needs, educational achievements comparison, or other appropriate examples;

(3) The quality of measurements used to determine needs such as a projected manpower plan or a needs assessment; and

(4) The number of Indian children who will be directly served by the program.

(b) *Program design.* (0 to 30 points). The quality of the applicant's program design, as indicated by such factors as:

(1) The degree of innovation in the approach, method, or technique of the program design, as compared to other approaches in the surrounding community;

(2) The extent to which the program design is appropriate to meet the educational needs of the Indian community or tribe;

(3) The degree to which the program will contribute to the improvement of educational opportunities for Indian children including such results as: the projected decrease in the dropout rate, the projected rise in academic achievement, or other appropriate results;

(4) The extent to which the proposed program will be an educational model which can be replicated;

(5) The extent of consultation and involvement of the parents, or legal guardians of the Indian children being served in the Indian community, in the planning and development of the program and provision for their continued consultation and involvement in the operation and evaluation of the program;

(6) The degree to which the program will be coordinated with other educational programs or complementary activities, so that Indian children will be provided with comprehensive educational services;

(7) Projected plans for the continued support of the program from non-Federal sources at the close of the program period;

(8) Reasonableness of estimated cost in relation to anticipated results; and

(9) Sufficiency of program size, scope, and duration so as to secure productive results.

(c) *Objectives.* (0 to 10 points). The presentation of the program design as indicated by such factors as the extent to which:

(1) The objectives of the proposed program are sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured;

(2) The projected activity plan or milestones clearly outline all the necessary major steps to be taken in order to achieve each objective.

(d) *Evaluation design.* (0 to 20 points.) The quality of the evaluation design as indicated by the soundness of the data collection methodology, the effectiveness of the evaluation tools to be used in objectively measuring the program accomplishments, and the projected use of the results for the benefit of the program.

(e) *Dissemination.* (0 to 5 points). The degree to which the program will develop quality materials for dissemination that may be used to improve the education of Indian children.

(f) *Personnel.* (0 to 5 points). The extent to which the applicant ensures quality personnel as indicated by such factors as:

(1) The qualifications and experience of the staff designated to carry out the proposed program; and

(2) The degree to which the applicant has and will apply Indian preference in the hiring of program personnel.

(g) *Organizational capacity.* (0 to 15 points). The extent to which the applicant will provide quality management as indicated by such factors as:

(1) Adequacy of facilities and other resources; and

(2) The applicant's general administration and management capability.

(3) The extent to which the applicant's past performance has demonstrated the capability to administer and implement like programs as exemplified by achievement of objectives, adherence to grant conditions, general administration and management capability, and the governing board's assumption of responsibility.

(20 U.S.C. 887c.)

§ 187.13 Priority. (35 points)

In considering applications under this subpart, the Commissioner will give, in addition to the points awarded in § 187.12:

(a) A 25-point priority rating to applications from Indian educational agencies, Indian tribes, Indian organizations, and Indian institutions (20 U.S.C. 887c (b), (f)); and

(b) A 10-point priority rating to comprehensive educational models.

(20 U.S.C. 887c.)

§ 187.14 Applications.

An application requesting assistance under this subpart must:

(a) Designate that the application is for consideration under Subpart B of these regulations;

(b) Address all criteria listed under this subpart;

(c) Complete forms the Commissioner may require;

(d) Provide a complete program design which sets forth:

(1) The problems and/or needs to be addressed and the method by which the problems or needs were determined;

(2) The objectives of the program stated in concise, measureable, or quantifiable terms. These objectives must be projected as attainable in the proposed time frames and must meet the needs or eliminate the problems; and

(3) The activities or milestones by which the applicant plans to attain each of its stated objectives.

(e) Designate the requested length of the program which may be for a maximum of three years. Program designs must set forth the objectives and activity plans for each of the years requested in the application;

(f) Outline, by job category, the composition of the proposed staff;

(g) Include resumes of the professional staff. (In cases where professional positions are vacant, job descriptions must be submitted);

(h) Present a budget, by category, and appropriate category breakdowns, for the program. (In the case of a multi-year application, the budget breakdown presented shall be for the current one year funding request. In addition, the applicant shall project only the total cost of each subsequent year outlined in the program design.);

(i) Present a description of the proposed administration and line of authority which will ensure efficient administration of the program;

(j) Include plans for an independent and objective evaluation of the effectiveness of the program in achieving its purposes and the purposes of this subpart;

(k) (1) Make provision for the participation on an equitable basis of Indian children in the area to be served who are enrolled in private nonprofit elementary and secondary schools and whose needs are of the type which the program is intended to meet, consistent with the number of these children; and

(2) Include documentation of the number of these children.

(20 U.S.C. 887c(f).)

(l) Document that parents of the Indian children to be served and tribal communities:

(1) Were consulted and involved in the planning and development of the program;

(2) Will actively participate in the operation and evaluation of the program;

(20 U.S.C. 887c(f).)

(m) In the instance of applications from local educational agencies, provide information required by 45 CFR Part 100d concerning an open meeting on the subject matter of the application.

(20 U.S.C. 887e.)

(n) Include other information and assurances which the Commissioner may require.

(20 U.S.C. 887c.)

Subpart C—Educational Services

§ 187.21 Eligibile applicants and authorized activities.

State and local educational agencies, and tribal and other Indian community organizations, may apply for grants to assist them in providing educational services specifically designed to improve educational opportunities for Indian children which are not available to Indian children in sufficient quantity or quality, including:

(a) Remedial and compensatory instruction, school health, physical education, and psychological and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(b) Comprehensive academic and vocational instruction;

(c) Instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) and equipment;

(d) Comprehensive guidance, counseling, and testing services;

(e) Special education programs for the handicapped;

(f) Preschool programs;

(g) Bilingual and bicultural education programs; and

(h) Other services which meet the purposes of this subpart.

(20 U.S.C. 887c(c).

§ 187.22 Criteria.

In considering whether to approve applications submitted under this subpart, and in determining the amount of the awards, applications will be evaluated against the following criteria. The number of points which may be awarded for each category of criteria is indicated next to that category in parentheses. The maximum number of points that can be awarded is 100.

(a) *Need.* (0 to 20 points). The need for the services as indicated by such factors as:

(1) Whether or not the services to be stimulated by the program are available in sufficient quantity or quality;

(2) The extent to which the needs of Indian children for the particular service requested have been determined by a needs assessment or other appropriate study;

(3) The number of Indian children who will directly be served by, or benefit from, the program.

(b) *Program design.* (0 to 30 points) The quality of the program design as indicated by such factors as:

(1) The projected improvement of educational opportunities, or academic achievement, as a result of the program;

(2) The degree of innovation in the approach, method, or technique of the program design;

(3) The projected plans and assurances that the program being requested will be coordinated with other educational services;

(4) The extent to which the requested program provides an educational service which is necessary to provide a comprehensive program for the improvement of educational opportunities for Indian children;

(5) Reasonableness of estimated cost in relation to anticipated results;

(6) Sufficiency of size, scope, and duration of the program so as to secure productive results; and

(7) Involvement of the parents or legal guardians of Indian children being served and Tribal communities in the planning and development of the programs, and a provision for their continued involvement and consultation in the operation and evaluation of the program.

(c) *Objectives.* (0 to 10 points). The presentation of the program design as indicated by such factors as the following:

(1) The extent to which the objectives of the proposed program are sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured;

(2) The extent to which the projected activity plan or milestones clearly outline all the necessary major steps to be taken in order to achieve each objective.

(d) *Evaluation design.* (0 to 10 points). The quality of the evaluation design for the objective measurement of the effectiveness of the accomplishments of the program.

(e) *Personnel.* (0 to 10 points). The extent to which the application insures quality personnel and training as indicated by such factors as:

(1) The qualifications and experience of personnel to carry out the proposed program;

(2) The plan and method for the training of personnel participating in the program.

(f) *Organizational capabilities.* (0 to 20 points). The quality of organizational capability as indicated by such factors as:

(1) Adequacy of facilities and other resources;

(2) The applicant's general administration and management capability; and

(3) In regard to local educational agencies and State educational agencies, the degree of institutional commitment as indicated by the extent and solidarity of projected plans for improving inadequate or insufficient services and for continued support of the program by the applicant.

(4) The extent to which the applicant's past performance has demonstrated the capability to administer and implement like programs as exemplified by achievement of objectives, adherence to grant conditions, general administration and management capability, and the governing board's assumption of responsibility.

(20 U.S.C. 887c(c).)

§ 187.23 Priority. (35 points).

In considering applications under this subpart, the Commissioner will give, in addition to the points awarded in § 187.22:

(a) A 25 point priority rating to applications from tribal and other Indian community organizations; and

(b) A 10 point priority rating for one or a combination of the following areas:

(1) Programs which are directed at meeting the needs of Indian children who are handicapped;

(2) Programs which are designed for the written development of or the impartation of Indian language or Indian culture which will assist in providing Indian children with a positive self-image;

(3) Programs which are designed to assist parental and early childhood education in a combination which will most fully benefit Indian children and encourage positive early childhood development; and

(4) Programs to meet the needs of Indian children who are gifted and talented.

(20 U.S.C. 887c.)

§ 187.24 Applications.

An application requesting assistance under this subpart must:

(a) Designate that the application is for consideration under Subpart C of these regulations;

(b) Address all criteria under this subpart;

(c) Complete such forms as may be required by the Commissioner;

(d) Provide a complete program design which sets forth:

(1) The problems and/or needs to be addressed and the method by which the problems or needs were determined;

(2) The objectives of the program, stated in concise, measurable, or quantifiable terms. These objectives must be projected as attainable in the proposed time frames, and must meet the needs and/or eliminate the problem; and

(3) The activities or milestones through which the applicant plans to attain its stated objectives;

(e) Designate the requested length of the program which may be for a maximum of three years. Program designs must set forth the objectives and activity plans for each of the years requested in the application;

(f) Outline, by job category, the composition of the proposed staff;

(g) Include résumés of the professional staff. (In cases where professional positions are vacant, job descriptions must be submitted);

(h) Present a budget, by category, and appropriate category breakdowns, for the program. (In the case of a multi-year program, the budget breakdown presented in the application shall be for the current, one year funding request. In addition, the applicant shall project only the total cost of each subsequent year outlined in the program design);

(i) Present a description of the proposed administration and line of authority which would ensure efficient administration of the program;

(j) Include plans for an independent and objective evaluation of the effectiveness of the program in achieving its purposes and the purposes of this subpart;

(k) (1) Make provision for the participation on an equitable basis of Indian children in the area to be served who are enrolled in private nonprofit elementary and secondary schools and whose needs are of the type which the program is intended to meet, consistent with the number of these children; and

(2) Include documentation of the number of these children.

(l) Document that parents of the Indian children to be served and tribal communities:

(1) Were consulted and involved in the planning and development of the program;

(2) Will actively participate in the operation and evaluation of the program;

(m) In the instance of applications from local educational agencies, provide information required by 45 CFR Part 100d concerning an open meeting on the subject matter of the application.

(20 U.S.C. 887c; 20 U.S.C. 887c.)

(n) Contain an assurance that the program to be assisted will be coordinated with like or complementary programs carried out with other resources to ensure that well-coordinated, comprehensive programs and services are available to Indian children.

(o) Include other information and assurances which the Commissioner may require.

(20 U.S.C. 887c.)

Subpart D—Exemplary Programs and Centers

§ 187.31 Eligible participants and authorized activities.

State educational agencies, local educational agencies, and tribal and Indian community organizations may apply for grants to assist them in establishing and operating exemplary and innovative educational programs and centers which involve new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children. These programs will serve as models for elementary and secondary school programs for Indian children. Examples of these programs include, but are not limited to:

(a) Programs which are directed at meeting the needs of Indian children who are handicapped;

(b) Programs designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(c) Programs designed to assist Indian children to prepare to enter postsecondary or career education programs;

(d) Programs which prepare Indian children to meet projected tribal and Indian community manpower needs;

(e) Comprehensive educational models; and

(f) Parent and community-based early childhood comprehensive programs.

(20 U.S.C. 887c (a) (2) and (e).)

§ 187.32 Criteria.

In considering whether to approve applications submitted under this subpart, and in determining the amount of the awards, applications will be evaluated against the following criteria. The number of points which may be awarded for each category of criteria is indicated next to that category in parentheses. The maximum number of points that can be awarded is 100.

(a) *Need.* (0 to 20 points.) The need for the services as indicated by such factors as:

(1) Whether or not the services to be stimulated by the program are available in sufficient quantity or quality;

(2) The extent to which the needs of Indian children for the particular service being requested has been determined by a needs assessment or other appropriate study;

(3) The number of Indian children who will directly be served by or benefit from the program;

(4) The degree of need, as exemplified by the number of Indian children who require the service, the percentage of dropouts, specific health needs, the comparison of educational achievement of Indian children with that of the general population, or other specific documentation which establishes the need.

(b) *Program design.* (0 to 30 points.) The quality of the program design as indicated by such factors as:

(1) The projected improvement of educational opportunities, or academic achievement, as a result of the program;

(2) The degree of innovation in the approach, method, or technique of the program design;

(3) The projected plans and assurances that the program being requested will be coordinated with other educational services;

(4) The extent to which the requested program provides an educational service which is necessary to provide a comprehensive program for the improvement of educational opportunities for Indian children;

(5) Reasonableness of estimated cost in relation to anticipated results;

(6) Sufficiency of program size, scope, and duration so as to secure productive results;

(7) The involvement of the parents or legal guardians of Indian children being served as well as tribal communities in the planning and development of the program, and a provision for their continued involvement in the operation and evaluation of the program;

(8) The degree to which the program will contribute to the improvement of educational opportunities of Indian children, including results such as: the projected decrease in the dropout rate, the amount of increase or improvement of services through coordination, the projected rise in academic achievement, or other appropriate results.

c) *Objectives.* (0 to 10 points.) The presentation of the program design as indicated by such factors as:

(1) The degree to which the objectives of the proposed program is sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured.

(2) The degree to which the projected activity plan or milestones clearly outline all the necessary major steps to be taken in order to achieve each objective.

(d) *Evaluation design and dissemination.* (0 to 10 points.) The quality of the evaluation and dissemination design as indicated by such factors as:

(1) The quality of the evaluation design as indicated by the soundness of the proposed plan for the objective measurement of project effectiveness;

(2) Expected potential for utilizing the results of the proposed program in other programs for similar educational purposes;

(3) Provision for disseminating the results of the program and for making materials, techniques, and results and other output available to the general public and, specifically, to those concerned with the area of education with which the program is concerned.

(e) *Personnel.* (0 to 10 points.) The extent to which the application ensures quality personnel and training as indicated by such factors as:

(1) The qualifications and experience of personnel designated to carry out the proposed program; and

(2) The plan and method for the training of personnel participating in the program.

(f) *Organizational capabilities.* (0 to 20 points.) The quality of organizational capability as indicated by such factors as:

(1) Adequacy of facilities and other resources;

(2) The applicant's general administration and management capability; and

(3) In regard to local educational agencies and State educational agencies, the degree of institutional commitment as indicated by the extent and solidarity of projected plans for improving inadequate, or insufficient services and for continued support of the project by the applicant.

(4) The extent to which the applicant's past performance has demonstrated the capability to administer and implement like programs as exemplified by achievement of objectives, adherence to grant conditions, general administration and management capability, and the governing board's assumption of responsibility.

(20 U.S.C. 887c.)

§ 187.33 Priority.

(35 points.) In considering applications under this subpart, the Commissioner will give, in addition to the points awarded in § 187.32:

(a) A 25-point priority rating to applications from tribal and other Indian community organizations;

(b) A 10-point priority rating for one or a combination of the following areas:

(1) Programs which are directed at meeting the needs of Indian children who are handicapped;

(2) Programs which are designed for the written development of or the impartation of Indian language or Indian culture which will assist in providing Indian children with a positive self-image;

(3) Programs which are designed to assist parental and early childhood education in a combination which will most fully benefit Indian children and encourages positive early childhood development;

(4) Programs which are directed at meeting the needs of Indian children who are gifted and talented.

(20 U.S.C. 887c(f).)

§ 187.34 Applications.

An application requesting assistance under this subpart must:

(a) Designate that the application is for consideration under Subpart D of these regulations;

(b) Address all criteria under this subpart;

(c) Complete such forms as may be required by the Commissioner;

(d) Provide a complete program design which sets forth:

(1) The problems or needs to be addressed and the method by which the problems or needs were determined;

(2) The objectives of the program stated in concise, measurable, or quantifiable terms. These objectives must be projected as attainable in the proposed time frames, and must meet the needs and/or eliminate the problem; and

(3) The activities or milestones through which the applicant plans to attain its stated objectives;

(e) Designate the requested length of the program, which may be for a maximum of three years. Program designs must set forth the objectives and activity plans for each of the years requested in the application;

(f) Outline, by job category, the composition of the proposed staff;

(g) Include resumes of the professional staff. (In cases where professional positions are vacant, job descriptions must be submitted);

(h) Present a budget, by category, and appropriate category breakdowns, for the program. (In the case of a multi-year program, the budget breakdown presented in the application shall be for the current, one year funding request. In addition, the applicant shall project only the total cost of each subsequent year outlined in the program design);

(i) Present a description of the proposed administration and line of authority which would ensure efficient administration of the program;

(j) Include plans for an independent and objective evaluation of the effectiveness of the program in achieving its purposes and the purposes of this subpart;

(k) (1) Make provision for the participation on an equitable basis of Indian children in the area to be served who are enrolled in private nonprofit elementary and secondary schools and whose needs are of the type which the program is intended to meet, consistent with the number of these children; and

(2) Include documentation of the number of these children.

(l) Document that parents of the Indian children to be served and tribal communities:

(1) Were consulted and involved in the planning and development of the program;

(2) Will actively participate in the operation and evaluation of the program; and

(m) In the instance of applications from local educational agencies, provide information required by 45 CFR Part 100d concerning an open meeting on the subject matter of the application.

(20 U.S.C. 887e.)

(n) Contain an assurance that the program to be assisted will be coordinated with programs carried out with other resources to ensure that well-coordinated, comprehensive programs and services are available to the Indian child.

(20 U.S.C. 887c(f).)

Subpart E—Dissemination, Evaluation, and Technical Assistance

§ 187.41 Eligible applicants and authorized activities.

Public agencies and institutions and Indian tribes, Indian institutions, and Indian organizations may apply for assistance (by grant or contract) to carry out programs for:

(a) The dissemination of information concerning education programs, services and resources available to Indian children including evaluations thereof. Examples of these programs may be, but are not limited to:

(1) Delivery systems to encourage use of educational materials;

(2) Training and technical assistance; and

(b) The evaluation of the effectiveness of federally assisted education programs in which Indian children may participate.

(20 U.S.C. 887c(a)(4) and (e).)

§ 187.42 Criteria.

In considering whether to approve funding requests submitted under this subpart, and in determining the amount of the awards, applications will be evaluated against the following criteria. The number of points which may be awarded to each category is indicated in parentheses. The maximum number of points that can be awarded is 100.

(a) *Need.* (0 to 10 points.) Evidence of the need for the proposed activity in the area to be served by the applicant.

(b) *Program design.* (0 to 30 points.) The quality of the program design as indicated by such factors as:

(1) Well-defined service population or projected evaluation areas;

(2) Reasonableness of estimated cost in relation to anticipated results; and

(3) Sufficiency of program size, scope, and duration to secure productive results.

(c) *Objectives.* (0 to 10 points). The presentation of the program design as indicated by such factors as:

(1) The degree to which the objectives of the proposed program are sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured;

(2) The degree to which the projected activity plan or milestones clearly outline all the necessary steps to be taken in order to achieve each objective.

(d) *Evaluation and dissemination design.* (0 to 10 points). The quality of the evaluation and dissemination design as indicated by such factors as:

(1) The extent to which provision has been made for a quality, independent evaluation of the effectiveness of the program and for determining the extent to which the objectives are accomplished;

(2) The extent to which provision has been made for disseminating the results of the program and for making materials, techniques, and other information available to the general public and, specifically, to those concerned with the area of education with which the program is concerned; and

(3) The expected potential for utilizing the results of the proposed program in other programs for similar educational purposes.

(e) *Organizational capability.* (0 to 20 points). The soundness of the organizational capability as evidenced by such factors as:

(1) The applicant's general administration and management capability; and

(2) The adequacy of facilities and other resources.

(3) The extent to which the applicant's past performance has demonstrated the capability to administer and implement like programs as exemplified by achievement of objectives, adherence to grant conditions, general administration and management capability, and the governing board's assumption of responsibility.

(f) *Personnel.* (20 points). The quality of the qualifications and experience of personnel designated to carry out the proposed program.

(20 U.S.C. 887c(e).)

§ 187.43 Priority. (35 points)

In considering applications under this subpart, the Commissioner, in addition to the points awarded in § 187.42; will give:

(a) A 25-point priority rating to applications from Indian tribes, Indian institutions, and Indian organizations; and

(b) A 10-point priority to programs that are not less than statewide in scope.

(20 U.S.C. 887c(f).)

§ 187.44 Applications.

An application requesting assistance under this subpart must:

(a) Designate that the application is for consideration under Subpart E of these regulations;

(b) Address all criteria for this subpart;

(c) Complete such forms as may be required by the Commissioner;

(d) Provide a complete program design which sets forth:

(1) The problems and needs to be addressed and the methods by which the problems or needs were determined;

(2) The objectives of the program stated in concise, measurable, or quantifiable terms. These objectives must be projected as attainable in the proposed time frames, and must meet the needs or eliminate the problems; and

(3) The activities, or milestones, through which the applicant plans to attain its stated program objectives;

(e) Designate the requested length of the program which may be for a maximum of three years. Program designs must set forth the objectives and activity plans for each of the years requested in the application;

(f) Outline, by job category, the composition of the proposed staff;

(g) Include resumes of the professional staff. (In cases where professional positions are vacant, job descriptions must be submitted);

(h) Present a budget, by category and appropriate category breakdowns, for the program. (In the case of a multiyear program, the budget breakdown presented in the application shall be for the current one year funding request. In addition, the applicant shall project only the total cost of each subsequent year outlined in the program design);

(i) Include a description of the proposed administration and line of authority which would ensure efficient administration of the program;

(j) Include plans for an independent and objective evaluation of the effectiveness of the program in achieving its purposes and the purpose of this subpart; and

(k) Include other information and assurances which the Commissioner may require.

(20 U.S.C. 887c.)

Subpart F—Educational Personnel Training Programs

§ 187.51 Eligible applicants and authorized activities.

Institutions of higher education and State and local educational agencies in combination with institutions of higher education may apply for grants to assist them in carrying out programs to prepare persons to serve Indian children as teachers, teacher aides, social workers, or ancillary educational personnel, and to improve the qualifications of persons serving Indian children in those capacities. Under the programs authorized by this section, preference must be given to the training of Indians.

(20 U.S.C. 887c (a) (3) and (d).)

Programs authorized under this subpart include, but are not limited to; programs to:

(a) Train or retrain teachers, supervisors, or trainers of teachers in any subject generally taught in the schools;

(b) Train teacher aides and other ancillary educational personnel;

(c) Prepare teachers and ancillary educational personnel to meet the special needs of handicapped students;

(d) Train or retrain persons to serve in bilingual-bicultural programs; and

(e) Provide training for school administrators;

(20 U.S.C. 887c(a) (3).)

§ 187.52 Allowable costs.

Funds for programs under this subpart may be used only to pay the cost of:

(a) Regular session programs;

(b) Short-term institutes;

(c) Other preservice and inservice training programs designed to improve the qualifications of persons entering and reentering the field of elementary and secondary education, except that funds may not be used for seminars, symposia, workshops, or conferences unless they are part of a continuing program of inservice or preservice training; and

(d) Stipends and allowances for dependents applicable to the activities listed above.

(20 U.S.C. 887c.)

§ 187.53 Criteria.

In considering whether to approve applications submitted under this subpart, and in determining the amount of the awards, all applications will be evaluated against the following criteria. The number of points which may be awarded for each category of criteria is indicated in parentheses next to that category. The maximum number of points which can be awarded is 100.

(a) *Need.* (0 to 20 points). The need for the type of educational personnel for which the training is to be provided, as indicated by a survey of Indian educational personnel needs in the area to be served.

(b) *Program design.* (0 to 30 points.) The quality of the program design as indicated by such factors as:

(1) The extent to which there is evidence of cooperative planning and the maximum use of financial, physical, and human resources of the educational agencies and institutions involved;

(2) The extent to which the program incorporates innovative concepts and techniques designed to meet current problems experienced in schools serving Indian children;

(3) The likelihood that the training will be applied to meet the educational needs of Indian children;

(4) The degree to which the training will involve educational approaches which take into account the culture and heritage of Indian children;

(5) The degree to which the training program will focus on approaches, methods, and techniques which are pertinent to the education of Indian children;

(6) Reasonableness of estimated cost in relation to anticipated results; and

(7) Sufficiency of program size, scope, and duration so as to achieve productive results.

(c) *Objectives.* (0 to 10 points.) (1) The extent to which the objectives of the proposed program are sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured; and

(2) The extent to which the projected activity plan or milestones clearly outline all the necessary major steps to be taken in order to achieve each objective.

(d) *Evaluation and dissemination design.* (0 to 15 points.) The quality of the evaluation and dissemination design as indicated by such factors as:

(1) The soundness of the evaluation design as to the data to be corrected, methods to be used, and the development of the evaluation tools to be used in objective measurement of the effectiveness of the accomplishments of the program and the projected use of the results for the benefits of the program;

(2) The extent to which provision has been made for disseminating the results of the program and for making materials, techniques, and other outputs available to the general public and, specifically, to those concerned with the area of education with which the program is concerned; and

(3) The expected potential for utilizing the results of the proposed program in other programs for similar educational purposes.

(e) *Organizational capability and institutional commitment.* (0 to 15 points.) The degree of capability and commitment as indicated by such factors as:

(1) The extent to which there is evidence of institutional commitment to support the proposed program;

(2) The extent to which there is expertise, or has been previous experience on the part of the applicant or its personnel, in conducting the type of training for which application for funds is made; and

(3) The extent to which the applicant's past performance has demonstrated the capability to administer and implement like programs as exemplified by achievement of objectives, adherence to grant conditions, general administration and management capability, and the governing board's assumption of responsibility.

(f) *Personnel.* (0 to 10 points.) The quality of the qualifications and experience of personnel designated to carry out the proposed program.

(20 U.S.C. 887c.)

§ 187.54 Priority. (30 points.)

In approving applications under this subpart, the Commissioner will award a 10-point priority rating to each of the following, in addition to the points awarded under § 187.53:

(a) Indian institutions of higher education;

(b) Programs in which Indian participants are working toward degrees at the baccalaureate level or higher; and

(c) Programs which are training a high percentage of Indian participants.

(20 U.S.C. 887c(f).)

§ 187.55 Applications.

An application requesting assistance under this subpart must:

(a) Designate that the application is being made under Subpart F of these regulations;

(b) Address all criteria in this Subpart;

(c) Complete such forms as may be required by the Commissioner;

(d) Provide a complete program design which sets forth:

(1) The problems to be addressed;

(2) The objectives of the program stated in concise, measurable, or quantifiable terms. These objectives must be projected as attainable in the proposed time frames; and

(3) The activities or milestones through which the applicant plans to attain its stated objectives;

(e) Outline, by job category, the composition of the proposed staff;

(f) Include resumes of the professional staff. (In cases where professional positions are vacant, job descriptions must be submitted);

(g) Present a budget, by category, and appropriate category breakdowns, for the program. (In the case of a multiyear program, the budget presented in the application shall be for the current, one year funding request. In addition, the applicant shall project only the total cost of each subsequent year outlined in the program design);

(h) Submit a description of the proposed administration and line of authority which would provide for proper and efficient administration and management;

(i) Designate the number and percentage of persons to be trained who are Indian;

(j) Include plans for an independent and objective evaluation of the effectiveness of the program in achieving its purposes and the purposes of this subpart;

(k) (1) Make provision for the participation on an equitable basis of Indian children in the area to be served who are enrolled in private nonprofit elementary and secondary schools and whose needs are of the type which the program is intended to meet, consistent with the number of these children; and

(2) Include documentation of the number of these children.

(20 U.S.C. 887c(f).)

(l) Must designate the requested length of the which may be for a maximum of three years. Program designs must set forth the objectives and activity plans for each of the years requested in the application; and

(m) Provide other information and assurances which the Commissioner may require.

(20 U.S.C. 887c.)

Subpart G—Special Educational Training Programs for Educators of Indian Children

§ 187.61 Eligible applicants and authorized activities.

Institutions of higher education, Indian organizations, and Indian tribes may apply for assistance (by grant or contract) in order to prepare individuals for teaching in or administering special programs designed to meet the special educational needs of Indian children, or provide inservice training for persons already teaching in those programs.

Programs authorized under this subpart include, but are not limited to, programs to:

(a) Train or retrain teachers, supervisors, or trainers of teachers in any subject generally taught in the schools;

(b) Train teacher aides and other ancillary educational personnel;

(c) Prepare teachers and ancillary educational personnel to meet the special needs of handicapped students;

(d) Train or retrain persons to serve in bilingual-bicultural programs; and

(e) Provide training for school administrators.

(20 U.S.C. 887c–1.)

§ 187.62 Allowable costs.

Funds for programs under this subpart may be used only to pay the cost of:

(a) Regular session programs;

(b) Short-term institutes;

(c) Other preservice and inservice training programs designed to improve the qualifications of persons entering and reentering the fields of elementary and secondary education, except that funds may not be used for seminars, symposia, workshops, or conferences unless they are part of a continuing program of inservice or preservice training; and

(d) Stipends and allowances for dependents applicable to the activities listed above.

(20 U.S.C. 887c.)

§ 187.63 Criteria.

In considering whether to approve applications submitted under this subpart, and in determining the amount of the awards, all applications will be evaluated against the following criteria. The number of points which may be awarded for each category of criteria is indicated in parenthesis next to that category. The maximum number of points which may be awarded is 100.

(a) *Need.* (0 to 20 points). The need for the type of educational personnel for which the training is to be provided, as indicated by a survey of Indian educational personnel needs in the area to be served.

(b) *Program design.* (0 to 30 points). The quality of the program design as indicated by such factors as:

(1) The extent to which there is evidence of cooperative planning and the maximum use of financial, physical, and human resources and competencies of the educational agencies and institutions involved;

(2) The extent to which the program incorporates innovative concepts and techniques designed to meet current problems experienced in schools serving Indian children;

(3) The likelihood that the training will be applied to meet the educational needs of Indian children;

(4) The degree to which the training will involve educational approaches which take into account the culture and heritage of Indian children;

(5) The degree to which the training program will focus on approaches, methods, and techniques which are pertinent to the education of Indian children;

(6) Reasonableness of estimated cost in relation to anticipated results; and

(7) Sufficiency of program size, scope, and duration so as to achieve productive results.

(c) *Objectives.* (0 to 10 points.) The quality and soundness of the objectives as indicated by such factors as:

(1) The extent to which the objectives of the proposed program are sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured; and

(2) The extent to which the projected activity plan or milestones clearly outline all the necessary major steps to be taken in order to achieve each objective.

(d) *Evaluation and dissemination design.* (0 to 15 points.) The quality of the evaluation and dissemination design as indicated by such factors as:

(1) The quality of the evaluation design as indicated by the data to be collected, methods to be used, and the development of the evaluation tools to be used in the objective measurement of the effectiveness of the accomplishments of the program and the projected use of the results for the benefit of the program;

(2) The extent to which provision has been made for disseminating the results of the program and for making materials, techniques, and other outputs available to the general public and, specifically, to those concerned with the area of education with which the program is concerned; and

(3) The expected potential for utilizing the results of the proposed program in other programs for similar educational purposes.

(e) *Organizational capability and institutional commitment.* (0 to 15 points.) The capability and commitment as indicated by such factors as:

(1) The extent to which there is evidence of institutional commitment to support the proposed program; and

(2) The extent to which there is expertise, or has been previous experience on the part of the applicant or its personnel in conducting the type of training for which application for funds is made; and

(3) The extent to which the applicants past performance has demonstrated the capability to administer and implement like projects as exemplified by achievement of objectives, adherence to grant conditions, general administration and management capability, and the governing boards assumption of responsibility.

(f) *Personnel.* (0 to 10 points.) The qualifications and experience of personnel designated to carry out the proposed program.

(20 U.S.C. 887c–1.)

§ 187.64 Priorities. (30 Points.)

In approving applications under this subpart, the Commissioner will, in addition to the points awarded under the § 187.63, award a 10-point priority rating to each of the following:

(a) Indian tribes, Indian organizations, and Indian institutions of higher education;

(b) Programs in which Indian participants are working toward degrees at the baccalaureate level or higher; and

(c) Programs which are training a high percentage of Indian participants.

(20 U.S.C. 887c(f).)

§ 187.65 Applications.

An applicant requesting assistance under this subpart must:

(a) Designate that application is being made under Subpart G of these regulations;

(b) Address all criteria for this subpart;

(c) Complete such forms as may be required by the Commissioner;

(d) Provide a complete program design which sets forth:

(1) The problems to be addressed;

(2) The objectives of project or program stated in concise, measurable, or quantifiable terms. These objectives must be projected as attainable in the proposed time frames; and

(3) The activities or milestones through which the applicant plans to attain its stated objectives;

(e) Outline, by job category, the composition of the proposed staff;

(f) Include resumes of the professional staff. (In cases where professional positions are vacant, job descriptions must be submitted);

(g) Present a budget, by category, and appropriate category breakdowns, for the program. (In the case of a multi-year program, the budget presented in the application shall be for the current, one-year funding request. In addition, the applicant shall project only the total cost of each subsequent year outlined in the program design);

(h) Submit a description of the proposed administration and line of authority which would provide for proper and efficient administration and management;

(i) If the applicant is other than an institution of higher education and intends to administer a preservice training program, submit information and assurances which document that an arrangement has been made whereby an institution of higher education has agreed to provide the training in a manner previously specified by the applicant;

(j) Designate the number and percentage of persons to be trained who are Indian;

(k) Include plans for an independent and objective evaluation of the effectiveness of the program in achieving its purposes and the purposes of this subpart;

(l) Designate the requested length of the program which may be for a maximum of three years. Program designs must set forth the objectives and activity plans for each of the years requested in the application; and

(m) Provide other information and assurances which the Commissioner may require.

(20 U.S.C. 887c).

§ 187.66 Educational personnel fellowships.

(a) *Eligible applicants and authorized activities.* (1) The Commissioner is authorized to award fellowships to individuals and to make grants to and enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for cost of education allowances for the purpose of preparing these individuals for teaching or administering special programs designed to meet the special educational needs of Indian children.

(2) In awarding fellowships under this section, the Commissioner shall give preference to Indians.

(b) *Applicable regulations.* In the case of educational personnel fellowships, the governing regulations shall be the same as those under Subpart H of these regulations, except that fellowships may be awarded in the field of education under this subpart

(20 U.S.C. 887(c).)

Subpart H—Indian Fellowship Program

§ 187.71 Eligible applicants and authorized activities.

(a) An Indian who is in attendance, or who has been accepted for admission, as a full time student at an institution of higher education for study in a graduate or professional program may apply for a fellowship under this subpart. The applicant's program of study must be one of not less than three nor more than four academic years and provide a professional or graduate degree in engineering, medicine, law, business, forestry, or a field related to one of these areas.

(b) Applicants in the fields of medicine or law must be entering at a level not lower than the first year of medical school or law school, whichever is applicable.

(c) The Commissioner will determine which programs of study are related to one of the five areas specifically designated in paragraph (a) of this section.

(20 U.S.C. 887c-2)

§ 187.72 Allowable costs.

(a) The Commissioner shall pay, to persons awarded fellowships under this subpart, stipends and dependency allowances.

(b) The Commissioner shall pay, to the institution of higher education at which a fellow is pursuing a course of study, the cost of the education allowance for the fellow.

(c) Payments for stipends and allowances for dependents referred to in this subpart shall be made to the institution of higher education which the fellow attends or to the fellow.

(d) A fellow may not hold a fellowship concurrently with another award (fellowship, assistantship, scholarship or similar award) which duplicates provisions of the award or gives financial assistance beyond the level of need as determined by the Commissioner. Further, a fellow cannot receive additional educational remuneration from the Veterans Administration (Veterans Readjustment Benefits Act of 1966, Pub. L. 89-358) beyond the level of need as determined by the Commissioner. A fellow may, however, accept loans from Federal funds. (*U.S. v. James E. Fulton, Jr., M.D.*, U.S.D.C., Southern District of Florida, Case No. 75-1225).

§ 187.73 Criteria for selection of fellows and alternates.

In considering whether to approve applications under this subpart and in determining amounts of awards, the Commissioner will (a) Subject to § 187.74(a), make an appropriate distribution of funds among the areas of study (engineering, medicine, law, business, and forestry) based upon anticipated needs in these areas, with the result that an application within an area of study will generally compete only against other applications within the same area of study; and (b) Take into account the following criteria. The number of points which may be awarded under each category is listed in parentheses. The maximum number of points which can be awarded is 100.

(1) *Need.* (0 to 10 points). The extent to which the application demonstrates the financial need of the applicant as determined by such indicators or statements as the Commissioner may require on the application form.

(2) *Academic record.* (0 to 30 points). The academic record of the applicant, as indicated by transcripts of the individual's education: (a) At the secondary and undergraduate level in the case of applicants who are in undergraduate school; and

(b) At the undergraduate and (if applicable) post-baccalaureate level in the case of an applicant who is in law school, medical school, or graduate school.

(3) *Other evidence of potential success.* (0 to 30 points). Other evidence submitted by the applicants indicating their potential for success in their chosen profession. This evidence may include job experience, community service, references, and other areas as requested by the Commissioner.

(4) *Service to Indians.* (0 to 30 points). Evidence submitted by the applicants indicating that, upon earning their degrees, they are likely to provide services to Indians. This evidence may include personal references, endorsement by tribes or Indian groups, and past employment and community experience.

(20 U.S.C. 887c-2)

§ 187.74 Priorities.

(a) In approving applications under this subpart, the Commissioner shall, if there are sufficient numbers of approvable applications, award not less than five percent of the fellowships for any fiscal year to applicants in each of the following areas of study: engineering, medicine, law, business, and forestry.

(b) In addition to the points awarded under § 187.73, the Commissioner shall award additional points within each area of study for each year of postsecondary study completed by the applicant. The points will be awarded as follows:

(1) 3 points will be awarded to an applicant who has completed one year of postsecondary study;

(2) 6 points will be awarded to an applicant who has completed two years of postsecondary study;

(3) 9 points will be awarded to an applicant who has completed three years of postsecondary study;

(4) 15 points will be awarded to an applicant who has completed four years of postsecondary study;

(5) 18 points will be awarded to an applicant who has completed five years of postsecondary study;

(6) 21 points will be awarded to an applicant who has completed six years of postsecondary study; and

(7) 24 points will be awarded to an applicant who has completed seven or more years of postsecondary study.

(20 U.S.C. 887c-2)

§ 187.75 Designation of alternate fellows.

In the event that recipients of fellowships decline their fellowships or discontinue their courses of study before their fellowship period has elapsed, the Commissioner will establish a rank order of as many successful applicants for fellowships for any fiscal year and in as many categories of study as the Commissioner may deem appropriate, for the purpose of designating alternate recipients of fellowships for the unused portion.

(20 U.S.C. 887c-2)

§ 187.76 Applications.

An individual's application for a fellowship under this subpart shall be submitted to the Commissioner and shall be in such form as the Commissioner may require. No application may be submitted unless it includes the following:

(a) The applicant's name, permanent address, statement that the applicant is an Indian (as the term is defined in § 187.2), and the names and relationships of dependents;

(b) Evidence that the applicant is in attendance or has been accepted for admission as a full time student at an institution of higher education which is, or will be, during the period for which the applicant is applying for a fellowship, conducting a program of study described in § 187.71(a) except that:

(1) An individual who has not yet been accepted for admission may submit an application which may be considered by the Commissioner, provided that the individual is accepted by an institution by a subsequent date to be specified by the Commissioner; and

(2) The Commissioner may, in an appropriate case, require, as a condition for approval of an application, evidence that the applicant will be attending an accredited program of study as described in § 187.71(a);

(c) Copies of transcripts referred to in § 187.72(b) and evidence described in § 187.72 (c) and (d);

(d) Information the Commissioner may require in order to determine the amount of a cost of education allowance for a fellowship holder;

(e) Financial information as required by the Commissioner in the application form; and

(f) Other information and assurances the Commissioner may require.

(20 U.S.C. 887c-2)

§ 187.77 Responsibilities of fellows.

All fellows shall be responsible for: (a) Submitting to the Office of Education copies of their official grade reports at the close of each quarter or semester, whichever is applicable; and

(b) Reporting to the Office of Education any interruption of their studies.

(20 U.S.C. 887c-2)

§ 187.78 Continuation of fellowships.

(a) Fellowships funded under this part may be for up to four year's duration;

(b) If the application demonstrates to the Commissioner's satisfaction that multi-year support is needed, the Commissioner may, in the initial notification of fellowship award, indicate an intention to assist the fellow for up to three successive years through continuation awards;

(c) Continuation awards may be made to fellows, subject to the restriction in paragraph (a) of this section and to the availability of funds;

(d) Applications for continuance awards will be reviewed on a noncompetitive basis to determine:

(1) If the fellow has complied with the award terms and conditions, the Act, and any applicable regulations; and

(2) If the fellow has remained a student in good standing at the university being attended.

§ 187.79 Discontinuation of fellowships.

(a) The Commissioner may discontinue a fellowship for reasons deemed appropriate by the Commissioner, including: (1) Unexcused interruption of study;

(2) Unauthorized use of fellowship funds; and

(3) Grade reports that indicate failure by a fellow.

(b) If the Commissioner decides to discontinue a fellowship, the Commissioner will do so only after providing reasonable notice and an opportunity for the fellow to rebut, in writing or in an informal meeting with the responsible official of the U.S. Office of Education, the basis for the decision.

(20 U.S.C. 887c-2)

Subpart I—Administrative Standards

§ 187.81 Administrative requirements.

For all grants or contracts awarded under Subparts B through G, the recipients' governing body shall be responsible for setting policies and monitoring and ensuring adherence to the following administrative standards:

(a) *General provisions.* Assistance under this part is subject to applicable provisions contained in 45 CFR Part 100a, except that 45 CFR 100a.26(b) shall not apply and to the extent that more specific requirements are stated in these regulations.

(b) *Reporting.* The recipient shall submit semi-annual financial and program progress reports. The format and due date of those reports shall be prescribed by the Commissioner.

(45 CFR 100a.403(c))

(c) *Audit* (1) The recipient shall arrange for an audit by an independent auditor. These audits must be performed for each grant period that an award is made. Copies of the audit must be submitted to the Commissioner in accordance with instruction issued by the Commissioner.

(2) Audits under this paragraph must be in accordance with generally accepted auditing standards and must be performed by: (i) a licensed independent certified public accountant; or (ii) a public accountant licensed to practice on or before December 31, 1970.

(d) *Evaluation.* (1) The recipient shall arrange for and submit to the Commissioner an independent and objective evaluation which shall include, as a minimum, the following:

(i) A comparison of actual accomplishments to the objectives established;

(ii) Reasons for variance in those cases where objectives were not met;

(iii) Adherence to administrative standards as set forth by the recipient governing board and 45 CFR Part 100a; and

(iv) The performance of the recipient's governing board in its assumption and disposition of its responsibilities relative to the award.

(2) The recipient will cooperate with any evaluation conducted or arranged by the Commissioner.

(45 CFR 100a.276)

(20 U.S.C. 887c)

§ 187.82 Conflict of interest and nepotism.

The recipient will establish procedures which prohibit: (a) Conflict of interest. A recipient shall establish or adopt rules to assure that employees or individuals participating in a program funded under this part shall not use their position for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family business, or other ties.

(b) *Nepotism.* (1) No recipient shall hire or permit the hiring of any individual in a position funded in whole or in part under this part of a member of that individual's immediate family is employed by the grantee in an administrative capacity or that individual or a member of that individual's family is on the governing board.

(2) The Commissioner may waive the requirement of paragraph (1) above when a grantee cannot adequately staff the positions without hiring more than one person from the same immediate family. A grantee shall demonstrate that no other individuals within its community or service area are qualified or available for employment. The Commissioner may also waive the requirement of paragraph (1) when it is deemed a waiver will further the purposes of the Act.

(45 CFR 1336.54)

(c) *Salaries and wages.* Salaries and wages paid must be comparable to the

salaries and wages paid in the local area for similar jobs.

(20 U.S.C. 887c)

§ 187.83 Documents and procedure policies.

(a) The grantee shall have on file, and submit on request: articles of incorporation, and/or constitution and bylaws, personnel policies and procedures, travel policies and regulations, financial management procedures, property management procedures, organizational duty and responsibility charts and manual, and job descriptions.

(b) If these policies have been developed for other programs, the grantee may extend, by formal resolution, the applicability of these administrative standards to the program awarded under this Act.

(20 U.S.C. 887c)

§ 187.84 Violation of grant terms and conditions.

When a grantee has materially failed to comply with the terms and conditions of a grant, the Commissioner may suspend or terminate the grant for cause, or take such other remedies as may be legally available and appropriate in the circumstances under procedures set forth in § 100a.495 of this chapter.

(20 U.S.C. 887c; 20 U.S.C. 1221c(b)(1))

[FR Doc.77-18446 Filed 6-27-77;8:45 am]

PART 188—INDIAN EDUCATION ACT (PART C)

Adult Education Projects

AGENCY: U.S. Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This document amends the regulation as required by the Education Amendments of 1974 for the planning of pilot and demonstration projects to test and demonstrate the effectiveness of adult education programs for Indians and to govern support for survey, dissemination, and evaluation projects related to these programs.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Lawrence J. LaMoure, Director, Division of Special Projects and Programs, Room 2161, Federal Office Building 6, 400 Maryland Avenue, SW., Washington, D.C. 20202, 202-245-7525.

SUPPLEMENTARY INFORMATION: Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on March 25, 1977 at 42 FR 16272 which set forth a comprehensive amendment of Part 188 of Title 45 of the Code of Federal Regulations. Interested parties were given 30 days to submit comments, suggestions, or objections. Only one letter containing five suggestions and comments was received. These comments are discussed below.

1. *Comment.—Definitions § 188.2.* The commenter suggested that the definition of "adult education" be changed from services to those who (1) do not have a certificate of graduation and have not achieved an equivalent level, "*and* (emphasis supplied), (2) are not currently required to be enrolled in schools," so that these two tests are stated as alternatives.

Response. Since the definition of "adult education" is taken directly from the "Adult Education Act" (20 U.S.C. 1202(b)) it cannot be changed as suggested.

2. *Comment.—Eligibility and authorized activities for planning, pilot, and demonstration projects § 188.5(b)(2).* The commenter suggested that the description of the authorized activity to assist programs designed to provide: "high school equivalency opportunities in the shortest period of time feasible," be changed to read, "in a manner most adequate and feasible to meet the needs of the Indian individual and/or community."

Response. This language also was taken directly from the "Adult Education Act" (20 U.S.C. 1211a(a)) and should not be changed by regulation. However, since the individuals to be served and the Indian community must be involved in the planning, development, and implementation of each project, as required by § 188.8, the commenter's concern appears to be adequately addressed.

3. *Comment.—Evaluation § 188.10(b).* The commenter requested a clarification of the statement, ". . . the applicant will cooperate with any evaluation conducted or arranged by the Commissioner," in § 188.10(b).

Response. In meeting the responsibility to determine the effectiveness of programs funded by the Office of Education, the Commissioner often conducts directly or through contract an evaluation of an entire program or projects thereunder. If such an evaluation is conducted for Part C of the Indian Education Act, award recipients would have to provide information and materials requested by the evaluators. Apart from any such evaluation, the applicants are responsible for having an "independent and objective" evaluation done on their individual project as set forth in § 188.10(a).

4. *Comment.—Community Participation § 188.15(c)(2).* The commenter suggested the criterion concerning participation of the Indian community in §188.15(c)(2) be changed to relate to participation by potential project participants.

Response. No change has been made in the regulation. The Indian Education Act, Part C (20 U.S.C. 1211a) requires that both the individuals to be served and the communities be involved in the planning, development, operation, and evaluation of the project. Section 188.15 (c) relates to both groups.

5. *Comment.—Dissemination § 188.15 (e).* The commenter requested a clarification of the requirements for dissemination and suggested they be applied to innovative, research, or demonstration projects.

Response. No change has been made in the regulation. The nature of the dissemination effort should necessarily vary with the complexity of the project. Part C projects often involve innovation, research, and demonstration, and comprehensive dissemination is an essential aspect of these projects.

6. Section 188.3(c) concerning independent audits has been amended to reflect standards of the Comptroller General.

7. Part 188 is adopted to read as set forth below.

AUTHORITY: This regulation is issued under the authority of the Indian Education Act, Title IV of Pub. L. 92-318, as amended by Part C of Title VI of Pub. L 93-380.

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

Dated: June 10, 1977.

ERNEST L. BOYER,
Commissioner of Education.

Approved: June 21, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Number 13.536, Adult Indian Education.)

TITLE 45 IS AMENDED BY REVISING PART 188 IN ITS ENTIRETY TO READ AS SET FORTH BELOW:

Subpart A—Scope; Definitions; General Provisions; Applicability of Section 7(b) of the Indian Self-Determination and Education Assistance Act of 1975

Sec.
188.1 Scope.
188.2 Definitions.
188.3 General provisions and administrative standards.
188.4 Applicability of section 7(b) of the Indian Self-Determination and Education Assistance Act of 1975.

Subpart B—Applications for Financial Assistance

188.5 Eligibility and authorized activities for planning, pilot, and demonstration projects.
188.6 Eligibility and authorized activities for dissemination and evaluation projects.
188.7 Applications.
188.8 Community participation.
188.9 Indian preference.
188.10 Evaluation.
188.11 Continuation awards.
188.12 Capacity to carry out the project.

Subpart C—Criteria and Priorities for Assistance

188.15 Criteria for planning, pilot, and demonstration projects.

Sec.
188.16 Additional criteria for survey and evaluation projects.
188.17 Priorities.

AUTHORITY: Sec. 314, Pub. L. 89-750, as amended, 86 Stat. 342 (20 U.S.C. 1211a), unless otherwise noted.

Subpart A—Scope; Definitions; General Provisions; Applicability of section 7(b) of the Indian Self-Determination and Education Assistance Act

§ 188.1 Scope.

(a) This part governs the provision of assistance to State and local educational agencies, to Indian tribes, Indian institutions, and Indian organizations, and to public agencies and institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for adult Indians under section 314 of the Adult Education Act as added by section 431 of the Indian Education Act, title IV of Public Law 92-318).

(b) Assistance provided under this part is subject to applicable provisions contained in section 303 of the Adult Education Act (20 U.S.C. 1202) and regulations thereunder.

(20 U.S.C. 1211a.)

§ 188.2 Definitions.

"Act" means section 314 of the Adult Education Act 20 U.S.C. 1201).

(20 U.S.C. 1211a.)

"Adult" means any individual who has attained the age of 16.

(20 U.S.C. 1202(a).)

"Adult education" means services or instruction below the college level, for adults who (1) do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, and (2) are not currently required to be enrolled in schools.

(20 U.S.C. 1202(b).)

"Educational model" means a pilot or demonstration project that has a structured program design which offers innovative alternatives to meet the educational needs of the adult Indian. The program design may be structured around one or more curriculum units or support services. The needs and resources of the community are to be included in the development of the educational model to ensure maximum benefit to the student and the community.

"Indian institution" means a preschool, elementary, secondary or postsecondary school established for the promotion of education of Indians which is:

(a) Controlled by a governing body, the majority of which is Indian; and

(b) If located on an Indian reservation, operates with the sanction or by charter of that Tribe(s).

"Indian organization" means an organization which:

(a) Is legally established, by Tribal charter or in accordance with State law with appropriate Constitution, By-laws and/or Articles of Incorporation;

(b) Has the primary purpose of promoting the educational, economic, or social self-sufficiency of Indians;

(c) Has a governing board and membership composed of a majority of Indians;

(d) If located on an Indian reservation, operates with the sanction or by charter of that Tribe(s);

(e) If affiliated with a college or university, such affiliation must not limit the service area or Indian community involvement to staff and students of that college or university; and

(f) Is not an organization or subdivision of any college or university, or (which) is not directly under the control of the university or college (such organizations are not considered Indian organizations for the purposes of this part).

"Life coping skills" means skills that will enable adults to meet their daily needs or will improve their lives economically or improve their functional competency. These skills may include instruction in consumer education, management skills, health education, occupational skills, or information related to legal problems.

"Indian" means any individual, living on or off a reservation, who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native.

(20 U.S.C. 1221h.)

§ 188.3 General provisions and administrative standards.

For all grants or contracts awarded under this part, the recipient's governing body shall be responsible for setting policies, monitoring and ensuring adherence to the following administrative standards:

(a) *General provisions.* Assistance under this part is subject to applicable provisions contained in subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters) except 45 CFR 100a.26(b), and except to the extent that more specific requirements are stated in these regulations.

(b) *Reporting.* The grantee shall submit semi-annual financial and program progress reports. The format and due date of such reports shall be prescribed by the Commissioner.

(c) *Audit* (1) the grantee shall arrange for an audit by an independent auditor. These audits must be performed for each grant period that an award is made. Copies of the audit must be submitted to the Commissioner in accordance with instructions issued by the Commissioner.

(2) Audits under this paragraph must be in accordance with generally accepted auditing standards and must be performed by: (i) a licensed independent certified public accountant; or (ii) a public accountant licensed to practice on or before December 31, 1970.

(20 U.S.C. 1211a.)

(45 CFR Subchapter A.)

§ 188.4 Applicability of section 7(b) of the Indian Self-Determination and Education Assistance Act.

Assistance under this part is subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) and any regulations promulgated thereunder, to the extent that such statutory provision and regulations are by their terms applicable to assistance under this part. Section 7(b) provides for preference to Indians, in the contexts of training and employment and the awarding of subcontracts and subgrants, in connection with assistance under Federal legislation for the benefit of Indians.

(25 U.S.C. 450e(b).)

Subpart B—Applications for Financial Assistance

§ 188.5 Eligibility and authorized activities for planning, pilot, and demonstration projects.

State educational agencies (as defined in 20 U.S.C. 1202(g)) and local educational agencies (as defined in 20 U.S.C. 1202(e)), and Indian tribes, institutions, and organizations may apply for grants to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians. Such projects may be designed: (a) To test and demonstrate the effectiveness of programs to improve employment and educational opportunities; (b) to assist in the establishment and operation of programs designed to stimulate the provision of: (1) Basic literacy opportunities to all nonliterate Indian adults, and (2) high school equivalency opportunities in the shortest period of time feasible; (c) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals; (d) to provide for basic surveys (and evaluations of such surveys) to define accurately the extent of the problems of illiteracy and lack of high school completion on Indian reservations; and (e) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

(20 U.S.C. 1211a(a).)

§ 188.6 Eligibility and authorized activities for dissemination and evaluation projects.

The Commissioner may also make grants to, and contracts with, public agencies and institutions, and Indian tribes, institutions, and organizations for: (a) The dissemination of information concerning educational programs, services, and resources available to

Indian adults, including evaluations thereof; and (b) the evaluation of the effectiveness of federally assisted programs (in which Indian adults may participate) in achieving their purposes with respect to such adults.

(20 U.S.C. 1211a(b).)

§ 188.7 Applications.

Any party eligible for assistance under this part may submit an application therefor on such forms as may be prescribed by the Commissioner. Such application shall set forth (a) the problem to be addressed; (b) the overall objectives of the proposed project; (c) the activities to be carried out; (d) the manner in which the proposed project carries out the purpose, as set forth in § 188.5, or § 188.6 to which it relates; (e) the type and size of the staff envisioned; (f) the amount of the assistance being requested; and (g) such other information as the Commissioner may require. The description of the proposed project in such application shall also include a specific discussion of the manner in which such project relates to the applicable criteria set forth in subpart C of this part. The application shall also provide for such methods of administration as are necessary for the proper and efficient administration of the project for which assistance is requested.

(20 U.S.C. 1211a(c).)

§ 188.8 Community participation.

Applications submitted under § 188.5 or § 188.6 must describe the manner in which individuals to be served and tribal communities (a) participated in the planning and development of the project, and (b) will be actively participating in the further planning, development, operation, and evaluation of the project. (See section 314(c) of the Act.)

(20 U.S.C. 1211a(c).)

§ 188.9 Indian preference.

In approving applications under § 188.5 and § 188.6 the Commissioner will give priority to applications submitted by Indian educational agencies, organizations, and institutions.

(20 U.S.C. 1211a(c).)

§ 188.10 Evaluation.

An application under this part must contain an assurance to the Commissioner that (a) the applicant will arrange for an independent and objective evaluation of the effectiveness of the project in achieving its purposes and the purposes of the act, and (b) the applicant will cooperate with any evaluation conducted or arranged by the Commissioner.

(20 U.S.C. 1211a(c)(2).)

§ 188.11 Continuation awards.

(a) Projects funded under this part may be for up to three years' duration.

(b) If the application demonstrates to the Commissioner's satisfaction that multi-year support is needed to carry out the proposed project, the Commissioner may, in the initial notification of grant award for the project (which shall be for up to a twelve month period), indicate an intention to assist the project for one or two successive years through continuation grants.

(c) Continuation awards may be made to projects described in this section, subject to the restriction in paragraph (a) of this section and to the availability of funds.

(d) Applications for continuation awards will be reviewed on a non-competitive basis to determine:

(1) If the award recipient has complied with the award terms and conditions, the Act, and any applicable regulations; and

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

(20 U.S.C. 1211a.)

§ 188.12 Capacity to carry out the project.

Notwithstanding the specific evaluation criteria in the remainder of this part, the Commissioner will not fund an application under this part unless the Commissioner is satisfied that the applicant has the capacity successfully to carry out the project.

(a) In making this judgment, the Commissioner will consider such factors as:

(1) Both the programmatic and financial management capacities of the applicant organization and its staff;

(2) Past performance by the applicant:

(i) In carrying out any prior grant under this part, or

(ii) In carrying out similar projects with respect to such matters as achievement of objectives, adherence to the project conditions, programmatic and financial management, and the governing board's assumption of responsibility;

(3) Adequacy of facilities and other resources, including consideration of any litigation or dispute which calls into question the continued availability of the facilities and resources to the applicant; and/or

(4) Consideration of local community factors which may prevent the successful operation of the grant.

(b) If the Commissioner decides not to fund an application based upon this section, the Commissioner will do so only after providing reasonable notice and an opportunity to the applicant to rebut, in writing or in an informal meeting with program administrators of the U.S. Office of Education, the basis for the decision.

(20 U.S.C. 1211a.)

Subpart C—Criteria and Priorities for Assistance

§ 188.15 Criteria for planning, pilot, and demonstration projects.

In considering whether to fund applicants and in determining the amount of the award under an approved application submitted under this section and eligible for assistance under § 188.5, the Commissioner will use a point system to evaluate applications for assistance under this part. The maximum aggregate number of points which can be awarded under this section is 100. The Commissioner will evaluate applications under the criteria below, and will award points as indicated by the range in parentheses.

(a) *Need for assistance.* (0–20 points) The Commissioner may award points on the extent to which an application contains evidence of need. Need for assistance may be indicated in an application by such factors as:

(1) The illiteracy rate among adult Indians in the service population area who are in need of;

(i) Obtaining a General Equivalency Diploma, and

(ii) Training in life coping skills.

(b) *Project design.* (0–35 points) A project design is an applicant's plan to achieve its stated objectives. The quality of the applicant's project design will be evaluated on the extent to which the application:

(1) Sets forth its objectives in a measurable and realistic manner; (0–5 points)

(2) Presents a plan of activities to accomplish each objective; (0–5 points)

(3) Provides a comprehensive plan for instruction in adult education or life coping skills; (0–5 points)

(4) Provides for the effective use of Indian traditions and cultural materials in the project; (0–5 points)

(5) Presents the development of an educational model in adult education or life coping skills; (0–5 points)

(6) Includes a plan to employ quality personnel and staff which will use the services of Indians in implementing adult educational activities; (0–5 points)

(7) Includes evidence that the facilities will be sufficient to implement the project activities. (0–5 points)

(c) *Community Participation.* (0–10 points) The quality of participation of the Indian community will be evaluated on the extent to which the application:

(1) Indicates that the individuals to be served participated in the planning and development of the project; (0–5 points) and

(2) Provides evidence that the Indian community will be actively involved in further planning, implementation and evaluation of the project. (0–5 points)

(d) *Evaluation design.* (0–10 points) The Commissioner will evaluate an application on the extent to which the application sets forth an evaluation design which provides a reliable, comprehensive and measurable assessment of the performance of the project against the stated objectives.

(e) *Dissemination.* (0–5 points) The Commissioner will evaluate an application on the extent to which the application has a plan for comprehensive dissemination of project results to other Indian communities and Indian organizations.

(f) *Administration.* (0–20 points) The Commissioner will evaluate an application on the extent to which the application sets forth:

(1) effective methods of administration; (0–5 points)

(2) effective financial management procedures; (0–5 points)

(3) reasonable costs for services and property for the proposed project and evidence that efforts have been made to minimize funds requested for the purchase of equipment and for personnel normally supported by the applicant; (0–5 points) and

(4) proper procedures for effective coordination of activities under the proposed project with related activities funded under other projects or programs. (0–5 points)

(20 U.S.C. 1211a.)

§ 188.16 Criteria for survey and evaluation projects.

The Commissioner will evaluate and award points to applications submitted under § 188.5(d) for basic surveys and evaluations which define the problems of illiteracy and lack of completion of high school on Indian reservations and for projects under § 188.6 as indicated in this section. In addition to the criteria in § 188.15 (a), (c), (d), (e), and (f) (which total a maximum aggregate of 65 points) the Commissioner will evaluate applications submitted under § 188.5(d) under the criteria in this section. The maximum aggregate number of points which can be awarded uner this section is 35, which when added to the maximum aggregate number of points which can be awarded from the relevant paragraphs of § 188.15, as noted above, equals 100. The Commissioner will evaluate § 188.5(d) and § 188.6 applications on the quality of:

(a) A plan that specifies the development of the survey instrument and data collection system to be used; (0–5 points)

(b) The methods proposed for processing, analyzing, and evaluating the data to be obtained; (0–10 points)

(c) The plan for administration of the survey, including; (0–20 points)

(1) The personnel to be used,

(2) The appropriateness of the sample design,

(3) The practicability of the time schedule to be followed relative to the proposed survey procedures, and

(4) The provision for validation of the results of the survey.

(20 U.S.C. 1211a(a)(4).)

§ 188.17 Priorities. (10–30 points)

In approving applications under this part, the Commissioner, in addition to points awarded under criteria §§ 188.15 and 188.16, will give priority points to:

(a) Applications submitted by Indian Tribes, Indian educational agencies, Indian organizations, and Indian institutions; (20 points) and

(b) Applications which are designed to develop life coping skills for Indian adults. (10 points)

(20 U.S.C. 1211a.)

[FR Doc.77-18447 Filed 6-27-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket 20414, RM 2452, RM 2420, RM 2396]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Harlan and Red Oak, Iowa, and Blair, Nebraska: Changes Made in Table of Assignment; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This document corrects the final rule that appeared at page 29874 in the FEDERAL REGISTER of June 10, 1977 (42 FR 29874).

EFFECTIVE DATE: July 20, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau, (202–632–7792).

SUPPLEMENTARY INFORMATION:

Released: June 21, 1977.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Harlan and Red Oak, Iowa; Blair, Nebraska) Docket No. 20414, RM–2452, RM–2420, RM–2396.

1. Paragraph 6 of the Report and Order, adopted June 2, 1977, and released June 9, 1977, by the Commission, which substituted Channel 285A for 221A at Spencer, Iowa (among other assignment changes) inadvertently omitted the existing Channel 299 assignment at Spencer. That portion of the ordering clause is hereby corrected to include that assignment so as to read:

City	*Channel No.*
Spencer, Iowa	285A, 299

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-14338 Filed 6-27-77;8:45 am]

[FCC 77-416]

PART 87—AVIATION SERVICES

Authorization of Posting of Verified Statement in Lieu of Radio Operator's Original License

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This rule is being amended to authorize the posting of a verified statement (FCC Form 759) in lieu of a radio operator's original license, where the operator stands duty at two or more transmitting systems which are not collocated. This action was initiated by Commission staff after informal inquiries from industry and is intended to alleviate unnecessary inconvenience on the part of subject radio operators in the aviation services.

EFFECTIVE DATE: July 1, 1977

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert McNamara, Safety and Special Radio Services Bureau (202–632–7197).

SUPPLEMENTARY INFORMATION:

Adopted: June 14, 1977.

Released: June 22, 1977.

In the matter of amendment of § 87.97 to authorize the posting of a verified statement (FCC Form 759) in lieu of a radio operator's original license at the place where he is on duty, under certain conditions.

1. Section 87.97 of the Commission's rules requires that the original license of each station radio operator be posted at the place where he is on duty. Although the subject section does provide that in the case of mobile units, the operator's license or verification card is to be kept in his personal possession, no alternative to the posting of the original license is included for the benefit of licensed operators who stand duty at two or more transmitting systems which are not collocated. However, in Part 13 (Commercial Radio Operators) § 13.74 provides that licensed commercial operators on duty at two or more transmitting systems which are not collocated, post either their license or a verified posting statement (FCC Form 759) at each station. Also the use of FCC Form 759 is specifically authorized in a number of radio services, including the maritime services (§ 81.159), where an operator may frequently work at more than one transmitter site.

2. It appears from informal queries from industry that a need exists in the aviation services for the use of the Form 759 verification statement. In that operators in various aviation services may work at more than one transmitter site, it is unnecessary and inconvenient to require such an operator to transport his original license from station to station for posting when his duty assignment changes with some frequency. Therefore, we are amending the rules to specifically authorize the posting of FCC Form 759 by radio operators in the aviation services in lieu of their original license, where appropriate.

3. In that the amendment adopted herein is minor, not restrictive in nature and not of general interest to the public, the prior notice and effective date provisions of 5 U.S.C. 553 are unnecessary.

4. Accordingly, *it is ordered*, That pursuant to the authority contained in Sections 4(i) and 303(l) and (r) of the Communications Act of 1934, as amended, Part 87 of the Commission's rules is

amended effective July 1, 1977, as set forth below.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 87.97 is amended to read as follows:

§ 87.97 Posting operator licenses.

The original license (or FCC Form 759) of each station operator shall be conspicuously posted at the place where he is on duty, or, in the case of mobile units either the license or verification card must be kept in his personal possession: Provided, however, That if the operator on duty holds a restricted radiotelephone operator permit of the card form (as distinguished from the diploma form) he shall not post that permit but shall keep it in his personal possession.

[FR Doc.77-18451 Filed 6-27-77;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Opening of Hatchie National Wildlife Refuge, Tennessee, to Hunting of Big Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule adds Hatchie National Wildlife Refuge to the list of refuge areas open for the hunting of big game, which is published in 50 CFR 32.31. The Director has determined that a harvestable surplus of big game exists, that there is public demand for additional recreational opportunity, and that this action is compatible with the major purposes for which this refuge was established. Hunting will provide for the harvest of a renewable resource and for additional public recreational opportunity.

EFFECTIVE DATE: July 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph H. Town, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20250, telephone number 202-343-2374.

SUPPLEMENTARY INFORMATION: Ralph H. Town is the principal author of this final rule.

On May 5, 1977, there was published (42 FR 22903) a notice of proposed rulemaking adding Hatchie National Wildlife Refuge, Tennessee, to the list of refuge areas which are open for the hunting of big game. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation.

The public was provided a 30-day comment period and was advised that an environmental assessment had been prepared on the proposal and was available for public inspection. No comments were received on the proposed rulemaking.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Accordingly, 50 CFR 32.31 is amended as follows:

§ 32.31 List of open areas: Big game.

TENNESSEE

HATCHIE NATIONAL WILDLIFE REFUGE

Dated: June 21, 1977.

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

[FR Doc.77-18405 Filed 6-27-77;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

Agricultural Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Pear Commodity Committee's Expenses and Rate of Assessment for the 1977–78 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This notice invites written comments on proposed expenses of $535,624 and a rate of assessment of $0.125 per lug box of pears for the functioning of the Pear Commodity Committee for the 1977–78 fiscal period. The committee is established under a Federal marketing order program regulating the handling of fresh pears, plums and peaches grown in California. The regulation would enable the committee to collect assessments from first handlers on all assessable pears handled and to use the resulting funds for its expenses.

DATES: Comments must be received on or before July 11, 1977. Proposed effective dates: March 1, 1977, through February 28, 1978.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: The proposals under consideration were submitted by the Pear Commodity Committee, established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917). This marketing agreement and order regulates the handling of fresh pears, plums and peaches grown in California, and is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposals are as follows:

(a) Expenses that are reasonable and likely to be incurred by the Pear Commodity Committee during the fiscal period from March 1, 1977, through February 28, 1978, will amount to $535,624.

(b) The rate of assessment for the fiscal period, payable by each handler in accordance with § 917.37 is established at $0.125 per No. 29B special lug box of pears or its equivalent in other containers or in bulk.

Terms used herein shall have the same meaning as when used in said amended marketing agreement and order, and "No. 29B special lug box" shall have the same meaning as set forth in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture".

Dated: June 23, 1977.

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

[FR Doc.77-18495 Filed 6-27-77;8:45 am]

[7 CFR Part 924]

HANDLING OF FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

Proposed Rulemaking

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comment relative to a proposed regulation that would require fresh Washington-Oregon prunes from August 1, 1977, through August 31, 1978, to grade U.S. No. 1, except for an off-color allowance and an additional tolerance for defects, and be at least 1¼ inches in diameter. Brooks variety prunes would be exempted from regulatory requirements. A minimum quantity exemption would be provided. These requirements are designed to provide consumers with acceptable quality prunes.

DATES: Comments must be received by July 12, 1977. Proposed effective dates: August 1, 1977, through August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture (202–447–3545).

SUPPLEMENTARY INFORMATION: Consideration is being given to the following proposal, which would limit the handling of fresh prunes by establishing the minimum grade and size recommended by the Washington-Oregon Fresh Prune Marketing Committee, established pursuant to the marketing agreement and Order No. 924, as amended (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file two copies of them with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250 not later than July 12, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations of the Washington-Oregon Fresh Prune Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Fresh shipments of Washington-Oregon Prunes are expected to start on or about August 1, 1977, and to total 19,500 tons compared with 24,471 tons last season. The proposed regulation is designed to prevent the handling of lower quality and smaller size prunes which do not provide consumer satisfaction and to promote orderly marketing in the interest of producers and consumers, consistent with the objective of the act.

The provision which would exempt the Brooks variety of prunes from the regulation would recognize that prunes of this variety are primarily consumed locally, and that the total production of this variety is insignificant compared to the total supply. Also, the provision which would exempt individual shipments, not exceeding 500 pounds, of the Stanley or Merton varieties, would recognize that the production of these varieties is relatively small, and for the most part is consumed locally or is sold for home use and not for resale. The exemption of individual shipments, not exceeding 150 pounds, of any variety other than Stanley or Merton, if sold for home use and not for resale, would recognize that the quantity of prunes likely to be so handled is relatively inconsequential in relation to the total, and it is not practical administratively to regulate the handling of such shipments due to the nearness of the source of supply.

Such proposal reads as follows:

§ 924.315 Prune Regulation 15.

Order. (a) Prune Regulation 14, (41 FR 30585) is hereby terminated on August 1, 1977.

(b) During the period August 1, 1977, through August 31, 1978, no handler shall handle any lot of prunes, except prunes of the Brooks variety, unless:

(1) Such prunes grade at least U.S. No. 1, except that only two thirds of the surface of the prune is required to be purplish color, and such prunes measure not less than 1¼ inches in diameter as measured by a rigid ring: *Provided*, That the following tolerances, by count, of the prunes in any lot shall apply in lieu of the tolerance for defects provided in the United States Standards for Grades of Fresh Plums and Prunes: A total of not more than 15 percent for defects, including therein not more than the following percentage for the defect listed:

(i) 10 percent for prunes which fail to meet the color requirement;

(ii) 10 percent for prunes which fail to meet the minimum diameter requirement;

(iii) 10 percent for prunes which fail to meet the remaining requirements of the grade: *Provided*, That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in the latter amount not more than 1 percent for decay, or

(2) Such prunes are handled in accordance with paragraph (c) of this section.

(c) Notwithstanding any other provision of this regulation, any individual shipment which, in the aggregate, does not exceed 500 pounds net weight, of prunes of the Stanley or Merton varieties of prunes, or 150 pounds net weight, of prunes of any variety other than Stanley or Merton varieties of prunes, which meets each of the following requirements may be handled without regard to the provisions of paragraph (b) of this section, and of §§ 924.41 and 924.55:

(1) The shipment consists of prunes sold for home use and not for resale, and

(2) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(d) The term "U.S. No. 1" shall have the same meaning as when used in the United States Standards for Fresh Plums and Prunes (7 CFR 51.1520–51.1538); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (June 5, 1972) and in the Oregon State Department of Agriculture Standards for Italian Prunes (July 15, 1972); the term "diameter" means the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

Dated: June 23, 1977.

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

[FR Doc.77-18496 Filed 6-27-77;8:45 am]

Farmers Home Administration

[7 CFR Part 1822]

[FmHA Instruction 444.5]

RURAL HOUSING LOANS AND GRANTS

Financing of Low-Rise Rental Structures

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed Rule.

SUMMARY: The Farmers Home Administration proposes to amend its regulations concerning financing of more than two-story rental housing projects to provide a means by which consideration can be given to financing low-rise rental structures when justified on an individual case-by-case basis. This change is proposed as a result of requests from the general public and is intended to provide more latitude in providing rural residents with necessary housing.

DATES: Comments must be received on or before July 28, 1977.

ADDRESSES: Submit written comments to the office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, Director, Multiple Family Housing Loan Division, 202–447–7207.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration proposes to amend § 1822.88(a)(3) of Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations (40 FR 4278). This regulation provides that housing financed under the Rural Rental Housing program be residential in character. As a general policy, FmHA has maintained that rental units in rural areas should not be more than two-story structures in order to meet this criteria. 2½ story construction has been permitted in individual cases where the topography of the site or other conditions enable providing access to all units by traveling up or down for not more than two floors.

As proposed, paragraph (a)(3) provides criteria by which low-rise rental structures, especially those designed for occupancy by senior citizens, can also be justified and considered for financing on an individual case-by-case basis.

PART 1822—RURAL HOUSING LOANS AND GRANTS

As proposed, § 1822.88(a)(3) reads as follows:

§ 1822.88 Special Conditions.

(a) * * *

(3) Be residential in character and location and be designed to meet the needs of eligible occupants who are capable of caring for themselves. Generally, RRH units should not be more than two-story construction. However, in some cases, especially those involving senior citizen projects, low-rise structures with elevators can be considered on an individual case-by-case basis with prior written authorization from the National Office, when the following conditions exist.

(i) There is a serious shortage of suitable building sites, and the number of units needed cannot be built due to a lack of space on the site and other building sites are not available.

(ii) Land costs are such that one- or two-story construction would result in a unit cost and rental rates in excess of what eligible occupants can afford.

(iii) The number of stories proposed for the rural rental housing structure is compatible with other rental structures in the area.

(iv) The cost of the units should compare favorably with one-and two-story construction financed with RRH loans. If the costs are higher, all the units will be leased under the HUD Section 8 Housing Assistance Payments program. Also, the loan will not be approved until the FmHA State Architect or Engineer has reviewed the plans, specifications, and cost data to assure that further cost savings cannot be achieved without sacrificing the quality and serviceability of the housing.

(v) Elevators will be provided in accordance with the HUD Minimum Property Standards 4910.1. If elevators are included, the subsoil conditions of the site must be adequate for the installation of hydraulic elevators and sufficient service personnel must be available in the area for service and repair work.

* * * * *

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: June 18, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-18436 Filed 6-27-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket No. 9062]

FISHER FOODS, INC.

Consent Agreement With Analysis To Aid Public Comment; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects FR Doc. 77-16340, appearing in FEDERAL REGISTER issue of Thursday, June 9, 1977, which corrected a Consent Agreement with Analysis to Aid Public Comment in the Matter of Fisher Foods, Inc.

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Director, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Building, 1240 East 9th Street, Cleveland, Ohio 44199 (216–552–4207).

SUPPLEMENTARY INFORMATION: The following correction is made in FR Doc. 77–16340:

(6) Order paragraph III.A.2.(d) (pg. 29517) should be corrected to read:

It shall be presumed that Respondent has delivered meat items to a store in quantities sufficient to meet reasonably anticipated demand in a particular advertisement period when the sum of the number of primal cuts or carcasses containing that item in the closing inventory of the store after closing hours on the night before the first day of the particular adverisement period, plus the number of primal cuts or carcasses containing that item delivered to the store during the particular advertisement period, is equal to or greater than the sum of the number of primal cuts or carcasses containing that item in the closing inventory of the store after closing hours on the night before the first day of the comparable advertisement period, plus the number of primal cuts or carcasses containing that item delivered to the store during the comparable advertisement period, minus the number of primal cuts or carcasses containing that item in the closing inventory of the store after closing hours on the last day of the comparable advertisement period, taking into consideration the number of "rainchecks" issued and the frequency of delivery.

CAROL M. THOMAS,
Secretary.

[FR Doc.77–18505 Filed 6–27–77;8:45 am]

[16 CFR Parts 23, 26, 34, 36, 40, 41, 46, 54, 56, 57, 60, 61, 62, 67, 74, 103, 114, 117, 118, 131, 142, 146, 150, 152, 154, 157, 160, 162, 165, 175, 192, 197, 205, 209, 210, 214, 215, 216, 221, 223, and 224]

INDUSTRY GUIDES

Proposed Recissions or Revisions of Trade Practice Rules; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects: Industry Guides: Proposed Recessions or Revisions of Trade Practice Rules, that was published in the FEDERAL REGISTER on Tuesday, June 21, 1977 (42 FR 31457).

FOR FURTHER INFORMATION CONTACT:

Charles H. Slayman, Jr., Attorney, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 724–1193.

SUPPLEMENTARY INFORMATION: The following correction is made in F.R. Doc. 77–17607: On page 31458, the issued date should read June 21, 1977.

CAROL M. THOMAS,
Secretary.

[FR Doc.77–18394 Filed 6–27–77;8:45 am]

[16 CFR Part 502]

PACKAGED DETERGENT COMMODITIES

Common Name and Ingredient Listing; Withdrawal of Proposed Rule

AGENCY: Federal Trade Commission.

ACTION: Withdrawal of proposal and termination of rule making proceeding.

SUMMARY: Action taken is withdrawal of a proposal and termination of a rulemaking proceeding which would have required, by regulations issued under the Fair Packaging and Labeling Act, the use of a common name and the inclusion of a list of ingredients on the label of packaged detergent commodities.

FOR FURTHER INFORMATION CONTACT:

Earl W. Johnson, Attorney, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580; telephone 202–724–1143.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission published in the FEDERAL REGISTER of February 8, 1974 (39 FR 4887) a proposal which would have required, by regulations issued under the Fair Packaging and Labeling Act, the use of a common name and the inclusion of a list of ingredients on the label of packaged detergent commodities.

In response to the invitation for interested persons to submit written data, views, or arguments, four hundred and ninety nine (499) comments were received. Four hundred and forty one consumers, nine consumer organizations, six government offices and forty three members of industry filed comments. Although the majority of writers favored the proposal, most comments were of a broad and general nature primarily expressing a desire and right to know what ingredients are in retail products offered on the market rather than stating a specific basis for using ingredient information. Data from several surveys was also submitted for the record. One survey was conducted by the Commission's Office of Policy, Planning, and Evaluation staff in an effort to ascertain if ingredient disclosure was meaningful to the consumer. For example, participants were shown two sample lists of ingredients and asked the meaning of the terms and whether one product was more effective than another based upon the comparison of the two lists. Although the survey has flaws, the results indicate that few consumers could make valid judgments as to the effectiveness of detergents based upon ingredient lists even when explanations of their function accompanied these terms.

Two surveys were conducted by marketing research organizations for the Texize Chemicals Company and the Procter and Gamble Company. In one of these surveys, participants were asked to choose from four different ingredient lists the product they judged to be superior and the one they thought to be the mildest. The survey showed that consumers are confused by technically oriented ingredient listing and are easily misled by the complex functional-chemical listing proposed. It was concluded from the survey that ingredient listing would not aid consumers in making value judgments. The second survey, based upon five separate tests, was designed to determine: (1) What form of ingredient list was easier for consumers to understand, (2) what information consumers desired to facilitate value comparisons, and (3) the capacity of consumers to judge performance from ingredient lists of two known cleaning products. Two of the conclusions drawn from this survey were that functional names for ingredients were more understandable than chemical terms, and that consumers could not judge performance of detergent products by comparing ingredient lists.

On the basis of the data, views, and arguments submitted in this proceeding, the Commission has concluded that ingredient listing on detergent products will not directly help the average shopper to determine what product gives more performance per dollar. It is unlikely that identical or similar ingredient lists, unless they have the same percentages of ingredients, will produce an identical performance. In addition, the analytical process involved in comparison of detergent ingredients is sufficiently complex to warrant the assumption that very few consumers would shop in this manner.

Furthermore, the Commission believes that work being done by the Division of National Advertising, Bureau of Consumer Protection, in the area of affirmative disclosure of detergent product performance through a comparative index may result in information significantly more useful to consumers in making value comparisons.

For these reasons, the Commission withdraws the proposed amendment to 16 CFR Part 502, published in the FEDERAL REGISTER of February 8, 1974 (39 FR 4887) and ends the rulemaking proceeding under the Fair Packaging and Labeling Act (15 U.S.C. 1454) which was started by that proposal.

By direction of the Commission.

Issued: June 28, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77–18416 Filed 6–27–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 155]

[Docket No. 75P-0322]

CANNED VEGETABLES

Canned Peas; Standards of Identity, Quality, and Fill of Containers

Correction

In FR Doc. 77-15769 appearing at page 29014, in the issue for Tuesday, June 7, 1977, make the following changes:

1. In the table labeled "3. Food Additives" on page 29015, in the column of numbers to the left side of the table, the 5th number in the list should be "3.3.2" instead of "3.2.2." Under the column labeled "*Maximum level of use*," opposite the figure "3.4.3," "50 mg/kg total Ca in the final product," should read "350 mg/kg total Ca in the final product."

2. In the 4th line from the top of the second column on page 29017, the number "1," should be "1.0."

3. On page 29018, in the second column under the paragraph labeled "4. *Tenderness*," in the third line, "much," should be "such."

NOTE.—This correction is republished without change from the issue of Thursday, June 23, 1977.

[21 CFR Part 820]

[Docket No. 75N-0140]

MEDICAL DEVICES

Public Hearing on Proposed Good Manufacturing Practice Regulations

AGENCY: Food and Drug Administration.

ACTION: Notice of hearing.

SUMMARY: This is an announcement that a public hearing before the Commissioner of Food and Drugs will be held on August 5, 1977, to receive comments and views from interested persons on the proposed regulations for Good Manufacturing Practice (GMP) for Medical Devices. The Commissioner will consider the administrative record of the hearing, along with other received information, in preparing a final regulation.

DATES: Notices of appearance by July 28, 1977; the hearing will be held on August 5, 1977.

ADDRESS: Written notices of appearance to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Leonard J. Stauffer, Bureau of Medical Devices (HFK-123), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910, (301-427-7194).

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295), amending the Federal Food, Drug, and Cosmetic Act (hereinafter referred to as "the act"), became law on May 28, 1976. Section 520(f) of the amended act (21 U.S.C. 360j(f)) provides the agency with the authority to prescribe regulations requiring that the methods used in, and facilities and controls used for, the manufacture, packing, storage, and installation of devices, conform to current GMP requirements.

A proposed GMP regulation for medical devices was published in the FEDERAL REGISTER of March 1, 1977 (42 FR 11998). Interested persons are advised that a hearing will be held on the proposal in accordance with regulations relating to public hearings before the Commissioner (21 CFR Part 15) and that persons who wish to present comments and views at the hearing must file a written notice of appearance. This notice also sets forth specific issues on which the Commissioner seeks comments and views.

The hearing announced in this notice will provide an open forum for the presentation of comments and views on the proposed GMP regulations. Although views may be presented on any subject of the proposed action, several specific areas of consideration on which the Commissioner seeks well-documented comments are:

(1) Definitions of: "Critical device," "Critical component," "Critical operation."

(2) The extent to which the proposal would have an impact on the economy under the criteria established by Executive Order No. 11821 as amended, OMB Circular A-107 and agency guidelines.

The hearing will begin at 9 a.m. on August 5, 1977 at the Departmental Auditorium, HEW North Building, 330 Independence Ave. SW., Washington, D.C. The presiding officer will be David M. Link, Director, Bureau of Medical Devices, and members of the Device Good Manufacturing Practice Advisory Committee will attend the hearing. This committee has been established under section 520(f) of the act to advise and make recommendations to the Commissioner in regard to device GMP regulations promulgated under the act.

Although the regular comment period for the proposal will end June 29, 1977, the record of the hearing will remain open for 15 days subsequent to the date of the hearing, August 5, 1977, to permit submission of additional written comments and views limited to matters discussed at the hearing.

In preparing a final regulation, the Commissioner will consider the administrative record of this hearing along with all other written comments received during the comment period specified in the proposal, as well as the recommendations of the advisory committee.

Persons wishing to comment or present views at this hearing must file by July 28, 1977 a written notice of appearance under 21 CFR 15.21 with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. The notice of appearance shall contain the Hearing Clerk Docket No. [75N-0140]; the name, address and telephone number of the person desiring to make a statement; business affiliation, if any; a summary of the presentation; and the approximate amount of time being requested for the presentation. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations. The Commissioner may require joint presentations by persons with common interests. He will allocate the time available for the hearing among the persons who properly file a notice of appearance and will make a schedule of the hearing available to such persons. Persons may use their allotted time on any aspect of the proposed action, consistent with the conduct of a reasonable and orderly hearing. Formal written statements on the issues may be presented to the presiding officer on the day of the hearing for inclusion in the record.

The hearing will be open to the public. At the discretion of the presiding officer, and as time permits, any interested person in attendance may be heard with respect to matters relevant to the proposed GMP regulations.

Dated: June 22, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-18392 Filed 6-23-77;10:22 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Part 1308]

SCHEDULES OF CONTROLLED SUBSTANCES

Placement of Lorazepam in Schedule IV

AGENCY: Drug Enforcement Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This is a proposed rule to place the drug lorazepam into schedule IV of the Controlled Substances Act. This proposal is being initiated in response to a letter from the Acting Assistant Secretary for Health, Department of HEW, which requested that lorazepam be placed into schedule IV. This proposal would require that the manufacture, distribution, dispensing, importation, and exportation of lorazepam be subject to controls for schedule IV controlled substances.

DATES: Comment deadline: All comments, objections, and requests for a hearing must be received on or before July 28, 1977.

ADDRESSES: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT:

Howard McClain (202-382-5676).

SUPPLEMENTARY INFORMATION: On February 9, 1977, the Acting Assistant Secretary for Health, on behalf of the Secretary of Health, Education and Welfare sent a letter to the Administrator of the Drug Enforcement Administration which recommended that the drug lorazepam be placed into schedule IV of the Controlled Substances Act (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801-966)).

Enclosed with the letter from the Acting Assistant Secretary was a document which listed factors which the Act requires the Secretary to consider and the summarized considerations of the Secretary in recommending control for lorazepam.

The factors considered by the Secretary for lorazepam were:

1. Its actual or relative potential for abuse.

2. Scientific evidence of its pharmacologic effect, if known.

3. The state of current scientific knowledge regarding the drug or other substance.

4. Its history and current pattern of abuse.

5. The scope, duration, and significance of abuse.

6. What, if any, risk there is to the public health.

7. Its psychic or physiological dependence liability.

8. Whether the substance is an immediate precursor of a substance already controlled under the Controlled Substances Act.

Also enclosed with the Acting Assistant Secretary's letter was a document which Wyeth Laboratories, Inc. had submitted to the FDA, containing pertinent information concerning the abuse potential and dependence liability of its product lorazepam.

The Drug Enforcement Administration has conducted a review of lorazepam, which has included the following:

1. Published scientific and medical literature from the United States and other nations regarding this drug;

2. Material submitted to the Drug Enforcement Administration by the Department of Health, Education, and Welfare in support of the Acting Assistant Secretary's February 9, 1977, letter requesting control for lorazepam;

3. Materials on file with the Food and Drug Administration, and the Drug Enforcement Administration; and

4. The legislative history of the Controlled Substances Act.

Based upon the investigations and review of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare, received pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), the Administrator of the Drug Enforcement Administration finds that:

1. Based on information now available, lorazepam has a low potential for abuse relative to the drugs or other substances currently listed in schedule III.

2. Lorazepam will, upon the issuance of New Drug Application by the Food and Drug Administration, have a currently accepted medical use in treatment in the United States.

3. Abuse of lorazepam may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

Therefore, under the authority vested in him by the Act and by regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby proposes that § 1308.14 (b) of Title 21 of the Code of Federal Regulations (CFR) be amended to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(b) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

* * * * *

(11)	Lorazepam	2885
(12)	Mebutamate	2800
(13)	Meprobamate	2820
(14)	Methohexital	2264
(15)	Methylphenobarbital (mephobarbital)	2250
(16)	Oxazepam	2835
(17)	Paraldehyde	2585
(18)	Petrichoral	2591
(19)	Phenobarbital	2285
(20)	Prazepam	2764

* * * * *

All interested persons are invited to submit their comments or objections in writing regarding this proposal. These comments or objections should state with particularity the issues concerning which the person desires to be heard. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative. All such submissions must be received on or before July 28, 1977.

In the event that an interested party submits objections to these proposals which present reasonable grounds for these rules not to be finalized and requests a hearing in accordance with 21 CFR 1308.45, the party will be notified by registered mail of the time and place that the hearing will be held. If any objections which are submitted do not present reasonable grounds, the party will be so advised by registered mail.

If no objections presenting grounds for a hearing on these proposals are received within the time limitations, or all interested parties waive or are deemed to waive their opportunity for a hearing or to participate in a hearing, the Administrator, after giving consideration to written comments and objections, will issue his final order pursuant to 21 CFR 1308.48 without a hearing.

Dated: June 21, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-18408 Filed 6-27-77;8:45 am]

DEPARTMENT OF STATE

[22 CFR Part 123]

[Docket No. SD-133]

INTERNATIONAL TRAFFIC IN ARMS

Licenses for Export of Firearms

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: This proposal would revoke a rule under the International Traffic in Arms regulations which allows persons leaving the U.S. to export three or fewer firearms and accompanying ammunition for their personal use without an export license. The proposal is intended to prevent the possible circumvention of the policies and purposes of the regulations.

DATES: Comments must be received by July 20, 1977.

ADDRESS: Send comments to William B. Robinson, Office of Munitions Control, Department of State, 2201 C Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Clyde Bryant, 703-235-9758.

SUPPLEMENTARY INFORMATION: Section 123.31 of 22 CFR was originally adopted to allow U.S. citizens to export firearms for their personal use without an export license. A recent study by the Office of Munitions Control, however, reveals that the exemption is rarely used by U.S. citizens. On the contrary, it is used repeatedly by non-U.S. citizens some of whom enter and leave the United States several times in one year. By permitting them to carry with them firearms and cartridges without a license, the exemption creates undesirable risks that weapons may be disposed of abroad in circumvention of the policies and purposes of the International Traffic in Arms regulations. The destination of these unlicensed firearms could include countries to which the U.S. Government would not license the export of firearms.

In consideration of the foregoing, the Department of State proposes the following change in 22 CFR 123.31:[1]

[1] For a document suspending § 123.31 until the completion of this rulemaking proceeding, see FR Doc. 77-18581, appearing under 22 CFR in the Rules and Regulations section of this issue of the FEDERAL REGISTER.

PART 123—LICENSES FOR UNCLASSIFIED ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

§ 123.31 [Revoked]

(Section 38 of the Arms Export Control Act (22 U.S.C. 2778) and Executive Order 11958.)

Dated: June 23, 1977.

WILLIAM B. ROBINSON,
Director, Office of Munitions Control.

[FR Doc.77-18582 Filed 6-27-77;8:45 am]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[29 CFR Part 2530]

SEASONAL INDUSTRIES UNDER ERISA

Intent

AGENCY: Department of Labor.

ACTION: Notice of Intent.

SUMMARY: The Secretary of Labor is authorized under the Employee Retirement Income Security Act of 1974 to issue regulations defining a year of service or a year of participation in the case of any seasonal industry where the customary period of employment is less than 1,000 hours during a calendar year. The purpose of this Notice of Intent is to provide interested parties with the opportunity to submit suggestions and comments on the definition of seasonal industries in order to assist the Department in the preparation of these regulations.

DATE: Comments on or before August 31, 1977.

ADDRESSES: Three copies of comments to: Pension and Welfare Benefit Programs, Office of Regulatory Standards and Exceptions, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Comments on Seasonal Industry.

FOR FURTHER INFORMATION CONTACT:

William J. Kluwin (202-523-9127).

SUPPLEMENTARY INFORMATION: The Secretary of Labor intends to propose regulations under sections 202(a)(3)(B), 203(b)(2)(C), and 204(b)(3)(D) of the Employee Retirement Income Security Act of 1974 (ERISA), which relate to seasonal industries. Under these provisions, the Secretary is authorized to issue regulations defining a year of service or a year of participation in the case of any seasonal industry where the customary period of employment is less than 1,000 hours during a calendar year. In order to assist the Department in the preparation of such regulations, interested persons are requested to submit suggestions and comments.

BACKGROUND

On January 22, 1976, the Department of Labor issued an interpretive bulletin which set forth guidelines on seasonal industries (ERISA IB 76-1, originally published as ERISA IB-MS 75-2, 41 FR 3290). On February 20, 1976, the above guidelines were rescinded (ERISA IB 76-2, 41 FR 7749). In withdrawing them, the Department of Labor explained that commentors stated that the guidelines included within the definition a significant number of plans in industries which traditionally have been recognized as nonseasonal. In a subsequent publication (ERISA IB 76-3, 41 FR 24999) the Department withdrew the definition of seasonal industries from the ERISA Guidelines.

QUESTIONS

Public comment is invited on the following questions:

1. How should "seasonal industry" be defined?

(a) Must an industry be seasonal on a national basis, or may industries which are not seasonal in one area or locality be seasonal in another? If the latter, how should the area or locality be defined?

(b) Must an "industry" include all the components of establishments in that industry, or would it be sufficient if a component performing a single function regularly curtailed its activities during one or more seasons of the year?

2. Should an essential element of a seasonal industry be that its periods of activity diminish because of recurring weather conditions, or should the existence of a cyclical demand be sufficient, e.g. Christmas sales, or manufacture of bathing suits?

3. If recurring weather conditions, rather than cyclical demand, is the test of seasonality, what consideration should be given to secondarily affected industries, for example, gas stations at ski resorts?

4. What proportion of the employees in an industry must work less than 1,000 hours to justify the conclusion that customary employment in the industry is less than 1,000 hours?

5. What number of hours or formula for deriving the number of hours should constitute a "year of service" or "year of participation" in a seasonal industry where the customary period of employment is less than 1,000 hours during a calendar year?

6. What other considerations are relevant for development of this regulation?

Interest persons are invited to submit written data, views, or arguments concerning any of the questions set forth herein. Three copies of such written data, views, or arguments should be submitted on or before August 31, 1977 to Pension and Welfare Benefit Programs, Office of Regulatory Standards and Exceptions, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Comments on Seasonal Industry.

All written submissions will be open to public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20210.

After comments have been received and studied, a proposed seasonal industries regulation will be published in the FEDERAL REGISTER, at which time the public will again have an opportunity to comment.

Dated: June 24, 1977.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.77-18580 Filed 6-27-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 221]

ONSHORE OIL AND GAS OPERATIONS

Procedures in Case of Default by Lessee

AGENCY: Geological Survey, Department of the Interior.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would revise oil and gas operating regulations to define more clearly specific instances of noncompliance for which assessments of liquidated damages will be made; to increase the amounts to be assessed; and to assess a late payment charge for failure to make timely rental or royalty payments.

DATES: Comments must be received on or before August 12, 1977.

ADDRESSES: Interested persons are invited to participate in the evaluation of the proposed revision by submitting written data, views, or arguments. Responses should identify the subject matter and be directed to the Chief, Conservation Division, U.S. Geological Survey, National Center (650), 12201 Sunrise Valley Drive, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:

Mr. Billy J. Shoger, Conservation Division, U.S. Geological Survey, National Center (620), Reston, Virginia 22092, (703) 860-7535.

SUPPLEMENTARY INFORMATION: The Department of the Interior proposes to revise that subpart of its Onshore Oil and Gas Operating Regulations now entitled "Procedures in Case of Default by Lessee" as currently set forth in 30 CFR Part 221, §§ 221.53 through 221.56.

The revision is proposed pursuant to the authority vested in the Secretary of the Interior by the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. 181-287), the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351-359), the Allotted Indian Land Leasing Act of March 3, 1909, as amended (25 U.S.C. 396), and the Unallotted Indian Land Leasing Act of May 11, 1938, as amended (25 U.S.C. 396a).

Substantial changes are proposed in § 221.54 to define more clearly specific instances of noncompliance (i.e., breach of the requirements contained in the lease, the applicable regulations, the terms of an approved operating plan, or the written directives of the Area Oil

and Gas Supervisor) for which assessments of liquidated damages will be made and to increase the amounts to be assessed. All other changes are proposed in the interest of clarity and, for the most part, are not substantive in nature. In addition, it is proposed to change the title of this Subpart of the regulations to "Noncompliance and Assessment of Liquidated Damages" to reflect more clearly the subject matter of the proposed revised regulations.

As proposed, Part 211, §§ 221.53 through 221.56 would be revised to read as follows:

NONCOMPLIANCE AND ASSESSMENT OF LIQUIDATED DAMAGES

Sec.
221.53 Noncompliance.
221.54 Assessments for noncompliance.
221.55 Payment of assessments.
221.56 Damages to Indian property.

AUTHORITY: Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. 181–287), the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351–359), the Allotted Indian Land Leasing Act of March 3, 1909, as amended (25 U.S.C. 396), and the Unallotted Indian Land Leasing Act of May 11, 1938, as amended (25 U.S.C. 396a).

NONCOMPLIANCE AND ASSESSMENT OF LIQUIDATED DAMAGES

§ 221.53 Noncompliance.

When the lessee fails to comply with applicable law, the regulations in this part or any other applicable regulations, the lease terms, an approved operating plan, or any written order or instruction issued by the supervisor, the supervisor is authorized to shutdown operations; to enter upon a leasehold and to perform or have performed, at the sole risk and expense of the lessee and/or surety, operations that the lessee fails to perform when directed in writing by the supervisor; to recommend cancellation of the lease and forfeiture under the bond; and to assess liquidated damages in specific instances of noncompliance.

§ 221.54 Assessments for noncompliance.

Certain instances of noncompliance result in loss or damage to the United States the amount of which is difficult or impracticable to ascertain. Except where actual damages can be ascertained in a larger amount than that set forth below, the following amounts shall be deemed to cover loss or damage to the United States from specific instances of noncompliance:

(a) $500 for failure to comply with a written order or instruction of the supervisor, and $200 for each successive day that the noncompliance continues;

(b) The actual cost of performance and an additional 25 percent of such amount to compensate the United States for administrative costs for failure to perform any operation ordered in writing by the supervisor, if said operation is thereafter performed by or through the supervisor;

(c) $500 for failure to obtain approval of a drilling program prior to commencing operations or causing surface disturbance preliminary thereto or for failure to obtain approval before initiating any major departure from a previously approved drilling program, and $500 for each successive day that the noncompliance or departure continues;

(d) $500 for failure to obtain approval before completing, converting, or utilizing any well or formation for the underground storage of gas and/or liquid petroleum products, and $200 for each successive day that the noncompliance continues,

(e) $500 for failure to obtain approval prior to conversion of a well for subsurface water disposal, and $200 for each successive day that the noncompliance continues;

(f) $500 for failure to obtain approval prior to the commencement of work on the subsurface abandonment of a well or on surface rehabilitation, and $500 for each successive day that the noncompliance continues;

(g) $250 for failure to obtain approval before commencing operations on a well to redrill, deepen, perform major repairs, plug-backs, alter casing, convert to injection, or stimulate production by acidizing and/or fracturing methods, and $100 for each successive day that the noncompliance continues;

(h) $500 for failure to obtain prior approval of any major departure from an approved work program, other than a drilling program, and $200 for each successive day that the departure continues;

(i) $100 for failure to properly identify a well location or derrick, whether the well be drilling, producing, or abandoned, and $25 for each succesive day that the noncompliance continues;

(j) Not less than $50 nor more than $500 per day for each failure to exercise due care and diligence in preventing surface damage or pollution as required by § 221.32 hereof and the applicable lease terms depending on the magnitude of the resulting surface damage or pollution as determined by the supervisor pursuant to established criteria. The assessment shall continue daily until corrective measures are initiated in accordance with a plan first approved by the supervisor. The supervisor shall also make an assessment for actual damages sustained, as appropriate;

(k) $250 for failure to file sales contracts or division orders as required by lease terms and the regulations in this Part and for failure to submit other proper evidence of the disposal of leasehold production as required in writing by the supervisor, and $100 for each successive day that the noncompliance continues;

(l) $50 for each failure to file required reports within the time specified in the regulations in this part or within such other time designated in writing by the supervisor, and $20 for each successive day until filed, including but not limited to:

(1) Log of well, subsequent report of drilling, redrilling, major well repair, deepening, plugging-back, alteration of casing, plugging and abandonment, conversion to injection, water shut-off or formation tests, or stimulating production by fracturing and/or acidizing; and

(2) Lessee's Monthly Report of Operations and Lessee's Monthly Report of Sales and Royalties; and

(3) Other forms, data, samples, or reports as required in writing by the supervisor;

(m) $200 for failure to make royalty payments (including minimum and compensatory royalty) by the due date and a late payment charge of one percent per month or portion thereof on the amount due;

(n) $100 for failure to make rental payments on those leases under the jurisdiction of the Geological Survey by the due date or failure to pay assessments made pursuant to this section as directed by supervisor and a late payment charge of one percent per month or portion thereof on the amount due.

§ 221.55 Payment of assessments.

(a) Assessments made under § 221.54 shall be paid within 30 days of receipt of written notice, in the manner and as directed by the supervisor in the notice.

(b) Payments made pursuant to this section shall not relieve the lessee from compliance with the provisions of the regulations in this part, or for liability for waste or any other damage. A waiver by the supervisor of any particular assessment shall not be construed as precluding assessment pursuant to § 221.54 for any act of noncompliance occurring at any other time.

§ 221.56 Damages to Indian property.

Assessments for damages to lands, crops, buildings, and to other improvements on Indian land shall be made by the superintendent and be payable in the manner he prescribes.

NOTE.—It has been determined that issuance of the proposed revised regulations does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 852, 853).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: June 20, 1977.

JAMES A. JOSEPH,
Acting Secretary.

[FR Doc.77-18386 Filed 6-27-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 223]

SALE AND DISPOSAL OF TIMBER

Transfer of Purchaser Credit

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This is a proposal to revise regulations dealing with the transfer of purchaser credit between timber sales.

The revision is made necessary by the passage of the National Forest Management Act of 1976 and a need to update the regulation based on experience gained on use of the initial regulation.

DATES: Comments must be received on or before July 28, 1977.

ADDRESS: Submit comments to: Chief John R. McGuire, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013. All written submissions made pursuant to this notice will be available for public inspection in the Timber Management Staff, South Agriculture Building, Room 3207, Washington, D.C., during regular business hours.

FOR FURTHER INFORMATION CONTACT:

George Leonard, Timber Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013 (202–447–4051).

SUPPLEMENTARY INFORMATION: This is a proposal to revise 36 CFR 223.3 (m) dealing with the transfer of purchaser credit from one timber sale to another timber sale of the same purchaser on the same National Forest. The current regulation was promulgated at 36 CFR 221.7g on June 2, 1976, and provided that an opportunity for comments would be provided not later than December 31, 1977. This proposed revision will serve as that opportunity to comment.

The proposed revision makes the following substantive changes in the existing regulation.

(1) The restriction on use of transferred purchaser credit to cover current or subsequent charges is removed.

(2) The protection for sale area improvement needs is changed to limit the amount of purchaser credit which may be transferred rather than the amount that can actually be used.

(3) A restriction to protect salvage sale funds has been added.

(4) The provision for consulting with counties is removed. The enactment of the National Forest Management Act of 1976 (Pub. L. 94–588, 90 Stat. 2947), provides that purchaser credit will be included in the receipts from which county share is determined. Therefore, the transfer of purchaser credit will have no effect on county receipts and the provision for consulting with counties is unnecessary.

In light of the foregoing, it is proposed to amend 36 CFR 223.3 as follows:

§ 223.3 Contract conditions.

* * * * *

(c) (1) For timber sales which contain provisions for purchaser credit, the Forest Service may permit transfer of unused effective purchaser credit earned after December 16, 1975, from one timber sale account to another timber sale account of the same purchaser within the same National Forest, provided the sale contracts provide procedures for the use of purchaser credit. Approval for transfer shall not be granted for amounts needed to satisfy unfulfilled payment obligations or claims for damages due the United States. Purchaser credit transferred under this paragraph is subject to such additional restrictions as may be necessary for its orderly use. The amount of purchaser credit which may be transferred into a given sale shall be limited to the difference between remaining current contract value and the total of:

(i) Remaining base rate value needs;

(ii) Salvage sale fund needs plus sale area improvement needs in excess of base rate value needs; and

(iii) Total purchaser credit on the given sale. This calculation shall be made as of the date of sale award for sales made on or after October 1, 1977. For sales made prior to October 1, 1977, the calculation shall be made as of September 30, 1977, except that if the amount actually transferred in as of September 30, 1977, exceeds the calculated limit, the actual transfers as of that date shall be the established limit. Purchaser credit earned on a sale and subsequently transferred out may be replaced without regard to the transfer in limit. Sale area improvement needs shall be based on the original sale area betterment plan, or revisions thereto approved prior to July 1, 1976. Salvage sale fund needs shall be based on the original salvage sale fund plan.

(2) To assure protection of the United States in connection with implementation of this regulation, contract provisions shall not prevent the Forest Service from carrying out collection rights, authorized by the Federal Claims Collection Act of 1966 (80 Stat. 309), between contracts involved in the transfer of purchaser credit. Such claims against the contract receiving the transferred purchaser credit shall be limited to the amount transferred.

(3) As used in paragraph (m), the term "Purchaser" includes any single individual, corporation, company, firm, partnership, joint venture, or other business entity or the successor in interest of any of the foregoing business entities, having timber sale contracts on the same National Forest. The term "National Forest" shall be considered as a unit of the National Forest System, regardless of how it was established, which maintains a separate identity with respect to the distribution of receipts earned thereon to the States and counties. The term "Effective Purchaser Credit" means unused purchaser credit which does not exceed current contract value minus base rate value. The term "base rate value" is the sum of the products of base rates and estimated remaining unscaled (unreported on tree measurement contracts) volumes by species of timber included in a timber sale contract.

(Pub. L. 94–154, 89 Stat. 823 (16 U.S.C. 535).)

M. RUPERT CUTLER,
Assistant Secretary.

JUNE 21, 1977.

[FR Doc.77-18381 Filed 6-27-77;8:45 am]

POSTAL RATE COMMISSION

[39 CFR Part 3001]

[Docket No. RM76-5]

FILING OF PERIODIC REPORTS BY UNITED STATES POSTAL SERVICE

Proposed Modification of Rules Applicable to Filing of Periodic Reports

JUNE 22, 1977.

AGENCY: Postal Rate Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The proposed changes to the rules would modify the currently existing format of the Cash Flow Statement (39 CFR 3001.102(c),(1)) and the Investment Income Statement (39 CFR 3001.102(c)(2)), each of which the United States Postal Service is required to file with the Commission; and would provide that the Investment Income Statement be filed on a quarterly basis rather than on an accounting period basis as is currently required. This proposed action is being considered because questions have arisen as to whether the Postal Service can reasonably provide certain data in the format currently required by the Commission's rules of practice. It is anticipated that this proposed rulemaking will provide a forum for resolution of these questions and will thereby aid the Commission in obtaining data necessary to perform its regulatory functions.

COMMENTS DUE: July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen A. Gold, Assistant General Counsel (Appeals), Office of the General Counsel, Postal Rate Commission, Washington, D.C. 20268 (202–254–3836).

SUPPLEMENTARY INFORMATION: By Order No. 141, issued October 21, 1976 (3 PRC 96), the Postal Rate Commission adopted rules establishing a periodic data reporting system requiring the Postal Service to regularly provide the Commission with certain data. (See subpart G of the Commission's rules of practice, 39 CFR 3001.101 and 3001.102.) It was anticipated that the adoption of those rules would enable the Commission to obtain data from the Postal Service which the Commission determined necessary for it to perform its regulatory functions.

Subsequent to adoption of those rules, the Postal Service informed the Commission that it has encountered certain problems in providing, in the required format, data for the Cash Flow Statement and the Investment Income Statement and by letter of May 2, 1977 proposed modification of those two reports. The Service asserts in its May 2 letter[1] that modifications are necessary in the Cash Flow Statement because the data

[1] This letter and other communications regarding it are on file in the reference room of the Commission and available for public inspection.

systems of the Service do not generate information in the form prescribed by the current Cash Flow Statement. The Service also states that the existing format of the Investment Income Statement would require the Service to divulge confidential data.

The Commission has determined to treat the May 2 letter of the Postal Service as a request for modification of the rules applicable to filing of periodic reports. The Commission and the general public will thereby be able to evaluate and respond to the assertions of the Service as well as the specific modifications which it proposes.[2]

The modifications which were proposed by the Postal Service and which are the subject of this rulemaking are as follows: For the Cash Flow Statement the Postal Service proposes that the current format (PRC 102 at p. 34 of the rules of practice) be modified so that under the heading "Cash Receipts" the item "investment income" would be deleted as a separate line entry and would be shown on an accrual basis under a new separate heading titled "Supplemental Data." The Service further proposes that sale of assets be deleted as a separate line entry under "Cash Receipts" and be accounted for on an accrual basis as a separate line entry under "Supplemental Data." Finally, under the heading "Cash Disbursements" the Postal Service proposes that the line entry for "labor" be combined together with materials and services as a single line entry and entered on a cash basis and, also, that "labor" be entered as a separate line item under "Supplemental Data" on an accrual basis. These proposed modifications to the Cash Flow Statement are set forth in Attachment A to this notice.

For the Investment Income Statement (PRC 103 at p. 35 of the rules of practice) the Postal Service tentatively proposes that the items "Purchases at Cost" and "Gain on Sales" be replaced to appear as either "Net Purchases at Cost" or "Net Sale Consideration," whichever is greater on a net basis. Further, the Service proposes that the line entry "Book Value Adjustments" shown under "Purchases" be eliminated and that this data be incorporated as part of "Net Purchases at Cost." The Service also proposes that the separate line entries "Proceeds from Sales" and "Loss on Sales" be combined into the single line entry: "Net Profit/Loss." The Service further proposes inclusion of an additional line item entitled "Accrual Income (Accrual of Discount, Interest Income)." These proposed modifications are set forth in Attachment B to this notice.

Finally, the Service requests that the rules of practice which currently require the Investment Income Summary to be filed each accounting period be modified so as to provide for a quarterly filing. The Service characterizes the present requirement as "untenable."

In consideration of the foregoing the following amendments to 39 CFR Part 3001 are proposed:

1. Include a new subparagraph (4) to 39 CFR § 3001.102(b) to read as follows:

§ 3001.102 Filing of reports.

* * * * *

(b) * * *

(4) Investment Income (30 days after close of the postal quarter).

2. Delete 39 CFR § 3001.102(c) (2) and renumber subparagraphs (3) and (4) as (2) and (3), respectively.

3. Delete the format for PRC 102 and add new PRC 102 as set forth in Attachment A.

4. Delete the format for PRC 103 and add new PRC 103 as set forth in Attachment B.

The Commission invites all interested persons to submit their comments on the requested modifications to the rules applicable to filing of periodic reports by the United States Postal Service.[3] Counterproposals and suggestions as to the posed modifications are also invited.

Comments may be filed on or before July 20, 1977. Any replies to such comments are to be filed on or before August 3, 1977. An original and 19 fully conformed copies of all comments and replies must be filed with the Secrretary of the Commission at the offices of the Postal Rate Commission, 2000 L Street NW., Washington, D.C. 20268.

By direction of the Commission.

CYRIL J. PITTACK,
Acting Secretary.

Authority for this rulemaking proceeding is contained in 39 U.S.C. 3603, 3622, and 3623.

ATTACHMENT A.—*Revised PRC 102; cash flow statement accounting period ---------- fiscal year 19----*

(Dollars in millions)

	Current Accounting period	Year-to-date
Beginning balance:		
Cash		
Investments		
Total		
Receipts:		
Postal revenues		
Government appropriations		
Borrowing proceeds:		
Operating		
Capital		
Total		
Disbursements:		
Operations:		
Labor, material, and services		
Civil service retirement fund deficit		
Workers' compensation		
Interest		
Capital investment		
Debt repayment:		
Operating		
Capital		
POD liability		
Total		
Net increase (decrease) in outstanding money orders and trust funds		
Ending balance:		
Cash		
Investments		
Total		
Supplemental data (accrual basis):		
Investment income		
Proceeds from sale of assets		
Salaries and wages—gross pay		

ATTACHMENT B.—*Revised PRC 103; investment income statement*

Beginning book value	
Either: Net purchases at cost; Net sale consideration	
Net profit/loss	
Ending book value	
Accrual income (accrual of discount, interest income)	
Average investment balance [1] [2]	
Composite yield [2] [3]	percent

[1] State method used for determining average investment balance.

[2] This item was omitted from the draft proposed by the Postal Service. Since the Postal Service did not indicate any difficulty in providing this information, its omission appears to have been inadvertent.

[3] Include profit/loss data.

[2] Reinstitution of proceedings in this docket was provided for in the Commission's order establishing a periodic data reporting system (Order No. 141, October 21, 1976 at 4, 3 PRC 96, 99).

[3] During the pendency of this phase of the proceedings in this docket the Commission will waive the format currently prescribed for the Cash Flow Statement and the Investment Income Statement and, also, the requirement that the latter be filed each accounting period. The Commission expects the Service, however, to file these two reports in the format which it has proposed. Filings should be made so as to reflect the most recent accounting period and the most recent quarter, respectively.

[FR Doc.77-18487 Filed 6-27-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OTS-081001B FRL 752-5]

[40 CFR Ch. I]

INVENTORY REPORTING REQUIREMENTS

Intent To Repropose

AGENCY: Office of Toxic Substances, Environmental Protection Agency (EPA).

ACTION: Notice of intention to repropose the inventory reporting regulations.

SUMMARY: This notice is to inform the public of EPA's intention to repropose the inventory reporting regulations proposed under the authority of Subsection 8(a) of the Toxic Substances Control Act (hereinafter referred to as TSCA) on March 9, 1977 (42 FR 13130), and on April 12, 1977 (42 FR 19298). The reproposed regulations would require manufacturers to report chemical substances that they manufacture at each plant site and the estimated production volume of those chemical substances. This is a change from the regulations that were proposed on March 9, 1977, which would permit manufacturers to report by corporate headquarters and would not require production volumes.

DATES: EPA anticipates that the reproposed regulations will be published in the FEDERAL REGISTER for comment on or near July 15, 1977. The reporting period that would have ended September 1, 1977, will, of course, be modified according to the revised regulations.

FOR FURTHER INFORMATION CONTACT:

Mr. John Ritch, Director, Office of Industry Assistance, Office of Toxic Substances (TS-788), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-755-0535).

SUPPLEMENTARY INFORMATION: These regulations will be reproposed under the authority of Subsection 8(a) of TSCA (90 Stat. 2003; 15 U.S.C. 2601, et seq.). On March 9, 1977, EPA first proposed the inventory reporting requirements in the FEDERAL REGISTER (42 FR 13130). These regulations would govern reporting of chemical substances for inclusion on an inventory of chemical substances required by Subsection 8(b) of TSCA. On April 12, 1977, EPA published a supplemental notice in the FEDERAL REGISTER (42 FR 19298) providing additional information pertaining to the proposed inventory regulations. On April 28, 1977, EPA published a notice of availability of a Candidate List of Chemical Substances for use in reporting (42 FR 21639).

On April 18, 1977, EPA held a public meeting in Washington, D.C., to provide interested persons an opportunity to comment publicly on the proposed regulations. In addition, approximately 200 persons have submitted written comments on the proposed regulations.

As a result of these comments, the Administrator has decided to repropose the inventory reporting regulations to include reporting by manufacturers by plant site and estimated production volumes. These and other modifications, primarily to clarify the proposed regulations, will be incorporated into the reproposed regulations.

Dated: June 22, 1977.

KENNETH L. JOHNSON,
Acting Assistant Administrator for Toxic Substances.

[FR Doc.77-18384 Filed 6-27-77;8:45 am]

[40 CFR Part 52]

[FRL 752-6]

MARYLAND

Proposed Revision to State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Maryland has submitted amendments to the state air pollution control regulations and has requested that they be reviewed and processed as a revision of the Maryland State Implementation Plan (SIP). The amendments consist of modification of definitions; modifications in the Episode Plan; adoption of test methods; modification of registration and permit requirements for installations; modification of certain regulations controlling particulates, sulfur oxides and hydrocarbons; and addition of equivalent metric units to supplement the standard English units used in these regulations.

EFFECTIVE DATE: Comments must be submitted on or before July 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold A. Frankford, (3AH11) Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: On February 10, 1977, the State of Maryland submitted to the Regional Administrator, EPA Region III, a number of amendments to the State air pollution control regulations. The State requested that these amendments be reviewed and processed as a revision of the Maryland State Implementation Plan for attainment and maintenance of national ambient air quality standards.

The amendments consist of changes to State Regulations 10.03.35 through 10.03.41 inclusive. Many of the changes consist of supplementing English System measurement units currently used in the control regulations with equivalent metric units. The State of Maryland also submitted a number of amendments to the existing regulations which involve substantive changes and which are summarized below:

MARYLAND REGULATION AMENDMENTS

Regulation:	*Brief description*
10.03.35.01N	Definition of "Fuel Burning Equipment." The amended definition excludes certain types of small heating equipment.
10.03.35.01AT	Definition of "Standard Conditions." The amended definition brings the standard conditions for ambient air quality standards and stack testing into equivalence.
10.03.35.03B(2)d (2)(e).	Emergency Stage Level for Photochemical Oxidants. This amendment changes the level from 0.6 p/m to 0.5 p/m.
10.03.35.05E	Installations not required to be registered. This amendment requires registration information for all equipment greater than the specified minimum sizes.
10.03.35.06A(1), 10.03.35.06A (3).	Test methods. This amendment formally adopts specific stack test methods suggested by EPA, with minor modifications to some equipment specifications.
10.03.35.08	Penalties and plan for compliance. This section is deleted as it is redundant with language included in the Air Quality Law of Maryland.
10.03.35.12	Emission test methods. This section is added in conjunction with the amendments to 10.03.35.06A.
10.03.36-37, 40-41, Table 1.	Emission standards for new fuel burning equipment. The amendment changes the grain-loading standard for units of 13-50 mBtu/h from 0.025 gr/dscf to 0.03 gr/dscf; the dust collector efficiency requirements are deleted.
10.03.38-39.03B (1).	Dust collector requirements. This amendment deletes the process weight requirements for solid fuel burners.
10.03.38-39.03E (2).	Process weight requirement/equation/Table 2. This process weight requirement and associated equation and table is deleted. The 0.03 gr/dscf limit still applies.

10.03.38.04J(2)(g).	Other photochemically reactive organic materials (addition). This amendment is designed to control existing sources of photochemically reactive organic material; the current regulations only control new sources.
10.03.38-39.04J(2)e.	Vapor recovery. The sentences in this section are rearranged with no change in meaning.
10.03.38.06C(1)a.	Prohibition of certain incinerators. The minimum size for new incinerators is increased.
10.03.38-39.07 --	Transition from previous regulations. This section is deleted, as the provisions are obsolete.
10.03.38-39, Table I.	The amendment changes the grain-loading standard for units of 13-50 mBtu/h from 0.025 gr/dscf to 0.03 gr/dscf; the dust collector efficiency requirements are deleted.
Table II----------	The process weight table deleted.
10.03.39.01B, 10.-03.39.01B(9), 10.03.39.01D(1).	Control of open fires. These additions increase the minimum distance requirements of open burning from habitable dwellings.
10.03.39.04C(1) --	Sulfur compounds from other than fuel-burning equipment. The date for determination of an existing source is chnaged from Jan. 4, 1971, to Feb. 21, 1971.
10.03.39.04D(1) -	Sulfur oxide emissions from fuel-burning equipment. This section is reworded to state that fuels containing sulfur in excess of the applicable sulfur-in-fuel limitations may be used in conjunction with stack gas desulfurization methods, provided that the discharge of sulfur oxides does not exceed those levels that would occur when fuels meeting the applicable sulfur-in-fuel limitations are used.

The State of Maryland submitted proof that a public hearing was held on October 6, 1976, in Baltimore, in accordance with the requirements set forth in 40 CFR Section 51.4.

The public is invited to submit comments on whether the amendments submitted by the State of Maryland should be approved or disapproved as a revision of the Maryland State Implementation Plan. All comments received on or before July 28, 1977, will be considered.

The Administrator's decision to approve or disapprove this proposed SIP revision will further be based on whether the amendments submitted by the State of Maryland meet requirements of Section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Copies of the proposed revision of the Maryland SIP and accompanying support documentation are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106; Attn.: Mr. Harold A. Frankford (3AH11).

Maryland Bureau of Air Quality and Noise Control, 201 West Preston Street, Baltimore, Maryland 21201; Attn.: Mr. Edward Carter.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

All comments should be submitted to:

Mr. Howard Heim, Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106; Attn.: AH010MD.

(42 U.S.C. 1857c-5.)

Dated: June 10, 1977.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc.77-18383 Filed 6-27-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 171]

INSTRUCTIONAL EQUIPMENT GRANTS PROGRAM

Revisions to Maintenance of Effort

AGENCY: Office of Education, HEW.

ACTION: Proposed Rule.

SUMMARY: This document is an amendment required by the Education Amendments of 1976 to establish an alternative method of determining whether maintenance of effort has been met by participating institutions of higher education under the program. It will also provide for waiver of this requirement based an criteria of general applicability published by the Commissioner of Education.

DATES: Comments must be received on or before: July 28, 1977.

ADDRESSES: Send comments to: Room 3622, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. 20202. All comments received will be available for inspection at the above address between 8:30 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Frank A. Stevens, Division of Library Programs, (202) 245-9530.

SUPPLEMENTARY INFORMATION: Under the authority contained in sections 601-610 of the Higher Education Act of 1965, as amended by section 157 of the Education Amendments of 1976 (20 U.S.C. 1041-1046), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, is giving notice that he proposes to issue the following regulations amending Part 171 of Title 45 of the Code of Federal Regulations by revising § 171.3(c) and adding a new § 171.5, as set forth below.

The Commissioner published in the FEDERAL REGISTER, Vol. 41, No. 226, Monday, November 22, 1976, a Notice of Intent to Issue Regulations implementing the provisions of the Education Amendments of 1976 (41 FR 51550).

Comments were invited on specific issues in the Notice, including the listing of proposed basic criteria to assist the Commissioner of Education in making determinations for possible waivers from the maintenance of effort requirements under the program. Written comments were received through December 22, 1976. In addition, State commissions, with responsibilities for State administration of the program met with staff of the Office of Education to consider these proposed changes on December 13, 1976, in Washington, D.C. and in Denver, Colorado on December 17, 1976. The following is a summary of the comments received on the Notice of Intent and the Office of Education response.

Comment. Further clarification was recommended by several commenters for determination of maintenance of effort as stated in section 157 of the Education Amendments of 1976.

Response. Inasmuch as determination of maintenance of effort must be dependent on the firmest possible expenditure figures, § 171.3(c) is based on the last two years for which firm figures are available. The definition of "Full-time equivalent number of students" in § 171.1 must be used in determining the ratio of expenditures for full-time equivalent enrollment if the alternate method of determining the maintenance of effort is used.

Comment. One commenter thought that it was necessary to spell out the specific requirements for cominations of institutions of higher education in connection with the determination of maintenance of effort for combinations.

Response. The regulations in §§ 171.3 (c) and 171.5 cover combinations of institutions as well as individual institutions. Since each institution in the combination must meet the statutory requirement, there is no need for separate regulations.

Comment. Several commenters recommended that the criteria for waivers include "natural" disasters, fire, etc. which can cause excessive losses and high replacement costs.

Response. A waiver provision (§ 171.5 (a)(6)) has been included which can cover natural or other disasters requiring drastic changes in budgeted expenditures.

Comment. The question was raised by several commenters as to whether the provision for waivers from the maintenance of effort requirement would automatically have to be used by all participating States under the program.

Response. It is not required that all States use the provision for waivers in connection with maintenance of effort. As noted in § 171.5(a), the provision, if it is to be used, must be set forth in the State Plan.

INVITATION TO COMMENT

Comments on this Notice of Proposed Rulemaking must be in writing and must be received by the Office of Education by 4:30 p.m. on or before July 28, 1977.

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

(Catalog of Federal Domestic Assistance No. 13.518, Higher Education Instructional Equipment)

Dated: April 29, 1977.

ERNEST L. BOYER,
Commissioner of Education.

Approved: June 22, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 171 of Chapter I of Title 45 of the Code of Federal Regulations is amended as follows:

PART 171—INSTRUCTIONAL EQUIPMENT GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION

1. Paragraph (c) of § 171.3 is amended to read as follows:

§ 171.3 Conditions for grant approval.

* * * * *

(c) (1) That the applicant has met the maintenance of effort requirement unless a waiver of maintenance of effort has been granted in accordance with § 171.5.

(2) An applicant meets the maintenance of effort requirement when it shows that it has spent from current funds for instructional and library purposes in each of the two most recent successive years for which actual expenditures are available, an amount in the second of those years which is equal to or greater than the amount it spent for such purposes in the first of those years. Personnel costs are not to be included.

(3) Maintenance of effort under paragraph (c)(2) of this section may be shown by comparing either:

(i) The total expenditures in each of the two years; or

(ii) The total expenditures, divided by the full-time equivalent number of students, in each of the two years.

* * * * *

§ 171.4–171.11 [Redesignated]

2. Sections 171.4 through 171.11 are redesignated §§ 171.5 through 171.12 respectively and a new § 171.4 is added to read as follows:

§ 171.4 Waiver of maintenance of effort.

(a) If the Commissioner determines, upon finding and recommendation by the State Commission, made in accordance with a provision set forth in the State Plan, that there are special and unusual circumstances which prevent the applicant from meeting the maintenance of effort requirement set out in § 171.3 (c), the Commissioner may waive the requirement.

(b) Special and unusual circumstances constituting a basis for a waiver, include, but are not limited to, the following:

(1) A new or relatively new institution has incurred, during the base year, large costs for instructional equipment associated with the establishment of the institution;

(2) An older institution, after undergoing substantial increases in enrollment or in program activity requiring an unusually higher level of instructional equipment and library expenditures for a temporary period of time, lowers these expenditures to a level adequate to maintain normal standards of operation;

(3) An older institution, after making large "one time" expenditures for instructional and library purposes, i.e., major equipment or facility acquisitions, lowers these expenditures to a level adequate to maintain normal standards of operation;

(4) A major cut in State or institutional appropriations or other budgeted income, requires the applicant to make a drastic alteration in expenditures;

(5) A serious drop in student enrollment or program activity occurs which is brought about by factors not controllable by the applicant; or

(6) A natural or other disaster requires the applicant to make a drastic alteration in expenditures.

(20 U.S.C. 1124(c).)

[FR Doc.77-18453 Filed 6-27-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21291; RM-2711]

FM BROADCAST STATION IN ST. IGNACE, MICH.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This is a notice of a proposal to substitute Class C Channel 275 for unoccupied Channel 272A at St. Ignace, Michigan, at the request of Mighty-Mac Broadcasting. Mighty-Mac states that significant new service could be provided to St. Ignace and Mackinac County by this proposal. The Notice asks for a detailed showing of new service, alternative channels for a precluded community, and a statement of the financial ability of Mighty-Mac to construct a station.

DATE: Comments are to be filed on or before August 1, 1977, and reply comments on or before August 22, 1977.

ADDRESSES: Send comments to Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of § 73.202 (b), Table of Assignments, FM Broadcast Stations. (St. Ignace, Michigan).

Adopted: June 16, 1977.

Released: June 21, 1977.

1. *Petitioner, proposal, and comments.* (a) Petition for rule making [1] filed May 21, 1976, by Mighty-Mac Broadcasting Company ("Mighty-Mac"), licensee of Station WIDG(AM), St. Ignace, Michigan, proposing the assignment of Class C FM Channel 275. The unoccupied third adjacent Channel 272A at St. Ignace would be deleted by the proposal. This is the only FM assignment at St. Ignace and Mackinac County.

(b) The channel may be assigned without affecting any other existing assignments in the FM Table. There were west of the Canadian border.

2. *Community data.*—(a) *Location.* St. Ignace, seat of Mackinac County, is located at the southeastern tip of Michigan's "Upper Peninsula," between Lakes Michigan and Huron, and is approximately 64 kilometers (40 miles) southwest of the Canadian border.

(b) *Population.* St. Ignace—2,892 Mackinac County—9,600.[2]

(c) *Present aural services.* St. Ignace presently has a daytime-only AM station licensed to petitioner. We are informed by Mighty-Mac that FM service in the general area of St. Ignace emanates from Cheboygan (WCBY-FM, WJML-FM, and WMBN-FM), Petoskey (WMBN-FM), and Sault Ste. Marie (WSMM-FM). New FM stations are authorized for Channel 267 at Sault Ste. Marie and for Channel 228A at Newberry, and a new FM assignment has been made at Manistique.

(d) *Economic considerations.* The area's principal business is tourism, with a heavy influx of tourists into the county during the summer and fall, increasing the population beyond that estimated by the Census. The area around St. Ignace is classified as rural by the Census Bureau.

3. *Preclusion studies.* There is one community with a population greater than 1,000 persons that might lose an opportunity for a first FM assignment if this proposal were to be adopted. Onaway (pop. 1,262) is without an AM or FM broadcast facility. We expect peti-

[1] Public notice of the filing of the petition was given on June 15, 1976 (Report No. 985).

[2] Population figures are taken from the 1970 U.S. Census.

tioner to present in comments any alternate FM channel that could be assigned to this precluded community.

4. Mighty-Mac argues that a wide coverage Class C station operating with reasonable facilities could serve a vastly greater service area than a Class A station could at maximum facilities. Moreover, this would provide a first FM service and a first nighttime service to most of the communities in Mackinac County according to a study using existing contours of area FM stations and a hypothetical station at St. Ignace with 75 kilowatts power and 153 meters (500 feet) HAAT. Such a station, according to petitioner, would provide first FM service to 1,042 persons and a second FM service to 12,134 persons. A maximum facility Class A station would provide no first FM service and a second FM service to only 275 persons. Mighty-Mac, however, states that it could not afford to establish full facilities immediately, but could use the tower of its AM station and initiate FM service at 39 kilowatts and 70 meters (230 feet) HAAT. In order to provide the data necessary to evaluate this issue, petitioner should submit a proper *Roanoke Rapids*[1] showing based on a Class C station operating at St. Ignace with Mighty-Mac's proposed facilities (39 kW, 70 meters (230 feet) HAAT), on existing stations operating with reasonable facilities (or greater as already authorized), and on all other unoccupied assignments operated at reasonable facilities. In addition, Mighty-Mac should submit a coverage study showing the extent of nighttime service provided by standard broadcast stations to the area it would serve and indicate any areas which would receive a first or second aural service from the proposed station, see *Anamosa, Iowa*, 46 F.C.C. 2d 520 (1974).

5. Mighty-Mac was the original petitioner for the 1966 assignment of Channel 272A to St. Ignace. Although Mighty-Mac stated its intent to apply for a construction permit at the time of assignment, it says that it later realized that construction of a Class A facility could not be cost-justified. Now it argues that a wide coverage Class C assignment would be able to obtain enough market revenue to make it financially viable and that it would file an application for a construction permit on the Class C channel if assigned, and would construct and operate an FM station if it is the successful applicant. In view of the history of this matter, we are still concerned about petitioner's present financial ability to construct a station with the proposed facilities, and whether funds exist to sustain construction costs. We shall require petitioner to submit a persuasive showing of its capability to construct a Class C station at St. Ignace. We shall not assign this channel in the absence of assurance that it will be utilized to provide FM service to the people of the St. Ignace and surrounding area. This requires a realistic and convincing showing of its commitment, indicating both intent and ability to promptly provide FM service, if authorized.

6. In view of the foregoing, and the fact that the proposed substitution may provide the surrounding area of St. Ignace with a new FM service and some areas with a first FM service, the Commission finds that it would serve the public interest to seek comment in rule making. However, it should be noted that this proposal is contingent upon the Commission's obtaining Canadian approval.

§ 73.202 [Amended]

7. Therefore, notice is hereby given that the Commission proposes to amend the FM Table of Assignments, § 73.202 (b) of the Commission's Rules, with regard to St. Ignace, Michigan, as follows:

City	Channel No.	
	Present	Proposed
St. Ignace, Mich.	272A	275

8. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorported herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

9. Interested parties may file comments on or before August 1, 1977, and reply comments on or before August 22, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-14339 Filed 6-27-77;8:45 am]

[1] 9 F.C.C. 2d 672 (1967).

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1207]

[No. 36556]

CLASS I AND CLASS II MOTOR CARRIERS OF PROPERTY

Revision to the Annual Reports and Uniform System of Accounts

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking and order.

SUMMARY: This proceeding is being instituted to consider major revisions to the 1977 annual reports prescribed for Class I (Form M-1) and Class II (Form M-2) common and contract motor carriers of property (49 CFR Part 1249) and attendant modifications to the Uniform System of Accounts (49 CFR Part 1207). Proposed revisions provide for (1) "respondent" and "consolidated" reporting, (2) reduction in reporting burden on Class I and II carriers and other modifi-

cations to improve data disclosure, (3) separate annual report form for Class I and Class II household goods carriers, and (4) revisions to the Uniform System of Accounts prescribed for Class I and Class II common and contract motor carriers of property.

DATE: Comments must be received on or before August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

James H. Bayne, Chief, Section of Reports, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, Phone No. 202-275-7331.

SUPPLEMENTARY INFORMATION:

CONSOLIDATED REPORTING

The proposed annual report Form M for general freight carriers will require all Class I, Instruction 27, 28A, and 28C, motors carriers and Class II, Instruction 27, carriers to include certain consolidated financial information. Carrier only data may, in fact, distort (understate) (a) the investment in transportation, (b) the long-term debt and equity which finances that investment, and (c) the importance of debt in the capital structure. Consolidated data will help to overcome these distortions since the noncarrier affiliates to be included in the data represent an integral part of the carrier operations, i.e. by providing equipment, debt, services and/or equity.

PROPOSED REVISIONS TO M-1 AND M-2 ANNUAL REPORTS

The proposed revisions to Forms M-1 and M-2 provide for inclusion of consolidated financial information, thus making the form useful for both ratemaking and reporting purposes. All Class I and Class II common and contract motor carriers of property, except household goods carriers, will file the same annual report to be designated Form M. Class II carriers will report in approximately the same lesser detail as in the past, and only those subject to Instruction 27 must file the consolidated data: All Class I and Class II carriers must report all "respondent only" data. All Class I motor carriers of property subject to Instruction 27, 28A, and 28C, must report "consolidated" data.

HOUSEHOLD GOODS CARRIERS REPORTING

Classes I and II motor carriers of household goods, i.e., those subject to Instruction 28B, will file a newly designated annual report Form M-H. Reporting for household goods carriers will be nearly the same as for general freight carriers. The scope and format of the proposed Form M-H is identical to the proposed Form M with few exceptions. One major difference is that consolidated reporting for household goods carriers is not proposed at this time, because there is some question as to whether or not such data is needed for ratemaking purposes. While the proposed Form M-H is designed for use primarily by household goods carriers, it will also provide for reporting by carriers having both household goods and general freight authority. Included in the form will be several selected schedules to report general freight information so as to provide the Commission with a complete financial and statistical picture of dual authority carriers. The schedule for reporting "Comparative Results of Operations" provides for reporting of both household goods and general freight operations.

REDUCTION IN REPORTING BURDEN AND OTHER MODIFICATIONS

From a comprehensive review of the Commission's data requirements, it was found that certain schedules in the annual reports are no longer necessary for regulatory purposes. Therefore, it is proposed to eliminate approximately 24 of the 77 schedules, or 31 percent, from the present annual report Forms M-1 and M-2. The deletion of these schedules will significantly reduce the paperwork burden on some 4,260 Class I and II motor carriers of property. We estimate that carriers will be relieved from filing some 102,000 schedules annually. Although these schedules will be deleted, the majority of this information will still be available on the basic comparative financial statements.

To reduce the reporting of detail information, we propose to increase the minimum dollar level from $10,000 to $20,000 in a number of schedules.

REVISIONS TO 49 CFR PART 1207

Proposed revisions to the Uniform System of Accounts for Motor Carriers of Property may appear to be extensive; however, many of them simply amend cross references to various control accounts. The proposed report will be completed by class I and class II carriers. Therefore, both classes must report certain data in the same detail. To ensure that this detail will be available, we propose to revise Part 1207 to require that class II carriers maintain formal subaccounts rather than memorandum accounts.

We do not believe that this additional accounting burden will be significant. With the exception of data on carrier operating property, Class II carriers must already maintain the information to enable them to complete annual report Form M-2. For example, we propose to require that class II carriers maintain the subaccounts in the 1140 series of accounts (Prepayments). However, Class II carriers keep this same data anyway, subdivided under account 1140, since they must report it on schedule 1140 annual report Form M-2.

All Class I and Class II common and contract motor carriers of property described in 49 CFR 1240.5 are made respondents in this proceeding.

(Sec. 204, 1C Act and pursuant to secs. 553, 559 of the Administrative Procedure Act.)

Issued at Washington, D.C. June 14, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

Part 1207 of Chapter X of Title 49 of the Code of Federal Regulations is proposed for amendment as follows:

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

CLASS I AND CLASS II MOTOR CARRIERS INSTRUCTIONS

1. In the list of instructions line item 32 is revised to read "Reserved."

2. Instruction 10 is amended to read as follows:

10. Clearing accounts.

(a) * * * as subdivisions of Account 1512—Deferred Debits or 2412—Deferred Credits (classes I and II) or * * *

(b) * * * included in Account 1512 or 2412 (classes I and II) or Account 1551 (classes I and II) * * *

12. [Amended]

3. Instruction 12(d) is revised by deleting the parenthetical phrase, "(class I carriers)" and the last sentence.

4. Instruction 13 is amended to read as follows:

13. Current assets.

(a) In the group of accounts designated as current assets, there shall not be * * *

(b) * * *

14. [Amended]

5. Instruction 14 is amended by deleting the words "Account 1010—Cash and Working Funds (class II)" and the parenthetical.

6. Instruction 16 is amended to read as follows:

16. Capital stock.

* * * * *

(d) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is retired or cancelled the par value shall be charged to account 2611—Capital Stock—Preferred or 2612—Capital Stock—Common if cancelled. Any Excess* * *

* * * * *

7. Instruction 19 is amended to read as follows:

19. Carrier operating property.

(a) (1) * * *coded 1211 through 1252, are classified as carrier operating property.

* * * * *

(f) (1) * * * operating accounts (accounts 1211 through 1252) to * * * The related accumulated depreciation (recorded in accounts 1214 through 1252) shall * * *

(2) * * * operating accounts the book cost of the property * * *

(g) * * *

(h) * * * shall be charged to Account 1241—Improvements to Leasehold Property. Amortization * * *

* * * * *

8. Instruction 20 is amended to read as follows:

20. Acquisition of a distinct operating unit.

* * * * *

(a) *Purchase.* (1) * * * the amounts includible in accounts 1211 through 1341 for * * *

* * * * *

(c) * * * included in accounts 2632, 2641, and 2652 (class II) and accounts 1211 through 1341 (classes I and II), 2632, 2641, and 2652 (class I) * * *

9. Instruction 21, paragraph (a), is amended to read as follows:

21. Retirement of property.

(a) * * *
(1) * * *
(iii) * * *
(*a*) * * * shall be charged to Account 1245—Unfinished Construction with contra credit to the clearing account. * * *
(*b*) * * *
(*c*) * * * or transferred to the deferred credits account (2412), as appropriate. * * * (or less the amount in account 2412). If the property * * *

* * * * *

10. Instruction 22 is amended to read as follows:

22. Insurance.

* * * * *

(g) * * * charged to Account 1142—Prepaid Insurance and * * * refund shall be retained in Account 1142 and the balance * * * estimated dividend shall be charged to account 1142, and the * * *

NOTE A.—* * * and the remainder of the premium shall be charged to Account 1142 and prorated * * *

11. Instruction 23 is amended to read as follows:

23. Depreciation and amortization.

(a) * * *
(b) * * * depreciable property included in accounts 1211 through 1251, amounts * * * accumulated depreciation and amortization (accounts 1214 through 1252).
(1) Depreciation charges on property included in accounts:

1213 Structures.
1221 Revenue equipment.
1223 Service cars and equipment.

* * * * *

(2) Depreciation charges on property included in accounts:

1233 Shop and garage equipment.
1235 Furniture and office equipment.
1237 Miscellaneous equipment.

* * * * *

(c) Amortization and depreciation charges on property included in Account 1241—Improvements to Leasehold Property (see instruction 21) shall be * * *

24. [Amended]

12. Instruction 24 is amended by deleting "Account 1140—Prepayments (class II)" and the parenthetical phrase "(class I)".

32 [Reserved]

13. The title and text of instruction 32 is deleted and marked "Reserved."

CLASS I AND CLASS II MOTOR CARRIERS CHART OF ACCOUNTS—BALANCE SHEET

The Class I and Class II Motor Carrier Chart of Accounts—Balance Sheet is amended in the Class II column to read as follows:

CURRENT ASSETS

* * * * *

1030 Temporary cash investment.

NOTES RECEIVABLE

1111 Notes receivable; officers, stockholders, and employees.
1112 Notes receivable; others receivables from affiliated companies.
1121 Loans and notes receivable from affiliated companies.
1122 Interest and dividends receivable from affiliated companies.
1123 Accounts receivable from affiliated companies.

* * * * *

TANGIBLE PROPERTY

LAND AND STRUCTURES

1211 Land.
1213 Structures.

* * * * *

OTHER CARRIER PROPERTY

1233 Shop and garage equipment.
1234 Accumulated depreciation—shop and garage equipment.
1235 Furniture and office equipment.
1236 Accumulated depreciation—Furniture and office equipment.
1237 Miscellaneous equipment.
1238 Accumulated depreciation—Miscellaneous equipment.
1241 Improvements to leasehold property.
1242 Accumulated amortization—improvements to leasehold property.
1243 Undistributed property.
1244 Accumulated depreciation—undistributed property.
1245 Unfinished construction.
1251 Carrier operating property leased to others.
1252 Accumulated depreciation—carrier operating property leased to others.

* * * * *

INVESTMENT SECURITIES AND ADVANCES

1410 Investments and advances—affiliated companies.
1417 Notes; affiliated companies.

* * * * *

CURRENT LIABILITIES

2010 Notes payable to affiliated companies.

PAYABLES TO AFFILIATED COMPANIES

2021 Loans and notes payable to affiliated companies.
2022 Interest and dividends payable to affiliated companies.
2023 Accounts payable to affiliated companies.

* * * * *

2130 Other current and accrued liabilities.
2161 Current equipment obligations and other debt.

* * * * *

STOCKHOLDER'S EQUITY

CAPITAL STOCK

2611 Capital stock—preferred.
2612 Capital stock—common.
2613 Subscribed capital stock.

* * * * *

CLASS I AND CLASS II MOTOR CARRIERS BALANCE SHEET ACCOUNT EXPLANATIONS

1110 [Deleted]

1. The title and text of Account 1110—Notes Receivable (Class II) are deleted.
2. The title and text of Account 1111—Notes Receivable—Officers, Stockholders, and Employees (class I) are amended to read as follows:

1111 Notes receivable—Officers, stockholders, and employees (classes I and II).

* * * * *

NOTE A.—Notes receivable from affiliated companies shall be included in account 1121—Loans and Notes Receivable from affiliated companies (classes I and II) or Account 1410—Investments and Advances—Affiliated Companies (class II) and Accounts 1411–1421, inclusive (class I), as appropriate.
NOTE B.—* * *

1112 [Amended]

3. The title of Account 1112 is amended to read "1112—Notes Receivable—Other (classes I and II)."

1120 [Deleted]

1121, 1122, and 1123 [Amended]

4. The title and text of account 1120—Receivables from Affiliated Companies (class II) are deleted. The parenthetical phrase "(class I)" in the titles of subaccounts 1121, 1122, and 1123 is amended to read "(classes I and II)."
5. The text of Account 1135—Accounts Receivable; Other (classes I and II) is amended to read as follows:

1135 Accounts receivable: other (class I and II).

This account shall include amounts due from others (except items provided for in accounts 1121, 1122, 1123, 1131 and 1133) that are * * *

1140 [Amended]

6. The title and text of Account 1140—Prepayments (class II) is deleted. The parenthetical phrase "(class I)" in the titles of accounts 1141–1147, inclusive, is amended to read "(classes I and II)."
7. Note D to the text of Account 1151—Material and Supplies (classes I and II) is amended to read as follows:

1151 Material and supplies (classes I and II).

* * * * *

NOTE D.—Stationery and printed matter should be charged to Account 1145.

* * * * *

8. The text of Account 1161—Subscribers to Capital Stock (class I) is amended to read as follows:

1161 Subscribers to capital stock (class I).

(a) * * *
(b) * * * Concurrently, there shall be credited to Account 2613—Subscribed Capital Stock, the par * * *

* * * * *

9. The text of NOTE A to Account 1162—Interest and Dividends Receivable (Class I) is amended to read as follows:

1162 Interest and dividends receivable (class I).

* * * * *

NOTE A.—* * * Shall be included in Account 1122—Interest and Dividends Receivable From Affiliated Companies.

* * * * *

1210–1213 [Amended]

10. The title and text of Account 1210—Land and Structures (class II) are deleted and the parenthetical phrase "(class I)" in the titles of subaccounts 1211 and 1213 is amended to read "(classes I and II)." The text of Account 1213, Note D, is amended to read as follows:

* * * * *

NOTE D.—* * * carried in Account 1245—Unfinished Construction, until ready for service.

11. The text of Account 1214—Accumulated Depreciation — Structures (Classes I and II) is amended to read as follows:

1214 Accumulated depreciation—Structures (classes I and II).

* * * * *

(3) * * * to the preceding asset account, or account 1251—Carrier Operating Property Leased to Others.

* * * * *

1230 and 1232 [Deleted]

12. The titles and texts of Accounts 1230—Other Carrier Property (class II) and 1232—Accumulated Depreciation and Amortization—Other Carrier Property (class II) are deleted.

1233–1252 [Amended]

13. The parenthetical phrase "(class I)" in the titles of Accounts 1233 through 1252 is amended to read "(classes I and II)."

14. The text of Account 1410—Investments and Advancements — Affiliated Companies (class II) is amended to read as follows:

1410 Investments and advances—affiliated companies (class II).

This account shall include the book cost (see definition 8) of the carrier's investments in securities issued or assumed by affiliated companies and the amount of advances * * *

NOTE A.—* * * shall be included in accounts 1121, 1122, or 1123, as appropriate.

* * * * *

1417 [Amended]

15. The parenthetical phrase in the title of Account 1417—Notes; Affiliated Companies (class I) is amended to read "(classes I and II)."

16. The text of Account 1428—Adjustments—Investments and Advancements; Affiliated Companies (classes I and II) is amended to read as follows:

1428 Adjustments—Investments and advances; affiliated companies (classes I and II).

* * * securities included in accounts 1410, 1411, 1413, 1415, 1417, 1419, or 1421, as appropriate (see instruction 18(b)).

17. NOTE A in the text of Account 2011—Notes Payable (class I) is amended to read as follows:

2011 Notes payable (class I).

* * * * *

NOTE A.—* * * included in Account 2021—Loans and Notes Payable to Affiliated Companies (see also Account * * *).

* * * * *

2020 [Deleted]

2021—2033 [Amended]

18. The title and text of Account 2020—Payables to Affiliated Companies (class II) are deleted and the parenthetical phrase "(class I)" in the titles of subaccounts 2021, 2022, and 2023 is amended to read "(classes I and II)."

19. NOTE A in the text of Account 2112—Vehicle Licenses and Registration Fees; Accrued (classes I and II) is amended to read as follows:

2112 Vehicle licenses and registration fees; accrued (classes I and II).

* * * * *

NOTE A.—* * * included in Account 1141—Prepaid Taxes and Licenses.

20. The text of Account 2130—Other Current and Accrued Liabilities (class II) is amended by adding "except 2161" at the end of the sentence.

21. The text of Account 2131—Dividends Payable (class I) is amended to read as follows:

2131 Dividends payable (class I).

* * * * *

NOTE.—* * * shall be included in Account 2022—Interest and Dividends Payable to Affiliated Companies.

22. The text of Account 2141—Notes and Advances Payable (interest accrued) (class I) is amended to read as follows:

2141 Notes and advances payable (interest accrued) (class I).

* * * * *

(b) * * * credited to Account 2022—Interest and Dividends Payable to Affiliated companies, * * *

* * * * *

23. The text of Account 2151—Notes and Advances Payable (matured interest) (class I) is amended to read as follows:

2151 Notes and advances payable (matured interest) (class I).

*** * * included in Account 2022—Interest and Dividends Payable to Affiliated Companies.**

2161 [Amended]

24. The title of Account 2161 is amended to read "Current Equipment Obligations and Other Debt (classes I and II)."

25. The texts of subaccounts 2311, 2312, and 2313 are amended to read as follows:

2311 Notes payable (affiliated companies) (class I).

* * * * *

(b) * * * included in Account 2021—Loans and Notes Payable to Affiliated Companies.

2312 Open accounts, note subject to current settlement (affiliated companies) (class I).

* * * * *

(b) * * * included in Account 2023—Accounts Payable to Affiliated Companies.

2313 Interest accrued, not subject to current settlement (affiliated companies) (class I).

* * * * *

(b) * * * included in Account 2022—Interest and Dividends Payable to Affiliated Companies.

26. The texts of Accounts 2331, 2332, 2333, and 2334 are amended to read as follows:

2331 Equipment obligations (classes I and II).

(a) * * * is includible in Account 2161—Current Equipment Obligations and Other Debt (see NOTE A).

* * * * *

2332 Bonds and debentures (classes I and II).

(a) * * * is includible in Account 2161—Current Equipment Obligations and Other Debt (see NOTE A).

* * * * *

2333 Capitalized lease obligations (classes I and II).

* * * * *

NOTE A.—* * * includible in Account 2161—Current Equipment Obligations and Other Debt.

2334 Other long-term obligations (classes I and II).

(a) * * * is includible in Account 2161—Current Equipment Obligations and Other Debt (see NOTE A).

* * * * *

2410 and 2411 [Deleted]

27. The title and text of Accounts 2410—Deferred Credits (class II) and 2411—Unamortized Premium on debt are deleted.

2610 [Deleted]

2611–2613 [Amended]

28. The title and text of Account 2610—Capital Stock (class II) are deleted and the parenthetical phrase "(class I)" in the titles of Accounts 2611, 2612, and 2613 is amended to read "(classes I and II)".

REVENUE ACCOUNT, EXPLANATIONS

INSTRUCTION 27, 28A, AND 28C CARRIERS

The text of Account 3100—Freight Revenue—Intercity Common Carrier (classes I and II) is amended to read as follows:

3100—Freight revenue—Intercity common carrier (classes I and II).

* * * * *

NOTE C.—* * * included in Account 2023—Accounts Payable to Affiliated Companies or Account 2032 * * *

* * * * *

OPERATING EXPENSE ACCOUNT EXPLANATIONS INSTRUCTION 27, 28A, AND 28C CARRIERS

The operating expense account explanations for Instruction 27, 28A, and 28C carriers are amended as follows:

4550 [Amended]

1. Account 4550—Tires and Tubes is amended by deleting the words "Account 1140—Prepayments (class II) or" and "(class I)" in the first paragraph.

4890 [Amended]

2. Account 4890—Other Insurance is amended by deleting the words "Account 1020—Special Deposits (class II)" and "(class I) or" in NOTE A.

5310 [Amended]

3. Account 5310—Depreciation Expense—Buildings and Structures is amended by deleting the words "Account 1210—Land and Structures (class II) or" and "(class I)" from the first paragraph.

5340 [Amended]

4. Account 5340—Depreciation Expense—Shop and Garage Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)."

5350 [Amended]

5. Account 5350—Depreciation Expense—Furniture and Office Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

5360 [Amended]

6. Account 5360—Depreciation Expense—Miscellaneous Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

5370 [Amended]

7. Account 5370—Amortization Expense—Improvements to Leasehold Property is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

5380 [Amended]

8. Account 5380—Depreciation Expense—Undistributed Property is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

5710 [Amended]

9. Account 5710—Gains on Disposition of Operating Assets is amended by deleting the words "1221 through 1232 (class II) and accounts" and "(class I)" from the first paragraph.

10. Account 5930—Professional Services—Debit is amended to read as follows:

5930 Professional services—Debit.

* * * * *

NOTE C.—* * * law expenses and expenditures incident to securing authorization for issuance of long-term debt or capital stock shall be charged to Account 2338—Unamortized Discount in Debt or Account 2339—Unamortized Premium or Debt or Account 2633 * * *

NOTE D.—* * * shall be charged to Account 1512 Deferred Debits and amortized by charges to this account.

CLASS I AND CLASS II CARRIERS OF HOUSEHOLD GOODS (INSTRUCTION 28B CARRIERS)

REVENUE ACCOUNT EXPLANATIONS

3100 [Amended]

1. Account 3100—Moving Revenue—Intercity Common Carriers, Own Rights (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from NOTE A.

3500 [Amended]

2. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Accounting 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from NOTE A.

3600 [Amended]

3. Account 3600—Supplementary Transportation Services (classes I and II) is amended by deleting the words "Account 2020—Payable to Affiliated Companies (class II); and" and "(class I)" from NOTE A.

3900 [Amended]

4. Account 3900—Other Operating Revenue (classes I and II) is amended changing the reference to Account 1210 to read "1211."

ACCOUNT EXPLANATIONS—OPERATING EXPENSES

The operating expense account explanations for household goods carriers are amended as follows:

6200 [Amended]

1. Account 6200—Tires and Tubes is amended by deleting the words "Account 1140—Prepayments (class II) or" and "(class I only)" in the first paragraph.

2. Account 7330—Other Outside Services—Professional Services is amended to read as follows:

7330 Other outside services—professional services.

* * * * *

NOTE C.— * * * law expenses and expenditures incident to securing authorization for issuance of long-term debt or capital stock shall be charged to Account 2338—Unamortized Discount in Debt or Account 2339—Unamortized Premium or Debt or Account 2633 * * *

NOTE D.— * * * shall be charged to Account 1512 Deferred Debits and amortized by charges to this account.

3120 [Amended]

3. Account 8120—Depreciation—Revenue Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II), or" and "(class I)."

8140 [Amended]

4. Account 8140—Depreciation—Buildings and Structures is amended by deleting the words "Account 1210—Land and Structures (class II) or" and "(class I)."

8150 [Amended]

5. Account 8150—Depreciation—Furniture and Office Equipment is amended by deleting "Account 1230—Other Carrier Property (class II) or" and "(class I)."

8170 [Amended]

6. Account 8170—Depreciation—Undistributed Property is amended by deleting the words "(class I)."

8210 [Amended]

7. Account 8210—Amortization of Leasehold Improvements is amended by deleting the words "Account 1230—Other Carrier Property (class II), or" and "(class I)" in the first paragraph.

8910 [Amended]

8. Account 8910—Gains on Disposition of Operating Assets is amended by deleting the words "Accounts 1221 through 1232 (class II) and" and "(class I)" in paragraph (a).

CLASS I AND CLASS II MOTOR CARRIER CHART OF ACCOUNTS OTHER INCOME AND EXPENSES

The Class I and Class II Motor Carrier Chart of Accounts is amended, under Class II, to read as follows:

CLASS II ACCOUNTS *

* * * * *

8700/9700	Income taxes on income from continuing operations.
8710/9710	Federal income taxes.
8720/9720	State income taxes.
8730/9730	Other income taxes.

* * * * *

OTHER INCOME AND EXPENSE ACCOUNT EXPLANATIONS

The Other Income and Expense Account Explanations are amended as follows:

8320/9320 [Amended]

1. Account 8320/9320—Lease of Distinct Operating Units—Credit is amended by deleting the words "Account 1232—Accumulated Depreciation and Amortization, Other Carrier Property (class II) or to" and "(class I)" in NOTE A.

8700/9700 [Amended]

2. Account 8700/9700—Income Taxes on Income from Continuing Operations is amended by deleting "class I" in paragraph (a); and deleting paragraph (b) and classifying (b) as "Reserved."

8710/9710 [Amended]

3. The title of Account 8710/9710 is amended to read: Federal Income Taxes (classes I and II).

8720/9720 [Amended]

4. The title of Account 8720/9720 is amended to read: State Income Taxes (classes I and II).

8730/9730 [Amended]

5. The title of Account 8730/9730 is amended to read: Other Income Taxes (classes I and II).

8800/9800 [Amended]

6. Account 8800/9800—Extraordinary items (classes I and II) is amended by deleting "class I" in paragraphs (a) and (f); and by deleting the texts of paragraphs (b) and (c) and classifying them as "Reserved."

8810/9810 [Amended]

7. The title of Account 8810/9810 is amended to read: Extraordinary item (net) (classes I and II).

8850/9850 [Amended]

8. The title of Account 8850/9850 is amended to read: Income taxes on extraordinary items (classes I and II).

8851/9851 [Amended]

9. The title of Account 8851/9851 is amended to read: Provision for deferred taxes—extraordinary items (classes I and II).

[FR Doc.77-18519 Filed 6-27-77;8:45 am]

[49 CFR Part 1241]

[Docket No. 36557]

ANNUAL, SPECIAL, OR PERIODIC REPORTS; CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

Reporting Railroad Track Maintenance

AGENCY: Interstate Commerce Commisson.

ACTION: Proposed rule

SUMMARY: The Interstate Commerce Commission proposes new schedules in the Annual Report, Form R-1 for class I railroads to report track maintenance data by main and branch lines and to disclose deferred track maintenance assessed by carriers.

DATES: Written comments (an original and if possible 15 copies) must be received on or before August 15, 1977.

ADDRESS: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Mr. John A. Grady, Director, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423. Phone No. 202-275-7565.

SUPPLEMENTARY INFORMATION: Pursuant to section 20, as amended, of the Interstate Commerce Act and sections 553 and 539 of the Administrative Procedure Act, we are instituting this proceeding on our own motion to consider new reporting requirements for Class I railroads on track maintenance.

Track maintenance consists of the replacement of rail, ties, ballast, and other related work to keep the tracks in good operating condition. Inadequate track maintenance of many railroads has been a crucial problem which threatens the efficiency, quality, and profitability of railroad service. We at the Commission and others who are concerned with the railroad industry need information to analyze the adequacy of track maintenance. However, Annual Report Form R-1 filed by railroads with this Commission does not provide sufficient data for this purpose. Therefore, we propose class I railroads be required to:

(1) Disclose the amount of deferred maintenance, if any, assessed by the railroad management, and explain the methodology used in making this assessment; and

(2) Report more detailed data than that currently required in Form R-1 on actual maintenance and track and traffic conditions.

We believe that management is in the best position to determine for each railroad how much maintenance should have been done to keep the tracks in good operating condition and how much it would cost the railroad to rehabilitate its tracks. In meeting this proposed reporting requirement the railroads may refer to the definition of deferred maintenance provided in the Commission proceeding Ex Parte 305, "Nationwide Increase of Ten Percent in Freight Rates and Charges, 1974," and can use the methods that they have been using in determining the amounts of deferred maintenance reported under Ex Parte 305 since 1974.

Under Ex Parte 305, the Commission defined deferred maintenance as:

> * * * the accrued deterioration or deficiency in the physical operating condition of railroad track structures cars and locomotives and other property used in the provision of transportation service resulting from the failure and/or inability to properly maintain plant and equipment which produces an adverse effect on railroad operations to an extent that services to shippers have been rendered partially or wholly inadequate and/or has resulted in diminishing the railroads' competitive ability; * * *

We request respondents to this Notice to comment on the use of this definition for Form R-1.

We also propose new schedules in Form R-1 to report in greater detail, and by main and branch lines, data on actual maintenance performed for track components. We believe information in these schedules when used together with the amounts of deferred maintenance reported will be used for analysts in forming their own judgments and analyses.

To implement our proposal, the following new schedules and changes would be made to Form R-1 (the blueprints of the proposed Schedules are enclosed as the Appendix to this notice):

1. Add Schedule 512 to report by main and branch lines: traffic density, speed limits, slow orders, and accidents caused during the year by track defects.

2. Redesignate schedule 513 as schedule 513(b), and add schedule 513(a) to report ties laid in replacement by main and branch lines, by condition of tie (new vs. second-hand) and by type of tie (wooden treated, concrete, etc.).

3. Redesignate schedule 515 as schedule 515(b), and add schedule 515(a) to report rail laid in replacement by main and branch lines, by condition of rail, and by type of rail (welded vs. bolted).

4. Add schedule 520 to summarize track maintenance information. This schedule will show by main and branch lines number of ties replaced, miles of rail replaced, mile of ballast cleaned, tons of ballast placed, miles of track surfaced and bridges repaired. It will also show the percentage of replacements to total units of the track components at the end of the year.

5. Add schedule 522 to report a ten-year summary of track maintenance statistics. This schedule will assist in analyzing the track maintenance in comparison with the historical trend.

6. Add schedule 524 to disclose deferred maintenance, if any, assessed by the carrier and to explain the methodology used by the carrier in making its assessment.

Issued at Washington, D.C., June 17, 1977, by the Commission.

H. GORDON HOMME, JR.,
Acting Secretary.

[FR Doc.77-18518 Filed 6-27-77;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

[Docket No. 30697; Order 77-6-110]

CARIBBEAN AREA SERVICE INVESTIGATION

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of June 1977.

By order 77-4-28, April 6, 1977, the Board instituted the Caribbean Area Service Investigation and requested all interested persons to submit comments and answers concerning the scope of the proceeding. Subsequently, National Airlines and the Pittsburgh Parties[1] filed motions for leave to published selected international O&D traffic data relating to the case, pursuant to section 399.100 of the Board's Policy Statements. In addition, the Government of the Virgin Islands filed a motion for the release of selected international service segment data. Allegheny Airlines and the Commonwealth of Puerto Rico[2] submitted answers in support of the above motions.

Upon consideration of all the facts and relevant pleadings, we have decided to release O&D traffic and service segment data from 1972 to the present.[3]

In order to permit interested parties the greater latitude in utilizing the data available for the submission of comments and answers, we will release the international O&D and the service-segment data between points in the continental United States, and all the islands in the Caribbean plus the Bahama Islands, Caracas, Maracaibo, and Barranquilla, and between and among the Caribbean points, the Bahamas, and the three points in South America.[4]

Finally, due to our action, interested parties may have difficulty in complying with the June 27, 1977, date for comments, applications, and motions to consolidate, and with the July 27, 1977, date for answers. Therefore, we will extend the time for filing comments, applications, and motions to consolidate in response to Order 77-4-28 to July 15, 1977, and for filing answers to August 15, 1977.[5]

Accordingly, *It is ordered*, That:

1. The motions of National Airlines, Inc., the Pittsburgh Parties, and the Government of the Virgin Islands are granted;

2. The date on which to file comments, applications, and motions to consolidate in response to Order 77-4-28 is extended to July 15, 1977, and the date for answers to August 15, 1977; and

3. A copy of this order shall be served upon all persons listed in Appendix A to Order 77-4-28.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-18510 Filed 6-27-77;8:45 am]

[Docket No. 29591; Order 77-6-101]

DONALD L. PEVSNER

Refund Provisions for Unused Tickets; Order Soliciting Comments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of June 1977.

On July 29, 1976, Donald L. Pevsner filed a complaint requesting immediate suspension, pending investigation, of all tariff rules governing the refund provisions for unused tickets in interstate air transportation, overseas air transportation, and foreign air transportation. The complainant states that all nonexcursion-fare tickets are valid for one year, whereas the validity of excursion-fare tickets varies with each particular type of fare. While the complainant does not take issue with the period of validity of any given ticket, he alleges that the period during which a carrier will make a refund on an unused ticket varies significantly among carriers and that such differences are unjust, unreasonable, arbitrary, and capricious. Further, it is alleged that the passenger is unaware of the forfeiture provisions applicable to the particular ticket which he has purchased. Although the complainant argues that the carriers should be required to pay interest on unused air tickets, the specific relief sought is elimination of all forfeiture provisions through suspension and subsequent institution of a formal investigation of the relevant tariffs.

Answers in opposition to grant of the complaint have been filed by Eastern Air Lines, Inc. (Eastern), Air New England, Inc. (Air New England), and Allegheny Airlines, Inc. (Allegheny).

Allegheny claims that the complaint is untimely since the tariffs in question have been on file for decades, and that the Board consequently lacks suspension power. It also notes that, although the tariffs have been in effect for many years, their refund procedures have not previously been the subject of complaint. The carrier states that its rules permit refunds up to six months beyond the ticket's validity (18 months after purchase of the ticket); that this period is ample in most cases; and that requests for refunds beyond this limit are normally honored. Allegheny claims that the open-ended refund period suggested in the complaint is not feasible since the Board does not require retention of ticket stocks and other relevant records beyond two years.

Air New England notes that a requirement that carriers pay interest on unused tickets would result in passengers using tickets to obtain short- or long-term banking facilities, a concept which is unsupported in the Federal Aviation Act of 1958. The carrier disagrees that the passenger is unaware of the period of ticket-validity since this information is printed on Air New England's ticket stock and notes that statutes of limitation invalidate various legal rights after elapse of a specific time and that the concept is not, therefore, unique to air transportation. Finally, the carrier argues that the relief sought is inappropriate since rules of such long standing cannot be summarily invalidated.

Eastern states that in practice it routinely makes refunds regardless of the expiry date on the ticket, although its international tariff rule provides that it may refuse a refund when a ticket is presented more than 30 days after that date. Eastern contends that it does not have a refund rule for domestic tickets and that, in view of its actual refund practice with respect to international tickets, it will delete the rule from its international tariff.

After careful review of all the arguments presented, and all other relevant matters, the Board is persuaded that a uniform limitation of some nature with respect to ticket refund may be desirable to protect passengers against possible arbitrary carrier action and to minimize understandable confusion among travelers. A

---

[1] The County of Allegheny and the Pittsburgh Airport Advisory Committee.

[2] Puerto Rico, although it did not file a motion, requested in its answer that the countries bordering the Caribbean, such as Venezuela, Colombia, Panama, Central America, and Mexico, also be included.

[3] Prior to 1972, the Board's service segment data system was in its implementation stage. As to pre-1972 O&D data, due to processing complexity it would not be possible to make such data available in the time frame indicated herein.

[4] We stress, however, that the grant of the requests for release of this data should not be construed as indicative of the ultimate scope of this proceeding.

[5] A copy of the service segment and O&D data will be made available in the Board's public reference room by July 5, 1977.

review of the tariffs indicates that there are substantial differences among carriers regarding the time limits within which refunds for unused tickets will be made. Additionally, the responses to the complaint indicate that some carriers, apparently as a routine matter, make refunds without regard to the time limits set forth in their tariffs.

Therefore, the Board has tentatively concluded that existing tariffs governing refund provisions for unused tickets in domestic, overseas, and foreign air transportation may warrant reexamination with a view toward providing that uniform refund provisions apply on all air carriers. However, before embarking upon a formal proceeding, we believe it would be helpful to receive the comments of all interested persons to provide the Board with more detailed information with respect to the impact of a uniform refund rule in the market place, and to provide a more adequate basis for better defining the scope and issues should a proceeding ultimately be deemed necessary.

Thus, the Board requests that all interested persons submit formal written comments on the desirability of a uniform rule governing the limitation on ticket refunds, and would welcome any suggestions which the carriers and any interested persons may care to make as to its specifics. The Board expects, of course, that persons responding to this solicitation will make every effort to explain their arguments fully.

Accordingly, *It is ordered*, That:

1. All persons wishing to comment on the desirability and specifics of a uniform tariff rule governing ticket refunds in interstate, overseas, and foreign air transportation are directed to file an original and three copies of such comments in Docket 29591 no later than August 1, 1977. Responsive comments may be filed no later than August 15, 1977; and

2. Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section without having to file additional copies.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-18509 Filed 6-27-77;8:45 am]

[Order 77-6-76; Docket 27573; Agreement C.A.B. 26655]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Adopted; Order

Issued under delegated authority June 16, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement was adopted at the 44th Meeting of the TC1 Specific Commodity Rates Board held in Vancouver on May 9, 1977.

With respect to air transportation as defined by the Act, the agreement proposes revisions to the specific commodity rates structure applicable within the Western Hemisphere. These revisions are outlined in the attachments hereto, and reflect reductions from otherwise applicable general cargo rates.

The Board will herein approve the agreement, with one exception. The agreement provides for the transportation of Item 2200 (wearing apparel, including partly manufactured clothing) between Houston and San Salvador, with a minimum shipment of 500 kilograms at per-kilogram rates of 44 cents southbound and 22 cents northbound. In this instance, we are unable to perceive any justification which would warrant such an extreme rate differential for the movement of identical goods between the same points in opposite directions, or to find such an arrangement to be in the public interest. Consequently, we will disapprove the agreement insofar as it would establish rates for Item 2200 in either director.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14: 1. It is not found that those portions of Agreement C.A.B. 26655 outlined in Attachment I hereto are adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered;

2. It is found that the portion of Agreement C.A.B. 26655 outlined in Attachment II hereto is adverse to the public interest and in violation of the Act.

Accordingly, *it is ordered*, That: 1. Those portions of Agreement C.A.B. 26655 set forth in finding paragraph 1 above be and hereby are approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level; and

2. That portion of Agreement C.A.B. 26655 set forth in finding paragraph 2 above be and hereby is disapproved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX I.—*Agreement CAB 26655*

IATA commodity item No.[1]	Specific commodity rate (kilogram) Cents[2]	Minimum weight	Market
Rates added under existing commodity descriptions			
0009	[3] 44	200	Acapulco to Dallas.
	[3] 51	200	Acapulco to San Antonio.
	27	300	Boston to Bermuda.
	43	200	Mazatlan to Los Angeles.
	37	500	Do.
	30	1,000	Do.
	25	2,000	Do.
	[4] 49	200	Mexico City to Chicago.
	[4] 44	500	Do.
	[4] 35	1,000	Do.
	[4] 30	2,000	Do.
	[3] 38	200	Mexico City to Dallas.
	43	100	Mexico City to Los Angeles.
	37	500	Do.
	30	1,000	Do.
	25	2,000	Do.
	[3] 35	200	Mexico City to San Antonio.
	[3] [5] 210	.....	Nassau to Atlanta.
	[3] [5] 250	.....	Nassau to Boston.
	[3] [5] 250	.....	Nassau to Chicago.
	[3] [5] 250	.....	Nassau to Detroit.
	[3] [5] 250	.....	Nassau to Hartford.
	[3] [5] 210	.....	Nassau to Philadelphia.
	[3] [5] 210	.....	Nassau to Washington.
1026	[4] 65	100	Port of Spain to Miami.
1031	105	200	Honolulu to Fortaleza.
1201	[4] 102	500	Santiago to Los Angeles.
	[4] 71	1,000	Santiago to Miami.
	[4] 71	1,000	Santiago to New York.
1440	[4] 28	300	Mexico City to New Orleans.
2215	[3] 183	500	New York to Santiago.
4206	[3] 44	300	Mexico City to Chicago.
	[3] 40	1,000	Do.
	[3] 25	300	Mexico City to San Antonio.
4500	51	200	Los Angeles to Mexico City.
	32	1,000	Do.
	29	1,500	Do.
5295	[4] 96	2,000	Sao Paulo to New York.
8406	[4] 80	500	New York to Mexico City.
9516	[3] 41	200	Mexico City to St. Louis.
Rates extended under existing commodity descriptions			
2460	[3] 35	1,000	Mexico City to New York.
	[3] 32	2,000	Do.
Rates canceled under existing commodity descriptions			
0007		1,000	Mazatlan to Los Angeles.
.....		2,000	Do.
.....		1,000	Mexico City to Los Angeles.
.....		2,000	Do.
4500		100	Los Angeles to Mexico City.

[1] See applicable tariffs for commodity descriptions.
[2] Rates are subject to applicable currency conversion factors as shown in tariffs.
[3] Expires Dec. 31, 1978.
[4] Expires Sept. 30, 1978.
[5] Rate is specified in dollars per unit load device.

Specific commodity descriptions

IATA Commodity item No.	Description
1031	Prawn fry.[2]
2215	Cloth and/or partly manufactured clothing including dressmaking supplies.[3]
3308	Tin in ingot form.[2][3]
3072	Aluminum household ware.[3]
5265	Pottery, ceramics.[3]
7139	Educational aides, namely: textbooks, instruments and visual teaching aids for use in educational institutions only.[3]
8406	Camera supplies, namely: flashbulbs.[1]

[1] New description.
[2] Area of application changed.
[3] Changed description.

APPENDIX II.—*Agreement CAB 26655*

IATA commodity item No.[1]	Specific commodity rate (kilogram) Cents[2]	Minimum weight	Market
2200	44	500	Houston to San Salvador.
	32	500	San Salvador to Houston.

[1] See applicable tariffs for commodity descriptions.
[2] Rates are subject to applicable currency conversion factors as shown in tariffs.

[FR Doc.77-18100 Filed 6-27-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

ARKANSAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arkansas Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 3 p.m. on July 16, 1977, at the American Inn 707 Interstate 30, Little Rock, Arkansas 72202.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, New Moore Building, Room 231, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting is an orientation for new SAC members and planning meeting.

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

Dated at Washington, D.C., June 22, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-18417 Filed 6-27-77;8:45 am]

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 12 noon on July 29, 1977, at Western Regional Office, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015 Los Angeles, California 90012.

The purpose of this meeting is for the Administration of Justice Subcommittee to discuss program planning.

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

Dated at Washington, D.C., June 22, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-18419 Filed 6-27-77;8:45 am]

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 12 noon on July 15, 1977, at Western Regional Office, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015 Los Angeles, California 90012.

The purpose of this meeting is for the Education Subcommittee to discuss program planning.

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

Dated at Washington, D.C., June 22, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-18418 Filed 6-27-77;8:45 am]

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 10:30 a.m. and will end at 1 p.m. on July 13, 1977, at the Hyatt Hotel, 6225 West Century Boulevard, Cabana No. 201, Los Angeles, California 90045.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is for the Immigration Subcommittee to discuss program planning.

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

Dated at Washington, D.C., June 22, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-18420 Filed 6-27-77;8:45 am]

KANSAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kansas Advisory Committee (SAC) of the Commission will convene at 10:30 a.m. and will end at 3 p.m. on July 15, 1977, at the Holiday Inn Towers, 424 Minnesota Avenue, Kaw Room, Kansas City, Kansas 66101.

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

The purpose of this meeting is to continue planning and follow-up activities on the Kansas prison study. The follow-up focus has been on affirmative action hiring within the State penal system.

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

Dated at Washington, D.C., June 22, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-18421 Filed 6-27-77;8:45 am]

KANSAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a conference of the Kansas Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 5 p.m. on July 18–19, 1977, at Holiday Inn Towers, 424 Minnesota, Wyandotte Room, Kansas City, Kansas 66101.

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

The purpose of this meeting is to discuss regional priorities and coordinate program activities agenda will focus on CSRO input for the National SAC Chairpersons' Conference.

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

Dated at Washington, D.C., June 22, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-18422 Filed 6-27-77;8:45 am]

MICHIGAN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 5 p.m. on July 18, 1977, at the Holiday Inn Scandia Room A, 615 Front Street, Traverse City, Michigan 49684.

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

The purpose of this meeting is to discuss alleged violations of local Native Americans' rights; Followup past projects; and plan full community development study.

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

Dated at Washington, D.C., June 22, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-18423 Filed 6-27-77;8:45 am]

MINNESOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 5 p.m. on July 22, 1977, at St. Paul Holiday Inn, 161 St. Anthony, St. Paul Minnesota 55103.

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

The purpose of this meeting is to review final draft of Indian Report. Report of Hispanic Identifiers, Police Study Proposal.

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

Dated at Washington, D.C., June 22, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-18424 Filed 6-27-77;8:45 am]

OHIO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 4 p.m. on July 23, 1977, at Cleveland Plaza Hotel, Euclid Avenue at East 12th Street, Cleveland, Ohio 44115.

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

The purpose of this meeting is to review information gathered on the Cleveland Affirmative Action Plan. Discuss draft report on findings, and make plans for follow-up activities, discuss and decide the next phase of the Cleveland study.

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

Dated at Washington, D.C., June 22, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-18425 Filed 6-27-77;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Meetings

In accordance with the Federal Advisory Committee Act, Public Law 92-463, the President's agent announces the following meetings:

NAME: Federal Employees Pay Council.

DATES AND TIME: July 13 and 20, 1977, 2 p.m.

PLACE: U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., Room 5A06A.

TYPE OF MEETINGS: Open.

CONTACT PERSON:

Claire Kline, Committee Management staff for the President's agent, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., Telephone (202) 632-5595.

PURPOSE OF COMMITTEE: To make recommendations to the President's agent with respect to the process and procedures leading to, and amounts of, annual comparability adjustments in Federal white-collar pay.

AGENDA: Discussions on the 1977 comparability adjustment for the statutory pay systems of the Federal Government, which are defined in section 5301 of title 5, United States Code.

For the President's agent.

RICHARD H. HALL,
Committee Management Officer for the President's agent.

[FR Doc.77-18532 Filed 6-27-77;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procursement List 1977 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: June 28, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On April 18, 1977, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 FR 20169) of proposed addition to Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1977:

SIC 7349

Janitorial/Elevator Operator Services, Federal Building, 201 Varick Street, New York, New York.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-18533 Filed 6-27-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[CP 75-20]

WINDOW GUARDS

Denial of Petition

This document announces the denial of a petition submitted to the Consumer Product Safety Commission requesting the Commission to develop a consumer product safety rule with respect to the maximum distance between the horizon-

tal bars of window guards designed to prevent young children from falling out of windows.

Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish in the FEDERAL REGISTER its reasons for denial.

On April 22, 1975, the Commission received a petition from Stephen J. Lerman, M.D., of New York City, requesting development of a standard for window guards used to prevent young children from falling out of windows. These guards are not the same as the heavy metal bars that cover the entire window for protection from intruders. Dr. Lerman states that the design of such window guards is inherently dangerous because the excessive distance between the horizontal bars (Dr. Lerman referred to one brand having a distance of 5⅝ inches between the bars) could permit a young child to slip through and fall. He suggests that a maximum distance of perhaps 2⅜ inches would be appropriate (as established for slat spacing in the Commission's crib regulations, 16 CFR 1508.4, 1509.4).

In assessing the question of whether a product presents an unreasonable risk of injury and whether a consumer product safety standard is necessary to address a risk of injury, the Commission weighs the degree, nature, and frequency of injury or injury potential associated with the consumer product against the potential effect of a standard on the cost, utility, and availablity of the product. The Commission also considers the relative priority of the risk of injury associated with the product and the Commission's resources available for rulemaking with respect to that risk of injury (see the Procedures for Petitioning for Rulemaking under section 10 of the CPSA, 16 CFR 1110.11(b)). The Commission policy on establishing priorities for Commission action, 16 CFR 1009.8, sets forth the criteria upon which Commission priorities are based.

In regard to actual injuries associated with window guards, a search of data from the Commission's National Electronic Injury Surveillance System, Death Certificate File and Injury Bulletin, did not reveal incidences of injuries from window falls. There are no in-depth investigations on file for such injuries for fiscal year 1974, 1975, and 1976.

The Department of Health of the City of New York investigates and collects data on each occurrence of a fall from a window in the City. An official of this Department reports, however, that there have been no known instances of falls in apartments where window guards have been installed. The Commission staff estimates that because of a mandatory requirement in New York City for the installation of window guards by landlords in apartments with children under 10 years of age, and a City program to provide free window bars to families with pre-school-age children, there are at least fifty to sixty thousand window guards installed in New York City. Thus, despite the use of many window guards, the Commission is unaware of any specific instance of injury associated with them. However, the lack of injury data does not conclusively show that the product has no injury potential. It is obvious that a window guard with a distance between the bars great enough to permit a young child to slip through does have the potential for being associated with an injury by creating a false sense of security in parents who might be more apt to leave children unattended near a window equipped with a guard than near one not so equipped.

The Commission has not reached a conclusion on what the proper distance between window bars should be to prevent children from falling through. However, the 2⅜ inches required for crib slats was designed to protect infants and would probably not be necessary or approriate to protect children from falling through windows having a window guard. For this reason it is difficult to accurately estimate the potential effect of a standard for window guards on the cost, utility, and availability of the product. However, if a standard results in changes in current spacings, such a standard would probably require an added expense in the die used in manufacturing the units. In addition, if a standard results in a unit with more bars, the increase in materials used would also result in increased costs.

After careful consideration of the petition, information furnished by the petitioner, and data and information collected by the Commission staff, the Commission concludes that the petition be denied because of the lack of information available sufficient to establish that window guards present an unreasonable risk of injury and that a mandatory consumer product safety rule is necessary to protect the public. However, because of the obvious potential for injury created by an excessive distance between the bars of window guards, and the relatively simple solution of designing window guards with a maximum distance between bars small enough to prevent young children from passing through, the Commission believes that an adequate standard could be developed and complied with voluntarily by industry. The Commission also believes that such a standard could be adopted by local jurisdictions choosing to mandate the installation of window guards. The Commission notes that it is in the process of establishing a comprehensive policy concerning voluntary standards and that the dimensions of its involvement in such a voluntary standardization activity would be guided by the policy that is adopted.

This notice of the Commission's denial of the above-described petition and the reasons therefor, has been issued pursuant to section 10(d) of the Consumer Product Safety Act, 15 U.S.C. 2059(d).

Dated: June 22, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-18446 Filed 6-27-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 752-4]

ALBUQUERQUE, NEW MEXICO WASTEWATER TREATMENT FACILITY

Availability of Draft Environmental Impact Statement

Under section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the expansion and upgrading of the wastewater treatment facilities, city of Albuquerque, Bernalillo County, New Mexico.

The City of Albuquerque, New Mexico has received Federal financial assistance the purpose of which is to plan for an area-wide wastewater collection and treatment system. The EIS is intended to provide essential information regarding the options available for collection, treatment and disposal/reuse of Albuquerque's liquid wastes over the next 20 years.

To receive additional public comments the Environmental Protection Agency will hold a public hearing on this DEIS at 7:30 p.m., M.D.T., on Wednesday, July 20, 1977, in the Council Chambers, First Floor, City Hall, 400 Marquette NW., Albuquerque, New Mexico.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) on June 13, 1977. In accordance wtih CEQ's notice of availability, comments are due on August 8, 1977. Copies of the DEIS are available for review and comment from: Project Officer, Environmental Protection Agency, Region VI, 1201 Elm Street, First International Building, Dallas, Texas 75270, telephone 214-749-1236.

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region VI Library, 1201 Elm Street, First International Bldg., Dallas, Texas 75270.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, D.C. 20036. Please reference ELR No. 70734.

Copies of the DEIS have been sent to various Federal, State, and local agen-

cies, and interested individuals as outlined in the CEQ Guidelines.

Dated: June 22, 1977.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.77-18389 Filed 6-27-77;8:45 am]

[FRL 752-3]

SHELL CHEMICAL CO. POLYPROPYLENE PLANT

Availability of Final Environmental Impact Statement

Under section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a final environmental impact statement (FEIS) for the Shell Chemical Company Polypropylene Plant, Norco/Goodhope Community, St. Charles Parish, Louisiana.

The proposed action is the EPA's consideration of issuing a new source National Pollutant Discharge Elimination System (NPDES) permit for discharge of plant effluent and stormwater from the Shell Chemical Company's proposed polypropylene plant into Bayou Trepagnier.

This FEIS was transmitted to the Council on Environmental Quality (CEQ) on June 15, 1977. In accordance with CEQ's Guidelines (40 CFR 1500.11), no administrative action will be taken until thirty days after receipt of this FEIS by the Council. Copies of the FEIS are available for review and comment from: Mr. Clinton Spotts, Environmental Protection Agency, Region VI, 1200 Elm Street, First International Building, Dallas, Texas 75270.

Copies of the FEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region VI, 1200 Elm Street, First International Building, 28th Floor Library, Dallas, Texas 75270.

Environmental Protection Agency, Public Information Reference Unit, Room 2922 Waterside Mall., 401 M Street SW., Washington, D.C. 20460.

Information copies of the FEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, D.C. 20036. Please reference ELR No. 70743.

Copies of the FEIS have been sent to various Federal, State and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: June 22, 1977.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.77-18388 Filed 6-27-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21284; FCC 77-407]

ECONOMIC RELATIONSHIP BETWEEN TV BROADCASTING AND CABLE TELEVISION

Inquiry

Adopted: June 9, 1977.

Released: June 23, 1977.

In the matter of Inquiry Into the Economic Relationship Between Television Broadcasting and Cable Television.

1. Notice is hereby given of inquiry into the above-entitled matter.

2. The Commission is instituting a broad inquiry into the economics of the relationship between television broadcasting and cable television in the hope that we may gather the kind of information that can be used as a basis for our continuing reassessment of cable policies and rules. We are particularly interested in data which would shed more light on the critical assumptions that are often relied upon in analyzing cable television's effect on local broadcast stations. These assumptions have been apparent throughout our regulatory program in the form of a more or less intuitive model: (a) the increase in viewing options available from cable television services will diffuse rather than expand the audience and reduce the average audience for local stations; (b) a reduction in average audience translates into reduced revenues; (c) reduced revenues will, without coincident reduction in costs, reduce profits; (d) station licensees will cut costs instead of accepting reduced profits; (e) the reduction in costs would translate into a reduction in service to the public. Although this model has intuitive appeal and has guided us in the past, we are aware that each point is in reality a hypothesis that can and should be tested by objective inquiry. Furthermore, if all of the hypotheses are found to be objectively supportable, the magnitude of the effect may be such that we might want to significantly change the future course of cable regulation. We therefore seek by this inquiry to address each of the above statements as hypotheses, subject to empirical tests, that support or refute those hypotheses. It is our intention to restrict this proceeding, to the extent possible, to the collection of economic data and analysis. We are specifically not interested, for purposes of this proceeding, in arguments over burdens of proof, debate over the merits of the existing regulatory program, or in proposals for regulatory change. These matters are appropriate for consideration in other proceedings now pending or which may be commenced on specific regulatory issues during the time this proceeding is open. We do not believe it either necessary or desirable to delay specific rule change proceedings while this more generalized and longer range proceeding is in progress. This is to be a factual inquiry and a means of affording the public and the affected industries an opportunity to participate in the continuing development of analytical tools and data sources within the Commission for predicting with greater confidence the likely effects of various broadcast and cable regulatory policies.

3. In commencing this proceeding it should be made clear that the goals of our regulatory program have not changed. They are: (1) to maintain our system of over-the-air broadcast service, and (2) to foster cable growth in order to provide diversity of programming and broadband communications services. We continue to believe these goals are compatible. In attempting to achieve them, the pervading consideration has always been the extent to which cable carriage of television broadcast signals has an adverse impact on television broadcast stations and their consequent ability to serve the public. During the past twelve years, the ongoing controversy over the extent of cable's impact on broadcasting has often produced more heat than light. Studies performed to aid the Commission in the past often were handicapped by a paucity of data. Therefore, before discussing the general areas we wish to explore in this inquiry, it may be well to examine briefly how the lack of information of the type sought today has affected the evolution of the cable rules and why this information is of particular importance in our present regulatory program.

HISTORY

4. In the 1950's and 1960's cable television underwent a period of technological and economic advancement. The number of channels systems could provide for program transmission increased, and what hitherto had been a largely rural service showed signs of spreading rapidly to large metropolitan areas as well.[1] This development period coincided with two other major events: the Commission's adoption in 1952 of a new allocations plan for broadcast television, which had among its goals the provision of at least one television signal to every home and at least one television station to every center of population;[2] and the passage by Congress in 1962 of the all-channel receiver legislation,[3] which, by

[1] Statistics on this period of explosive cable growth, 1959–1965, are given in Second Report and Order in Dockets 14895 and 15233, 2 FCC 2d 725, 738–44 (1966).

[2] Sixth Report and Order in Dockets 8736, 8975, 8976, and 9175, 1 P & F Radio Reg. 91:601 (1952).

[3] 76 Stat. 150, 151 (1962), 47 U.S.C. § 303(s) (1964).

authorizing the Commission to require that television receivers be capable of UHF as well as VHF reception, aimed to expand local television service by the creation of new UHF outlets. The coalescence of the new commitment to UHF development in the furtherance of the allocation plan caused the Commission to take a new look at cable in an effort to assure that its distant signal carriage properties would not frustrate the allocations plan in general, or urban UHF development in particular, by adversely affecting local broadcast stations. Given the traditional difficulties of UHF service and the lack of comprehensive empirical data on cable television, the Commission sought to limit the potential of harm to broadcasting in general and UHF in particular. Thus, although in 1959 the Commission had declined to exert jurisdiction over cable on the grounds, inter alia, of its alleged impact on broadcasting, stating that, "[We are unable] to determine where the impact takes effect, although we recognize it may well exist."[4] in 1965 the Commission extended its jurisdiction to microwave-served cable systems, stating that, "If there is a significant risk that CATV competition will destroy or seriously degrade the service offered by a television broadcaster, our statutory duties require us to seek means to prevent this result."[5] This "significant risk" was seen in cable's ability to engage in "unfair competition" by not carrying the signals of local broadcast stations, thus foreclosing them from a portion of their audience and, by extension, their advertising revenues, and by importing into local markets programming which the systems obtained outside the established program distribution system.[6] Although conceding its inability to judge the actual effects, if any, of unregulated signal carriage, the Commission imposed mandatory carriage and program exclusivity rules first on microwave-served systems and then on all systems.[7] Because the cable television exclusivity rules were deemed to afford inadequate protection to new and developing UHF stations in the major markets, the Commission limited distant signal carriage in those markets unless the system could show on evidentiary hearing that the importation would be consistent with the establishment and healthy maintenance of UHF service.[8] As a final step the Commission, stating it had gained the necessary experience on what it termed "the probable effect on potential UHF development," adopted interim procedures suspending hearings on distant signal importation unless carriage of the signals were subject to express retransmission consent and complied with proposed anti-leapfrogging rules. Again, the Commission specified that this step was taken because of cable television's potential to "compete unfairly."[9] During the next two years only two retransmission consent proceedings were concluded, leading some observers to refer to this period as a "freeze" on cable TV development. While the "freeze" was in effect, the Commission continued to grapple with the problem of how cable could be integrated into the national broadband communications network in a manner best calculated to further public interest.

5. During this time the Commission came increasingly to realize that cable's multichannel capacity and its ability to serve the major markets, despite its potential threat to UHF, could enable it to provide multiple new outlets for local and special interest programming and specialized services. To this end, the Commission adopted mandatory local origination rules,[10] and began to look somewhat differently at the question of how cable could serve the public interest without undermining the structure of broadcast television; that is, not as a matter of restricting cable's development to prevent possible adverse impact, but rather of allowing cable a measure of controlled growth predicated on a complement of distant signals that would not be injurious, thereby allowing cable's non-broadcast potential to be developed as well.[11] This new approach to cable regulation culminated in the adoption of the current rules in 1972. The basis of these rules is that systems are permitted to carry prescribed complements of distant signals which, being tailored to size of market, will presumably cause no unacceptable impact on local television service. The question of how to deal with the "unfair competition" aspect of the cable regulatory problem was addressed by the Commission's concluding that copyright issues generally were not primarily its concern but Congress'. To deal with immediate problems where they were most likely to occur, the Commission adopted rules requiring systems in the larger markets to provide exclusivity protection to local licensees' syndicated programming.[12] This done, the Commission further determined that reservations over cable's ability to potentially harm broadcasting should no longer be the sole determinant of the regulatory program, but rather that the public interest would best be served by proceeding "pragmatically and conservatively" by allowing a quantum of distant signal carriage that would not unacceptably impact local broadcasters and by coupling carriage of these permissive distant signals with required access chan-

---

[4] Inquiry Into the Impact of Community Antenna Systems, TV Translators, TV "Satellite" Stations, and TV "Repeaters" on the Orderly Development of Television Broadcasting, (Docket 12443), 26 FCC 2d 403, 431 (1959).

[5] *First Report and Order in Dockets 14895 and 15233*, 38 FCC 683, 700 (1965) (emphasis that substantial CATV penetration always

[6] In other words, bypassing program suppliers and copyright holders. Concern over maintenance of the program supply system, and even more over cable's non-liability for copyright, permeated the Commission's approach to regulating cable between 1965 and 1972.

[7] In first applying mandatory carriage and nonduplication rules to micro-wave-served cable systems, the Commission stated:

[The data on record does not] establish that substantial CATV penetration always or even usually causes stations which might otherwise operate profitably to operate at a loss. Now, as in 1959, we think it impossible, with the data at hand, to isolate reliably the effects of CATV competition from all of the other factors which operate to produce particular financial results in different settings.

First Report and Order, supra at n. 5, 710. In extending the mandatory carriage and program exclusivity rules to all systems, the Commission stated the crucial factor to be "the explosive growth and changing character of CATV and its possible impact upon television broadcasting *in the future*." (Emphasis added.)

[8] In adopting the major market distant signal/evidentiary hearing rules, the Commission gave as its rationale "* * * the economic impact ground; based on the trends in the CATV and UHF fields, and * * * a fair competition ground, based on the patently anomalous conditions under which the broadcasting and the CATV industries compete." Second Report and Order in Dockets 14895 and 15233, supra, at n. 1. 738, 770.

[9] In adopting the retransmission consent procedure, the Commission stated:

The experience we have obtained in the hearing process now affords us the answer: CATV operating with distant signals can achieve significant penetration figures in the major markets * * * With such penetration, the unfair competition of CATV * * * will be a significant factor in the development or healthy maintenance of television broadcast service. We stress here that we are not focusing on the issue of whether CATV operations will kill or severely cripple UHF operations but rather believe that it is sufficient to find that the unfair competition effect is a significant one, in view of the very significant penetration figure, and therefore should be eliminated under the public interest standard of the Communications Act.

Notice of Proposed Rulemaking and Notice of Inquiry in Docket 18397, 15 FCC 2d 417, 431 (1968).

[10] First Report and Order in Docket 18397, 20 FCC 201 (1969), aff'd sub nom. *United States* v. *Midwest Video Corp.*, 406 U.S. 649 (1972).

[11] Evincing this new direction in cable regulation was a proposal to allow major market systems to carry four distant signals. Second Further Notice of Proposed Rulemaking in Docket 18397-A, 24 FCC 2d 580 (1970). This proposal was coupled with an elaborate scheme of commercial substitution and required payment to public broadcasting. These suggested measures were never adopted.

[12] Letter of Intent, Appendix C, Cable Television Report and Order, 36 FCC 2d 143, 260-261 (1972). Cable and broadcast interests subsequently agreed to seek revised copyright legislation, which was passed in 1975. 90 Stat. 2541 (1976). The justification for continuing, abolishing, or extending the application of the syndicated exclusivity rules is under examination in a separate inquiry. Notice of Inquiry in Docket 20988, FCC 76-1025, adopted November 4, 1976.

nels and services.[13] Thus, objections to signal carriage that is consistent with the 1972 rules must be supported by a clear and factual showing that one or more television licenseees would be harmed to the extent that their ability to serve the public interest would be significantly impaired.

GENERAL DISCUSSION

6. This emphasis on provable adverse impact on broadcasting governs not only waiver requests but also general rulemaking proceedings as well. Where a proposed rule amendment can be shown to be in furtherance of program diversity without producing significant impact on broadcasting, the rules have been amended.[14] Similarly, even where program diversity per se is not involved, the Commission will balance the cost of compliance in terms of ascertainable impact on broadcasting, and, where the latter does not justify the former, the rules have been amended.[15] Thus, the chief attribute of the current regulatory program is that it has stabilized Commission policy without rigidifying it and has provided a reasoned way to analyze proposed changes. In Contrast to our pre-1972 programs, we find this approach works well. Nevertheless, as our repeated references to our inability to forecast cable's overall impact on broadcasting indicate, developing a comprehensive grasp of all the interrelated aspects of cable/broadcast economics has been, and remains, difficult for several reasons. Among them: (1) the relationship is, in many cases, interdependent, so that neither broadcast nor cable can be examined in a void; (2) the economic determinants of the two industries are not understood with sufficient precision (for instance, while all assume some relationship between station audience and revenue, the exact nature of the relationship is not known); (3) data in terms of numbers of systems, signals carried, growth rates, and viewing habits either has been scarce or not in a form susceptible of easy manipulation.

7. We believe that it may be possible, by analyzing new data and obtaining more complete economic information, to refine our present understanding of these complex issues. Implicit in this undertaking is the simple assumption that better knowledge here at the Commission and elsewhere must inevitably further the goal of serving the public interest. To the extent we are successful, all who have attempted the difficult task of forecasting cable growth and broadcast impact should profit. Truths hitherto established by collective instinct may be verified. Perhaps they will be disproved. At minimum, we may only be able to establish which factors are relevant and which are not. This in itself would be useful. A more complete understanding of the economics of the cable-broadcast interface can yield many benefits. It may be shown that certain of our rules are unnecessary; it is also possible that others should be adopted, or that familiar rules should be applied to different situations. Even if no rule making proceeding ensues, we believe the information gleaned from the inquiry will be useful.

8. In its continuing adjudicative role, the Commission is called upon to weigh claims of economic impact by both cable operators and broadcasters. One formula we have used to predict impact of additional identical network signal carriage on a broadcast station is:

(1) Number of cable homes in relevant area.	×	(2) Percent of ADI households watching TV during given time period.	×	(3) Station's audience share on cable in county of system during given time period.	×	(4) 50 pct.	=	(5) Total station audience during given time period.	×	(6) Percent of predicted audience loss during given time period.	=	(7) Percent of predicted station revenue loss during given time period.	×	(8) Percent of station's revenues during given time period.	=	(9) Percent of total revenue loss.

While we have found this formula to be a useful tool, it is based on certain assumptions. In step (2), we assume that the percentage of those watching television off cable is the same as those watching on cable. In step (3), we posit that a station's county audience share on cable is the same as its share on cable in a given community within that county. In step (4), we hypothesize that during whatever time period is being considered one half of the cable subscribers will watch the additional distant signal. In step (7), we assume a 1:1 ratio between predicted audience loss and predicted station revenue loss. Although not all of these assumptions are equally critical, it is apparent that, if erroneous, their effect can be substantial. Indeed, even to the extent we can be satisfied with the model's results, we should ask what they mean. What other factors besides audience may affect revenues? Over what period of time may a revenue loss be expected to occur? If this inquiry provides information which enables us to improve our models, this benefit alone would make the endeavor worthwhile.

9. In a more general sense, this inquiry may enable the Commission, the Congress, and other responsible bodies to guage more effectively the future of cable and broadcasting, together with other related or competing telecommunications industries. The ability to make more accurate growth projections, even when not applied to immediate rule making, should result in better communications service to the public. If assumptions can be refined, data perfected and methodologies agreed upon, then the Commission and others will be in a better position to assess any recommended regulatory scheme. It should be emphasized again that we seek data bearing on economic factors. We seek to discourage commenters from merely delivering the ritual imprecations that have so often punctuated previous dockets in this area. In anticipation of the data-gathering and factual analysis we hope will characterize this inquiry, it is appropriate to review some past efforts.

10. A very considerable amount of research was undertaken both before the Commission asserted jurisdiction over cable television and before the 1972 rules were adopted. In 1958, a detailed analysis of the problems attendant upon the growing cable television industry was compiled for the Senate Committee on Interstate and Foreign Commerce in a report entitled "The Problems of Television Service for Smaller Communities" prepared for the Committee by Kenneth A. Cox. In 1959, in CATV and TV Repeater Service, supra at n. 4, the Commission reviewed not only the evidence in this Senate staff report but additional evidence collected on its own. In July of 1964, the Commission employed Dr. Martin H. Seiden, an economic consultant, to compile and analyze the significant factual data relating to CATV. The results of his investigations were published in February of 1965 in a report entitled "An Economic Analysis of Community Antenna Television Systems and the Television Broadcasting Industry." In 1964, the first effort at econometric evaluation of the impact of cable television on broadcast service was prepared by Dr. Franklin Fisher. This study, "The Impact of CATV Competition on Local Tel-

[13] "[Although] we do not pretend that we can now forecast precisely how cable will evolve in the major markets * * * it is our judgment that it would be wholly wrong to halt cable development on the basis of conjecture, for example, as to its impact on UHF stations * * *. As to similar arguments concerning cable's impact on VHF in the smaller markets, it is our judgment—considering such factors as cable's rate of penetration and the growth of broadcast revenues—that our approach will not undermine these stations in their ability to serve the public." Cable Television Report and Order, 36 FCC 2d 143, 169 (1972).

[14] See, e.g., Report and Order in Docket 20028, 48 FCC 2d 699 (1974) (cable carriage of late-night programming); Report and Order in Docket 20487, 57 FCC 2d 625 (1975) (deletion of leapfrogging rules); First Report and Order in Docket 20553, 58 FCC 2d 442 (1976) (cable carriage of specialty stations and special format programming).

[15] See, e.g., First Report and Order in Docket Nos. 19995 and 18785, 52 FCC 2d 519 (1975) (exempting systems with fewer than 1,000 subscribers from compliance with nonduplication rules); Report and Order in Docket 20482, 55 FCC 2d 529 (1975) (exempting systems with fewer than 1,000 subscribers from compliance with syndicated exclusivity rules); First Report and Order and Further Notice of Proposed Rulemaking in Docket 20561, FCC 77-205 and FCC 77-215, respectively (adopted March 9, 1977) (redefinition proceeding, significantly deregulating all systems with fewer than 500 subscribers).

evision Stations," was submitted to the Commission by the National Association of Broadcasters in connection with Docket 14895 (see 38 FCC 683, para 20). Further information evaluating the Fisher report was prepared by Dr. Herbert Arkin and submitted to the Commission by the National Cable Television Association. In June of 1968, a major hearing considering in detail the impact of cable television in one market was completed. Midwest Television, Inc., 13 FCC 2d 478 (1968). In December of 1969, the National Association of Broadcasters submitted to the Commission a book prepared by Herman W. Land Associates, Inc. entitled Television and the Wired City that was prepared for the President's Task Force on Communications Policy and which discussed a number of economic questions relating to television program diversity and the economic structure and foundations of the television industry. In 1970, the Research Branch of the Commission's Broadcast Bureau completed a study entitled "The Economics of the TV-CATV Interface." This study was followed by a series of reports prepared by the Rand Corporation under grants from the Ford and John and Mary R. Markle Foundations. These included: "Cable Television and the Question of Protecting Local Broadcasting" by Leland L. Johnson (R-595-MF October 1970); and "Potential Impact of Cable Growth on Television Broadcasting" (R-587-ff, October 1970), "Cable Television and UHF Broadcasting" (R-689-MF, January 1971), and "Prospects for Cable in the 100 Largest Television Markets," (R-875-MF, October 1971), all by Rolla Edward Parks. John H. McGowan, Roger G. Noll, and Merton J. Peck, under a Ford Foundation Grant to the Brookings Institution, prepared comments in Docket 18397 (February 10, 1971) relating to the question of cable television and its impact on broadcast service.[16] In response to these studies a significant number of major research efforts were submitted to the Commission on the question of cable broadband impact by broadcast parties. Included among these were the following studies, all of which were submitted in Docket 18397:

(1) "The Potential Impact of CATV on Television Stations," prepared by Statistical Research, Inc. for the National Association of Broadcasters;

(2) "Evaluation of FCC August 5, 1971 CATV Distant-Signal Proposals in Terms of Impact on Over-the-Air Broadcasting," prepared by Economic Associates on behalf of 20 television broadcast stations;

(3) "The Impact of CATV on Local Television Stations: A Critique of the FCC's Staff Report," prepared by Charles River Associates Incorporated for Covington & Burling;

(4) "CATV Distraction Effect," prepared by M. H. Seiden & Associates, Inc. for Covington & Burling;

(5) "Critique of Study by Rolla Edward Park on Potential Impact of Cable Growth on Television Broadcasting," prepared by Economic Associates, Inc. on behalf of 21 television stations;

(6) "Deficiencies in the FCC Staff Report on Which the Four Outside Signal Proposal is Based," prepared by American Broadcasting Company;

(7) "Analysis of The Economics of the CATV-TV Interface as It Relates to the Impact of Distant Signal Importation on Local Stations," prepared by the National Association of Broadcasters;

(8) Analysis of Rand Study by Rolla Edward Park Entitled "Potential Impact of Cable Growth on Television Broadcasting," prepared by The Association of Maximum Service Telecasters, Inc.;

(9) "The Inadequate Research Basis of the Commission's Four Outside Signal Proposal," prepared by American Broadcasting Company; and

(10) Study by Kaiser Broadcasting.

11. Recent literature has effectively addressed many broad questions regarding cable television economics. For example, there have been numerous studies [17] which estimate the costs of constructing and operating a cable television system considering alternative system designs and various community sizes. Extensive research has also been undertaken in the area of demand for cable television services.[18]

Because adequate data depicting the quality of signal reception on at least a community by community basis has for the most part not been obtained, one cannot rely on the specific contribution of each variable in these models, but all the variables taken together seem to provide an adequate prediction of cable penetration for a community. Since analysis of the coefficients of particular variables is statistically limited, it has been difficult to apply these models in an examination of the needs and effects of various specific regulations. Therefore, one objective of this Inquiry is to organize past research and improve upon it with new data in such a way that we might have more confidence in our knowledge of the key economic issues.

Methodology of Inquiry

12. We recognize that there might be benefits in outlining a preliminary approach for research so that those interested in submitting data and analysis would have a better understanding of the general direction and order of this proceeding. We are also aware that any preliminary approach should not be considered as fixed because new findings might suggest a more appropriate methodology. Therefore, we are beginning with an analysis adopted from a recent report to the Office of Telecommunications, Economic Policy Research on Cable Television: Assessing the Costs and Benefits of Cable Regulation. In this report it is suggested that in order to estimate the impact of unregulated cable television on the welfare of viewers and broadcasters in specific markets, the following individual pieces of information would be needed:

(1) The number of subscribers to cable systems; (2) the services offered by cable and the diversion of audience from local stations to imported stations or other sources of programming on the cable system; and (3) the effect of audience diversion on the revenues and profits of existing stations.

In order to clarify how we prefer this information to be submitted, four steps are delineated in discussion form: (1) demand and cost factors in cable television growth; (2) audience diversion; (3) broadcast station audience/revenue relationship; and (4) service to the public.

Demand and Cost Factors in Cable Television Growth

13. We need information about the alternative paths that the cable industry might follow in the future, and we need to know more about the likely impacts that alternative environments (geographic, demographic, technological, financial, and regulatory) will have on the selection of those paths and rate of progress along them. The proportion of cable television households to total television households is a critical factor in determining regulatory protection for broadcast stations in any given market. The factors restricting or encouraging cable television growth in entire broadcast station areas, not just single communities, must be measured in order to determine future impact. If cable growth continues at the recent rates it may become a larger factor in determining audience levels for local stations. Although the number of signals and the diversity of signals receivable off-the-air have been a major factor in growth of cable television, the extent to which these factors will continue to be important in

[16] For a discussion of a number of related studies concerning the cable cable television/broadcast relationship in Canada see Robert E. Babe, Cable Television and Telecommunications in Canada (Board of Trustees of Michigan State University, 1975).

[17] Examples of studies which examined the costs of cable television are the following:

(a) W. S. Comanor and B. M. Mitchell, "Cable Television and the Impact of Regulation," Bell Journal of Economics and Management Science, Spring 1971.

(b) Hopkins Cable Project—K. Lyall, R. Duncan, and C. F. Dekay, Economics of Cable Television in Urban Markets: Baltimore City, The Center for Metropolitan Planning and Research, The Johns Hopkins University, February 1975.

(c) L. L. Johnson et al., Cable Communications in the Dayton Miami Valley: Basic Report, Rand R-943-KF/FF, January 1972.

(d) W. F. Mason et al., Urban Cable Systems, Mitre Corporation, May 1972.

(e) Gary Weinberg, Cost Analysis of CATV Components: Final Report, Resource Management Corporation, June 1972.

[18] Examples of models estimating cable television demand are the following:

(a) Charles River Associates, "Analysis of the Demand for Cable Television," CRA Report No. 178-2, April 1973, Cambridge, Mass.

(b) Hopkins Cable Project—K. Lyall, R. Duncan, and D. F. Dekay, "Estimation of an Urban Cable Demand Model and Its Implications for Regulation for Major Markets," March 1976, The Center for Metropolitan Planning and Research, The Johns Hopkins University, Baltimore, Md.

(c) R. C. Noll, M. J. Peck, and J. J. McGowan, Economic Aspects of Television Regulation, Brookings Institution, 1973, Washington, D.C.

(d) R. E. Park, "Prospects for Cable in the 100 Largest Television Markets," Bell Journal of Economics and Management Science, Spring 1972.

the future is not known. Ancillary services such as pay television may cause sufficient demand in markets previously thought to be unprofitable for cable television. Furthermore, it has been considered that many markets do not have sufficient population density to support cable television, but new technology may make more markets viable. Studies have concluded that cable television in its current form cannot be viable in the largest cities, but there may be new services and new technologies that will eventually change the economics so that viability is not only possible but probable. Technologies and economies may also work to slow growth of cable television. As technologies increase the viability of UHF stations, more diversity of signals may be received off-the-air, reducing demand for cable television. It may develop that broadcast pay television, commonly called subscription television, will become extremely successful and compete strongly with pay cable television. Therefore it can be seen that monitoring the changing factors of cable television growth is important in forecasting probable dilution of home station audience. As cable television grows and serves an increasing proportion of television households, there may be an increased amount of cable origination and pay services. Should this occur, a question arises as to the effect of this programming on the overall supply and price of programs for both cable systems and broadcasters. Indeed, as cable television becomes a larger part of an individual station's service area, it is possible that signal carriage strategies may alter the program practices of the broadcaster. If cable can create changes in these areas, we should attempt to isolate those factors which could affect the availability, costs and prices of programs. It is for these reasons we seek information regarding the following questions:

(1) How can we estimate ultimate cable in entire service areas of broadcast stations?

(2) What effect, if any, will improvements in signal transmission and/or television receivers have on future cable television growth?

(3) What effect, if any, will an increase in the number of television stations have on growth of cable television?

(4) Can cable television be viable in large cities? What are the main difficulties which curtail or prohibit cable television growth in large cities?

(5) To what extent can cable television be expected to grow in small towns and rural areas where there are relatively few homes per mile (e. g. 50 homes per mile) or the total subscriber size of the cable system is expected to be small (e.g. less than 1,000 subscribers)?

(6) How would the expansion of cable television affect the key economic factors controlling the availability and price of programming to cable televisions systems, broadcasters, and others?

(7) What are the cost restraints in cablecasting entertainment and sports programming?

(8) What effect do entertainment and sports originated cablecasting have on system growth?

Audience Diversion

14. There are difficulties in measuring the extent, if any, of local audience fragmentation due to cable television. The basic reason for such difficulties is that audience survey samples are based on county populations rather than community populations. The number of diaries used to determine audience behavior on a county level is the minimum number allowed for statistically specified confidence level. The number of diaries for any particular community used in a county level survey is usually insufficient to derive any reliable estimates of audience behavior for that particular community.

15. There are several other handicaps in relying on county level audience data rather than community audience data. County data usually does not allow analysis of audience behavior in viewing ancillary services such as pay television or in viewing specific distant signals, since frequently there is more than one cable system in a county. Such analysis is limited because within the county there are differing mixes of signals received off-the-air among communities and differing mixes of services offered among cable systems. Since the amount and types of signals received off-the-air vary substantially from community to community within a county, it is difficult to determine dilution of the home station viewing audience for a cable community. In cases where off-the-air viewing of the local stations is higher or lower for a community than for the county, analyses based on county statistics would respectively understate or overstate the dilution effect for the community. It may be that individual surveys have been conducted on a community basis either for commercial stations or for non-commercial educational stations which would reveal more precise information. Furthermore, since cable systems typically offer differing mixes of services within a county, the effect of a specific service on a home station's audience cannot be properly weighted. For example, assuming two cable systems in a county, one may offer six channels on which only the local stations are carried, but the other may have twenty channels offering a wide variety of services including pay television and several distant signals. In such cases, aggregate cable viewing statistics cannot be used to determine the effect of pay television or distant signal carriage. It is for these reasons we ask the following questions:

(1) To what extent do ancillary cable television services, i.e. pay cable and cablecasting, impact a local broadcaster's audience? If impact occurs, are there any surveys which quantify the impact?

(2) On average, what are the distinctive differences, if any, between the total viewing habits of cable television audiences versus non-cable television audiences?

(3) What is the relationship between cable carriage of distant non-commercial educational broadcast stations and the audience levels for local educators?

(4) To what extent and under what circumstances will the home audience show loyalty to the home station when the same programming is caused by a distant signal on the cable system? Is there any value to home local news lead-in?

(5) To what extent does diversity in programming cause more total market viewing after a full network complement (3 signals) is achieved?

Broadcast Station Audience/Revenue Relationship

16. Certain of the cable television rules seek to limit the dilution of a station's home audience. In the past, we have made the assumption of a direct relationship between a station's audience and its revenues. Although it is often possible to approximate the dilution of audience caused by cable television for a particular market, it is more difficult to estimate the relationship between a change in audience and change in revenue. And yet, this is an important factor in examining the efficiency and appropriateness of the current cable television rules. For example, an audience change-revenue change ratio of 1:2 or 1:3 could lead to different regulatory consequences than a ratio of 2:1 or 3:1.

17. In order to determine the impact of cable television on broadcasting, it is necessary to examine all the major factors which determine revenue of broadcast stations. Obviously, the extent of audience fragmentation is an important factor in determining functional relationship between revenue and audience depending on market characteristics and station type. Furthermore, we would like to know all the determinants of revenue so that we might more precisely measure the impact on revenue due to changes in audience.

18. The functional relationship between audience and revenue may vary by revenue source (e.g. local advertisers, network compensation rates, regional advertisers, national spot sales.) If such differences exist, the total relationship would depend, in part, on the proportion of revenues from each revenue source. It may be that network compensation rates are relatively insensitive to small changes in audience, even in the long run. It may be for networks that there is a "ratchet effect" where rates never go down even in the event of large audience losses. We do not know the extent to which local advertisers are more sensitive to ratings or to their own perceptions of audience change. In addition, audience measures tend to change depending on the situation. For example, the cable importation of distant signals in a certain market may cause the local station's prime time share to decrease but its net weekly circulation to increase. The audience/revenue relationship may also depend on the location of the majority of a station's audience within the market. Certain groups or advertisers may believe that certain counties of a

station's ADI or DMA market[19] are better served by a station in an adjacent market, and therefore be insensitive to small changes in audience whether such changes are positive or negative. Furthermore, groups of advertisers may have their own perceptions of a station's market, regardless of what is designated by Nielson or Arbitron. For example, regional advertisers may prefer to advertise on adjacent market VHF stations which have contours overlapping a UHF station's market, rather than advertise on that UHF station. Further, a station that is not assigned to any particular DMA or ADI market (so called non-ADI stations) may have its market perceived differently among local, regional and national advertisers. It may be that in most cases, the predominant amount of local advertising sales is derived from the central city of a market. In such cases, local advertising sales would be insensitive to audience dilution in the fringes of the market but very sensitive to audience dilution in the central city.

19. There may also be differences in the audience/revenue relationship among types of stations. An independent station may have a radical change in revenues if it loses one rating point, by contrast to a much lesser change if a network station has the same proportional audience loss. Independent stations may generally have an advertising base with different sensitivities than that for network stations. For example, on an independent station with lower advertising rates and high net weekly circulation (NWC),[20] an advertiser may choose to saturate an audience with frequent advertising. In such cases, net weekly circulation is more valuable than day part audience share. Furthermore, there might be a difference in advertiser attitudes between UHF stations and VHF stations, even in cases where the audiences are equal.

20. Preliminary research conducted by Cable Television Bureau staff indicates that changes in a broadcast station's revenues are not merely functions of changes in its audience. Factors other than audience which could be important in influencing changes in a broadcast station's revenues include the type and amount of media competition in the market, the amount of retail sales in the market, market size, or even the state of the national economy. Staff research has shown a wide variance in revenue per audience among markets, as well as within markets. For example, if total revenue is divided by its 9 AM to Midnight audience for a given network station, that rate may be as much as 25% higher than the rate of a similar station of the same network affiliation in another market of similar size. If such cases are common, it suggests that factors such as changing station sales efforts, quality of non-network programming, and type of station (i.e. UHF or VHF, independent or network, etc.) are important in determining a broadcast station's revenues. Furthermore, these factors could be important in influencing the audience/revenue relationship of a specific station. For example, a UFH station competing against VHF stations in its market may once have had a comparatively low revenue per audience rate because of advertiser uncertainty about the station's effectiveness in advertising. However, as the UHF handicap diminishes in its market the revenue/audience rate may increase because of a growing advertiser acceptance of its product. Changes in revenue/audience over time are critically important in evaluating the cable television regulations.

21. Considering the complex issues regarding the determinants of broadcast stations' revenues, the following questions are suggested:

(1) What day parts are most often sold to local advertisers? To regional and national advertisers?

(2) Are there particular day parts where advertising is often left unsold?

(3) What audience measures are most important in selling spot time to local, regional, and national advertisers?

(4) What is the relationship between audience levels and advertisers' demand for television time in a market and on stations in a market?

(5) What is the relationship between audience outside the home market (either from cable or over-the-air television) and station revenue?

(6) To what extent does cable penetration in certain markets or portions of markets increase local station audience?

(7) What is the predictable long term rate of growth in demand for television advertising time?

(8) To what extent will that long term growth rate be affected by increased cable penetration?

(9) In terms of revenue, is audience fractionalization more critical in the central areas than in the further reaches of a market or other specified zone?

(10) Are there are revenue benefits in audience outside an ADI market?

(11) What proportion of local advertising revenues come from the principal city in a market?

(12) How do stations not included in any ADI or DMA base gauge their audiences in order to sell advertising time?

(13) What are the differences in the audience/revenue relationship between independent stations and network stations?

(14) Is there a general level of ratings for an independent station which, when reached, causes a dramatic influx of new advertisers? Explain.

(15) Is there a difference in the audience/revenue relationship between VHF and UHF broadcast stations?

(16) What factors influence a broadcast station's revenues other than audience, i.e., demand for advertising, relative wealth of market, national economy, etc.?

(17) What factors are important in negotiating network compensation rates, i.e. competition, UHF or VHF transmission, etc.?

(18) Why do some broadcast stations have higher revenues for a size of audience than others?

(19) How is local news programming affected by distant signal competition, and do these effects, if any, vary depending on market size, type of station, competition, etc.?

Service to the Public

22. We have frequently stated that is the broadcasters' service to the public, not their profits, that is of primary concern. Others have claimed, however, and this includes licensees in some of our proceedings, that revenue reductions may force cutting of costs, and that programming—particularly public service programming—may be the first to suffer the consequences of such budget-cutting. On the other hand, there may be an ameliorating market-wide adjustment to a generalized experience of reduced revenues by all stations, in the sense that program suppliers might be forced to reduce their prices if they wish to sell in that market.

23. We recognize the difficulties in discerning these economic relationships, particularly at a time when the broadcast industry generally has been experiencing revenue growth from year to year. Experience with revenue decline is limited. At the same time, factors other than revenues—e.g. intra-market competition, demography, or even transitory issues of a controversial nature—may affect the mix of programming a broadcaster chooses to provide. We would welcome comment on the following questions:

(1) To what extent will licensees attempt to protect profit levels by reducing expenditure levels?

(2) What is the relationship between a reduction in expenditure level and service to the public?

(3) What types of service, if any, are likely to be reduced? In particular is there more likely to be a reduction in public service programming?

(4) To what extent, if any, is there a relationship between revenue reduction in a market and prices that program suppliers can command in the market?

Procedural Matters

24. Authority for the inquiry herein is contained in Sections 4 (i) and (j), 303, 307, and 403 of the Communications Act of 1934, as amended.

25. All interested persons are invited to file written comments on or before December 1, 1977. The period for filing reply comments will be announced after we have some indication of the number and complexity of the comments received. Any person wishing to file a reply to a comment before the close of the formal comment period is encouraged to do so. All relevant and timely comments and reply comments will be considered by the Commission. The Commission may take into account any other relevant information before it in addition to the comments invited by this Notice.

26. In addition, during the pending of this proceeding comments or studies deemed to be of particular interest, or which may reasonably be calculated to engender further useful information, may be distributed by either public notice or a further notice in this docket.

[19] Each U.S. county is allocated exclusively to one television market. The assignment, in general, is to the market whose stations achieve the largest audience share in that county. The group of counties assigned to a television market in this manner is called the Area of Dominant Influence (ADI) by Arbitron and the Designated Market Area (DMA) by the A.C. Nielson Company.

[20] Net Weekly Circulation (NWC) is the number of unduplicated households which view a TV station for at least five minutes a week.

Clearly, this is not a restricted proceeding.

27. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and 6 copies of all comments, replies, pleadings, briefs or other documents filed in this proceeding shall be furnished to the Commission. Copies of all responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 "M" Street NW.).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-14341 Filed 6-27-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

EXCEPTION FROM REFINERS PRICE RULES GOVERNING ORDER OF RECOVERY OF INCREASED NON-PRODUCT COSTS DURING PERIOD JANUARY 1, 1975 THROUGH JANUARY 31, 1976

Vacating Filing Deadline

AGENCY: Federal Energy Administration.

ACTION: Vacating Filing Deadline.

SUMMARY: The June 27, 1977 deadline for filing Applications for Exception is vacated until further notice is issued by FEA.

FOR FURTHER INFORMATION CONTACT:

Scott Spiegel (Office of General Counsel), Federal Building, 12th and Pennsylvania Avenue NW., Room 5140, Washington, D.C. 20461, (202) 566-9472.

SUPPLEMENTARY INFORMATION: On Tuesday, April 26, 1977, FEA issued a notice in the FEDERAL REGISTER which set forth a deadline of June 27, 1977 for filing Applications for Exception from the regulatory provisions which governed the order of recovery of increased non-product costs by refiners during the period from January 1, 1975 through January 31, 1976. During the course of litigation involving these regulatory provisions, FEA agreed to stay this requirement temporarily with respect to all refiners and until further notice.

Issued in Washington, D.C., June 23, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-18444 Filed 6-27-77;8:45 am]

INDUSTRIAL ENERGY CONSERVATION PROGRAM

Final Industrial Energy Efficacy Reporting Form

AGENCY: Federal Energy Administration.

ACTION: Notice.

SUMMARY: The Federal Energy Administration (FEA) hereby issues Form FEA-U524-P-O, Industrial Energy Conservation and Consumption Report, in order to implement the direct reporting requirement of the industrial energy conservation program. The Energy Policy and Conservation Act (EPCA) requires FEA to prepare, publish, and make available this reporting form. Any corporation identified by FEA as within the top 50 energy-consumptive corporations in an industry for which FEA has set an industrial energy efficiency improvement target and which has not secured an exemption from direct reporting is required to file a completed Form FEA-U524-P-O with FEA within six weeks of the publication of this notice and seminannually thereafter.

EFFECTIVE DATE: June 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Albert J. Hayes (Office of Conservation), Room 206, Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-3563.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

Part D, Title III of the EPCA, 42 U.S.C. 6341-6346, requires that FEA establish a program to promote increased energy efficiency by American industry and set voluntary energy efficiency improvement targets for at least the ten most energy-consumptive industries in the nation. The program implemented by FEA includes (1) the identification and ranking of the ten most energy-consumptive industries in the United States (41 F.R. 12766, March 26, 1976), (2) the identification of corporations that consume at least one trillion British thermal units (Btu's) of energy within the United States per year and are among the 50 most energy-consumptive corporations in each identified industry (41 F.R. 54977, December 16, 1976), (3) the establishment of voluntary energy efficiency improvement targets for the ten industries (42 F.R. 29642, June 9, 1977), as listed below, and (4) the semi-annual reporting by the identified energy-consumptive corporations of the progress that each corporation has made in improving its energy efficiency. This reporting will provide FEA with information to enable it first to measure progress in each industry towards meeting its energy efficiency improvement target and then to report annually to Congress and the President on such progress, as required by the EPCA. The final industrial energy efficiency targets are as follows:

Sic No.	Industry	Net target
28	Chemicals and allied products	14
33	Primary metal industries	9
29	Petroleum and coal products	12
32	Stone, clay and glass products	16
26	Paper and allied products	20
20	Food and kindred products	12
34	Fabricated metal products	24
37	Transportation equipment	16
35	Machinery except electrical	15
22	Textile mill products	22

The mandatory reporting requirement that the EPCA places on identified corporations is satisfied through one of two mechanisms: (1) The indirect reporting to FEA of energy efficiency information through an "adequate voluntary reporting program" under the auspices, generally, of an industry trade association, or (2) the reporting of such information directly to FEA through the filing of Form FEA-U524-P-O.

PEA does not require the filing of a direct report if an identified corporation participates in an adequate voluntary reporting program and applies for and is granted an exemption from the direct reporting requirement in accordance with section 376(g) of the EPCA. The criteria for the adequacy of a voluntary reporting program and the instructions for applying for an exemption were published in the FEDERAL REGISTER on November 24, 1976 (41 FR 51866). A list of corporations determined by FEA to be exempt from the direct reporting requirements was published in the FEDERAL REGISTER on May 9, 1977 (42 FR 23538).

II. DIRECT REPORTING REQUIREMENTS

Section 375(a) of the EPCA requires the chief executive officer (or other designated individual) of each nonexempt corporation to report directly to FEA on the progress which each corporation has made in improving its energy efficiency. Section 375(b) of the EPCA requires FEA to prepare, publish and make available a form for this purpose. FEA hereby issues Form FEA-U524-P-O, Industrial Energy Conservation and Consumption Report, set forth in the Appendix to this notice, in fulfillment of those EPCA requirements.

Any corporation which has been identified by FEA under section 373 of the EPCA and which has not been exempted in accordance with section 376(g) of the EPCA is required to submit this report to FEA. The first report is due no later than six weeks from the publication of this notice and subsequent reports are due on a semiannual basis. FEA has mailed a copy of this report to each identified and non-exempt corporation. If you are such a corporation and do not receive a copy of this report within one week of the date of publication of this notice, please telephone Albert J. Hayes, (202) 566-3563, and a copy will be sent to you.

III. DISCUSSION OF COMMENTS

On April 26, 1977, FEA issued a notice of proposed Form FEA-U524-P-O and invited the oral and written presentation of data, views and arguments thereon by interested persons (42 FR 22581, May 4, 1977). Thirty-two written comments were received in response to this invitation, and a public hearing at which six oral statements were presented was held on May 17, 1977. An additional opportunity for written comments was provided by the General Accounting Office (GAO) which, as part of its review procedures, solicited written comments on the report in a May 27, 1977 notice (42 FR 27298).

Six persons responded to GAO's solicitation.

FEA invited comments on all aspects of the proposed form, and listed nine areas in which comments were particularly requested. In general, the comments which were received may be classified under these nine categories, and therefore the following discussion of comments and FEA's response to them is organized according to these nine areas. Summaries of comments on other topics related to the reporting form are also provided along with FEA's responses under the heading "Additional Comments."

A. FORMAT

At the public hearing, one corporation described its successful experience with a reporting system significantly different from that proposed by FEA. The system offered by this corporation was simple, did not use an energy efficiency algorithm, did not allow adjustments to consumption figures for operational changes and allowed submission of raw data in terms of the quantities in which companies actually purchase and consume energy, such as barrels of oil or cubic feet of gas.

While FEA appreciated these suggestions, FEA has concluded that the proposed form, as revised in response to the comments discussed below, is most appropriate to the needs of FEA's reporting system. While the alternative plan was successful with one company, it has not been tested with the many diverse types of corporations covered by the mandatory reporting program. FEA has determined that the energy efficiency algorithm will best generate the information necessary to allow FEA to comply with its obligations under the EPCA without requiring corporations to submit potentially confidential information directly to FEA. Since conversion of consumption data to Btu equivalent is necessary to complete the energy efficiency alogrithm, it would rather add to the administrative burden to require reporting companies to submit raw data in other parts of the form.

A suggestion to include an entry on the form to compute an energy efficiency improvement value for the reporting corporation was rejected by FEA because it would add to the administrative burden. Of course, companies may use the information generated by the energy efficiency algorithm to calculate such a value for their own use.

B. EASE OF UNDERSTANDING INSTRUCTIONS, DEFINITIONS AND THE ENERGY EFFICIENCY ALGORITHM.

1. *The Energy Efficiency Algorithm.* A large number of comments expressed concern and confusion over the energy efficiency algorithm which each company is instructed to follow to generate the information requested in Part IV of the form. The major criticism was based on the conclusion that FEA requires companies to generate energy consumption data on four-digit SIC products. Most commenters felt that for many industries such data was difficult to collect and had little value due to product mix and variability.

It has always been FEA's intent to allow companies to make an entry in column one of the energy efficiency algorithm as a "product" defined either by a four-digit SIC number or by any grouping of items within a two-digit SIC industry which can be represented by a single efficiency ratio. Because of the apparent misunderstanding of FEA's purpose in the proposal and to clarify this point, instructions and definitions which referred to four-digit SIC products, including the definition of "product" in the instructions, have been revised.

Some comments concerned entry 4.3, Percent Operational Change due to EPA/OSHA, on the proposed form which is generated by step eight of the energy efficiency algorithm. One comment questioned whether this entry related only to energy consumption due to Environmental Protection Agency and Occupational Safety and Health Administration regulations. The aggregation of nondiscretionary energy consumption in step eight may include consumption required by the regulations of other government agencies such as the United States Department of Agriculture and the Food and Drug Administration. Another comment suggested changing this entry from a percentage of total consumption to a Btu figure for actual consumption for certain nondiscretionary changes. FEA has accepted this suggestion because it helps to eliminate a calculation and thereby reduces administrative burden. The entry for 4.3 and the appropriate instructions have been changed to reflect these comments.

2. *Instructions.* Some comments stated that the instructions were generally difficult to understand. FEA has made some revisions to the instructions in response to particular comments, as discussed in the treatment of specific comments, and believes that these changes should make the instructions more clear.

Some commenters noticed the discrepency between the degree of accuracy for entries required by the instructions and the figures used in the example accompanying the energy efficiency algorithm. This inconsistency has been corrected in the instructions for the final form.

C. ADMINISTRATIVE BURDEN

Several comments criticized the administrative burden of man hours, personnel, and costs which they anticipated would be required to complete the form. Many of these criticisms were attributed to (1) collecting data for the energy efficiency algorithm on the basis of four-digit SIC products, which has been discussed above, and (2) collecting data for the calculation of energy consumption due to operational changes in the energy efficiency algorithm, which is optional in the final form as discussed in "F" below. As a result of these changes, FEA concludes that the burden imposed by Form U524-P-O has been substantially alleviated.

Many comments indicated that the time allocated for the initial submission of the form was insufficient due to the lack of experience on the part of many companies in collecting and evaluating the data required by the form. FEA has extended the final date for submission of the initial report to six weeks from publication. While this delay is not as long as requested by some commenters, FEA feels that it is adequate in light of the changes as indicated above made in response to other comments.

Finally, several comments asserted that the degree of accuracy required in the data to be reported unnecessarily burdened the reporting company. In response to those comments, FEA has revised the instructions to require reporting in billions of Btu's expressed as a decimal with one figure to the right of the decimal point rather than the three figures as proposed.

D. MANUFACTURING OUTPUT OR ACTIVITY

The proposed Form FEA-U524-P-O required that manufacturing output be treated in terms of physical units of production such as tons or square feet. FEA recognized that this treatment could be troublesome for some companies and, accordingly, requested comments on this issue. Seventeen comments objected to the requirement that production be treated only in terms of physical units. These comments stated that for many companies physical units of production do not represent the best or even valid information for measuring the efficiency of varied and dissimilar manufacturing processes.

FEA believes that, in many cases, physical units provide the most desirable basis for measuring efficiency. However, FEA has previously recognized in some of the statements of the basis and justification for the ten energy efficiency improvement targets published in the FEDERAL REGISTER on June 9, 1977 (42 FR 29642) that in many industries production output is not routinely characterized by physical units. Accordingly, FEA has deleted the requirement that physical units be used and has revised the instructions for the energy efficiency algorithm and the definition of production to allow for the use of nonphysical units of output. FEA has retained the requirement for a justification of the chosen unit of production in the narrative supplement.

E. ENERGY BOUNDARIES

Comments on energy boundaries concerned FEA's initial list of energy uses included and excluded from Part III. Actual Energy Consumption Data, of the reporting form. Several comments challenged the inclusion in energy consumption of by-product fuels that are sold and shipped or stored for sale. FEA has properly shifted this category to the list of excludable energy uses. It should be noted that by-product fuels internally consumed must be reported on Part III of the form under "other" sources of energy.

One comment stated that energy expended in starting up facilities designed for a new product should not be included in energy consumption. FEA concurs and has revised the instructions in that start-up consumption for a new plant need not be included up to the point where a commercial quality product, as defined in section E of the instructions, is produced.

Three commenters pointed out that, in order for their companies to exclude energy consumption for corporate and division offices as permitted, it would be necessary to install additional meters to measure such energy consumption. Such energy consumption generally represents only a very small percentage of most manufacturing corporations' total energy consumption, and a reporting company may elect not to exclude such consumption. Installation of meters is, of course, discretionary.

Some comments asserted that a problem exists with consumption for in-plant transportation and other small and generally unmonitored uses of energy. While such uses are a very small segment of consumption, they should be reported if they fall in the "included" list.

One comment suggested that coal consumption should not be included in Part III of the form since the national policy is to substitute coal for other fossil fuels. FEA has not accepted this suggestion since coal sources are finite, many companies have always used coal, and the industrial targets included coal in energy consumption.

F. OPERATIONAL CHANGES

Most comments on operational changes addressed the questions of (1) whether adjustments to energy consumption figures for operational changes should be allowed and (2) what changes should be allowed. FEA believes that the adjustment of energy consumption figures to reflect energy consumption for operational changes provides the best mechanism for developing an accurate measure of industrial efficiency. While some commenters agreed with this view, many others commented that completing this part of the form would be a problem because of product diversity, frequent changes in product lines and insufficient data on the effect of operational changes on energy consumption.

In order to enhance the quality of information where data on operational changes is available and, at the same time, to allow for full compliance by all reporting corporations with the reporting form, adjustment of energy consumption by operational changes is optional on the final form. To facilitate the calculation of operational adjustments, the instructions have been further revised to permit adjustments for operational changes relating to a group of products in the energy efficiency algorithm. Corporations which choose to apply such adjustments must list the individual operational changes and the energy consumption attributed to each in the narrative supplement.

While many comments suggested that it was not suitable to adjust consumption figures for capacity utilization and product mix changes, FEA has retained these operational changes in the optional procedure because some companies believe they have a measurable impact on consumption. The definition of operational change has been expanded in the final form in response to the comment that nondiscretionary changes such as degree-days for heating and cooling should be included.

Many comments suggested that the increased use of waste fuel should not be considered an operational change. FEA agrees with this comment because the use of waste fuel is automatically credited in the reduction of other forms of energy which will be noted by comparing subsequent reports. While energy consumption of waste fuel, in addition to solar energy and other energy sources, is not included in Part III of the form, the amount of waste fuel consumed, in Btu's, must be included in the narrative supplement.

One comment alleged that the definition of operational change was vague. It was recommended that all allowable operational changes be listed in the instructions. The definition of operational change has been revised to clearly identify the types of changes allowed. FEA, however, cannot provide an exhaustive list of allowable operational adjustments to cover all possible operational changes in the ten identified industries.

One comment asserted that the instructions for step six, computing operational changes, of the energy efficiency improvement algorithm were difficult to understand. It was suggested that a specific example of the computations involved be provided. The revisions in the treatment of operational changes discussed above have significantly reduced the complexity of the instructions.

G. NARRATIVE SUPPLEMENT

While relatively few comments were received on the requirement for a narrative supplement, several comments did object to this requirement. These comments asserted that providing additional details will impose a further administrative burden on corporations without providing significant information.

A review of public comments has convinced FEA that numerical data alone will not provide FEA with sufficient information to measure progress towards the energy efficiency improvement targets in the ten complex and dissimilar industries. FEA has concluded that the listing of those items required to be contained in the narrative supplement is not a difficult task and should not prove burdensome.

H. CONVERSION FACTORS

Many commenters asserted that the conversion factor provided for electricity, 3,412 Btu's per kWh, was too low and that a higher figure, most often 10,000 Btu's per kWh, should be substituted to more accurately reflect the energy needed to generate electricity either onsite or at the powerplant. FEA established the industrial energy efficiency improvement targets for SIC 28 and 29 using a conversion factor of 10,000 Btu's per kWh and has decided to allow the use of this factor for these industries in the completion of the form. FEA has decided to maintain the 3,412 Btu's per kWh conversion factor for all other industries.

It was also suggested that one set of conversion factors should be applied uniformly instead of allowing reporting companies to use alternative factors when they could substantiate their choices, as allowed in the proposed form. Because FEA is interested in the most accurate information available, it would be inconsistent for FEA to fail to acknowledge that the measurable energy value of fuels may vary significantly. FEA has decided to continue to allow reporting companies to use alternative conversion factors based on the known energy content of fuel when they can document the conversion factors used.

I. DEBIT/CREDIT FUEL FACTORS

Although neither the industrial efficiency improvement targets nor the proposed reporting form treated the question of offering an incentive credit for conversions away from scarce energy forms and a corresponding penalty for conversions to such energy sources, FEA solicited comments on such a plan in response to interest voiced by companies at the public hearings on the industrial targets.

One comment suggested that companies which converted some manufacturing operations to coal should be allowed to reduce their total consumption figures by the full Btu equivalent of the scarce energy sources conserved. FEA agrees, however, with other comments that pointed out that this plan would be inequitable to firms who could not make such conversions either because coal is not abundantly available in their geographic area or because present technology cannot accommodate converting away from scare eneregy sources.

Several commenters suggested that no credits for conversions before the reporting period should be allowed. FEA believes that all conversions since the 1972 base year should be recognized in any debit/credit conversion plan. Still other commenters felt that only incentive credits should be allowed, but that no penalty for conversions to scarce fuels should be levied. FEA believes that conversion to scarce oil or gas is contrary to national policy and that any debit/credit plan must incorporate this fact. Finally, one comment stated that the insignificant differences in combustion efficiencies between energy sources did not justify any debit/credit plan. While FEA has concluded that no debit/credit conversion plan should be included in the reporting form at this time, the national policy to promote conversions by industry away from scarce energy sources may well justify the implementation of such a feature in the reporting form in the future.

J. ADDITIONAL COMMENTS

1. *The Relationship between the Mandatory and Voluntary Reporting Systems.* Some comments questioned whether the requirements of the mandatory reporting form would be imposed on companies reporting voluntarily to FEA through trade associations, as allowed under the EPCA. FEA is issuing Form FEA–U524–P–O exclusively for use by companies required under the industrial conservation program to report directly to FEA. However, the form has been designed to generate information compatible with the information received under the voluntary reporting program. In order to remove inconsistency between the reporting dates for the voluntary and mandatory reporting programs as noted in a comment, FEA has adjusted in instructions in the final reporting form so that, except for the initial submission, the reporting dates of the two programs will be identical.

A few comments questioned the difference in the treatment of captive production between the mandatory and voluntary reporting programs. FEA has designed Form FEA–U524–P–O for maximum compatibility and has concluded that no significant inconsistency in monitoring industrywide progress will result.

2. *The Comment Period.* In the notice proposing the reporting form, FEA offered to extend the period for written comments beyond the May 17, 1977 deadline if significant interest in a longer comment period was expressed. Since only a few written and oral requests to extend the comment period were received and an additional comment period was offered by the GAO review of Form FEA U524–P–O, FEA determined that extension of the comment period was unnecessary.

3. *Confidentiality of Information.* Several commenters expressed concern about supplying FEA with potentially confidential information either in the energy efficiency algorithm or in the narrative supplement. The energy efficiency algorithm described in the instructions to the reporting form is to be used by the reporting company only to generate the appropriate entries for Part IV, Energy Efficiency Data, of the form. FEA does not require the submission of the completed algorithm format illustrated in the instructions, but reporting companies must retain this information and allow FEA access to it for selective review. The instructions have been modified to clarify this point.

FEA does not believe that completion of the narrative supplement that must be submitted with the reporting form should require the submission of any confidential information. A simple descriptive listing of conservation measures implemented in each two-digit SIC industry covered by the report will be sufficient.

IV. SUMMARY OF CHANGES TO FORM FEA–U524–P–O AND INSTRUCTIONS FOR COMPLETION

As discussed in the review of the comments above, several changes have been made in the final reporting form in response to public comment. FEA has on its own initiative made additional changes mostly to eliminate clerical errors and to further clarify the form and the instructions. A list of the major changes is provided.

FORM–PART IV

1. The heading for entry 4.3 was modified to reflect the changes in the information requested, as discussed under the instructions for Part IV of the form.

INSTUCTIONS WHEN TO FILE

2. The date of the first submission of Form FEA–U524–P–O was extended to six weeks from the publication of the final form in the FEDERAL REGISTER.

3. The due date of all subsequent submissions was changed to April 30 and October 30.

DEFINITIONS

4. The definition of "energy efficiency ratio" was modified to reflect the reporting company's option of selecting a unit of production other than a physical unit.

5. The definition of "operational change" was substantially rewritten. The new definition is clearer in that it specifically describes the three classes of changes in energy consumption which which are now considered operational changes.

6. The definition of "product" was modified to indicate that any grouping of items within a two-digit SIC industry is now considered a product for the energy efficiency algorithm.

7. The definition of "production" was modified to reflect (1) that a reporting company may elect a nonphysical unit of production and (2) that companies reporting on the manufacture of textiles may use raw material input as the unit of production.

INSTRUCTIONS FOR PART III OF THE FORM

8. The instructions for calculating actual consumption data have been improved by the addition to the instructions of descriptive information which was contained in the FEDERAL REGISTER notice accompanying the proposed form. Additional changes have also been made.

9. Start up energy for new products is to be excluded from actual consumption data.

10. By-product fuel sold and shipped or stored for sale is excluded from actual consumption data.

11. Waste used as fuel is to be excluded from actual consumption data.

12. The instructions for calculating the actual consumption data have been modified to indicate that excludable energy consumption may be included if the reporting company does not separately monitor such consumption.

13. Data is to be supplied in billions of Btu's with one place to the right of the decimal rather than three.

14. Several conversion factors have been changed to correct earlier clerical errors.

Propane, 3,848,000 Btu's/barrel.
Petroleum Coke, 30,120,000 Btu's/short ton.
Natural Gas, 1,031 Btu's/cubic foot.

15. The conversion factor for electricity with regard to SIC 28 and 29 has been modified so that it is consistent with the conversion factor used in the establishment of the energy efficiency improvement target for those industries.

INSTRUCTIONS FOR PART IV OF THE FORM

16. The instructions for entry 4.3 were modified to request the amount of energy consumed (in Btu's) as a result of all government requirements.

INSTRUCTIONS FOR ENERGY EFFICIENCY ALGORITHM

17. The instructions for the energy efficiency algorithm have been clarified to emphasize that a reporting company does not submit the energy efficiency algorithm to FEA.

18. The instructions for Step 1 of the energy efficiency algorithm have been modified in response to the change in the definition of "product."

19. The instructions for Step 2 of the energy efficiency algorithm have been modified in response to the changes in the definitions of "product" and "production." The instructions also clarify that justification of the unit of production used must be submitted to FEA in the narrative supplement.

20. The instructions for Step 6 of the energy efficiency algorithm have been substantially revised. They now reflect the change in the definition of operational change and the reporting company's option to adjust consumption figures in the energy efficiency algorithm for such changes. The instructions for computing operational changes also reflect the changes in the definitions of "products" and "production". The instructions clarify that a list of any operational changes for which adjustments were made and their effect on consumption must be included in the narrative supplement.

21. Step 8 of the energy efficiency algorithm has been changed to conform with changes (1) and (16) discussed above.

NARRATIVE SUPPLEMENT

22. The instructions have been clarified to explain that a single narrative supplement must be attached to each report and to list the items to be included.

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; E.O. 11790, 39 F.R. 23185.)

The effective date of this document is June 28, 1977.

Issued in Washington, D.C., June 22, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX

FORM FEA G524-P-O

FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D. C. 20461

INDUSTRIAL ENERGY CONSERVATION AND CONSUMPTION REPORT

This Report is Mandatory Under Public Laws 94-163 and 93-275

PART I--IDENTIFICATION INFORMATION — FEA Use Only

1.1 Parent Corporation Name and Address:

Zip code

1.2 EIN No.

1.3 Period covered: to

1.4 Energy Contact Person and Title

Phone No.

1.5 ☐ Check if this is a revised report

1.6 ☐ Check if the name and/or address of the corporation has changed since last report

PART II--CERTIFICATION

I certify that the information provided herein and appended hereto is true, accurate, and complete to the best of my knowledge.

NAME	TITLE
SIGNATURE	DATE

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willfully to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

PART III--ACTUAL ENERGY CONSUMPTION DATA (Billion Btu's)

Energy Source	Two Digit SIC Code ( ) A	( ) B	( ) C	( ) D	Conversion Factor
3.1 Coal					
3.2 Coal Coke					
3.3 Distillate Fuel Oil					
3.4 LPG					
3.5 Natural Gas					
3.6 Purchased Electricity					
3.7 Purchased Steam					
3.8 Residual Fuel Oil					
3.9 Self-generated Hydroelectricity					
3.10 Other (Specify)					
3.11 Other (Specify)					
3.12 Other (Specify)					
3.13 Other (Specify)					
3.14 Other (Specify)					
3.15 TOTAL					
PART IV--ENERGY EFFICIENCY DATA					
4.1 Current Consumption Adjusted to 1972 Energy Base (Billion Btu's) Enter from Step 4					
4.2 Current Actual Consumption Adjusted to Current Operations (Billions Btu's) Enter from Step 7					
4.3 Consumption Due to Government Requirements (Billion Btu's) Enter from Step 8					

INSTRUCTIONS

A. PURPOSE

Form FEA–U524–P–O is designed pursuant to section 375(b) of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6345 (b)) which requires that the Federal Energy Administration (FEA) devise a simple form for energy consumption reporting by corporations specified in paragraph B, below, to measure each reporting corporation's progress in improving its energy efficiency. This information will be aggregated with data from corporations participating in adequate voluntary reporting programs to measure progress toward attainment of the energy efficiency improvement target established by FEA for each identified two-digit Standard Industrial Classification (SIC) code industry.

B. WHO MUST SUBMIT

Any corporation which has been identified by FEA under section 373 of the EPCA (42 U.S.C. 6343) and which is in an identified industry for which FEA has set an industrial energy efficiency improvement target under section 374 of the EPCA (42 U.S.C. 6344) is required to submit this report to FEA, unless exempted in accordance with section 376(g) of the EPCA (42 U.S.C. 6346(g)) because it fully participates in an adequate voluntary reporting program.

C. TO WHOM

Form FEA–U524–P–O should be submitted to:

Federal Energy Administration, Office of Industrial Reporting Programs, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Additional copies of the reporting form may be obtained from the above address. Indicate the number of copies needed and the address to which they should be sent.

D. WHEN

The initial submission of Form FEA–U524–P–O covering calendar year 1976 must be received by FEA no later than 6 weeks after the publication of the final form in the FEDERAL REGISTER. Thereafter, unless otherwise required, the form must be received by FEA by April 30 and October 30 of each year covering the preceding half calendar year (e.g., April 30, 1978, for the period July through December 1977). Submission of a revised report must be made within 30 days of the scheduled date.

E. DEFINITIONS

For purposes of this form:

"Actual energy consumption" means the sum of the Btu content of all energy sources (not used as feedstocks) consumed within the United States in an identified industry by the reporting corporation during the covered reporting period.

"Btu" means British thermal unit.

"Commercial quality production" means the manufacture of products suitable in quality for shipment and/or sale.

"Energy efficiency ratio" means the amount of energy in Btu's consumed per unit of production.

"EPA" means the Environmental Protection Agency.

"EPCA" means the Energy Policy and Conservation Act (Pub. L. 94–163).

"FDA" means the Food and Drug Administration.

"Identified industry" means an industry identified by FEA under Section 373 of EPCA.

"Manufacturing" means the mechanical or chemical transformation of materials or substances into new products, as described on page 57 of the Office of Management and Budget, Standard Industrial Classification Manual (1972).

"Operational change" means an identifiable variation in energy consumption attributable to (1) factors beyond the control of the corporation such as might be required by statute, rule, regulation or ordinance; (2) policies designed to use more abundant energy sources, exclusive of waste materials; or (3) natural effects such as climate and raw material quality changes.

"OSHA" means the Occupational Safety and Health Administration.

"Product" means an item or grouping of items (separate parts of, or all of, its product line) that is the output of a manufacturing corporation and is classified and described within the reported two-digit SIC code.

"Production" means the quantity of the reporting corporation's product output (or raw material input in the case of the petroleum and textile industries) or activity.

"Reporting corporation" means any corporation required to submit this report to FEA, pursuant to paragraph B, above.

"SIC" means the standard industrial classification system described in the Office of Management and Budget, Standard Industrial Classification Manual (1972).

"United States" means the 50 states, the District of Columbia, Puerto Rico, and all territories and possessions of the United States, including the Outer Shelf, as defined in 43 U.S.C. 1331.

"USDA" means the United States Department of Agriculture.

F. INSTRUCTIONS FOR COMPLETING INDUSTRIAL ENERGY CONSERVATION AND CONSUMPTION REPORT

Part I: Identification Information

Item 1.1: *Name and Address.* Enter the name and the complete address of the reporting corporation. Enter the state abbreviation and zip code (use the official U.S. Postal Service state abbreviations).

Item 1.2: *Employer Identification Number (EIN).* Enter the reporting corporation's Internal Revenue Service Employer Identification Number.

Item 1.3: *Period Covered.* Enter the reporting period covered by this report, specifying the year and portion of year that applies, as indicated by paragraph D, above (e.g., January 1, 1977=01 01 77 to June 30, 1977=06 30 77).

Item 1.4: *Energy Contact Person.* Enter the name, title, and telephone number of the individual who may be contacted regarding this report.

Item 1.5: *Revised Report.* Check if this is a revised report.

Item 1.6: *Change of Address.* Check if there has been a change since the previous report.

Part II: Certification

This part must be completed each time Form FEA–U524–P–O is submitted. Type or print in block letters the name and title of the individual who has signed the certification and the date of the signature in the spaces provided on the form. The individual who signs and certifies this Form FEA–U524–P–O must be the Chief Executive Officer of the reporting corporation or such other corporate officer authorized by the Chief Executive Officer to sign for him for this purpose. In the latter case, the reporting corporation must file with FEA a letter of authorization (se Attachment to these instructions) signed by the Chief Executive Officer that identifies other officials authorized to certify Form FEA–U524–P–O for the corporation.

Part III. Actual Energy Consumption Data

Actual Energy Consumption Data. Enter the applicable two-digit SIC code in the parentheses above the column for each identified industry in which the reporting corporation is required to report, pursuant to paragraph B, above. Enter the actual energy consumption data for the reporting period, by energy source and two-digit SIC code. In the actual energy consumption data, include actual energy consumption for every corporation, company, association, firm, partnership, society, trust, joint venture and joint stock company of which the reporting corporation is the ultimate parent, whether by direct or indirect control. The report must include energy used for:

Direct manufacturing operations.

Thermal self-generation of electricity.

Heating, ventilating and air conditioning of manufacturing buildings and plant offices plus manufacturing services such as shops, cafeteria, other plant personnel services, and plant chemical and analytical laboratories.

In-plant transportation, such as lifttrucks, conveyors, cranes, and railroads.

Transportation on producer's property between mining operations and manufacturing facilities. (The transportation could be by conveyors, trucks or by rail. Mineral preparation such as crushing, screening and concentrating of ores is not to be included per SIC definitions.)

Raw material storage.

Services for finished product warehouses within a plant fence if directly related to manufacturing operations.

Where such use is metered separately or can otherwise be identified, the report must exclude the following energy uses:

Feedstocks.

All uses of electricity self-generated by thermal means. (Btu content of energy sources for thermal self-generated of electricity is already included.)

Services for corporate and divisional offices.

Services for basic research.

Services for regional distribution centers.

Fuel for corporate aircraft, salesmen's cars and over-the-highway trucks.

By-product fuels sold and shipped or stored for sale.

Facility start-up energy (to point of commercial quality production).

Waste used as fuel.

Transport of intermediate product to another producer for finishing within the same two-digit industry.

Fuels received for storage for later disposition.

Report the energy content of all fuels consumed in billions of Btu's, expressed as a decimal with one place to the right of the decimal point (e.g., 0.1 means one hundred million) and state the conversion factor of the fuel, as explained below, in the appropriate row of the last column. Where more than one conversion factor per energy source apply to a corporation, the factor entered should be a weighted average for that energy source.

Where actual energy consumption of any energy source did not occur totally within the identified industry in which the corporation is reporting, allocate in a reasonable manner to such identified industry the appropriate portion of such consumption.

In the "Other" categories, include actual energy consumption, by energy source, for energy sources not otherwise designated.

Use the actual Btu content of any energy source except electricity, as the conversion factor of that energy source where the energy source was purchased according to, or with knowledge of, its actual Btu content. Where the energy source was not purchased accord-

ing to, or with knowledge of, its actual Btu content and in the case of electricity, the conversion factors listed below are provided.

Energy type	Conversion factor (Btu's/energy unit)
Bituminous coal	[1] 23, 650, 000
Anthracite	[1] 25, 400, 000
Coke	[1] 24, 800, 000
Ethane	[2] 3, 082, 000
Propane	[2] 3, 847, 806
LPG	[2] 4, 011, 000
Natural gasoline	[2] 4, 620, 000
Gasoline (including aviation)	[2] 5, 248, 000
Special naphtha	[2] 5, 248, 000
Kerosene	[2] 5, 670, 000
Distillate fuel oil (including diesel)	[2] 5, 825, 000
Still gas	[2] 6, 000, 000
Residual fuel oil	[2] 6, 287, 000
Crude oil	[2] 5, 800, 000
Petroleum coke	[1] 30, 120, 000
Natural gas, dry	[3] 1, 031
Electricity (purchased and self-generated hydropower)	[4] 10, 000
Other energy types	[5] 3, 412

[1] Per short ton.
[2] Per barrel.
[3] Per cubic foot.
[4] Per kilowatt hour for SIC 28 and 29.
[5] Per kilowatt hour for all others (determined by corporation using standard calorimetric methods in current use within the industry)

Application of conversion factors requires that quantification of the fuels be compatible with conversion factor dimensions e.g., tons of solids, barrels for liquids (42 U.S. gal/barrels) and standard cubic feet for gases.

Supply actual energy consumption totals for each two-digit SIC code.

Part IV: Energy Efficiency Data

Item 4.1: *Current Consumption Adjusted to 1972 Energy Base.* Enter under the appropriate two-digit SIC code column the total energy in billions of Btu's (expressed as a decimal with one place to the right of the decimal point) developed in accordance with procedures applicable to column 4 of the energy efficiency algorithm described in paragraph G of these instructions.

Item 4.2: *Current Actual Consumption Adjusted to Current Operations.* Enter under the appropriate two-digit SIC code column the total energy in billions of Btu's developed in accordance with procedures applicable to column 7 of the energy efficiency algorithm tabulation described in paragraph G of these instructions.

Item 4.3: *Consumption Due to Government Requirements.* Enter under item 4.3 the consumption due to OSHA, EPA, USDA, FDA or other government requirements developed in accordance with step 8 of paragraph G of these instructions.

G. ENERGY EFFICIENCY ALGORITHM

An energy efficiency algorithm must be applied for each identified industry in which a corporation is reporting. The completed algorithm(s) should not be submitted to FEA but must be retained by the reporting corporation in accordance with paragraph I of these instructions. The algorithm must be applied according to the following format, which contains quantities presented for purposes of illustration only:

Products	1972 energy efficiency ratio (Btu's per unit)	Current reporting period production (unit)	Current consumption adjusted to 1972 Btu's in billions (col. 2× col. 3)	Current actual consumption (Btu's in billions)	Consumption due to operational changes since 1972 (Btu's in billions)	Current actual consumption adjusted to current operations (col. 5 adjusted by col. 6 in billions)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
No. 1	600,000 (per ton).	1,600,000 (ton).	960	900	21	879
No. 2	100,000 (per dollar).	$1,000,000	100	90	7	83
No. 3	15,000 (per cubic foot.	3,000,000 (per cubic foot).	45	36	3	33
All other	200,000 (per barrel).	200,000 (per barrel).	40	35	2	33
Total			1,145	1,061	33	1,028

To derive the entries for the Energy Efficiency Algorithm, perform the following steps:

Step 1. *Products.* Enter in column 1 the products (i.e., individual items or grouping(s) of items of manufacture) within a two-digit SIC code industry which can be represented by a single energy-efficiency ratio.

Step 2. *1972 Energy-Efficiency Ratio (Btu's/Unit).* Enter in column 2 the 1972 energy-efficiency ratio for each product entered in column 1. The energy-efficiency ratio, as defined in paragraph E, is for each product the energy in Btu's attributable to a unit of production where the unit of production is determined by the reporting corporation. The reasons for the selection of the particular unit(s) of production for each product must be provided as a part of the narrative supplement of that corporation's first report and as a part of the narrative supplement of any subsequent reports covering periods in which a new product is added.

If the commercial quality production of any product began after 1972, list the energy-efficiency ratio as though that product was manufactured in 1972. Once this ratio has been determined for a product, it must remain constant throughout the life of this reporting system to assure measurement on a constant basis. When any product is phased out after 1972, delete the contribution made by that product to the 1972 energy base.

Step 3. *Current Reporting Period Production.* Enter the totals of current production of each product in column 3 using units that are consistent with the units selected for each energy-efficiency ratio calculation in column 2.

Step 4. *Current Energy Consumption Adjusted to 1972 Efficiency.* Calculate the energy (in Btu's) that would have been required for the manufacturing of each product during the applicable reporting period in terms of 1972 energy efficiency by multiplying the production of each product in its respective units as entered in column 3 by the corresponding energy-efficiency ratio of each product entered in column 2, and record the numbers in column 4. Add the numbers in column 4 and provide FEA with the total of column 4 by entering the total in 4.1 of Part IV of Form FEA–U524–P–O.

Step 5. *Current Actual Consumption in Btu's.* Enter the energy (in Btu's) required for the manufacturing of each product during the applicable reporting period in column 5. Add the numbers in column 5 and compare the total as a check against the appropriate column of line 3.15 in Part III. The totals should be the same.

Step 6. *Consumption Due to Operational Changes Since 1972.* Operational changes may alter the amount of energy consumed and the apparent efficiency of manufacturing processes. In cases where increases in energy consumption since 1972 due to operational changes can be quantified, the reporting corporation may treat such variations according to the instructions below.

If the increase in energy required for an operational change can be determined for each product, determine such increase and enter it in the appropriate row of column 6. If the increase cannot be apportioned to each product, then determine the increases for groups of products and enter the increases in column 6. Provide a written explanation of all operational changes in the narrative supplement. If the increase cannot be apportioned at less than the two-digit SIC industry level, then enter the total increase in the bottom row of column 6 and explain in the narrative supplement. Each operational change contributing to the entries in column 6 must be identified along with its impact on energy consumption in the narrative supplement.

An example of an allowable operational change is one taken for the increase in energy required by a switch from natural gas to coal for steam generation. In such case the magnitude of the adjustment is determined by calculating the difference in energy consumption required by the two systems to produce the same level of energy output. That is, by subtracting the energy consumption in Btu's input for the natural gas-fired system from the energy consumption in Btu's input for the coal-fired system for the same quantity of steam generated at a given temperature and pressure.

Operational changes as defined in paragraph E include, but are not limited to, energy use attributable to government regulations, changes in capacity utilization, product mix changes, climatic changes, material quality and conversions from oil or gas to coal.

Step 7. *Current Actual Consumption Adjusted to Current Operations (Column 5 Adjusted by Column 6).* Subtract the total of column 6 from the total of column 5 and enter the result in the last line of column 7. Enter this figure in item 4.2 of Part IV of Form EEA–U524–P–O.

Where operational changes are quantified by product, subtract column 6 from column 5 on each applicable product line and enter the difference in column 7.

Step 8. *Change in Energy Consumption Due to Government Requirements.* Enter the energy consumption due to EPA, OSHA, USDA, FDA, or other government requirements in item 4.3, Part IV of Form FEA–U524–P–O.

H. NARRATIVE SUPPLEMENT

Each reporting company must provide FEA with a brief written text attached to the corporation report. This narrative supplement should include:

1. A list of the specific measures that the corporation has implemented to improve energy efficiency during the reporting period. Where waste is utilized for fuel, the itemized conservation measure entry must include the quantity of waste fuel consumed in Btu's.

2. A rationale for the selection of the unit of production used in the energy efficiency

algorithm, as required by Step 2 of G of this part.

3. A list of operational changes and their impact on energy consumption, where the reporting company has elected to make adjustments for operational changes, as required by Step 6 of G of this part.

I. RETENTION OF DATA

All data are to be retained by the reporting corporation for a minimum period of 2 years from the filing date.

J. CONFIDENTIALITY OF INFORMATION

Any reporting corporation which believes that any information provided to FEA in Form FEA-U524-P-O is a trade secret, or commercial or financial information that is privileged or confidential, and that disclosure of this information may cause significant competitive damage to it, must inform FEA of this conclusion. Specifically, the reporting corporation must (1) file together with Form FEA-U524-P-O a second copy of such form on which the information, which if released, the corporation believes would cause significant competetive damage, is clearly indicated, (2) indicate on the original form that it contains confidential information, and (3) file a concise statement which explains, item by item, the exact nature of the significant competitive damage which would result from the release of such item, and whether that item is customarily treated as confidential by the reporting corporation and the industry. A detailed explanation of the competitive damage resulting from public disclosure—rather than general statements that an item is confidential—is needed by FEA to determine whether the item may be released. FEA retains the right to make its own determination regarding any claim of confidentiality. Prior to disclosing any information contained in Form FEA-U524-P-O which the Administrator determines is information described in 5 U.S.C. 552(b)(4), the Administrator will afford, pursuant to section 376(e) of EPCA (15 U.S.C. 956(e)), the person who provided the information an opportunity to comment on the proposed disclosure.

ATTACHMENT

DELEGATION OF AUTHORITY TO SIGN AND CERTIFY

(Date of Signing)

(Name of Reporting Corporation)

I, _____, hereby certify that
(Name of Chief Executive Officer)

I am the _____ of the above
(Title)

named corporation and that, as such, I am authorized to sign documents and to certify, on behalf of said corporation, the accuracy and completeness of all documents required to be submitted to the U.S. Government. Pursuant to the power vested in me, I hereby delegate all or, to the extent indicated below, a portion of that authority to the person(s) listed below, who is (are) corporate officer(s) of the above named corporation. This delegation is effective until it is revoked in writing and the Federal Energy Administration is so notified.

(Signature)

AUTHORIZED INDIVIDUALS

Name and title

Extent of authorization

[FR Doc.77-18295 Filed 6-27-77;8:45 am]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact Re the Washington Energy Conservation Plan

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the State of Washington, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of the plan, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for Washington are available upon request from the FEA National Energy Information Center, Room 1416, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plan are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views and arguments with respect to the environmental assessment to Executive Communications, Box NR, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Washington State Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by July 8, 1977, in order to receive full consideration.

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

Issued in Washington, D.C., June 23, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-18508 Filed 6-27-77;8:45 am]

SYNTHETIC NATURAL GAS

General Inquiry Regarding the Allocation of Petroleum Feedstocks to Synthetic Natural Gas Plants

AGENCY: Federal Energy Administration.

ACTION: Notice of General Inquiry.

SUMMARY: The Federal Energy Administration (FEA) is requesting public comments in connection with a general notice of inquiry regarding the reevaluation of its current synthetic natural gas (SNG) feedstock allocation program. Specific requested areas for comment are set forth herein.

DATES: Comments by July 15, 1977, 4:30 p.m.; requests to speak by July 13, 1977, 4:30 p.m.; statements by July 15, 1977, 4:30 p.m.; hearing to be held on July 18, 1977, at 9:30 a.m., and will be continued if necessary at 9:30 a.m. on July 19, 1977.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3317, Federal Energy Administration, Box NQ, Washington, D.C. 20461; statements to Executive Communications, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Hearing to be held at: Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.
Ed Vilade, (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.
Kenneth L. Kincel (Resource Development Policy), 12th and Pennsylvania Avenue NW., Room 4112, Washington, D.C. 20461, 202-566-9052.
Finn Neilsen (Regulatory Programs), 2000 M Street NW., Room 6318, Washington, D.C. 20461, 202-254-9730.
Joel M. Yudson (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

In accordance with the President's recently announced National Energy Plan, the FEA is continuing to reevaluate its current SNG feedstock allocation program, including § 211.29, the Statement of Policy and Special Rule No. 1 contained in the Mandatory Petroleum Allocation Regulations (10 CFR Part 211). FEA is soliciting public comment as to the efficacy of the current SNG feedstock allocation program, and any appropriate changes thereto. Further information concerning the SNG feedstock allocation program may be obtained from FEA's SNG Draft Programmatic Environmental Impact Statement which is currently available.

Comments are solicited as to criteria to be considered in analyzing applications pertaining to existing and new SNG plants and as to alternative means of implementing new policies. Specifically, commenters are requested to respond to the following questions which address some of the concerns which FEA is considering in the SNG area:

1. If the fuel conversion to coal from oil and gas and other conservation/regulatory measures contained in the National Energy Plan are implemented, what market is foreseen for SNG?

2. Are there any regions or areas of the country where SNG (on a systems basis) is more efficient than alternative energy supply delivery systems?

3. Are there any regions or areas of the country where the use of SNG rather than alternative supplies has a significant beneficial environmental impact? In these regions, would the benefit still be significant if the SNG were used only by high priority customers?

4. Should FEA require that all new SNG feedstock allocations be imports?

5. Should new, revised criteria be applied to future allocations to existing SNG plants as well as to new and expanded SNG plants?

6. What will the economic impact be on the supply and demand for petroleum feedstocks and on traditional customers of these feedstocks in the event that the existing FEA allocation policies are revised to increase the number of SNG feedstock allocations?

7. Should FEA establish a priority of fuels/feedstocks as a policy or criterion for SNG feedstock allocations? Would a "heavier the better" policy for feedstock priority make sense considering both security of supply and potential availability of supplies?

8. If FEA established a policy which limited new SNG feedstock allocations to plants which were financed on a 10 to 15 year basis rather than on a 20 to 30 year basis, what would the impact be on costs, prices, future capital availability, utilization of alternative supply sources, etc.?

9. Should feedstock allocations be granted for base load plants or seasonal plants? To what extent is the cost of the SNG reduced by operating a plant on a year-round basis?

10. Should SNG feedstock allocations be granted for the purpose of providing supplies to new residential, commercial and other high priority loads?

11. What are the most recent developments in SNG technology? What commercial processes are available that can utilize a variety of feedstocks such as residual oil and crude oil? What improvements can be anticipated with regard to presently available reforming technology?

12. What effect will the incremental pricing provision included in Section 414 of the proposed National Energy Act have on SNG demand?

13. What areas of the country have critical peak load needs that require new SNG plants? What class of customer (FPC priority) should be considered as having a critical need for purposes of SNG feedstock allocation?

14. What specific criteria should be proposed for review of SNG feedstock allocation applications?

15. Should the FEA allocation regulations be revised to cover all existing and potential SNG feedstocks?

B. COMMENT PROCEDURES

1. *Written comments.* Interested persons are invited to submit written comments with respect to the Notice of Inquiry to Executive Communications, FEA, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, Box Number NQ. Comments should be identified on the outside of the envelope and on the documents submitted to FEA with the designation "Comments on SNG Notice of Inquiry." Fifteen (15) copies should be submitted. All comments and related information should be received by FEA by July 15, 1977, in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only, in accordance with the procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

2. *Public Hearing.* a. *Request procedures.* A public hearing on the Notice of Inquiry will be held at 9:30 a.m., e.d.t., on July 18, 1977, Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C. to receive oral presentations from interested persons, and if necessary will be continued at the same time at the same location on July 19, 1977.

Any person who has an interest in the Notice of Inquiry or who is a representative of a group or class of persons which has an interest in this matter may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, Room 3317, Box NQ, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and must be received before 4:30 p. m., e.d.t., July 13, 1977. Such a request may be hand-delivered to Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a. m. and 4:30 p. m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give concise summary of the proposed oral presentation and a phone number where he or she may be reached through July 14, 1977. Each person selected to be heard will be notified by FEA before 4:30 p.m., e.d.t., July 14, 1977, and must submit 100 copies of his or her proposed statement to executive Communications FEA, Room 3317, 12th and Pennsylvania Avenue NW., Washington, D.C., 20461, before 4:30 p.m., e.d.t., on July 15, 1977.

b. *Conduct of Hearings.* FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

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

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p. m., e. d. t., July 15, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a. m. and 4:30 p. m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., June 24, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-18577 Filed 6-24-77;2:18 pm]

FEDERAL TRADE COMMISSION

MAGNUSON-MOSS WARRANTY—FTC IMPROVEMENT ACT

Guidelines for Public Participation in Rulemaking Proceedings; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects: Magnuson-Moss Warranty—FTC Improvement Act: Guidelines for Public Participation in Rulemaking Proceedings, that was published in the FEDERAL REGISTER on Tuesday, June 14, 1977 (42 FR 30480-30487).

FOR FURTHER INFORMATION CONTACT:

Bonnie Naradzay, Special Assistant for Compensation, Office of the Director, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202-523-3868).

SUPPLEMENTARY INFORMATION: The following corrections are made in

FR Doc. 77-16925: (1) Page 30481, middle column, under the heading—*Post-Hearing Participation*, first paragraph, *Step 14* should read *Step 11*; (2) Page 30481, middle column, footnote 4 should read footnote 2.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-18393 Filed 6-27-77;8:45 am]

MAGNUSON-MOSS WARRANTY—FTC IMPROVEMENT ACT

Guidelines for Public Participation in Rulemaking Proceedings

Correction

In FR Doc. 77-16925, appearing at page 30480 in the issue of Tuesday, June 14, 1977, make the following corrections on page 30481.

In the first column, in the section which begins "*Step 6*": (1) In the fourth line the word "this" should be changed to read "his"; (2) the last line should be deleted, and in its place inserted "quate notice of the final deadline."

In the third column in the ninth paragraph which begins "The language * * *", insert the following between the first and second lines: "interpretation. Because the compensation."

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 June 22, 1977. 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 NRC 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 July 18, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

NUCLEAR REGULATORY COMMISSION

NRC is requesting an extension no change clearance of a Class Exemption For Reports Concerning Possible Generic Problems. NRC as part of its program activities conducts an inspection and enforcement program to assure that activities conducted by licensees are performed in a manner to ensure adequate protection of the health and safety of the public, the common defense and security, and the quality of the environment. Reportable occurrences or unusual events, equipment failures, construction problems, and issues discovered or raised by the technical staff during the safety review are brought to the attention of the NRC through licensee reporting procedures, the safety review process itself, and by NRC's inspection staff. Reports submitted by the licensee and issues discovered by the staff are evaluated, and if the NRC determines that the reported event or issue may have significant generic implications—that is, affecting other facilities—a summary notification and/or request for information is immediately sent to other licensees and applicants that may be similarly affected. The notice alerts the licensees/applicants and requests them to take appropriate action to assure that the same situation does not exist or will not occur at their facility. Depending upon the seriousness of the problem, the notice may require prompt reports to the NRC presenting the results of the inspection, corrective measures taken, or analysis performed.

Based on the information obtained from licensees/applicants and the staff's evaluation of the problem, new regulatory requirements may be identified. Depending upon the nature of the problem and its resolution, these new requirements could be imposed by regulation, or they could be imposed on affected facilities individually by amendment to the technical specifications or conditions of their construction permit or operating license. In addition, the NRC could issue a Regulatory Guide which would describe the nature of the problem and the method or methods found adequate by the regulatory staff for its resolution. Potential respondents include 64 nuclear power plants licensed for operation, 70 plants which have received construction permits, 66 plants under construction permit review, and approximately 8,000 persons authorized by license to possess byproduct, source or special nuclear materials. NRC estimates the reporting requirement will affect 63 facilities and that reporting burden will average 30,000 hours annually.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-18468 Filed 6-27-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77N-0058]

NDA 1-497, MERCK SHARP & DOHME, ET AL.

New Drug Applications; Withdrawal of Approval

Correction

In FR Doc. 77-15691 appearing at page 29104 in the issue for Tuesday, June 7, 1977, make the following changes:

1. The effective date which appears in the first column on page 29104, and also in the second paragraph of the first column on page 29105 should read "June 17, 1977", instead of "June 13, 1977".

2. In the first paragraph of the first column on page 29105, the 14th line should read "§ 310.300 or § 310.302 (e) and (f) of the"., in lieu of "§ 310.300 and § 310.302 (c) and (e) of the".

NOTE.—This correction is republished without change from the issue of Thursday, June 23, 1977.

[Docket No. 76N-0305]

SAFETY OF CERTAIN FOOD INGREDIENTS

Opportunity for Public Hearing

In FR Doc. 77-15689 appearing at page 29105 in the issue for Tuesday, June 7, 1977, in the table on page 29106, under the column labeled "Substances", the second substance spelled "Hypothosphites", should be spelled "Hypophosphites".

Office of Education

ELEMENTARY AND SECONDARY EDUCATION ACT

Public Hearing on Reauthorization Issues

AGENCY: Department of Health, Education and Welfare.

ACTION: Notice of Public Hearing.

SUMMARY: This document establishes the time and date for a public hearing on the expiration of the Elementary and Secondary Education Act (ESEA) and other Education legislation, in order to develop an Administration position that will be submitted to Congress in the fall of 1977.

DATE: July 13, 1977, 8:30 a.m. to 1 p.m., 2 p.m. to 6 p.m.

ADDRESS: Washington, D.C.: HEW Building (North), Departmental Auditorium, 330 Independence Ave. SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Emily Williams, Office of the Assistant Secretary for Education (202-245-8004).

SUPPLEMENTARY INFORMATION: This public discussion will be under the sponsorship of the Assistant Secretary for Education and the U.S. Commissioner of Education. The purpose of this public hearing is to discuss the issues to be considered during the reauthorization of programs expiring in FY 78. In addition to the issues specific to each program, certain generic issues prevail across programs. These include establishing relevant and viable Federal/State relationships, developing strategies for innovation and change, and building local capacity to provide educational services of sufficient quality and quantity. Common to most programs also are issues concerning the effective implementation of curriculum development, testing teacher training programs, evaluation, dissemination, and adaptation of relevant procedures successfully undertaken in certain school systems.

The hearings will be chaired by the Assistant Secretary for Education, Mary F. Berry and the U.S. Commissioner of Education Ernest Boyer. We will try to assure a fair opportunity for proponents of all positions to present their views. Participants will be permitted a maximum of 5 minutes each, and panelists will have 5 minutes to respond to the testimony of each witness. Written statements may be offered by any person, including those who testify orally. Such statements should be submitted directly to: Emily Williams, Office of the Assistant Secretary for Education on or before July 5, 1977. They should be addressed to Emily Williams, Office of the Assistant Secretary for Education, South Portal Building (317-H), 200 Independence Ave. SW., Washington, D.C. 20201.

Requests to testify will be accepted from public officials, representatives of educational organizations and concerned citizens. Those desiring to participate in the public hearing should write directly to Ms. Williams, on or before July 5, 1977, providing the following information: (1) Name; (2) business address; (3) telephone number during normal working hours; (4) capacity in which presentation will be made (i.e. public official, organizational representative, citizen); (5) principal issues to be addressed and basic position on them; (6) time desired, which must be 5 minutes or less; (7) text of presentation, if available.

In order to expedite receipt of requests to speak, envelopes should be marked ESEA Reauthorization Issues, and should be addressed to Ms. Williams at the above address, or delivered to Room 317-H Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C.

To aid the process of identifying issues upon which comment or testimony might be based, we have included an appendix which outlines the issues and programs expiring in FY 78.

The public and press are invited. The transcription and all written submission will become a part of the record in the proceeding.

Dated: June 20, 1977.

MARY F. BERRY,
Assistant Secretary for Education.

Dated: June 22, 1977.

HENRY AARON,
Assistant Secretary for Planning and Evaluation.

Dated: June 20, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Nos. 13.427-13.431, Title I, Elementary Secondary Education Act; 13.570-13.571, Title I, Elementary Secondary Education Act; 13.541, 13.553, 13.554, Special Projects; 13.403, Billingual Education; 13.532(2), 13.589(d), 13.590(d), Elementary Secondary Assistance Act; 13.477-13.478, Impact Aid; 13.400, Adult Education; 13.533, Right-to-Read; 13.554, Career Education; 13.413, Educational Broadcasting Facilities; 13.549, Ethnic Heritage; 13.534, Indian Education.)

TITLE I, ELEMENTARY AND SECONDARY EDUCATION ACT

I. FUNDS ALLOCATION ISSUES (LEA PROGRAM)

Title I funds are distributed by Federal formula down to local areas (i.e., counties) within States. Each area's share in Title I allocations depends on the size of its eligible population and on the state's payment rate per eligible child. The Title I eligible population is defined as the sum of schoolage children from families below the official census definition of poverty and children from families who received annual AFDC payments in amounts above the poverty threshold. The rate of per pupil payment is 40 percent of each state's average per pupil expenditures but with no State paid at less than 80 percent or more than 120 percent of the national average expenditure. In addition, certain other children (i.e., migrants and institutionalized) are eligible for Title I funds in State-operated programs separate from the LEA program.

A. *Method of counting eligibles.* 1. Should the measure of poverty used in the formula be revised?

The Congressionally mandated study of the definition of poverty presents a number of possible alternatives that could be considered.

B. *Payment rate.* Should the procedure for determining the payment rate be changed?

C. *Updating.* Should Title I poverty counts be updated using 1976 income information from the Survey of Income and Education? Should a procedure be adopted for some other kind of regular updating of poverty counts?

D. *Expediting allocations.* Should alternatives be considered to facilitate the allocation process?

Some of the options are: (1) Setting aside a percentage of Title I allotment for children in State-operated programs without requiring counts of such children. (2) Determining State allotment only, leaving to States the allocation of funds to LEA's under prescribed criteria. (3) Requiring counts only every other year or every third year.

E. *Poverty/Low Achievement.* A bill to be introduced by Congressman Quie (Minority Leader of the House Education Subcommittee) is based on concern that funds be directed specifically to those in need of additional services to gain basic skills. NIE is presently conducting a mandated study of this issue.

II. LEA PROGRAM ISSUES AND ADMINISTRATION

Simplify and Improve Administration

1. *Follow-the-child.* A. Should certain restrictions on the targeting of Title I funds be changed in order to permit Title I services to "follow the child" in districts where Title I participants are moved to non-Title I schools as a result of desegregation?

2. *SAFA "Low-Rent Housing" Payments, P.L. 81-874, Sec. 5(e).* A. Should federally assisted low-rent housing continue to be the basis for Sec. 5(e) payments to LEAs?

B. If so, should payments be changed to "no strings" impact aid or continue as restricted to "Title I type" projects?

3. *Puerto Rico and the outlying areas.* A. Should the Title I legislation or regulations be amended to allow funds to be used for general upgrading of the education system in Puerto Rico and the outlying areas?

B. If such a change is made, should it encompass all OE entitlement programs?

4. *State compensatory education programs.* A. Should the legislation be changed to clarify the relationship of Title I and State compensatory education programs?

5. *State Administration set-aside.* A. Is there a demonstrated need to increase the 1 percent limitation on SEA set-aside for administration costs?

6. *Enforcement.* A. Should new types of enforcement mechanisms be adopted for Title I?

Improve Program Quality/Responsiveness

1. *Parent Advisory Councils (PACs).* A. Should State level PACs be required under Title I?

2. *Teacher involvement.* A. Should teacher involvement in the planning of Title I projects be required by law in a similar way that parent involvement is so required?

3. *Individualized educational plans.* A. Should schools be required by law to develop individualized educational plans for Title I participants? (Current Law and regulations "encourage" such plans, but do not require them.)

4. *Discretionary fund.* A. Should a certain percentage of Title I funds be set aside for OE to use in discretionary grants for pilot projects, capacity building, and similar activities? Examples of the types of projects that might be assisted from such a fund would include: (a) Demonstration projects for improved parent participation; (b) Special SEA technical assistance programs.

5. *Program emphasis.* A. Should decisions regarding program content be left to the discretion of the LEA's or should there be a mandated focus?

LEA's now can exercise wide discretion in which activities to fund, although OE encourages basic skills programs. There has been some discussion about setting a minimum funding level on basic skills activities.

B. Recent studies suggest the importance of continuity in program delivery. Should LEA's be encouraged to distribute funds in such a way that sufficient resources are available for longitudinal and summer programs?

6. *Program overlap.* A. Should consideration be given to allowing Title I funds to be used to support the entire school building instructional program under an appropriate plan when the number of potential participants in categorical programs in that building is exceptionally high?

Incentives for States

1. *Part B.* A. Should the Incentive Grant provisions in Title I, Part B be changed to a "matching grant" program for States having State compensatory education programs?

IV. STATE OPERATED PROGRAMS (MIGRANT, N+D, HANDICAPPED)

A. *Funds Allocation Issues* 1. Should the practice of automatic full-funding for State operated programs be continued? 2. Should hold harmless levels for State operated programs be changed?

B. *Program Issues* 1. *Cross cutting.* (a) Should more specific statement of purpose be added to the law for State operated programs?

2. *Migrants.* (a) Should the priority system be changed so that services are provided first to current migrants (pre-school and school age) and then to former migrants (pre-school and school age)? (b) Should the definition of "migrant" be changed?

3. *Handicapped.* (a) Should a 2-year limit be placed on the eligibility of an LEA transfer student? (b) Should the program authority be moved to the new Education for All Handicapped Act or remain in Title I, ESEA?

4. *Neglected or delinquent.* Should the payments to LEAs for children in institutions be consolidated with the State operated program?

C. Administrative issues 1. Should the administration of the Migrant and Neglected or Delinquent programs be changed? Should these programs be administered separately from the basic Title I LEA program? 2. Should there be separate set-asides for the SEA administration of State-operated programs?

TITLE IV, ELEMENTARY AND SECONDARY EDUCATION ACT

(Includes: ESEA Title IV-School Library Resources; NDEA Title III—Strengthening Curriculum; ESEA Title III—Guidance and Testing; ESEA Title III—Supplementary Services; ESEA Title V—Strengthening SEA's and LEA's; ESEA VII—Sections 807 and 808, Dropout Prevention and School Health/Nutrition Services.)

I. CONSOLIDATION

A. Should the funds triggering condition for the Title IV consolidation to take effect be removed?

II. PROGRAM ISSUES

A. Should funds for evaluation innovation, demonstration and dissemination be related to one another and targeted in a way to help SEAs and LEAs and schools develop their own problem solving capacity?

At present demonstration and dissemination efforts are focussed on local adaptation of successful projects at other sites. An alternative to this process could be the provision of entitlements that would allow schools to analyze their own problems so that they are capable of determining which models apply best to their own situations.

B. Should discretionary funds be given to SEAs and LEAs for purposes of retaining the successful components of all compensatory programs into a common package?

Currently, experimentation occurs independently in such programs as Title I, Bilingual and Right to Read in the effort to develop the most successful techniques for improving student academic skills. An alternative to this approach would be to consolidate these experimental activities under a pool of funds available to LEAs.

C. Should a certain amount of Title IV funds be earmarked for teacher involvement in LEA activities aimed at upgrading educational programs including Teacher Centers and teacher training in general?

III. FUNDING

Should a mechanism be implemented which would allow funds to be eased out of projects over a specified number of years so that programs do not terminate with the conclusion of funding?

IV. ADMINISTRATIVE CONCERNS

A. Should the 5 percent set aside for State administrative funds on the total Part B and C appropriation be changed to allow a 5 percent set aside on each amount separately?

This is felt to be a problem since as a result of Part B being a 95 percent pass through program to LEA's, the State administration of the program does not receive an equitable proportion of the administrative set aside.

B. Should OE administrative authority for Title IV be consolidated by specially authorizing Part B and C to be administered by one office?

Currently separate legislation relating to libraries requires all OE programs affecting libraries to be administered by the Division of Library Programs.

SPECIAL PROJECTS ACT

(Includes Metric Education, Gifted and Talented Programs, Community Schools, Career Education, Consumer Education, Women's Educational Equity, Elementary and Secondary School Education in the Arts.)

1. Should the Commissioner's discretion be untied from Special Projects funding?

Present legislation requires the Commissioner to pro rate fund the above Special Projects programs in order to fund new and experimental OE discretionary programs. This may be a useful time to explore relaxation of this constraining on the Commission-be reauthorized?

2. Which Special Project programs should Originally some Special Project programs were viewed as of limited duration—e.g. Metric Education, Consumer Education and Community Education. The question is whether to phase such programs out, reauthorize them or include them in a State consolidation (Title IV) approach.

TITLE VII, ESEA—BILINGUAL EDUCATION

I. PROGRAM CONTENT

A. Should we review and reassess present Title VII requirements?

B. Should the program be shifted to simply a bilingual program aimed exclusively at limited-English speaking children, with a bicultural program authorized under other authority for all children?

C. Should this quasi-service program be shifted toward a full service support program? This option would include either permanent assistance for bilingual education services or temporary support for bilingual education start-up costs. Such an "installation" strategy could include a legislated restriction on the time period for Federal assistance. Given current evaluation findings, does an expanded service program make sense at this time? Or should the program be limited to demonstration and development?

II. AUXILARY SERVICES

Should bilingual teacher training and curriculum development/dissemination efforts be expanded?

III. STATE ROLE

Should funds be made available to SEA's to develop comprehensive State plans for bilingual education (using Lau guidelines as a minimum standard)? How does an LEA comply with Lau and at the same time comply with desegregation requirements? How should Title VII activities be coordinated with Lau technical assistance activities carried out under Title IV of the Civil Rights Act?

EMERGENCY SCHOOL AID ACT[1]

I. REAUTHORIZATION

A. A one-year extension be requested for the items in ESAA expiring in 1978?[2]

Since only a portion of ESAA expires in 1978 with the rest expiring in 1979, it would seem reasonable to extend the expiring items for one year and to consider the entire ESAA package in the 1979 cycle. On the other hand it might be preferable to send Congress a comprehensive elementary/secondary proposal at this time, which would suggest that we include all of ESAA in the 1978 reauthorization proposal. A third possibility is that we include a general consideration of ESAA in the current analysis, in order to prepare a comprehensive elementary/secondary proposal, but that we delay decisions on the specifics of the ESAA reauthorization until the 1979 cycle.

B. What would be the general outlines of a complete ESEA reauthorization proposal?

No matter which of the above approaches is taken, it will be necessary to consider the overall direction of ESAA from the point of view of several distinct issues.

1. What should be the purpose of this program? Should it be to assist desegrating districts, to encourage increased voluntary desegregation, to help overcome the effects of past segregation, or to do all of these things?

2. Who should be eligible to receive ESAA funds? Should districts who are preparing to desegregate be eligible in addition to currently desegregating districts?

3. What activities should ESAA funds be spent on? If we decide that one purpose for ESAA is to act as an incentive, should incentive monies have fewer strings attached? If a major purpose is to help desegregating districts get through crisis periods, should currently prohibited expenditures be permitted, such as expenditures for transportation and for designing a plan?

4. How should available funds be divided among eligible recipients? Should the State allocation procedure be retained? Should funds be awarded to districts on a formula basis according to the amount of desegregation occurring or about to occur, or should the current discretionary award procedure be retained?

5. How should the ESAA programs other than Basic Grants be treated? Should ESAA be streamlined to exclude all but Basic Grants? Should each of the supplementary programs be reviewed separately to determine whether or not it contributes to the major purpose of ESAA?

II. SEC. 704(c) AND 704(d)

If a comprehensive ESAA proposal is not submitted in the 1978 package and if Sec. 704 (c) and (d) are not extended for one year, it will be necessary to submit a re-

---

[1] Only a portion of ESAA expires in 1978 with the remainder of the Act expiring in 1979. The parts that expire in 1978 are, first, Sec. 704(c), which authorizes additional funds for discretionary activities under Sec. 708(a), and, second, Sec. 704(d), which authorizes funds for new activities including magnet schools, planning for neutral site schools, and pairing of schools with universities and businesses.

[2] This question may be answered for us if the committee intend to take up ESAA and reauthorize the entire Act alongside their reauthorization of ESEA and other authorities expiring in 1978.

authorization proposal for these two items.

1. How well do the priorities reflected in the budget authorities and permissible activities of 704 (c) and (d) mesh with the overall purpose and approach of ESAA, as determined by the analyses proposed in No. 2 on the preceding page?

2. What substitute might be proposed which would improve the fit between current 704 (c) and (d) and the revised ESAA which would emerge from those analyses?

3. What is the advisibility of amending Title IV to permit technical assistance to districts seeking to comply with Sec. 704?

III. PROGRAM EMPHASIS

1. What is the advisability of adding a fourth purpose clause to the statute that would encourage the use of ESAA funds for human relations to aid in the elimination of minority group segregation among students and faculty in elementary and secondary schools?

Evaluation findings suggest that human relations programs may be the most productive activities in desegregating districts. In addition, such programs may even have a larger impact on improving basic skills than direct basic skills introduction.

2. Should ESAA funds be appropriated to magnet schools?

IV. TARGETING END USE OF FUNDS

1. A major problem which arises in some desegregation districts is the dispersion of Title I students as a result of the implementation of a desegregation plan. Should certain provisions be placed on ESAA funds so that Title I students enrolled in desegregating districts are not denied the kinds of services available under Title I?

2. What is the appropriateness of reintroducing a metropolitan area project set-aside?

3. What is the advisability of establishing incentives to encourage voluntary compliance?

4. What is the advisability of initiating a provision to "taper" off funds in order to gradually phase districts out programs?

INDIAN EDUCATION

PROGRAM EMPHASIS

1. Should the Title IV statement of purposes be expanded from "to meet special educational needs of Indian students" to "to meet special cultural and educational needs of Indian students."

2. Should the Part A entitlement formula be changed to increase the minimum number of students required to receive a grant?

3. Should the Indian Education Act be modified to include specific provisions allowing the conduct of research on Indian education?

4. Should the Indian Education Act be modified to include specific provisions for technical assistance to grantees and to resolve problems between parent committees and school districts in cases where the school district does not apply for Part A funds?

5. Should the upper limit of the Part A non-LEA set aside be changed from the current level of 10 percent?

IMPACT AID

1. Should the Department consider legislative reforms to the Impact Aid program other than the proposed elimination of "B" category pupils contained in the fiscal year 1978 budget?

The impact aid program is the second largest Federal program, currently funded at $793 million. It is estimated that by 1980, the program will have grown to over one billion dollars. Reform of this program has been urged for several reasons. These include the fact that many districts receiving impact aid are not fiscally needy and that the amount of tax savings to most districts from impact aid payments is comparatively small. In addition, administrative procedures that are required to determine Federal payments and to coordinate Federal impact aid payments with State assistance for equalization are extremely complicated.

The Carter budget proposal would eliminate the payments to "B" category children (i.e., those whose parents do not both reside and work on Federal property). Political opposition to this proposal will be severe and the Department may wish to consider other reforms of the payment structure that could move to control costs, improve targeting, and reduce administrative burdens. These possible reforms include those discussed below.

2. Should pupil eligibility requirements be modified to eliminate out-of-district pupils (i.e., those whose parents work on Federal property outside their districts or residence)?

3. Should payment rates be modified to target Federal aid on heavily impacted districts or to more equitably adjust for economic factors?

4. Should there be revisions to the recent provision in the impact aid program designed to coordinate Federal impact aid payments with state equalization programs?

This provision, which applies only to States with "acceptable equalization" programs, has been highly controversial and new approaches to achieve better coordination with State efforts merit study.

5. Should the Impact Aid pinpoint provision be revised in order to control the rapid escalation of Federal outlays under this authority?

Pinpoint disaster relief has put the Federal government into the position of compensating school systems for damages that could be covered under private insurance plans.

ADULT EDUCATION

1. Should the educational objectives of the program be broadened to include "functional competencies" as well as grade level and high school equivalency as objectives?

2. Does the current distribution formula correspond adequately to the population most in need of services? If not, what changes should be made?

3. Should incentives be used to encourage States to serve high-priority educational needs, such as:

(a) Out-of-school youth and young adults lacking functional competencies?

(b) Adults lacking functional competencies?

(c) Adults lacking competencies to function proficiently?

(d) Migrants?

(e) Immigrants?

4. Should discretionary grant authority for the Commissioner be added to the statute? If so, what kinds of activities should be authorized?

(a) Projects of national significance?

(b) Technical assistance projects?

(c) Demonstration projects?

(e) Curriculum development?

5. Would strengthening the role and effectiveness of advisory councils be desirable?

6. Should authority be added for public educational institutions to enter into joint projects with the private sector, including business, to expand adult educaiton programs? Should the content of instructional programs supported by the Act be more closely coordinated with employment?

7. Should the authorized appropriations levels for the program be significantly expanded?

NATIONAL READING IMPROVEMENT PROGRAM

RIGHT-TO-READ

1. What is the relationship of Right-to-Read to the larger Federal mission to increase literacy?

The purpose and target groups of the Right-to-Read programs—a small demonstration program—overlap with those of other Federal service programs (e.g., ESEA Title I and Adult Education). A discussion of the relationship of Right-to-Read cross-cutting authority for advising and/or structuring literacy efforts of other Federal programs. The option of reducing direct services components in Right-to-Read due to overlap with these other service programs should also be examined.

2. Should the State role in literacy services be expanded?

The need for expansion arises from current State moves toward standards for functional literacy/compentency. An expanded State role would entail:

Greater application review, monitoring, technical assistance responsibilities.

Greater authority to coordinate Right-to-Read with other State, local, and possibly Federal literacy activities.

Establishment of literacy units in some or all State offices.

CAREER EDUCATION

1. Should a career education program be continued at the Federal level?

2. If so, should the program be a service program? Demonstration?

3. Should such a program be a State grant program? LEA grants? Discretionary grants administered by the Commissioner?

4. What activities should be authorized in a career education program? Possible uses of funds include:

(a) Administration (State and/or local).

(b) Training of administrative personnel and teachers.

(c) Dissemination activities.

(d) Evaluation.

(e) Curriculum development.

(f) Program activities.

EDUCATIONAL BROADCAST FACILITIES

The Secretary is considering a draft bill proposing a 1 year extension of Pub. L. 94-309, Education Broadcasting Facilities and Telecommunications Demonstrations, at a total authorization level of $15 million for fiscal year 1978. Possible issues for fiscal year 1979 include the following:

1. What is the appropriate authorization level and length of authorization?

2. Should the EBF authority be expanded to include nonbroadcast technologies?

3. Would broader authority be desirable, to include the following:

(a) State and regional telecommunications planning?

(b) Amendment of nonbroadcast demonstrations authority to include: (1) Closed circuit TV services; (2) broadband communications satellite-cable in rural areas?

(c) Programing authority?

4. What is the proper organizational location?

(a) Should EBF remain in OE in spite of its current "hardware" emphasis?

(b) Should the program be transferred to OS?

(c) Should it be transferred out of HEW entirely to the Corporation for Public Broadcasting?

OTHER PROGRAMS

I. ESEA TITLE IX—ETHNIC HERITAGE STUDIES PROGRAM P.L. 93-278—ENVIRONMENTAL EDUCATION

These two programs share the same issues: (a) Whether to reauthorize as a necessary activity? (b) Setting of authorization levels?

(c) Length of reauthorization period?

II. GEPA, SEC. 422(a) NATIONAL DIFFUSION NETWORK

Should the Commissioner be permitted to use assistance contracts or grants instead of procurement contracts?

FUNDS ALLOCATION ISSUES

1. Comments on how various requirements which are designed to ensure that Federal funds do not replace State or local funds could be made more effective and/or simplified are solicited. These requirements include:

1. Supplement not Supplant (all programs).

2. Maintenance of Effort (all programs).

3. Comparability (Title I).

4. Excess Costs (Handicapped, Title I).

[FR Doc.77-18457 Filed 6-27-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice.

SUMMARY: The notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)).

DATES: Meetings: July 8 and 9, 1977, 8:30 a.m. to 5 p.m., closed, and July 10, 1977, 8:30 a.m. to 3 p.m., closed.

ADDRESS: 425 13th Street NW., Room 326, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT:

Stuard A. Tonemah, Executive Director, National Advisory Council on Indian Education, 425 13th Street NW., Room 326, Washington, D.C. 20004 (202-376-8882).

SUPPLEMENTARY INFORMATION: The Council is directed to:

(1) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81-874), as added by this Act, and section 810, Title VIII of the Elementary and Secondard Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) Review applications for the assistance under Title III of the Act of September 30, 1950 (Pub. L. 81-874), as added by this Act, Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and Section 314 of the Adult Education Act, as added by this Act, and make recommendations to the Commissioner with respect to their approval;

(3) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) Assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Pub. L. 81-874) as added by Title IV, Part A of Pub. L. 92-318; and

(6) To submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Advisory Council's recommendations to the Commissioner with respect to the funding of any such programs.

The Council, pursuant to the authority contained in section 441(a) of Pub. L. 92-318, (20 U.S.C. 1221f), shall submit a list of nominees from which the Commissioner of Education shall appoint a Deputy Commissioner of Indian education.

The July 8-10, 1977, meeting of the National Advisory Council on Indian Education shall be closed to the public, since the Council members will be reviewing proposals that must be held in confidence, under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and under the exemptions contained in the Government in the Sunshine Act, Section 552b(c) (4) and (6) of Title 5 U.S.C. (Pub. L. 94-409), 45 CFR 5.71 (a) and (c):

The proposed agenda includes:

(1) Review of the Indian Education Act proposals submitted under Parts B, C, and Non-LEAs (Title IV, Pub. L. 92-318) and Sec. 422(a) and 423(a) (Pub. L. 93-380).

(2) Recommendations to the Commissioner with respect to their approval.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting to the public at the office of the National Advisory Council on Indian Education located at 425 13th Street NW., Washington, D.C. 20004.

Signed at Washington, D.C., on June 22, 1977.

STUART A. TONEMAH,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.77-18387 Filed 6-27-77;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON NATIONAL HEALTH INSURANCE ISSUES

Meetings

Notice of the establishment of the Advisory Committee on National Health Insurance Issues was published in the April 21, 1977, FEDERAL REGISTER (Vol. 42, No. 77, Pages 20675 and 20676).

Pursuant to Pub. L. 92-463, notice is hereby given of one meeting of the Advisory Committee to be held on Wednesday, July 13, 1977, and another on Thursday, July 14, 1977.

The July 13 meeting will be held from 2 p.m. to 5:30 p.m. at the Oaks Hills Motor Inn, 7401 Wurzbach Road, San Antonio, Texas. The agenda will include problems of migrant health care and rural health care. The July 14 meeting will be held from 10:30 a.m. to 12 noon and from 1 p.m. to 4 p.m. on the 8th floor of the Lyndon Baines Johnson Library, 2313 Red River, Austin, Texas. The agenda will include a discussion of the role of states in the administration of national health insurance.

These meetings will be open to the public.

Further information on these meetings may be obtained from either SueZanne Hagans in Washington, D.C., 202-472-3026 or from Dan Reed in Dallas, Texas, 214-655-3301.

Dated: June 22, 1977.

SUSANNE STOIBER,
Project Coordinator.

[FR Doc.77-18337 Filed 6-27-77;8:45 am]

INSTITUTE OF MUSEUM SERVICES

Statement of Organization, Functions, and Delegations of Authority

Part E of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Education Division, is amended by the addition of a new Chapter EM, "Institute of Museum Services." The Institute is established within the Department of Health, Education, and Welfare by Public Law 94-462, the Arts, Humanities, and Cultural Affairs Act of 1976, signed into law by the President on October 8, 1976. The Institute is a new education agency within the Education Division. The new Chapter reads as follows:

EM.00 Mission. The Institute of Museum Services encourages and assists museums in their education role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of non-formal education for all age groups. The Institute assists museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and eases the financial burden borne by museums as a result of their increasing use by the public.

EM.10 Organization. The Institute of Museum Services consists of a National Museum Services Board and a Director of the Institute. The Director of the Institute reports through the Assistant Secretary for Education to the Secretary of Health, Education, and Welfare, with respect to the activities of the Institute. An Associate Director is responsible to the Director and acts for the Director in

the Director's absence or disability, or in the case of a vacancy in that position.

EM.20 Functions. A. The Board establishes the general policies with respect to the powers, duties, and authorities vested in the Institute, and obtains from the Director such information or assistance as is necessary to carry out its functions. Acting with the advice of the Director, the Board assures that the policies and purposes of the Institute are coordinated with other activities of the Federal government.

B. The Director, subject to the policy direction of the Board, makes grants to museums to increase and improve museum services, through such activities as:

1. Programs to enable museums to construct or install displays, interpretations, and exhibitions in order to improve their services to the public;

2. Assisting them in developing and maintaining professionally-trained or otherwise experienced staff to meet their needs;

3. Assisting them to meet their administrative costs in preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public through the use of their collections;

4. Assisting museums in cooperation with each other in the development of traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

5. Assisting them in the conservation of artifacts and art objects; and

6. Developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions.

C. The Institute accepts, in the name of the United States, grants, gifts or bequests of money for immediate disbursements in furtherance of the functions of the Institute.

Dated: June 17, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-14335 Filed 6-27-77;8:45 am]

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH ET AL

Statement of Organization, Functions, and Delegations of Authority

Based on the Secretary's Reorganization Order (42 FR 13262, March 9, 1977), establishing the Health Care Financing Administration (HCFA), Part H, Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions, and Delegations of Authority (38 FR 18571, July 12, 1973, as amended by 40 FR 48960, October 20, 1975; 41 FR 53374, December 6, 1976; 39 FR 31680, August 30, 1974; and 41 FR 22292, June 2, 1976) is amended to reflect the current responsibilities of the Office of Quality Standards, change the title of the Office of Health Maintenance Organizations Qualification and Compliance to the Division of Health Maintenance Organizations Qualification and Compliance, establish a new Division of Policy Development and Review in the Office of Quality Standards, and abolish in its entirety the Office of Long Term Care, which was transferred to HCFA.

Part H, Chapter HD (Public Health Service (PHS) Regional Offices) of the Statement of Organization, Functions, and Delegations of Authority (39 FR 1468, January 9, 1974, as amended most recently at 42 FR 4903, January 26, 1977) is amended to abolish in its entirety the Division of Quality and Standards. The functions of this division were transferred to HCFA.

Part H, Chapter HR (Health Resources Administration) of the Statement of Organization, Functions, and Delegations of Authority (39 FR 1456, January 9, 1974, as amended by 41 FR 4956, February 3, 1976) is amended to delete the Division of Long-Term Care from the Immediate Office of the Administrator. The long-term care function was transferred to HCFA.

Part H, Chapter HS (Health Services Administration) of the Statement of Organization, Functions, and Delegations of Authority (39 FR 10467-8, March 20, 1974, as amended most recently at 42 FR 14930, March 17, 1977) is amended to abolish in its entirety the Bureau of Quality Assurance (BQA). The functions of BQA were transferred to HCFA.

Section HA-B Organization and Functions is amended as follows:

1. Delete the statement for the Office of Quality Standards (HAC) in its entirety and substitute the following statement:

Office of Quality Standards (HAC). The Director of the Office of Quality Standards provides scientific, professional, and technical advice and serves as the principal advisor to the Assistant Secretary for Health concerning programs of health care standards, quality assurance, and Health Maintenance Organizations. Conducts special analyses and develops policy guidelines, provides professional and technical advice to the Health Care Financing Administration (HCFA) for the establishment and application of health care standards and the development of quality assurance programs, including the development of regulations, and serves as the focal point for the Assistant Secretary of Health's review and clearance of Departmental regulations in these areas. Oversees interagency efforts to integrate the results of biomedical research with ongoing quality assurance activities, including efforts to evaluate the efficacy of medical practice. Also serves as the Executive Secretariat to the National Professional Standards Review Council. Advises the Assistant Secretary for Health in carrying out his responsibilities for Pharmaceutical Reimbursement Programs.

2. Change the title of the Office of Health Maintenance Organizations Qualification and Compliance (HAC1) to read "Division of Health Maintenance Orangizations Qualification and Compliance (HAC-1)". Change the second word in the first line of the functional statement from "Office" to "Division". The remainder of the functional statement remains the same.

3. Insert the following statement after the Division of Health Maintenance Organizations Qualification and Compliance (HAC-1):

Division of Policy Development and Review (HAC-2). The Division: (1) Conducts special analyses for the development of policy guidelines concerning: (a) health care standards and provider supplier certification covering hospitals, clinical laboratories, long term and ambulatory care facilities and all other providers and suppliers as defined under the Social Security Act; and (b) Professional Standards Review Organizations, Utilization Review, and the End-Stage Renal Disease Program; (2) serves as the PHS focal point for providing policy guidance and professional advice to HCFA regarding reimbursable (covered) services under the Department's health care financing programs; (3) provides basic technical input to HCFA for its use in developing regulations; (4) develops policy guidelines for the qualification of health personnel for participation in health care programs financed by DHEW; (5) develops policy guidelines for the qualification of State agency survey and certification personnel; (6) provides staff and administrative support to the National Professional Standards Review Council; (7) in collaboration with the Division of Health Maintenance Organizations Qualification and Compliance, develops policy for the quality assurance activities of Health Maintenance Organizations; and (8) reviews regulations in the above areas, especially those developed by HCFA or other departmental organizations and recommends appropriate action to the Assistant Secretary for Health.

4. Delete the statement for the Office of Long Term Care (HAH) in its entirety.

Section HD-B Organization and Functions is amended by deleting the statement for the Division of Quality and Standards (HD1Q) in its entirety.

Section HR-B Organization and Functions is amended by deleting the statement for the Division of Long-Term Care (HRA13) in its entirety.

Section HS-B Organization and Functions is amended by deleting the Bureau of Quality Assurance (HSQ) in its entirety.

Dated: June 19, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-18452 Filed 6-27-77;8:45 am]

OFFICE OF THE ASSISTANT SECRETARY FOR PERSONNEL ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part A of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Office of the Secretary is amended to add a new Chapter AH "Office of the Assistant Secretary for Personnel Administration." This Chapter supersedes Chapter AMP, "Office of Personnel and Training" (38 FR 34753, dated 12–18–73; 40 FR 11626, dated 3–12–75; 41 FR 2845, dated 1–20–76; 41 FR 7979, dated 2–23–76; and 41 FR 27103, dated 7–1–76) and gives effect to the Secretary's intention, expressed in the March 8, 1977, reorganization to give more vigorous Departmentwide leadership to personnel policies and programs. Pending the development of a comprehensive functional statement, the following capstone statement describes the mission and organizational framework of the Office of the Assistant Secretary for Personnel Administration.

Section AH.00 Mission. The Assistant Secretary for Personnel Administration assures vigorous Departmentwide leadership for all aspects of a comprehensive personnel management program. This program continues the Department's commitment to publishing and effectuating policies and procedures that are consonant with goals and objectives that are both Governmentwide and of particular significance to HEW.

Section AH.10 Organization. The Office of the Assistant Secretary for Personnel Administration is headed by the Assistant Secretary for Personnel Administration who reports to the Secretary and consists of the following:

Office of Personnel and Training (AHP)
Office of Equal Employment Opportunity (AHE)
Committee Management Staff (AHC)

Section AH.20 Functions. A. The Office of Personnel and Training formulates policies and plans broad programs for personnel and training program throughout the Department; represents the Department on general personnel and training matters with the Civil Service Commission, the Congress and the public and provides Departmentwide leadership and service in the area of central payroll.

B. The Office of Equal Employment Opportunity formulates Departmentwide policies and procedures related to the Department's equal employment opportunity programs and activities.

C. The Committee Management Staff provides a variety of Department-level services related to establishing, staffing, and operating Departmental advisory committees.

Dated: June 19, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-14336 Filed 6-27-77; 8:45 am]

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part S (formerly Part 4) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions, and Delegations of Authority for the Social Security Administration (SSA).

Notice is hereby given that the subject material for SSA is amended to add Section SF Office of Family Assistance (OFA). This new Office is being established as followthrough action on the HEW Reorganization Order of March 9, 1977, which effected the transfer of the Assistance Payments Administration (APA) and other functions of the former Social and Rehabilitation Service (SRS) to SSA.

Sec. SF.00 *Office of Family Assistance.*—(Mission). The Office of Family Assistance (OFA) provides direction and technical guidance to the nationwide administration of the following assistance programs: aid to families with dependent children; aid to the aged, blind, and disabled in Guam, Puerto Rico, and the Virgin Islands, the Cuban and Indochinese refugee programs and the U.S. repatriation programs. Develops, recommends, and issues substantive policies, procedures and interpretations to provide program direction to the aforementioned programs as administered by State agencies with support from the Regional Offices. Evaluates the performance of States in administering OFA programs. Reviews State planning for administrative and operational improvements and supports actions to improve program effectiveness. Directs review, provides consultation, and conducts necessary negotiation to achieve adherence to Federal law and regulations in State Plans for program administration. Directs financial management and cost analysis in review and approval of State grant award requests and expenditure estimates. Provides national leadership in the development and coordination of national, public, and private programs in the public assistance field. Assures that SSA regional offices provide State program and management guidance and technical assistance in administering OFA programs. Participates with the Office of Program Evaluation and Planning in legislative planning.

Sec. SF.10 *Office of Family Assistance*—(Organization). The Office of Family Assistance, under the leadership of the Associate Commissioner for Family Assistance consists of the:

A. Associate Commissioner for Family Assistance (SF).

B. Deputy Associate Commissioner for Family Assistance (SF).

C. Immediate Office of the Associate Commissioner for Family Assistance (SF), which includes the:

1. Regional Liaison Staff (SFR).

D. Office of Policy and Procedures (SFP), which consists of the:

1. Immediate Office of the Director (SFP).
2. Special Programs Staff (SFP–1).
3. Division of Policy (SFP–2).
4. Division of Procedures (SFP–3).

E. Office of Management and Evaluation (SFM), which consists of the:

1. Immediate Office of the Director (SFM).
2. Division of Financial Management (SFM–1).
3. Division of Management Support (SFM–2).
4. Division of Planning, Evaluation and Statistical Analysis (SFM–3).

Sec. SF.20 *Office of Family Assistance*—(Functions). A. 1. The Associate Commissioner for Family Assistance (SF) is directly responsible to the Commissioner of Social Security (the Commissioner) for performance of OFA's mission and provides general supervision to the principal components of OFA.

2. During the absence or disability of the Associate Commissioner for Family Assistance (the Associate Commissioner) or in the event of a vacancy in this position, the Deputy Associate Commissioner for Family Assistance (the Deputy Associate Commissioner) shall act as Associate Commissioner.

3. In the event of the absence or disability of both the Associate Commissioner and Deputy Associate Commissioner an OFA executive designated by the Associate Commissioner shall serve as acting head of OFA.

4. Should both the positions of Associate Commissioner and Deputy Associate Commissioner become vacant, an SSA official designated by the Commissioner shall serve as acting head of OFA.

B. *The Deputy Associate Commissioner for Family Assistance (SF)* assists the Associate Commissioner in carrying out his responsibilities and performs such other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Family Assistance (SF):*

1. *The Regional Liaison Staff (SFR):*

a. Assures continuous and effective communications between central and regional offices on program and management concerns.

b. Assures that regional concerns and needs are given attention for resolution by central office components and/or the regional offices.

D. *The Office of Policy and Procedures (SFP)* provides national leadership and executive direction in initiating, developing, promulgating (in coordination with SSA Office of Policy and Regulations) and interpreting OFA policies, standards, methods and procedures governing the conduct of OFA program administration.

1. *The Immediate Office of the Director (SFP)* provides executive level leadership and direction to the Office of Policy and Procedures and its components.

2. *The Special Programs Staff (SFP–1):*

a. Administers the Cuban and Indochinese Refugee Programs including the development of regulations, policies and procedures and making arrangements for: financial assistance, resettlement services, emergency health services, assistance to public schools in impacted areas, loans to refugee students and protective care of minors. Develops regulations and guidelines pertaining to these programs.

b. Directs Federal program activities relating to the repatriation of United States citizens from foreign countries. Coordinates the return of repatriates with Department of State. Coordinates the provision of services to repatriates with Regional Offices. Approves claims by State agencies for reimbursement, and makes determinations whether repayment by the repatriate is appropriate. Develops regulations and guidelines pertaining to this program.

3. *The Division of Policy (SFP–2)*:

a. Develops regulations and policies to implement laws governing family assistance programs and coordinates with the Office of Program Regulations (OPR) on the issuance of such regulations. These regulations govern Federal/State income maintenance programs including policies to safeguard the rights of individuals and families; i.e., dependent and needy children in their own homes, in protective care in AFDC family foster homes, in child care institutions, and for emergency assistance to needy families with children.

b. Develops, analyzes, and recommends concepts for new legislation concerning family assistance programs and coordinates these activities with the SSA Office of Program Evaluation and Planning.

c. Evaluates State Plan materials for consistency with Federal policies and recommends revisions to assure consistency with Federal law and regulations. Reviews and evaluates program management and quality control reports to determine program policy effectiveness and develops proposals for policy changes, proposed regulatory and/or legislative changes.

d. Supports Office of General Counsel and other legal authorities in litigation involving family assistance programs.

e. Conducts review of identified compliance and reconsideration issues; recommends and manages appropriate action.

f. Provides technical assistance and consultation to Regions and States concerning Federal policies.

4. *The Division of Procedures (SFP–3)*:

a. Develops, issues and interprets operational procedures, relative to income maintenance regulations and which are designed to provide States with leadership and guidance in the most efficient and effective techniques of adminstering OFA programs.

b. Reviews proposed income maintenance legislation and regulations for procedural implementation impacts and feasibility.

c. Reviews and approves applications from States for Federal financial participation in the acquisition of ADP equipment or the design of automated information systems in support of OFA programs.

d. Reviews and evaluates the utilization of State and local agency manpower devoted to OFA program administration.

e. Provides technical assistance and consultation to the States concerning such matters as operational procedures, systems analysis, program training and establishing models and guides for States regarding income maintenance methods.

E. *The Effice of Management and Evaluation (SFM)* provides national leadership and executive direction in carrying out OFA financial management, planning, evaluation and administrative activities in support of OFA administered programs.

1. *The Immediate Office of the Director (SFM)* provides executive level leadership and direction to the Office of Management and Evaluation and its components.

2. *The Division of Financial Management (SFM–1)*:

a. Reviews State budget forecast and expenditure reports and related financial management activities and analyzes the consequences of these reports for the Federal Budget.

b. Exercises financial control over Grants to States for public assistance provided under OFA programs.

c. Provides training, technical assistance and guidance to OFA Regional components on matters pertaining to Federal/State financial management activities.

d. Establishes and issues program fiscal and accounting policies and procedures.

e. Prepares, presents, and executes the total OFA budget.

f. Analyzes and presents cost data for activities funded under OFA programs.

3. *The Division of Management Support (SFM–2)*:

a. Plans, organizes and directs OFA's internal manpower utilization, organization and training programs, in accordance with Federal, HEW and SSA personnel management regulations, policies and procedures.

b. Analyzes the organizational effectiveness of OFA components and insures uniform and effective manpower utilization and position management.

c. Manages the OFA repository of State Plans for AFDC programs and periodically prepares and publishes "Characteristics of State AFDC Plans" and related analyses and reports.

d. Prepares the program budget for the U.S. repatriate program and performs related financial management activities.

e. Prepares and executes the salaries and expenses budget for the OFA.

f. Analyzes OFA facilities, space and equipment needs and initiates necessary actions to provide same. Provides management services in the areas of forms; issuances; mail; reports; travel; safety; records; and property management.

g. Coordinates the review, preparation and publication of OFA operational instructions to ensure consistency, lack of duplication, receipt and access to such material by OFA audiences. Coordinates the issuance of OFA regulations and program policies with the SSA Office of Policy and Regulations.

4. *The Division of Planning, Evaluation and Statistical Analysis (SFM–3)*:

a. Develops OFA emergency, long-range, and short-range plans to assure effective continuity of OFA activites. Prepares trend analyses and reports, and energy and environmental impact statements.

b. Specifies program information needs and provides program input to SSA research efforts. Assesses the practical application of research findings to OFA Program administration.

c. Develops statistical information relative to State, regional and national program administration. Based upon such information, data developed by the Office of Research and Statistics, and other reports, evaluates program effectiveness, identifies potential program abuse, reports findings and recommends actions aimed at improving program administration and integrity.

d. Develops projects concerning client populations and program activities to meet the needs of OFA components and State agencies.

e. Develops a coordinated and comprehensive program for identifying major OFA operational planning objectives and monitors the implementation of such goals.

f. Coordinates external audits and audit reporting requirements with the SSA Office of Management and Administration.

g. Provides technical assistance and consultation to Regions and States concerning planning, evaluation, statistical analyses, and related matters.

Dated: June 19, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-14334 Filed 6-27-77;8:45 am]

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part S (formerly Part 4) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). Sections SP.10 K. and SP.20 K. of the SSA Statement (42 FR 16519 and 16529–30, dated March 28, 1977) describe the Organization and Functions for SSA's Office of the Regional Commissioner (ORC). These sections are hereby modified and expanded to reflect the ad-

dition of a new Office of the Assistant Regional Commissioner, Family Assistance in the ORC as well as the addition of certain new functional responsibilities for the ORC and the ORC's Division of Management and Administration. These modifications are necessitated by the HEW Organization Order of March 9, 1977 (42 FR 13262–63) which effected the transfer of the Assistance Payments Administration (APA), as well as other functions of the former Social and Rehabilitation Service (SRS), to SSA.

The revised material for ORC reads as follows:

Sec. SP.10

K. Office of the Regional Commissioner.

(8) Office of the Assistant Regional Commissioner, Family Assistance.

Sec. SP.20

K. *The Office of the Regional Commissioner (SPD1/SPDX)* serves as the principal SSA component at the regional level and assures effective SSA interface with HEW Regional Offices (HEWROs); other Federal agencies in the regions; State Welfare Agencies; State Disability Determination Services; and other regional and local organizations. The Office provides regional program leadership and technical direction for the retirement, survivors, and disability insurance programs; the black lung benefits program, the supplemental security income program, the aid to families with dependent children (AFDC) program, programs for aid to the aged, blind and disabled in Puerto Rico, Guam and the Virgin Islands, the Cuban and Indochinese refugee programs, and the U.S. repatriation programs; issues regional operating policy and procedures for these programs; and evaluates program effectiveness. It implements national operational and management plans for providing direct SSA service to the public; directs a regionwide network of district offices, branch offices and teleservice centers which provide such service; and provides management support to OPO and Office of Family Assistance (OFA) field operations. The Office manages and coordinates effective OPO and OFA regional operations; establishes regional priorities and issues policy directives consistent with national program objectives, operational requirements and systems; and implements a regional SSA public affairs program. It maintains a broad overview of the regional office of SSA's Bureau of Hearings and Appeals; program service centers and data operations centers to assure effective coordination of SSA activities at the regional level. The Office includes the following major components, whose functions are as indicated.

2. *The Division of Management and Administration (SPD17/SPDX7)*:

a. Directs the regional OPO and OFA management support programs; assures effective and economical OPO and OFA management activities at the regional level; develops and implements regional OPO and OFA management policies and procedures; and appraises the overall effectiveness of OPO and OFA regional management programs.

b. Assures that Assistant Regional Commissioners and their staffs are operating in accordance with national and regional policies regarding financial, manpower and organization management, as well as other areas of administrative concern.

c. Serves as the focal point for OPO and OFA regional administrative planning; and conducts ongoing studies and analyses to improve OPO and OFA administrative practices in the region.

d. Coordinates SSA administrative management activities in the region with the HEWRO, and serves as SSA's regional liaison with HEWRO on matters of mutual interest in the management area.

8. *The Office of the Assistant Regional Commissioner, Family Assistance (SFD11/SFDX1)*:

a. Provides program leadership and technical direction for Office of Family Assistance (OFA) program activities in the region; issues regional operating policies and procedures necessary to insure adequate and effective implementation of national OFA program policies.

b. Conducts visits to, and ongoing liaison with, State agencies to determine the effectiveness of OFA policies and procedures, and to provide technical assistance in the resolution of operational problems; evaluates OFA program effectiveness regionwide; plans, directs and coordinates regional activities between OFA and State and local entities; negotiates with State/local authorities on plans and plan amendments and recommends approval/disapproval to the appropriate official.

c. Oversees and assures the effective implementation of the Federally mandated State Quality Control System designed to identify problems in the States' systems, monitors and evaluates the State quality control process through a re-review of sample cases; recommends corrective actions and monitors State implementation of corrective action plans.

d. Directs and coordinates a program of financial management which includes the review and evaluation of grant award requests from States and recommending approval/disapproval; review of State expenditure estimates and reports and recommending approval/disapproval. Provides overview and assistance to State agencies in implementing major management initiatives required by OFA regulations concerning financial management.

Dated: June 19, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-14333 Filed 6-27-77;8:45 am]

Social Security Administration

ASSISTANT BUREAU DIRECTOR, SYSTEMS AND METHODS, ET AL.; BUREAU OF RETIREMENT AND SURVIVORS INSURANCE

Redelegations of Certain Certification Authorities

Authority to certify to Department of the Treasury Disbursing Officers amounts to be disbursed from the Federal Old-Age and Survivors Insurance Trust Fund; the Federal Disability Insurance Trust Fund; or from related transfer appropriation accounts, for such payments of benefits as are required by and properly authorized under provisions of title II of the Social Security Act, as amended (the Act), as vested in the Secretary of Health, Education, and Welfare (the Secretary) by section 205(i) of the Act, has been delegated by the Secretary to the Commissioner of Social Security (the Commissioner), with authority to redelegate (33 FR 5836–37, dated April 16, 1968).

Authority to certify to Department of the Treasury Disbursing Officers amounts to be disbursed from Federal Coal Mine Health and Safety Act appropriation accounts for such payments of "Black Lung" benefits and of reasonable medical expenses as are required by and properly authorized under pertinent provisions of Part B of title IV and related provisions of the Federal Coal Mine Health and Safety Act of 1969, as amended (the Black Lung Act), as vested in the Secretary by sections 412 and 413 of the Black Lung Act, has been delegated by the Secretary to the Commissioner, with authority to redelegate (35 FR 7033–34, dated May 2, 1970).

I. Notice is hereby given that the Commissioner has redelegated the subject authorities, as indicated below, to the following positions in the Bureau of Retirement and Survivors Insurance, Office of Program Operations, Social Security Administration (SSA), for exercise with respect to benefit payment certifications under SSA's National Master Beneficiary Record:

Delegates	*Scope of authority*
A. Assistant Bureau Director, Systems and Methods, and Deputy Assistant Bureau Director, Systems and Methods.	A.–C. Certifications under the authorities described above which are within the jurisdiction of components reporting to the Assistant Bureau Director, Systems and Methods.
B. Director, Division of Claims Operations and Director, Division of Payment Operations.	
C. Chief, Payment Services Branch, Division of Payment Operations.	
D. Manager and Deputy Manager, Payment Records Processing Branch, Mid-Atlantic Program Service Center.	D. Black lung benefit payment certifications, pursuant to secs. 412 or 413 of the Black Lung Act, which are within the jurisdiction of the Mid-Atlantic Program Service Center.
E. Payment Records Processing Specialists, Payment Records Processing Branch, Mid-Atlantic Program Service Center.	E. Black lung benefit payment certifications, pursuant to secs. 412 or 413 of the Black Lung Act, in cases where the particular Payment Records Processing Branch Manager and Deputy Manager are not available to perform such certifications.
F. Operations Specialists, RSI Process Branch, Mid-Atlantic Program Service Center.	F. Black lung benefit payment certifications, pursuant to secs. 412 or 413 of the Black Lung Act, involving one-time payments authorized in the RSI Process Branch, or payee changes handled by the RSI Process Branch.

II. The redelegations described in section I. above shall be effective as of June 28, 1977. Before exercising these redelegations, incumbents of the positions specified above must be personally designated as certifying officers, in accordance with current requirements established by the: Department of the Treasury; Department of Health, Education, and Welfare; SSA; and SSA's Office of Management and Administration. Any actions taken by the incumbents of the positions specified above which, in effect, involve the exercise of the subject redelegations prior to June 28, 1977, are hereby affirmed and ratified. These redelegations may not be further redelegated.

Dated: June 16, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

[FR Doc.77-18442 Filed 6-27-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

BADLANDS AIR FORCE GUNNERY RANGE SOUTH DAKOTA

Transfer of Administrative Jurisdiction

JUNE 17, 1977.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Notice is hereby given that the hereinafter described portion of the lands of the Badlands Air Force Gunnery Range, South Dakota, was declared excess to the needs of the Department of the Air Force, and administrative jurisdiction over the same has been transferred from the Department of the Air Force to the Secretary of the Interior pursuant to section 3(a) of the Act of August 8, 1968 (Pub. L. 90-468); 82 Stat. 663).

The lands will be administered by the Bureau of Indian Affairs under the laws and regulations applicable to the Pine Ridge Indian Reservation subject to the provisions of Pub. L. 90-468 and the regulations in 25 CFR 257. These lands are now available for purchase by the former Indian and non-Indian owners pursuant to sections 3(b) and 4 of the 1968 act and applicable regulations contained in 25 CFR 257.

The authority to perform the functions required by these sections of the 1968 act is delegated by the Secretary of the Interior to the Commissioner of Indian Affairs in 230 DM 1.

Any eligible former Indian or non-Indian owner desiring to exercise the right to purchase any available tract of land pursuant to sections 3(b) or 4 of the 1968 act must file an application with the Superintendent of the Pine Ridge Indian Agency, South Dakota, on or before June 28, 1978, or such right will automatically terminate by operation of law.

SIXTH PRINCIPAL MERIDIAN, SOUTH DAKOTA

T. 42 N., R. 40 W.,
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1, 2, 3, 4, E½W½, E½;
Sec. 18, lots 1, 2, 3, 4, E½W½, E½.
T. 43 N., R. 40 W.,
Sec. 19, lots 3, 4, E½SW¼, SE¼;
Sec. 30, lots 1, 2, 3, 4, E½W½, E½;
Sec. 31, lots 1, 2, 3, 4, E½W½, E½.
T. 42 N., R. 41 W.,
Sec. 1, lots 1, 2, 3, 4, S½N½, S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 3, 4, S½NW¼, S½;
Sec. 5, lots 10, 11, E½SE¼NE¼, E½NE¼SE¼, S½SE¼;
Sec. 6, lots 3, 4, 5, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1, 2, 3, 6, 7, 8, 9, 12, NW¼SE¼, S½SE¼;
Sec. 8, lots 1, 2, 3, 4, 5, 6, NE¼;
Sec. 10, SE¼, N½NE¼, SE¼NE¼;
Sec. 11, all;
Sec. 12, E½NW¼, W½SW¼;
Sec. 13, all;
Sec. 14, E½, NW¼, S½SW¼;
Sec. 15, W½, SE¼NE¼;
Sec. 16, S½NW¼, N½SW¼;
Sec. 17, W½W½, SE¼NW¼, NW¼NE¼, E½SW¼;
Sec. 18, lots 1, 2, 3, SE¼NW¼, NE¼, E½SE¼.
T. 43 N., R. 41 W.,
Sec. 19, lots 1, 2, 3, 4, 5, N½SE¼SW¼, N½S½SE¼SW¼, N½S½SE¼, N½S½S½SE¼;
Sec. 20, lots 1, 2, 3, 4, N½SW¼SW¼, N½S½SW¼SW¼, SE¼SW¼, S½SE¼;
Sec. 21, lots 1, 2, 3, 4, 5, 6, S½SW¼;
Sec. 22, lots 1, 2, 3, 4, 5, 6, S½S½;
Sec. 23, S½;
Sec. 24, S½;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, SE¼SW¼, S½SE¼, NW¼;
Sec. 29, NW¼NE¼, E½NE¼, E½NE¼SE¼;
Sec. 30, lot 4;
Sec. 31, lots 1, 2, 3, 4, W½E½SW¼;
Sec. 33, lots 1, 2, 3, 4, 5, NW¼NW¼, E½NW¼, E½;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all.
T. 42 N., R. 42 W.,
Sec. 1, lots 1, 2, 3, 4, S½N½, S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, S½;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, lots 1, 2, 3, SW¼SW¼, N½S½, N½;
Sec. 13, lots 1, 2, 3, 4, 5, 6, SE¼NW¼, S½NE¼, SW¼;
Sec. 14, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, SE¼SE¼, NW¼;
Sec. 15, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, N½;
Sec. 16, all;
Sec. 17, lots 1, 2, N½SE¼, SW¼, N½.
T. 43 N., R. 42 W.,
Sec. 20, lots 1, 2, 3, 4, S½S½;
Sec. 21, lots 1, 2, 3, 4, S½S½;
Sec. 22, lots 1, 2, 3, 4, S½S½;
Sec. 23, lots 1, 2, 3, 4, S½S½;
Sec. 24, lots 1, 2, 3, 4, S½S½;
Sec. 25, W½NE¼, SE¼, W½;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all.

The total acreage covered by this transfer is approximately 35,859.76 acres.

THEODORE KRENZKE,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-18528 Filed 6-27-77;8:45 am]

Bureau of Land Management

OREGON

Closure to Motorized Vehicles

Notice is hereby given that under the authority of regulations in 43 CFR Part 6010 and in cooperation with the State of Oregon, acting by and through the Oregon Department of Fish and Wildlife, pursuant to an agreement executed jointly under ORS 498.152, the following described public lands under the administration of the Bureau of Land

Management are designated as closed to off-road vehicle use from August 27, 1977 through December 1, 1977. All motorized vehicles are prohibited from entering the closed area except that motor-propelled vehicle travel by the landowner and authorized individuals for land or game management purposes shall be allowed.

The area affected by this designation and closure notice aggregates approximately 5870 acres of public lands located 40 miles S.E. of Baker, Oregon, and are more specifically described as:

TOWNSHIP 12 SOUTH, RANGE 42 EAST, WILLAMETTE MERIDIAN

Section 15. SW¼NE¼, W½SE¼, SE¼SE¼.
Section 21. E½NE¼, S½ except W½W½SW¼.
Section 22. N½.
Section 25. Portion of SW¼SE¼.
Section 28. NE¼, E½NW¼, E½W½NW¼, S½SW¼, NE¼SW¼, E½NW¼SW¼.
Section 33. W½SW¼.
Section 34. E½SW¼, SW¼SW¼, NW¼SE¼, SW¼NE¼.
Section 35. NE¼NW¼, NW¼NE¼, SW¼SE¼.
Section 36. NE¼NE¼.

TOWNSHIP 12 SOUTH, RANGE 43 EAST, WILLAMETTE MERIDIAN

Section 31. W½, W½SE¼, SW¼NE¼, portion of NW¼NE¼.
Section 30. None.

TOWNSHIP 13 SOUTH, RANGE 42 EAST, WILLAMETTE MERIDIAN

Section 2. All except N½NW¼.
Section 3. S½, E½NE¼, SW¼NE¼.
Section 5. E½NE¼SW¼.
Section 8. Portion of E½SE¼.
Section 9. E½SE¼, SE¼NE¼.
Section 10. NW¼, W½SW¼.
Section 11. E½.
Section 12. S½NW¼, NW¼NW¼, N½SW¼, SW¼SW¼, portion of SE¼SW¼ and SW¼SE¼.
Section 13. N½, except 50 ac. in NE¼, S½ except 30 ac. in SW¼SW¼.
Section 14. E½NE¼, NW¼NE¼, NE¼SE¼.
Section 15. NW¼NE¼.
Section 16. All except 80 ac. in N½.

TOWNSHIP 13 SOUTH, RANGE 43 EAST, WILLAMETTE MERIDIAN

Section 5. Portion of SW¼.
Section 6. N½NW¼, N½SW¼NW¼, NW¼NE¼, portion of NE¼NE¼, SE¼NE¼, NE¼SE¼.
Section 7. S½SW¼.
Section 8. W½SE¼, NE¼SE¼, portion in SE¼SW¼, S½NE¼, E½NW¼NW¼, NE¼NW¼, W½NW¼NE¼.
Section 9. Portion of NW¼SW¼.
Section 17. N½NW¼, NW¼NE¼.
Section 18. Portion of SE¼NW¼.

A Memorandum of Understanding between the private landowners, the Oregon Department of Fish and Wildlife and the Bureau of Land Management, on which this notice is based, provides for public access by foot or horseback on both public and private lands for big game hunting, and other purposes. Big game hunting opportunities in the area are very good but the public lands have in the past been inaccessible to public access due to the closure of the surrounding private lands by the landowner. By agreement to restrict motorized vehicles, foot and horseback access has now been provided.

Specific restrictions are: (a) The use of motor-propelled vehicles is prohibited on the described lands during the period between August 27, 1977 through December 1, 1977 except that motor-propelled vehicle travel by the landowner and authorized individuals for land or game management purposes shall be allowed.

(b) All roads except those designated as open roads will be closed by the Oregon Department of Fish and Wildlife to travel by use of signs, at appropriate locations.

Enforcement of the closure is the responsibility of the Oregon State Police.

Common points of vehicular access thereto will be posted. A map of the closed area is posted in the District Office, Bureau of Land Management, Baker, Oregon, and is on file in the Bureau of Land Management, State Office, Portland, Oregon.

This notice terminates on December 1, 1977.

GORDON R. STAKER,
District Manager.

JUNE 16, 1977.

[FR Doc.77-18398 Filed 6-27-77;8:45 am]

Bureau of Land Management

OUTER CONTINENTAL SHELF ENVIRONMENTAL STUDIES ADVISORY COMMITTEE

Topical Program for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. App. 1 and the Office of Management and Budget's Circular No. A-63, Revised.

The Outer Continental Shelf Environmental Studies Advisory Committee will meet 9 a.m. to 5 p.m. (or completion of business), July 19, in Rooms 7000 A and B, Department of the Interior, 18th and C Sts. NW., Washington, D.C.

The meeting will deal with the following principal subjects:

1. Opening statement—Assistant Secretary Martin.
2. Report of OCSESAC evaluation subcommittee, Report of OCS Advisory Board—interaction with OCSESAC.
3. Report of overall OCS environmental studies program.
4. Report of subcommittee on review and evaluation of South Atlantic environmental studies.
5. OCS schedule.
6. OCS information clearinghouse—referral center.
7. Policies, practices, and responsibilities for safety and environmental protection in oil and gas operations on the OCS.
8. American Society of Planning Officials workshops on onshore impacts of OCS oil and gas development.

The meeting of this Committee is open to the public. Approximately 75 visitors can be accommodated on a first-come first-served basis. Written statements concerning the subjects of discussion are welcome.

Visitors who expect to attend should make this known not later than July 13 to the Committee Chairman:

James R. Balsley, Assistant Director—Land Resources, U.S. Geological Survey, c/o Katie L. Garner, room 7345, Interior Bldg., 18th and C Sts. NW., Washington, D.C. 20240. Phone: 202-343-3888.

Dated: June 21, 1977.

GEORGE L. TURCOTT,
Director,
Bureau of Land Management.

GARY J. WICKS,
Acting Deputy Secretary
of the Interior.

[FR Doc.77-18485 Filed 6-27-77;8:45 am]

[M 34079]

MONTANA

Amendment to Application

JUNE 20, 1977.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 185 (1970 Supplement V), Kansas-Nebraska Natural Gas Company, Inc., has applied for an amendment to their application for a right-of-way for a natural gas gathering system across the following public lands:

PRINCIPAL MERIDIAN, MONTANA

T. 36 N., R. 30 E.,
Sec. 25, S½NW¼; and
Sec. 26, S½NE¼.
T. 35 N., R. 31 E.,
Sec. 4, S½NW¼;
Sec. 5, S½NE¼;
Sec. 13, E½SW¼; and
Sec. 24, NE¼NW¼.

The 4-inch gathering lines covered by this amendment are a part of a system which will be used to gather natural gas from wells in Phillips County, Montana, and convey it to an existing transmission line.

The purpose of this notice is to inform the public that the Bureau will proceed with consideration of whether the application and the amendment should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their names and addresses to the District Manager, Bureau of Land Management, Drawer 1160, Lewistown, Montana 59457.

ROLAND F. LEE,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc.77-18483 Filed 6-27-77;8:45 am]

[OR 17434 (Wash.)]

WASHINGTON

Proposed Withdrawal and Reservation of Lands

JUNE 17, 1977.

The Bureau of Reclamation, U.S. Department of the Interior, on May 5, 1977, filed application, Serial No. OR 17434 (Wash.), for the withdrawal of the fol-

lowing described lands from settlement, sale, location, or entry under the public land laws, except the mining laws (30 U.S.C., Ch. 2) and mineral leasing laws, subject to valid existing rights:

WILLAMETTE MERIDIAN

T. 40 N., R. 26 E.,
Sec. 13, lots 4, 5, 6 and 7.

The area described contains 144 acres in Okanogan County.

The applicant desires that the lands be reserved for use in connection with proposed fish enhancement developments in the vicinity of Enloe Dam on the Similkameen River, Oroville–Tonasket Unit Extension, Okanogan–Similkameen Division, Chief Joseph Dam Project.

For a period of 40 days from the date of publication of this notice 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 authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, at the address shown below, on or before July 28, 1977. Upon determination by the State Director that a public hearing will be held, a notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 8, 1977.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

The above described lands are temporarily segregated from settlement, sale, location, or entry under the public land laws, except the mining laws (30 U.S.C. Ch. 2) and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-18484 Filed 6-27-77;8:45 am]

Office of the Secretary

AGUA CALIENTE INDIAN RESERVATION

Revocation of Notice Applying City and State Laws to Reservation

Notice is hereby given that the 1965 Secretarial Notice (30 F.R. 8172) which adopted, with seven exceptions, "all of the laws, ordinances, codes, resolutions, rules, or other regulations of the State of California, and the City of Palm Springs * * * limiting, zoning, or otherwise governing, regulating, or controlling the use or development of any real or personal property, including water rights, leased from or held or used under agreement with and belonging to any Indian or Indian tribe, band or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States and located on those portions of the Agua Caliente Indian Reservation situated within the exterior boundaries of the City of Palm Springs, California" is revoked.

The Secretary has determined that such revocation is in the best interests of the Indian owner(s) in achieving the highest and best use of their property and is in keeping with self-determination by Indian tribes by permitting tribes to participate in determining and achieving the highest and best use of their lands.

This notice becomes effective June 28, 1977.

JAMES A. JOSEPH,
Under Secretary.

JUNE 22, 1977.

[FR Doc.77-18516 Filed 6-27-77;8:45 am]

[Int FES 77-22]

COLORADO; PROPOSED DEVELOPMENT OF OIL SHALE RESOURCES BY COLONY DEVELOPMENT OPERATION

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management, U.S. Department of the Interior, has prepared a Final Environmental Statement for the proposed construction and operation of an oil shale plant complex and related facilities in southwestern Colorado.

This statement contains environmental assessments of a 4,000 acre underground mine, construction of a 47,000 barrel-a-day shale oil plant, two dams, 800 acres of processed oil shale disposal, 15 mile service corridor, 75 acre terminal site, two powerlines, 300 acre land exchange, and a 194 mile pipeline.

Copies are available for inspection at the following location:

BUREAU OF LAND MANAGEMENT OFFICES

Public Affairs Office, Bureau of Land Management, 18th and C. Sts., NW., Washington, D.C. 20240.
Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202.
Moab District Office, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.
Grand Junction District Office, Bureau of Land Management, 223 Federal Office Bldg., Grand Junction, Colo. 81501.
Utah State Office, Bureau of Land Management, Federal Bldg., 125 South State St., Salt Lake City, Utah 84111.

COUNTY COURTHOUSES

Grand County, Box 727, Moab, Utah 84532.
Pitkin County, 506 East Main, Aspen, Colo. 81611.
Mesa County, 6th and Rood, Grand Junction, Colo. 81501.
Garfield County, Glenwood Springs, Colo. 81601.
San Juan County, Blanding, Utah 84511.
Eagle County, P.O. Box 789, Eagle, Colo. 81631.
Rio Blanco County, Meeker, Colo. 81641.

PUBLIC LIBRARIES

Pitkin County Library, 110 East Main, Aspen, Colo. 81611.
Gordon Cooper Public Library, 443 Main, Carbondale, Colo. 81623.
Delta City Public Library, 563 Palmer, Delta, Colo. 81416.
Glenwood Springs Public Library, 806 Cooper Ave., Glenwood Springs, Colo. 81601.
Mesa College Library, Grand Junction, Colo. 81501.
Mesa County Library, 530 Grand Ave., Grand Junction, Colo. 81501.
Meeker Public Library, 200 Main, Meeker, Colo. 81641.
Garfield County Public Library, 402 West Main, New Castle, Colo. 81647.
Rangely Public Library, 109 East Main, Rangely, Colo. 81648.
Rifle City Library, P.O. Box 609, Rifle, Colo. 81650.
Grand Juan Public Library, Monticello, Utah 94535.
Ms. Kay Collins, Conservation Library, Denver Public Library, 1357 Broadway, Denver, Colo. 80203.

A limited number of copies are available upon request to the State Director, Colorado, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

Dated: June 22, 1977.

HEATHER L. ROSS,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-18454 Filed 6-27-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[TA-201-27]

BOLTS, NUTS, AND LARGE SCREWS OF IRON OR STEEL

Investigation and Hearing

Investigation instituted. Following receipt of a petition filed by the United States Fastener Manufacturing Group, the United Steelworkers of America, and the International Association of Machinists and Aerospace Workers, the United States International Trade Commission, on June 22, 1977, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether lag screws or bolts, bolts (except mine-roof bolts), and bolts and their nuts imported in the same shipment, nuts, and screws having shanks or threads over 0.24 inch in diameter, all the foregoing of iron or steel, provided for in items 646.49, 646.54, 646.56, 646.63, and 646.79 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a.m., e.d.t., Tuesday, October 11, 1977, in the Hearing Room, United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington, D.C., not later than noon, Thursday, October 6, 1977.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, United States International Trade Commission, and at the New York City office of the Commission located at 6 World Trade Center.

Issued: June 23, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-18489 Filed 6-27-77;8:45 am]

DEPARTMENT OF JUSTICE

Office of the Attorney General

PROVIDENCE, RHODE ISLAND

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on June 20, 1977, a proposed consent decree in *United States* v. *The City of Providence*, was lodged with the District Court for the District of Rhode Island. The proposed decree would require the City of Providence to bring its Fields Point Wastewater Treatment Plant into compliance with the National Pollutant Discharge Elimination System Permit for that facility by June 1, 1978.

The Department of Justice will receive on or before July 28, 1977 written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *The City of Providence*, D.J. Ref. 90-5-1-1-758.

The proposed consent decree may be examined at the office of the United States Attorney, P.O. Box 1401, Providence, Rhode Island 02901, at the Region I Office of the Environmental Protection Agency, Enforcement Division, John F. Kennedy Federal Building, Boston, Massachusetts 02203, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Department of Justice Building, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-18399 Filed 6-27-77;8:45 am]

UNITED STATES STEEL CORP.

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on June 16, 1977, a proposed consent decree in *United States* v. *United States Steel Corporation* was lodged with the District Court for the Northern District of Indiana. The proposed decree would require United States Steel at its Gary Works to meet effluent limitations reflecting best practicable technology at all outfalls, except that serving the blast furnaces, and to attain operational level by August 1, 1980, with a recycle system on that blast furnace outfall, the discharge from which will be treated by alkaline chlorination. The Corporation also agreed to pay civil penalties to the United States and to Indiana, while contributing funds to the University of Michigan and undertaking a research and development program using its own resources.

The Department of Justice will receive on or before July 28, 1977 written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *United States Steel Corporation*, D.J. Ref. 90-5-1-7-463.

The proposed consent decree may be examined at the office of the United States Attorney, Post Office Box 327, Fort Wayne, Indiana 46801, at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 S. Dearborn Street, Chicago, Illinois 60604, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Department of Justice Building, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice. With any request for a copy by mail please enclose a check in the amount of $7.70 (ten cents per page reproduction charge) payable to the Treasurer of the United States.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-18400 Filed 6-27-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

SUBCOMMITTEE ON EQUAL APPRENTICESHIP OPPORTUNITY, FEDERAL COMMITTEE ON APPRENTICESHIP

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Subcommittee on Equal Apprenticeship Opportunity, Federal Committee on Apprenticeship, Employment and Training Administration, June 27, 1977, at the Department of Labor Building, Room S-5215 (A-C), 200 Constitution Avenue NW., Washington, D.C., which was published in the FEDERAL REGISTER on June 10, 1977 (42 FR 30954).

Signed at Washington, D.C., this 24th day of June 1977.

ERNEST GREEN,
Assistant Secretary for Employment and Training Administration.

[FR Doc.77-18605 Filed 6-27-77;8:45 am]

Office of the Secretary

ABC INDUSTRIES, INC., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm 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.

Petitioners meeting these eligibility requirements 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. The investigations 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.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations 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 July 8, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 8, 1977.

The petitions filed in this case are 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 20th day of June 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
ABC Industries, Inc. (Machine Printers & Engravers Association).	Paterson, N.J.	June 17, 1977	June 13, 1977	TA-W-2,149	Engraving copper rollers for the textile industry.
Baltimore Type & Composition Corp. (Baltimore Typographical Union).	Baltimore, Md.	do	June 15, 1977	TA-W-2,150	Typesetting for book publishers.
Bogce-Lazarus Co. (ACTWU).	Johnstown, N.Y.	do	June 8, 1977	TA-W-2,151	Men's and women's dress and sport gloves.
Cliffet Engravers, Inc. (Machine Printers & Engravers Association).	Passaic, N.J.	do	June 13, 1977	TA-W-2,152	Engraving copper rollers for the textile industry.
Electro Signal Lab, Inc. (workers).	Rockland, Mass.	do	June 15, 1977	TA-W-2,153	Smoke detectors.
Engineering Systems (workers).	Brockton, Mass.	do	June 14, 1977	TA-W-2,154	AM-FM radios, stereos, tape-decks.
Exel IV, Inc. (Machine Printers & Engravers Association).	Elmwood Park, N.J.	do	June 13, 1977	TA-W-2,155	Engraving copper rollers for the textile industry.
Graphic Engraving Corp. (Machine Printers & Engravers Association)	Paterson, N.J.	June 17, 1977	June 13, 1977	TA-W-2,156	Do.
Imperial Textile Engraving, Inc. (Machine Printers & Engravers Association).	do	do	do	TA-W-2,157	Do.
Juliet Footwear Co., Inc. (United Shoe Workers of America).	Elmwood Park, N.J.	do	June 10, 1977	TA-W-2,158	Men's shoes.
Les-Co Engraving Company (Machine Printers & Engravers Association).	Lodi, N.J.	do	June 13, 1977	TA-W-2,159	Engraving copper rollers for the textile industry.
Passaic Engraving Co. (Machine Printer & Engravers Association).	Passaic, N.J.	do	do	TA-W-2,160	Do.
Perennial Print Works, Inc. (Machine Printers & Engravers Association).	Paterson, N.J.	June 16, 1977	do	TA-W-2,161	Textile printing on fabrics.
Waltham Dress Company (workers).	Waltham, Mass.	June 17, 1977	June 15, 1977	TA-W-2,162	Women's dresses.

[FR Doc.77-18288 Filed 6-27-77;8:45 am]

[TA-W-64T]

AIRCO ELECTRONICS

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR 90.17, a termination investigation was initiated on May 27, 1976, to determine, with respect to the certification issued on August 25, 1975, whether total or partial separations from the Bradford, Pennsylvania, plant of Airco Electronics are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on July 2, 1976 (41 FR 27456). No public hearing was requested and none was held.

The existing certification will expire on August 25, 1977. Since workers newly separated, totally or partially, after August 25, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C., this 14th day of June 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc 77-18276 Filed 6-27-77; 8:45 a.m.]

[TA-W-66T]

GARLAND CORP.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR 90.17, a termination investigation was initiated on July 28, 1976, to determine, with respect to the certification issued on August 29, 1975, whether total or partial separations from the Brockton, Massachusetts, plant of Garland Corporation are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on August 10, 1976 (41 FR 33595). No public hearing was requested and none was held.

The existing certification will expire on August 29, 1977. Since workers newly separated, totally or partially, after August 29, 1977, would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C., this 14th day of June 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc. 77-18278 Filed 6-27-77; 8:45 a.m.]

[TA-W-21T and 34T]

GENERAL ELECTRIC CO.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR 90.17, a termination investigation was initiated on May 27, 1976, to determine, with respect to the certification issued on July 7, 1975, whether total or partial separations from the Decatur, Illinois and Syracuse, New York plants of the General Electric Company are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26295); notice of correction was published on July 6, 1976 (41 FR 27800). No public hearing was requested and none was held.

The existing certification will expire on July 7, 1977. Since workers newly separated, totally or partially, after July 7, 1977, would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 13th day of June 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-18273 Filed 6-27-77;8:45 am]

[TA-W-72T]

HARLEY-DAVIDSON, INC., DIVISION OF AMF, INC.

Termination of Investigation

Pursuant to Section 223(d) of the the Trade Act of 1974 and 29 CFR 90.17, a termination investigation was initiated on May 25, 1976, to determine, with respect to the certification issued on September 2, 1975, whether total or partial separations from the Milwaukee, Wisconsin plant of Harley-Davidson, Inc., Division of AMF, Inc., are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26296); notice of correction was published on July 6, 1976 (41 FR 27800). No public hearing was requested and none was held.

The existing certification will expire on September 2, 1977. Since workers newly separated, totally or partially, after September 2, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 14th day of June 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-18280 Filed 6-27-77;8:45 am]

[TA-W-73T]

ION CAPACITOR CORP.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR 90.17, a termination investigation was initiated on May 27, 1976 to determine, with respect to the certification issued on September 2, 1975, whether total or partial separations from the Columbus City, Indiana plant of the Ion Capacitor Corporation are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on July 2, 1976 (41 FR 27460). No public hearing was requested and none was held.

The existing certification will expire on September 2, 1977. Since workers newly separated, totally or partially, after September 2, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 14th day of June 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-18272 Filed 6-27-77;8:45 am]

[TA-W-55T]

ROCKWELL INTERNATIONAL

Termination of Investigation

Pursuant to section 223(d) of the Trade Act of 1974 and 29 CFR 90.17, a termination investigation was initiated on May 27, 1976, to determine, with respect to the certification issued on August 13, 1975, whether total or partial separations from the Hopedale, Massachusetts plant of Rockwell International are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on June 29, 1976 (41 FR 26773). No public hearing was requested and none was held.

The existing certification will expire on August 13, 1977. Since workers newly separated, totally or partially, after August 13, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C., this 13th day of June 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-18274 Filed 6-27-77;8:45 am]

[TA-W-65T]

SHELLER GLOBE CORP.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR 90.17, a termination investigation was initiated on May 27, 1976, to determine, with respect to the certification issued on August 25, 1975, whether total or partial separations from the Portland, Indiana plant of Sheller Globe Corporation are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26296); notice of correction was published on July 6, 1976 (41 FR 27800). No public hearing was requested and none was held.

The existing certification will expire on August 25, 1977. Since workers newly separated, totally or partially, after August 25, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 14th day of June 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-18277 Filed 6-27-77;8:45 am]

[TA-W-71T]

V-M CORP.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR 90.17, a

termination investigation was initiated on May 27, 1976, to determine, with respect to the certification issued on August 29, 1975, whether total or partial separations from the Benton Harbor, Michigan plant of V-M Corporation are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26297); notice of correction was published on July 6, 1976 (41 FR 27800). No public hearing was requested and none was held.

The existing certification will expire on August 29, 1977. Since workers newly separated, totally or partially, after August 29, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 14th day of June 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-18279 Filed 6-27-77;8:45 am]

[TA-W-74T]

WARWICK EECTRONICS, INC.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR 90.17, a termination investigation was initiated on May 27, 1976, to determine, with respect to the certification issued on August 29, 1975, whether total or partial separations from the Covington, Tennessee and Chicago, Illinois plants of Warwick Electronics, Inc., are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26298); notice of correction was published on July 6, 1976 (41 FR 27800). No public hearing was requested and none was held.

The existing certification will expire on August 29, 1977 Since workers newly separated, totally or partially, after August 29, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 14th day of June 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-18271 Filed 6-27-77;8:45 am]

[TA-W-61T]

WILSON SPORTING GOODS

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR 90.17, a termination investigation was initiated on May 27, 1976, to determine, with respect to the certification issued on August 25, 1975, whether total or partial separations from the Tullahoma, Tennessee plant of Wilson Sporting Goods are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26298); notice of correction was published on July 6, 1976 (41 FR 27800). No public hearing was requested and none was held.

The existing certification will expire on August 25, 1977. Since workers newly separated, totally or partially, after August 25, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 14th day of June 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-18275 Filed 6-27-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

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 on Friday, July 15, and on Saturday, July 16, 1977. The NACEDC will host a series of information seminars on Title I of the Elementary and Secondary Education Act (Pub. L. 89-10, as amended) on July 15 in Bangor, Maine; Providence, Rhode Island; and Boston, Massachusetts, from 11 a.m. to 4 p.m. The seminars will be held at the following locations:

John F. Kennedy Building, Government Center, Room 2003A, Boston, Mass. 20203.

Federal Building, Harlow Street, Room 221, Bangor, Maine 04401.

Rhode Island College, Robert Hall, Mt. Pleasant Avenue, Providence, RI

On July 16, the Council will hold its regular meeting from 9 a.m. to 1 p.m. The meeting will be held at the Parker House, Tremont Street, Boston, Mass.

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 the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The main purpose of the meeting will be to conduct informal hearings with state and local educational officials, parents, teachers, and other interested persons concerned with ESEA, Title I programs.

Because of limited space, all persons wishing to attend should call for reservations by July 8, 1977, area code 202-382-6945.

Records shall be kept of all Council 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 Thirteenth Street NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C., on June 23, 1977.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.77-18493 Filed 6-27-77;8:45 am]

NATIONAL CAPITAL PLANNING COMMISSION

DRAFT ENVIRONMENTAL IMPACT STATEMENT ON LOCATION AND PROGRAM FOR THE PROPOSED WASHINGTON CIVIC CENTER

Intent To Prepare and Public Meeting on Preparation

JUNE 17, 1977.

A draft Environmental Impact Statement on the location and program for the proposed Washington (D.C.) Civic Center is being prepared jointly by the District of Columbia Government and the National Capital Planning Commission. The draft Environmental Impact Statement will be circulated for agency and citizen review and comment in August 1977.

A public meeting to discuss the preparation of the draft Environmental Impact Statement will be held at 7 p.m., Wednesday, July 6, 1977, in the Chambers of the Council of the District of Columbia, District Building, 14th and E Streets NW., Washington, D.C.

All interested individuals, organizations, and group are invited to attend and provide comments and suggestions on issues and concerns related to preparation of this draft Environmental Impact Statement.

Comments on points to be considered may also be submitted in writing prior to the meeting, addressed to:

Ben W. Gilbert, Director, Municipal Planning Office, District Building, Room 409, 14th and E Streets NW., Washington, D.C. 20004 (629-5111).

DANIEL H. SHEAR,
Secretary.

[FR Doc.77-18486 Filed 6-27-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REGULATORY ACTIVITIES

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on Regulatory Activities will hold an open meeting on July 13, 1977 in Room 1046, 1717 H St. NW., Washington, D.C. 20555.

The agenda for subject meetings shall be as follows:

Wednesday, July 13, 1977, 8:45 a.m. until about 10:30 a.m.—A. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

(1) Regulatory Guide 1.XX, "Laboratory Investigations of Soils for Engineering Analysis and Design of Nuclear Power Plants."

(2) Regulatory Guide 1.47, "Bypassed and Inoperable Status Indication for Nuclear Power Plant Safety Systems" (discussion of letter to M. Bender from W. Lipinski, dated April 26, 1977).

(3) Discussion on the implementation process of Regulatory Guides.

10:30 a.m. until the close of business.—B. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to activities which affect the current licensing process or reactor operations, including those relating to the following:

(1) Control Rod Drive and Feedwater Nozzle Cracking Occurrences.

(2) Early Site Reviews.

(3) Solution Cavities in Rock Foundations at Hartsville.

(4) The need for the installation of guard pipes in annular regions in nuclear power plants.

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed during this session.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(A) Persons wishing to submit written statements regarding Regulatory Guide 1.47 may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 6, 1977 to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, D.C 20555, will normally be received in time to be considered at this meeting.

(B) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(C) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on July 12, 1977 to the Office of the Executive Director of the Committee (telephone 202–643–1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5 p.m., e.d.t.

(D) Questions may be propounded only by members of the Working Group and its consultants.

(E) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(F) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 on or after July 20, 1977, and October 13, 1977, respectively.

Copies may be obtained upon payment of appropriate charges.

Dated: June 23, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-18467 Filed 6-24-77;10:20 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on July 14–16, 1977, in Room 1046, 1717 H Street NW., Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, JULY 14, 1977

8:30 a.m.–9:15 a.m.: Executive Session (Open).—The Committee will hear and discuss the report of the ACRS Chairmen regarding miscellaneous matters relating to ACRS activities including recommendations of the ACRS Procedures Subcommittee. Portions of this session will be closed if required to discuss information of a personal nature which if released would represent a clearly unwarranted invasion of personal privacy.

The Committee will also hear and discuss the report of the ACRS Subcommittee and consultants who may be present related to review of the Sah Joaquin Nuclear Project. Portions of this session will be closed if necessary to discuss Proprietary Information related to this project.

9:15 a.m.–12:15 p.m.: San Joaquin Nuclear Project (Open).—The Committee will hear presentations and hold discussions with representatives of the NRC Staff and the applicant related to the partial review of site related items for this facility. Portions of this session will be closed if necessary to discuss Proprietary Information related to this project.

1:15 p.m.–1:45 p.m.: Executive Session (Open).—The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present related to the request for Preliminary Design Approval of the Fluor Pioneer, Inc. Balance of Plant Standard Safety Analysis Report. Portions of this session will be closed if required to discuss Proprietary Information and security provisions applicable to this type facility.

1:45 p.m.–5:15 p.m.: Fluor Pioneer, Inc. Balance of Plant Standard Safety Analysis Report (Open).—The Committee will hear presentations and hold discussions with representatives of the applicant and the NRC Staff regarding the request for a Preliminary Design Approval for this type of facility. Portions of this session will be closed if necessary to discuss Proprietary Information and security provisions applicable to this type of facility.

5:15 p.m.–7 p.m.: Executive Session (Open).—The Committee will hear and discuss reports of ACRS Subcommittees, Working Groups and members on a number of regulatory matters including the Reactor Safety Research Program for advanced reactors, proposed Regulatory Guides and related regulatory activities.

FRIDAY, JULY 15, 1977

8:30 a.m.–12:45 p.m.: Meeting with NRC Staff (Open).—The Committee will hear presentations and hold discussions

with the Executive Director for Operations and members of the NRC Staff regarding NRC Staff policy and procedures, recent operating experience at nuclear facilities, recent licensing actions, generic matters related to reactor licensing, and the future schedule for ACRS activities. This discussion will include:

Proposed improvements in the licensing process;
NRC Staff evaluation of system interaction effects;
Evaluation of foundation conditions at the North Anna Nuclear Station;
Equipment performance at the Rancho Seco and Beaver Valley Nuclear Plants;
Seismic reevaluation of San Onofre Nuclear Plant Unit 1 and Humboldt Bay Nuclear Plant;
Browns Ferry Nuclear Plant startup test program; and
Performance of steam generator tubes in pressurized water reactors.

1:45 p.m.–2:15 p.m.: Executive Session (Open).—The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present regarding the Black Fox Station Units 1 and 2. Portions of this session will be closed if required to discuss Proprietary Information and security provisions applicable to this facility.

2:15 p.m.–5:30 p.m.: Black Fox Station Units 1 and 2 (Open).—The Committee will hear presentations and hold discussions with representatives of the NRC Staff and the applicant related to the request for a Construction Permit for this facility. Portions of this session will be closed if required to discuss Proprietary Information and security arrangements applicable to this Station.

5:30 p.m.–7 p.m.: Executive Session (Open).—The Committee members will discuss a proposed ACRS report on the Advanced Reactor Safety Research Program and will prepare its reports to NRC on the San Joaquin Nuclear Project and the Fluor Pioneer Balance of Plant Standard Safety Analysis Report.

SATURDAY, JULY 16, 1977

8:30 a.m.–9:30 a.m. and 1:30 p.m.–2:30 p.m.: Executive Session (Closed).—The Committee will meet in closed session to prepare its report to the NRC on the Black Fox Station Units 1 and 2.

9:30 a.m.–12:30 p.m. and 2:30 p.m.–4 p.m.: Executive Session (Open).—The Committee will meet in open session to hear and discuss the reports of ACRS Subcommittees, Working Groups, and members regarding various generic matters including:

Decommissioning of nuclear facilities;
Reliability of light water reactor pressure vessels—UKAEA Report on the Integrity of PWR Pressure Vessels;
Core computer protection system; and
Emergency Core Cooling Systems Advanced Computer Codes.

The Committee will also prepare its reports on the Reactor Safety Research Program for Advanced Reactors, the San Joaquin Nuclear Project, the Fluor Pioneer Balance of Plant SSAR, and other matters discussed during this meeting as required.

I have determined in accordance with Subsection 10(d) of Public Law 92–463 that it is necessary to close portions of the meeting as noted above to protect proprietary data (5 U.S.C. 552b.(c)(4)), to preserve the confidentiality of information related to safeguarding of special nuclear material and the physical protection of nuclear facilities (5 U.S.C. 552b.(c)(1)(4)), and material of a personal nature which if released would clearly constitute an unwarranted invasion of personal privacy (5 U.S.C. 552b.(c)(6)). The portion of the meeting during which the ACRS report on the Black Fox Nuclear Station is prepared will be held in closed session pursuant to exemption (10) of 5 U.S.C. 552b.(c) since it involves the Committee's participation in an adjudicatory proceeding. Separation of factual information from information considered exempt from disclosure under exemptions (1), (4), (6), and (10) of 5 U.S.C. 552b.(c) during these portions of the meeting is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally deal with matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Person wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 6, 1977, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555, will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the following Public Document Rooms:

BLACK FOX STATION

Tulsa City-County Library, 400 Civic Center, Tulsa, OK 74102.

SAN JOAQUIN NUCLEAR PROJECT

Kern County Library, 1315 Trustun Avenue, Bakersfield, CA 93301.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety-related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on July 13, 1977, to the Office of the Executive Director of the Committee (Telephone: 202–634–1371) between 8:15 a.m. and 5 p.m., Eastern Time. It should be noted that the above schedule is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on June 13, 1977.

(d) Questions may be propounded only by members of the Committee and its consultants.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings of the proceedings will be permitted only during those open sessions when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include in-

formation regarding the date of the agreement, the scope of materal included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C., on or after October 14, 1977. Copies may be obtained upon payment of appropriate charges.

Dated: June 23, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-18470 Filed 6-24-77;10:20 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP NO. 1 OF THE REACTOR SAFETY RESEARCH SUBCOMMITTEE AND THE EMERGENCY CORE COOLING SYSTEMS SUBCOMMITTEE

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), Working Group No. 1 of the Reactor Safety Research Subcommittee and the Emergency Core Cooling Systems Subcommittee (hereafter referred to as the Combined Group) will hold a meeting on July 13, 1977 in Room 1046, 1717 H St. NW., Washington, D.C. 20555. The purpose of this meeting is to review the status of improvements in analytical techniques, and associated research and development plans pertaining to the effectiveness of emergency core cooling systems.

The agenda for subject meeting shall be as follows:

Wednesday, July 13, 1977, 8:30 a.m. until conclusion of business.—The Combined Group may meet in Executive Session, with any of their consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Combined Group will hear presentations by and hold discussions with representatives of the NRC Staff, and its consultants, and with representatives of other organizations participating in the development of analytical procedures concerning evaluation of the effectiveness of emergency core cooling systems.

At the conclusion of this session, the Combined Group may caucus to determine whether the matters identified in the Executive Session have been adequately covered and to identify items for discussion at future ACRS meetings.

It may be necessary for the Combined Group to hold one or more closed sessions for the purpose of exploring matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that it is necessary to conduct the above closed sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Acting Chairman of the Combined Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Combined Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 6, 1977 to Mr. Thomas G. McCreless, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Combined Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Acting Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Acting Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on July 12, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1374, Attn: Mr. Thomas G. McCreless) between 8:15 a.m. and 5 p.m., e.d.t.

(d) Questions may be propounded only by members of the Combined Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those open sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Thomas G. McCreless, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection on or after July 20, 1977 at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

A copy of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 after October 13, 1977.

Copies may be obtained upon payment of appropriate charges.

Dated: June 23, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-18472 Filed 6-24-77;10:20 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on June 22, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the titles of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Evaluation of the Loan Guaranty Service (Lender), on occasion, lending institutions dealing with VA Housing, Veterans, and Labor Division, Raynsford, R., 395-3532.

U.S. CIVIL SERVICE COMMISSION

Application for Food Service Worker, CT-F-12, on occasion, individuals, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, Scientific Apparatus Industry Questionnaire, DIB-355P, single time, U.S. manufacturers of scientific instruments, Laverne V. Collins, 395-5867.

NEW FORMS

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing, Survey of Cash Use, single time, largest supermarket, convenience store, and restaurant chains, Warren Topelius, 395-5872.

REVISIONS

VETERANS ADMINISTRATION

Application for Amounts due Estates of Persons Entitled to Benefits, 21-690, on occasion, claimants, Tracey Cole, 395-5870.

U.S. CIVIL SERVICE COMMISSION

Application for Worker-Trainee, CT-F-11, on occasion, individuals, Caywood, D. P., 395-3443.

DEPARTMENT OF LABOR

Employment and Training Administration Report of Activities Related to Expanded PSE Program, ETA 1, other (see SF-83), State employment security agencies, Housing, Veterans, and Labor Division, Strasser, A., 395-3532.

EXTENSIONS

VETERANS ADMINISTRATION

Research Questionnaire on Family Phychology, VA 10-68 642, on occasion, veterans coming into VAC Philadelphia, to inquire about benefits, Richard Eisinger, 395-6140.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service:

Statistical Sampling and Reporting of Review Findings (Food Stamp Quality Control), FNS-247-1, 2, 3, FNS-248, semi-annually, Government agencies, Human Resources Division, Warren Topelius, 395-3532.

Food Stamp Quality Control—Household Data Sheet, FNS-245, monthly, food stamp participants and applicants and State agencies, Human Resources Division, Warren Topelius, 395-3532.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Title I Report of Complaint, FH-70, on occasion, home improvement borrower, mobile home purchaser, Housing, Veterans, and Labor Division, 395-3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-18595 Filed 6-27-77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Generalized System of Preferences (GSP): Additional Matter To Be Included in Public Hearings

1. *Additional petition to be the subject of public hearings.* Acceptance of the petition submitted by the Erie Scientific Company for immediate review was announced in the FEDERAL REGISTER of Thursday, May 12, 1977 (42 FR 24133), as corrected by 42 FR 26261 of May 23, 1977. In view of the widespread interest in the case, notice is hereby given by the Chairman of the Trade Policy Staff Committee that the petition submitted by the Erie Scientific Company (Case No. 77-14) requesting the withdrawal of GSP benefits from microscope slides and microcover glasses provided for in item 547.55 of the Tariff Schedules of the United States will be included in the public hearings announced in the FEDERAL REGISTER of Thursday, June 16, 1977 (42 FR 30703).

2. *Hearings.* The public hearings will begin at 10:00 a.m. on Thursday, July 14, 1977 in room 2008 of the New Executive Office Building (entrance on 17th Street between Pennsylvania Avenue and H Street, N.W.) Washington, D.C.

3. *Requests to Present Oral Testimony; Submission of Written Materials; Other Matters.* Requests to present oral testimony, and related written materials at the July 14, 1977 public hearings, as well as all other matters related to this case, shall be governed by prior FEDERAL REGISTER Notices on these hearings (see 42 FR 24878, 5-16-77, and 42 FR 30703, 6-16-77) except that the deadline for making requests to present oral testimony or submit written materials shall be extended, for this case only, to July 11, 1977.

4. *Communications and Further Information.* All communications and requests for further information concerning this matter should be directed to: Secretary, Trade Policy Staff Committee, Room 728, 1800 G Street, N.W., Washington, D.C. 20506 (telephone 202-395-3395).

WILLIAM B. KELLY, Jr.,
Chairman, Trade Policy Staff Committee.

[FR Doc.77-18427 Filed 6-27-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 9823; 812-4131]

AMERICAN GENERAL BOND FUND, INC., ET AL.

Filing of Application for Exemption

JUNE 22, 1977.

Notice is hereby given that American General Bond Fund, Inc., and American General Convertible Securities, Inc., 3910 Keswick Road, Baltimore, Maryland 21211, closed-end investment companies registered under the Investment Company Act of 1940 (the "Act"), and The Variable Annuity Life Insurance Company Separate Account One and The Variable Annuity Life Insurance Company Separate Account Two, 2777 Allen Parkway, Houston, Texas 77019, open-end investment companies registered under the Act, (hereinafter collectively called "Applicants", have filed an application for an order of the Commission pursuant to Section 6(c) of the Act declaring that R. Miller Upton shall not be deemed an "interested person" of the Applicants within the meaning of Section 2(a)(19) of the Act solely by reason of his status as a director of Home Life Insurance Company ("Home Life"). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Dr. R. Miller Upton, a nominee for election as a member of the Boards of Directors and Boards of Managers of the Applicants is also a director of Home Life. Home Life is a mutual life insurance company organized under the laws of the State of New York on May 1, 1860, and has continuously engaged in the insurance business since that time. It is licensed to conduct a life insurance, annuity and health insurance business in all fifty states, the District of Columbia, and the Commonwealth of Puerto Rico. Solely because it sells variable annuity contracts, Home Life has registered with the Securities and Exchange Commission as a broker-dealer under the Securities Exchange Act of 1934 (the "Exchange Act"), and is a member of the

National Association of Securities Dealers, Inc. Applicants represent that Home Life, which is not in the business of effecting securities brokerage transactions, has never effected any securities brokerage transactions on behalf of the Applicants, American General Insurance Co. (parent of the Applicants' investment advisers), any subsidiary company of American General Insurance Company, or with any investment company advised by Applicants' investment advisers. Applicants further represent that so long as Dr. R. Miller Upton remains a director of Home Life and of them, they will not effect any securities brokerage transactions with Home Life.

Applicants also represent that Dr. R. Miller Upton is not an officer or employee of Home Life and does not participate in the day-to-day operations of Home Life.

Section 2(a)(19) of the Act, in pertinent part, defines an "interested person" of an investment company to include any broker or dealer registered under the Exchange Act, or any affiliated person of such broker or dealer. Section 2(2)(3) of the Act defines an affiliated person of another person to include any director of such other person. Dr. R. Miller Upton, as director of Home Life, is an affiliated person of a broker or dealer, and is thus an "interested person" of the Applicants within the definition of Section 2(a)(19).

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or from any rule or regulation under the Act if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants contend that Dr. R. Miller Upton should not be deemed an "interested person" of Applicants because his affiliation with Home Life does not affect Applicants, and will not impair his independence in acting on behalf of Applicants and their respective shareholders. Therefore, Applicants argue that the requested exemption is consistent with the provisions of Section 6(c) of the Act.

Notice is further given that any interested person may, not later than July 18, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commissions' own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-18430 Filed 6-27-77;8:45 am]

[Rel. No. 20083 70-6024]

GENERAL PUBLIC UTILITIES CORP.

Proposed Extension of Credit by Holding Company to Subsidiary and to Service Company

JUNE 21, 1977.

Notice is hereby given that General Public Utilities Corporation ("GPU"), 260 Cherry Hill Road, Parsippany, New Jersey 07054, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12 of the Act and Rule 45, promulgated thereunder, as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

GPU seeks authorization to extend credit (a) to its subsidiary, Metropolitan Edison Company ("Met-Ed"), in connection with surety bonds obtained and to be obtained by Met-Ed while contesting sales and use taxes assessed against it by the Commonwealth of Pennsylvania and (b) to its subsidiary, GPU Service Corporation ("Service Company"), in connection with a lease (the "Lease"), dated as of May 13, 1977, executed by the Service Company, of certain computer equipment to be used to render certain data processing services including customer billing, corporate finance, analyses of materials and supplies requirements, environmental monitoring analyses, depreciation computations, analyses, including modeling, of fuel consumption, general accounting and rate-making analyses. Such extension of credit to Met-Ed arises from GPU's joinder and prospective joinder in applications for such surety bonds and results in a reduction from $5 to $2 per $1,000 of annual premiums for such bonds. Such extension of credit to the Service Company arises from a guaranty of the Service Company's obligations under the Lease and is required as a condition of the Lease.

It is stated that, in 1973, Met-Ed received an assessment from the Commonwealth of Pennsylvania of $1,447,247.13 for sales and use taxes claimed to be due for the period January 1, 1969 to November 30, 1972 in connection with Met-Ed's construction of the Three Mile Island generating station. Met-Ed believed that such taxes were not due and determined to contest such taxes. In order to comply with its first mortgage bond indenture, Met-Ed was required to post a surety bond. The most favorable premium rate quoted to Met-Ed for such bond was $5 per $1,000 of coverage, but the bonding company agreed to a reduction in such premium rate to $2 per $1,000 (or a saving in annual premiums of $4,342) if GPU would join in the application. As a result of hearing and appeals, such assessment, which is still being contested, has been reduced and at present a surety bond in the amount of $474,689.77 is posted with respect thereto. Recently, Met-Ed received from the Commonwealth an additional assessment of $1,498,000 for similar taxes allegedly due for the period January 1, 1973—March 31, 1976 which Met-Ed also intends to contest. The premium rates quoted by the bonding company again will be reduced from $5 per $1,000 to $2 per thousand (or an annual saving of $4,494) if GPU joins in the application. It is stated that GPU now believes it is desirable to obtain at this time authorization for the extension of credit involved in such joinder, even though the $50,000 open account advance exemption provided by paragraph (b)(4) of Rule 45 may be available.

The obligations of the Service Company which GPU hereby seeks authority to guaranty arise out of the Lease of the computer equipment by the Service Company from First Security Bank of Utah, N.A., a national banking association, as trustee under a Master Trust Agreement dated as of October 1, 1976 between it and Itel Capital Services Corporation (the "Lessor"), which was purchased for the purpose by the Lessor at a cost of approximately $3,600,000. The initial Lease term is seven years although the Service Company has an option to terminate the Lease after three years upon the payment of certain fees. The Service Company's obligations to make such payments in the event of early termination have been substantially assumed by Itel Capital Services Corporation pursuant to a Termination Assistance Agreement dated as of May 13, 1977. The rent under the Lease during the first three years of the term is approximately $57,000 per month and thereafter approximately $45,000 per month, although such rent would be adjusted in the event that the Lessor did not receive certain contemplated tax benefits arising from its ownership of the leased equipment. In order to enable the Service Company to obtain the lowest rent under the Lease, the Lease requires that GPU guarantee, within 60 days after the execution of the Lease, the Service Company's obligations under the Lease. In the event that GPU does not receive authorization to execute and deliver such a Guaranty Agreement, the Lessor has the option of either ter-

minating the Lease and retaining the equipment or, in effect, requiring the Service Company to purchase the equipment at its then fair market value.

The fees, and expenses of GPU to be incurred in connection with the proposed transactions are estimated at $3,000, including $2,000 in legal fees. Met-Ed estimates its fees and expenses incurred in connection with placing of its surety bonds at $500. Fees and expenses to be incurred by Service Company in connection with the proposed Lease transaction are estimated at $5,000, including $4,500 in legal fees.

It is stated that no state or Federal commission other than this Commission has jurisdiction over the proopsed transactions.

Notice is further given that any interested person may, not later than July 18, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-18431 Filed 6-27-77;8:45 am]

[Rel. No. 5838]

LIFE INSURANCE COMPANIES

Request for Submission of Views With Respect to the Offer and Sale of Certain Contractual Arrangements

JUNE 22, 1977.

The Securities and Exchange Commission ("Commission") today announced that it is requesting public comment regarding the offer and sale of certain contractual arrangements issued by life insurance companies. These arrangements (hereinafter collectively referred to as "contracts") include what are generally known as guaranteed investment, interest or income contracts, tax deferred annuity contracts and similar products (hereinafter referred to as "guaranteed investment contracts"). As part of its inquiry concerning the status of these contracts under the federal securities laws, the Division of Investment Management held a public meeting on May 6, 1977, with representatives of the American Council of Life Insurance ("ACLI"), at their request, to provide them with an opportunity to present their views.[1] The ACLI and other speakers at the meeting requested that all interested persons be given an opportunity to provide information and comments with respect to the staff's concerns about these contracts.

Section 3(a)(8) of the Securities Act of 1933 (the "Act") (15 U.S.C. 77c(a)(3)) exempts from the registration requirements of the Act any insurance or endowment policy or annuity contract issued by a corporation subject to the supervision of the insurance commissioner, bank commissioner or any agency or officer performing like functions of any state. However, the exemption is not necessarily available to all products labelled insurance policies or annuity contracts. As the Supreme Court stated in *Securities and Exchange Commission* v. *Variable Annuity Life Insurance Company of America* ("VALIC") 350 U.S. 65 (1959), the meaning of "insurance" or "annuity" under the federal securities laws is a federal question.

In determining whether new forms of investment arrangements which are labelled "insurance" or "annuity" by their promoters are exempt from registration pursuant to Section 3(a)(8), it is necessary to consider whether they are the types of investments that Congress was willing to leave to state insurance regulation. VALIC, at 76 (J. Brennan, concurring). Therefore, the purpose of this release is to describe the types of contracts currently under study, indicate the areas of concern and request comments with respect the manner in which the contracts under study are similar to or different from traditional fixed annuity contracts exempt from registration by Section 3(a)(8) of the Act.

TRADITIONAL ANNUITIES

Traditional deferred annuity contracts involve the payment of fixed sums by the purchaser and assumption of a fixed liability by the insurance company. The insurance company guarantees, without limitations, to pay an annuity of a predetermined amount, based on guaranteed interest and annuity purchase rates. This guarantee is conditioned only upon the purchaser making the requisite payments. Any profits made by the insurance company resulting from actual interest rates being higher than those assumed in the contract, more favorable mortality experience or lower expenses belong to the insurance company, except in the case of participating contracts. Traditional deferred annuities thus are purchased as a means of providing for retirement through the accumulation of sums at fixed interest rates, usually over an extended period of time, to be used for the purchase of annuities at guaranteed purchase rates.

[1] SEC News Digest, April 28, 1977.

DESCRIPTION OF CONTRACTS

The contracts which are the subject of study by the staff take a variety of forms but, in general, they: Provide for the payment of money to a life insurance company (in a single sum or in installments); include promises by the insurer to pay interest at a guaranteed rate with or without the possibility of excess interest; and permit the purchase of an annuity at a future date at an annuity purchase rate which may or may not be guaranteed in the contracts. They appear to be of two basic types: contracts which guarantee a low rate of interest and provide for the possibility that excess interest will be credited by the insurance company ("excess interest contracts") and contracts which guarantee a relatively high rate of interest and generally are written for a short period of time (5 to 12 years) ("high interest contracts").

Excess interest contracts generally guarantee interest of between three and four percent for the life of the contract, but provide for, and emphasize, the possibility of excess interest to be paid at the discretion of the company. The excess interest is determined prior to the year in which it is to be paid based upon present and anticipated earnings on current investments of the insurance company and is guaranteed only for the following year or a portion thereof.

High interest contracts, usually written for five to twelve yeras, guarantee a relatively high rate of interest, currently averaging 8 percent, and may or may not allow for the crediting of excess interest. They generally provide annuity purchase rates which may be guaranteed for the contract period, although often guaranteed only for five years or less. In addition, the annuity purchase rates may be guaranteed only for those participants who use their accumulated funds to annuitize during the period of the guarantee.

Related to guaranteed investment contracts are other contractual arrangements issued by life insurance companies in the form of riders to life insurance policies. Such riders, often referred to as deposit fund riders, provide for the accumulation of money in a manner similar to a savings account. The insurance company guarantees to pay a fixed rate of interest plus, in its discretion, excess interest on such accumulated money. The accumulated funds may be used in the future to purchase an annuity at annuity purchase rates guaranteed in the contract.

DISCUSSION

The staff is concerned that some of these contracts are not being offered and sold as insurance or annuity contracts but rather as investment vehicles de-

signed for the accumulation of tax-deferred funds in a manner and on the basis of representations different from traditional insurance policies and annuity contracts. In addition, the provisions of and absolute guarantees in traditional deferred annuity contracts which historically made the protections of the Act unnecessary are significantly different from or omitted entirely in the new contracts. Therefore, the exemption provided by Section 3(a)(8) for insurance policies and annuity contracts may not be available to these contracts. If the exemption is unavailable, the provisions of the federal securities laws, particularly the registration and disclosure requirements of the Act are of course applicable and must be complied with.

Among the factors which distinguish guaranteed investment contracts from traditional deferred annuity contracts and which are of concern to the staff are:

1. *Advertising.* The emphasis in the advertising and marketing of these contracts is clearly on their use as investment vehicles for the accumulation of capital. Particular mention is often made of the high tax-deferred interest they currently are paying, and broker-dealers are selling these contracts as alternatives to certificates of deposit, municipal bonds and corporate bonds. In addition, in some instances, an insurance company may have its own agents distributing all its other products but chooses to have these new contracts distributed through broker-dealers. The staff recognizes that broker-dealers sell many types of exempt securities, but the method of distribution of these new contracts indicates that they are regarded in the commercial world as securities offered to the public for investment purposes and are not being sold on the basis of representations similar to those attending the sale of traditional life insurance and annuities. Since the Supreme Court has made clear that "it is not inappropriate that promoters' offerings be judged as being what they were represented to be",[3] the sale of these contracts as investment vehicles is an important factor in the staff's consideration.

2. *Excess interest.* Excess interest contracts generally guarantee a relatively low rate of interest, but provide for the payment of excess or additional interest in the discretion of the insurance company. This excess interest is determined *prior* to the year in which it is to be paid based upon present and anticipated investment yields. These contracts are, therefore, distinguishable from traditional participating policies, where dividends are determined on a retrospective basis based upon the share of divisible surplus of the class of policies, and are viewed, at least in part, as a return of premium.

In addition, the purchaser of an excess interest contract, as compared to one purchasing a traditional fixed annuity, is not purchasing a fixed benefit, as the amount of excess interest which will be declared is unknown. The contractholder thus bears a risk as to the difference between the low guaranteed rate of interest and the anticipated excess interest. This risk is meaningful, as it is precisely the possibility of high interest through the payment of excess interest that is emphasized in the marketing of these contracts.

3. *Short-term contracts.* High interest contracts generally are written for a short period of time. At the end of each period, the insurance company may guarantee new interest and annuity purchase rates. They are thus very different from traditional annuity contracts in which the insurance company guarantees the annuity benefits to be paid at the end of the accumulation period without reserving the right to change the interest or annuity purchase rates.

4. *Annuity purchase rates.* Some contracts, particularly group contracts, are written with annuity purchase rates which may be changed unilaterally by the insurer with respect to sums already accumulated under the contracts. The insurer thus bears little or no mortality or longevity risk with respect to such contracts. In traditional individual annuity contracts, the annuity purchase rates are guaranteed for the length of the contract. The annuity purchase rates in traditional group contracts are guaranteed for sums accumulated during the guarantee period even if annuities are not purchased until a future date.

5. *State insurance law.* State insurance law, which is directed primarily at maintaining the solvency of insurance companies, does not provide the purchasers of these contracts with the protections of the federal securities laws, particularly disclosure, which seem necessary and appropriate due to the differences between these contracts and traditional deferred annuity contracts. Disclosures, such as the length of the interest and annuity purchase rate guarantees and the method used in computing excess interest, which may not be necessary in the case of traditional annuities under which fixed benefits are guaranteed, appear very meaningful to purchasers of the contracts under study.

All interested persons are invited to submit written comments with respect to the ways in which the contracts discussed above and similar products are similar to or different from traditional fixed annuities. Particular emphasis should be placed on those factors indicated to be of concern to the staff: (1) Advertising, (2) excess interest, (3) short-term contracts, (4) annuity purchase rates and (5) state insurance law. Where possible, the submissions should include sample contracts and sales literature. Persons wishing to make written comments should file three copies thereof with George A. Fitzsimmons, Secretary of the Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, not later than September 6, 1977. In filing such submissions, commentators should make reference to Commission File No. 4-201. Copies of all submissions will be made available in the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-18435 Filed 6-27-77;8:45 am]

[3] *SEC v. C.M. Joiner Leasing Corp.*, 320 U.S. 344, 353 (1943).

[Rel. No. 34-13627; File No. SR-MSE-77-17]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations, Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on June 6, 1977, the Midwest Stock Exchange, Inc. ("MSE") filed with the Securities and Exchange Commission a proposed rule change as follows:

MSE's STATEMENT OF PROPOSED RULE CHANGE (DELETIONS [BRACKETED])

ARTICLE V

Admission to Floors—Communications Visitors on Floors

Rule 1. Visitors shall not be admitted to the Floors of the Exchange except by permission of a member of the appropriate Committee on Floor Procedure or an officer of the Exchange. [Only options members shall be admitted to the Options Floor and only equity members shall be admitted to the Equity Floor.]

MSE's STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to eliminate wording which would otherwise restrict Option only members from entrance to the Equity Trading Floor. The Exchange is currently proposing to provide limited access to equity trading to Option only members, thus providing additional trading opportunities for Options market makers and additional liquidity to the Options floor.

It is anticipated that the providing of equity floor trading capabilities for Option only members will add to the depth and liquidity of the MSE market. Therefore, the proposed rule promotes just and equitable principles of trade and removes impediments to the perfection of the mechanism of a free and open market. As such, the Exchange believes that Section 6(b)(5) of the Act provides the statutory basis.

MSE states that comments have neither been solicited nor received on the instant proposal.

The Exchange believes that no burden will be placed on competition as a result of the proposed rule change.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within twenty-one days of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 14, 1977.

[FR Doc.77-18434 Filed 6-27-77;8:45 am]

[Rel. No. 20084; 70-6025]

NEW ENGLAND ELECTRIC SYSTEM

Proposed Issue and Sale of Common Stock Pursuant to Dividend Reinvestment Plan and Request for Exemption From Competitive Bidding

JUNE 21, 1977.

Notice is hereby given that New England Electric System ("NEES"), 20 Turnpike Road, Westborough, Massachusetts 01581, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rules 50(a)(1) and 50(a)(5) promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

NEES proposes to issue and sell from time to time through August 1, 1979, up to 500,000 shares of its authorized but unissued common stock, par value $1, pursuant to a Dividend Reinvestment and Common Share Purchase Plan ("Plan"). The proceed of the sale will be used for investment in NEES' subsidiaries, through loans to such subsidiaries, purchase of additional shares of their capital stocks, or capital contributions, for payment of NEES' indebtedness, or for general purposes.

The Plan will be administered by the First National Bank of Boston, or such other bank or trust company as NEES may from time to time designate. All holders of record of NEES' common shares will be eligible to participate. Participants in the Plan may: (a) Have cash dividends on their common shares automatically reinvested; (b) continue to receive their cash dividends on shares registered in their names and invest by making optional cash payments not more frequently than once a month of not less than $25 per payment nor more than an aggregate of $3,000 per quarter; or (c) reinvest their cash dividends and make optional cash payments. The price of common shares purchased with invested common dividends will be 95 percent of the average of the daily averages of the high and low sale prices of the common shares on the New York Stock Exchange-Composite Transactions listing during the last five trading days ending with the Investment Date. The price of common shares purchased with optional cash payments will be 100 percent of such average. The Investment Dates are the dividend payment dates for the months in which dividends are payable or, if such day is not a trading day, the next following trading day. For each month in which a dividend is not payable, the Investment Date shall be the first trading day of such month.

A participant may change his investment option at any time. All costs of administration of the Plan will be paid by NEES. There will be no brokerage commissions or service charges to participants in connection with purchases under the Plan. A participant will be able to withdraw from the plan at any time upon written notice. Upon withdrawal the participant will be issued a certificate for the number of shares credited to his account and will receive a cash payment for the value of any fractional share. Participants will retain all voting rights relating to shares purchased under the Plan and credited to their accounts, and shares will be voted in accordance with the instructions of the participant to whose account they are credited.

The Plan will replace NEES' existing Automatic Dividend Reinvestment Service (the "Old Plan") pursuant to which cash dividends and/or optional cash payments of participants are reinvested in NEES' common stock through open market purchases. Upon approval of the new Plan the Old Plan will be terminated, and participants in the Old Plan will be offered the choice of: (a) Selling his holdings under the Old Plan; (b) receiving a certificate for the number of shares credited to his account and a cash payment for the value of any fractional share; or (c) transferring his holdings to the new Plan.

NEES will announce the Plan to its shareholders and solicit their participation by mailing to them a summary prospectus. A summary prospectus or similar material will be sent to all those who become shareholders after the initial announcement of the Plan. All shareholders who join the Plan will receive a complete prospectus.

NEES states that the proposed issuance and sale of common shares through the reinvestment of dividends is exempted from the competitive bidding requirements of Rule 50 by virtue of Rule 50(a)(1), and requests an exemption under Rule 50(a)(5) for the proposed issuance and sale of common shares through the optional cash payments provision of the Plan.

A statement of the fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than July 18, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-18432 Filed 6-27-77;8:45 am]

[Rel. No. 13644; SR-PSE-77-5]

PACIFIC STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JUNE 17, 1977.

On February 24, 1977, the Pacific Stock Exchange Incorporated (the "PSE") 618 South Spring Street Los Angeles, California 90014, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed

rule change which provides for the trading of certain securities designated periodically by the PSE's Board of Governors, on an alternate specialist basis. A member registered with the Exchange as an alternate specialist in a particular security is obliged to assist the primary specialist in maintainng a fair and orderly market in that security.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13304, (February 28, 1977)) and by publication in the FEDERAL REGISTER (42 FR 13177 (March 9, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on February 24, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-18433 Filed 6-27-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1292; Amendment No. 2]

CALIFORNIA

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 11301 and 42 FR 21339), Amendment No. 1 is amended by extending the filing date for physical damage until the close of business on September 30, 1977, and for economic injury until the close of business on May 1, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: June 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-18428 Filed 6-27-77;8:45 am]

[Declaration of Disaster Loan Area No. 1343]

ILLINOIS

Declaration of Disaster Loan Area

The counties of Calhoun, Greene, Morgan and Scott and adjacent counties within the State of Illinois, constitute a disaster area because of physical damage resulting from severe storms, high winds, tornadoes and torrential rains which occurred on May 4–6, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 15, 1977, and for economic injury until the close of business on March 17, 1978, at:

Small Business Administration, District Office, 219 South Dearborn Street, Chicago, Illinois 60604; or

Small Business Administration, Branch Office, Illinois National Bank Building, Springfield, Illinois 62701.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 17, 1977.

RICHARD HERNANDEZ,
Acting Administrator.

[FR Doc.77-18429 Filed 6-27-77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 77-11]

GUN CONTROL

Published Firearms Laws of Political Subdivisions and States

Correction

In the above titled document appearing as a Part II in the FEDERAL REGISTER for Thursday, June 23, 1977, on page 31962, the file line, which should have appeared at the end of the document, was omitted. It should read as follows:

[FR Doc.77-17758 Filed 6-22-77;8:45 am]

Internal Revenue Service

[Delegation Order No. 166]

ASSISTANT COMMISSIONER (EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS) ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: The authority of the Commissioner of Internal Revenue to make determinations regarding prohibited transactions exemptions is being delegated to the Assistant Commissioner (Employee Plans and Exempt Organizations). The text of the delegation order appears below.

EFFECTIVE DATE: June 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. T. Mahoney, E:EP:PT, 111 Constitution Avenue NW., Room 6211, Washington, D.C. 20224 (202-566-3089, not toll free).

ALAN D. LEBOWITZ,
Chief, Employee Plans, Prohibited Transactions Staff.

AUTHORITY WITH RESPECT TO PROHIBITED TRANSACTIONS EXEMPTIONS

Pursuant to the authority contained in section 4975(c)(2) of the Internal Revenue Code of 1954 and vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, the authority to make determinations to prohibited transactions exemptions and perform all functions necessary in the administration of section 4975(c)(2) of the Internal Revenue Code of 1954 is delegated as follows:

1. With respect to class exemptions, to the Assistant Commissioner (Employee Plans and Exempt Organizations) and the Deputy Assistant Commissioner (Employee Plans and Exempt Organizations); and

2. With respect to individual exemptions, to the Director, Employee Plans Division.

To the extent that any action heretofore taken may require ratification, such action is hereby affirmed and ratified.

This authority may not be redelegated.

Dated: June 16, 1977.

WILLIAM E. WILLIAMS,
Acting Commissioner

[FR Doc. 77-18439 Filed 6-27-77;8:45 am]

[Delegation Order No. 167]

ASSISTANT COMMISSIONER (EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS)

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: The authority of the Commissioner of Internal Revenue to disclose information relating to prohibited transactions rulings and exemptions to properly authorized representatives of the Department of Labor is being delegated to the Assistant Commissioner (Employee Plans and Exempt Organizations). The text of the delegation order appears below.

EFFECTIVE DATE: June 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. T. Mahoney, E:EP:PT, 1111 Constitution Avenue NW., Room 6211, Washington, D.C. 20224 (202-566-3089, not toll free).

ALAN D. LEBOWITZ,
Chief, Employee Plans, Prohibited Transaction Staff.

AUTHORITY TO FURNISH INFORMATION RELATING TO PROHIBITED TRANSACTIONS TO THE DEPARTMENT OF LABOR

Pursuant to the authority contained in section 6103(1)(2) of the Internal Revenue Code of 1954 and vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, there is hereby delegated to the Assistant Commissioner (Employee Plans and Exempt Organizations) the authority to:

1. Furnish ruling letters, drafts of ruling letters, and copies of information submitted by taxpayers requesting rulings to the proper officers of the Department of Labor for the purposes of, but only to the extent necessary in, coordinating the administration of titles I and II of the Employee Retirement Income Security Act of 1974 with respect to prohibited transactions.

2. Furnish drafts of proposed exemptions or of propsed denials of exemption requests, denial letters, and copies of information submitted by taxpayers requesting exemptions under section 4975(c)(2) to the proper officers of the Department of Labor; and

3. Redelegate this authority not below the Chief, Employee Plans Prohibited Transactions Staff.

Dated: June 16, 1977.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc.77-18440 Filed 6-27-77;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on Monday, July 11, 1977, at 10 a.m., the VA Regional Office San Francisco Station Committee on Educational Allowances shall at 211 Main Street, San Francisco, California 94105, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Flite Tech, Inc., Hayward, California, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: June 21, 1977.

R. F. WELCH,
Director.

[FR Doc.77-18391 Filed 6-27-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 423]

ASSIGNMENT OF HEARINGS

JUNE 23, 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 appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested:

MC 142656 Ron Morgan, DBA Drilling Hotshot, now being assigned September 13, 1977, (3 days), at Fort Smith, Arkansas, in a hearing room to be later designated.

FF 252 Sub 4, Chi-Can Freight Forwarding Ltd., now asigned July 26, 1977, at Chicago, Ill., will be held in Room 230, 230 S. Dearborn Street.

MC 107107 Sub 452, Alterman Transport Lines, Inc., now assigned July 26, 1977, at Chicago, Ill., will be held in Room 204A, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

FFC-67, Max Gruenhut, GNBH & Co., Max Gruenhut International Inc., Inland Imports, Inc., and Green Container Transport, Inc., Investigation of Operations, now assigned July 28, 1977, at Chicago, Ill., will be held in Room 348, 230 S. Dearborn Street.

No. 36597, Increased Fares, Asbury Park New York Transit Corporation, May, 1977, now assigned July 25, 1977, at New York, N.Y., will be held in Room D-2-206, Federal Bldg., 26 Federal Plaza.

MC 119619 (Sub-96), Distributors Service Co. and MC 138469 (Sub-30), Donco Carriers, Inc., now being assigned September 7, 1977 (1 day) at Chicago, Illinois, in a hearing room to be later designated.

MC 113855 (Sub-364), International Transport, Inc., now being assigned September 8, 1977 (2 days) at Chicago, Illinois, in a hearing room to be later designated.

MC 51146 (Sub-479), Schneider Transport, Inc.; MC 114457 (Subs-276 & 287), Dart Transit Company and MC 126276 (Sub-161), Fast Motor Service, Inc., now being assigned September 12, 1977 (2 days) at Chicago, Illinois, in a hearing room to be later designated.

MC 139381, Spirit of '76 Overland Express, Inc., now being assigned September 14, 1977 (3 days) at Chicago, Illinois, in a hearing room to be later designated.

MC-F 12967, Graves Truck Line, Inc., Purchase, Diamond Freightways, Inc. and MC 85696 Sub No. 8 Diamond Freightways, Inc., now being assigned September 13, 1977 (2 weeks) at Omaha, Nebraska, in a hearing room to be later designated.

MC 140845 (Sub No. 4) Hoke Bus Lines, Inc., now assigned August 1, 1977 at Lima, OH is cancelled and reassigned for the 1st day of August, 1977 (1 week) at 9:30 a.m. local time at Columbus, OH and will be held in Room 235, Federal Building, 85 Marconi Blvd.

MC 4405 (Sub-545), Dealers Transit, Inc., now assigned July 20, 1977 at Washington, D.C., hearing cancelled and the application is dismissed.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-18523 Filed 6-27-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 23, 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 within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43388—*Joint Rail-Water Container Rates—Great Lakes and European Lines, Inc.* Filed by Great Lakes and European Lines, Inc., (No. 3), for itself and interested rail carriers. Rates on general commodities, between rail terminals at U.S. Pacific Coast Seaboard, and ports and terminals in Europe. Grounds for relief—Water competition.

Tariffs—Great Lakes and European Lines, Inc., tariffs Nos. 5, I.C.C. No. 3, F.M.C. No. 5 (Westbound), and No. 6, I.C.C. No. 4, F.M.C. No. 6 (Eastbound), respectively. Rates are published to become effective on July 20, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-18524 Filed 6-27-77;8:45 am]

[Notice No. 82]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 22, 1977.

Important Notice: 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 2368 (Sub-No. 63TA), filed June 14, 1977. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, Richmond, Va. 23204. Applicant's representative: William T. Marshburn, 2212 Deepwater Terminal Road, P.O. Box 495, Richmond, Va. 23204. Authority sought to operate

as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible lard*, in bulk, in tank vehicles, from Bristol and Salem, Va., to Pawtucket, R.I., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Valleydale Packers, Inc. Cecil K. Stiff Sales Coordinator, P.O. Box 809, Salem, Va. 24153. Send protests to: Paul D. Collins District Supervisor, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, Va. 23240.

No. MC 4491 (Sub-No. 16TA) (Correction), filed April 11, 1977, published in the FEDERAL REGISTER issue of June 2, 1977, and republished as corrected this issue. Applicant: GREAT COASTAL EXPRESS, INCORPORATED, 501 South 14th Street, Richmond, Va. 23219. Applicant's representative: Francis W. McInerny, 1000 16th Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Charlottesville, Va. and Roanoke, Va.; from Charlottesville, Va. over U.S. Highway 250 to junction Interstate Highway 81, thence over Interstate Highway 81 to Roanoke, Va., and return over the same route. Between State Road, Del., and Norfolk, Va.; From State Road, Del. over U.S. Highway 40 to Baltimore, Md., thence over U.S. Highway 1 to Richmond, Va., thence over Interstate Highway 64 to Norfolk, Va., and return over the same route. From State Road, Del. over connecting Highway to junction Interstate Highway 95, thence over Interstate Highway 95 to Richmond, Va., thence over Interstate Highway 64 to Norfolk, Va., and return over the same route. Between Washington, D.C. and Charlottesville, Va.; From Washington, D.C. over Interstate Highway 95 to Richmond, Va., thence over Interstate Highway 64 to Charlottesville, Va., and return over the same route. Between Washington, D.C. and Lynchburg, Va.; From Washington, D.C. over Interstate Highway 95 to junction U.S. Highway 360, thence over U.S. Highway 360 to junction U.S. Highway 460, thence over U.S. Highway 460, to Lynchburg, Va., and return over the same route, as an alternate route for operating convenience only, for 180 days. Supporting shipper(s): There are approximately twelve (12) 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: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, Rm. 10-502 Federal Bldg., 400 North 8th Street, Richmond, Va. 23240. The purpose of this republication is to add the rest of the territorial description.

No. MC 41116 (Sub-No. 52TA), filed June 10, 1977. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, 1724 W. Mill Street, Crowley, La. 70526. Applicant's representative: Byron Fogleman, P.O. Box 1504, Crowley, La. 70526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Paper and paper products* and products produced or distributed by manufacturers and converters of paper and paper products, (B) *materials and supplies* used in the manufacture and distribution of the commodities described in (a) above, (except commodities in bulk, and commodities which because of size or weight require the use of special equipment), between the plant sites or storage facilities of Southland Paper Mills, Inc., located at Herty and Sheldon, Tex., on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi and Okla., under a continuing contract, or contracts, with Southland Paper Mills, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southland Paper Mills, Inc., 1111 Fannin, 1111 First City East, Houston, Tex. 77002. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Avenue, 9038 Federal Building, New Orleans, La. 70113.

No. MC 63417 (Sub-No. 103TA), filed June 15, 1977. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, Va. 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except in bulk), *in vehicle body sealer and sound deadner compound*, from New Kensington, Pa., to points in Alabama, Georgia, Kentucky, Louisiana, Mississippi and Tennessee and returned shipments of above commodities from above destinations to New Kensington, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Quaker State Oil Refining Corp. P.O. Box 989, Oil City, Pa. 16301. Send protests to: Danny R. Beeler District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 88368 (Sub-No. 32TA), filed June 14, 1977. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, Mo. 64030. Applicant's representative: David A. Welte, 209 W. 47th, Kansas City, Mo. 64112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen and bath cabinets*, from Des Moines, Iowa, to points in Idaho, Montana, North Dakota, South Dakota, Wyoming, Utah, Colorado, Nevada, Arizona, New Mexico and Texas, for 180 days. Supporting shipper(s): Francisco Cabinet Corporation, 1525 Illinois, Des Moines, Iowa 50314. Send protests to: John V. Barry District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 106674 (Sub-No. 240TA), filed June 13, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty fiber shipping drums, parts and components*, from the facilities of Continental Forest Industries, Continental Group, Inc., at Overland, Mo., to Calvert City, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Continental Forest Industries, Continental Group, Inc., Greenwich Office II, Greenwich, Conn. 06830. Send protests to: J. H. Gray District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 110988 (Sub-No. 343TA), filed June 9, 1977. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Giltedge Bldg., Appleton, Wis. 54911. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cupric chloride*, in rubber-lined tanks, from Kokomo and Vincennes, Ind., to Elyria, Ohio and Union, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern California Chemical Co., Inc., 17415 E. Jefferson St., Union, Ill. 60180. Send protests to: Gail Daugherty, Transportation Asst. Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, Wis. 53202.

No. MC 116459 (Sub-No. 64TA), filed June 14, 1977. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Pineville Road, Route 5, Chattanooga, Tenn. 37405. Applicant's representative: Charles T. Williams, P.O. Box 4022, Chattanooga, Tenn. 37405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Extendo-spheres*, from Dayton, Tenn., to points in Georgia. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): P. A. Industries, Inc. 1021 James Building, 735 Broad Street, Chattanooga, Tenn. 37402. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commisison, Suite 4-422 U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 116763 (Sub-No. 379TA), (Partial correction), filed May 9, 1977, published in the FEDERAL REGISTER issue of June 6, 1977, and republished as corrected this issue. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). NOTE.—The purpose

of this partial correction is to indicate Applicant's correct name as Carl Subler Trucking, Inc., in lieu of Carl Trucking, Inc., as was previously published in error.

No. MC 116849 (Sub-No. 7TA), filed June 9, 1977. Applicant: ISLAND TRANSPORTATION CORP., 299 Main Street, Westbury, N.Y. 11590. Applicant's representative: Arthur J. Piken, Piken & Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Jennite J–16 (a coal tar emulsion)*, in bulk, from South Windsor, Conn., to Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Massachusetts, New York, New Jersey, Pennsylvania, Virginia, Maryland, North Carolina, South Carolina, West Virginia and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Maintenance, Inc. Wooster, Ohio, 44691. Send protests to: Maria B. Kejss Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 117765 (Sub-No. 231TA), filed June 9, 1977. 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*, from Laredo, Tex. to Kansas and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sullivan Beverage, Inc., 3030 Roanoke Rd., Kansas City, Mo. 64108. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 118292 (Sub-No. 39TA), filed June 13, 1977. Applicant: BALLENTINE PRODUCE, INC., New Hwys 64 and 71, P.O. Box 312, Alma, Ark. 72921. Applicant's representative: Barry Roberts, 888 17th Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Little Rock, Ark., to points in Pennsylvania and West Virginia, and from points in Pennsylvania to Little Rock, Ark., for 180 days. Supporting shipper(s): Ole South Foods Co., 3300 Brown Street, Little Rock, Ark. 72204. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 119741 (Sub-No. 74TA), filed June 13, 1977. Applicant: GREEN FIELD TRANSPORT CO., INC., P.O. Box 1235, R.F.D. 2, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, Iowa 50501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles, distributed by meat packinghouses*, as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant site and storage facilities of Hy Plains Dressed Beef, Inc., at Dodge City, Kans., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Virginia, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hy Plains Dressed Beef, Inc., P.O. Box 539, Dodge City, Kans. 67801. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 119934 (Sub-No. 216TA) (partial correction), filed April 26, 1977, published in the FEDERAL REGISTER of June 8, 1977, and republished as corrected this issue. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204.

NOTE.—The purpose of this partial correction is to indicate the correct Docket No. MC 119934 (Sub-No. 216TA), in lieu of No. MC 119934 (Sub-No. 217TA), as was previously published in error.

No. MC 135170 (Sub-No. 22TA), filed June 10, 1977. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. 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: *Containers, container closures, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of containers and container closures (except commodities in bulk and those which because of size or weight require the use of special equipment), from Baltimore, Md., to Cannon, Del., under a continuing contract or contracts with National Can Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. Daniel Barczak, Area Traffic Manager, National Can Corp., 727 North Wolfe St., Baltimore, Md. 21230. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Building, Baltimore, Md 21201.

No. MC 136220 (Sub-No. 41TA), filed June 9, 1977. Applicant: ROY SULLIVAN, doing business as SULLIVAN TRUCKING CO., P.O. Box 2164, Ponca City, Okla. 74601. Applicant's representative: G. Timothy Armstrong, 6161 North May Ave., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gravel* (in bulk in dump vehicles), from the Gaston and Short Quarry near Cedarvale, Kans., to Ponca City, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Evans and Associates Construction Co., Inc., P.O. Box 30, Ponca City, Okla. 74601. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 136318 (Sub-No. 18TA), filed June 3, 1977. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Rd., Phoenix, Ariz. 85031. Applicant's representative: Donald Fernaays, 4040 E. McDowell Rd., Suite 312, Phoenix, Ariz. 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition and prepared roofing* (except in bulk), from Los Angeles, Riverside, and Kern Counties, Calif., to points in Arizona, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southwest Roofing Supply Co., 3151 W. Osborn Rd., Phoenix, Ariz. 85017. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Rm. 3427, Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 138668 (Sub-No. 5TA), filed June 13, 1977. Applicant: MERCHANTS DELIVERY & WAREHOUSE CORP. 11727 Lackland Road, St. Louis, Mo. 63141. Applicant's representative: Austin C. Knetzger, 722 Chestnut Street, St. Louis, Mo. 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Home care products* of the Amway Corp., consisting principally of soaps, detergents, toiletries, perfumes, drugs, and medicines, and refused, rejected, returned, and damaged shipments on return, from Ada, Mich., to points in the St. Louis commercial zone, via Interstate 55 to junction Interstate 80, Interstate 80 to Hammond, Ind., Interstate 94 to junction Interstate 196, Interstate 196 to Ada, Mich., under a continuing contract, or contracts, with Amway Corp., for 180 days. Supporting shipper(s): Amway Corp., 7575 E. Fulton Road, Ada, Mich. 49355. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 140829 (Sub-No. 48TA), filed June 10, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. 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 Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk),

from the plantsite and storage facilities of Royal Packing Co. in National Stockyards, Ill., to points in the states of Connecticut, Massachusetts, New Jersey, New York, and Pennsylvania. Restriction: The operations authorized above are restricted to the transportation of traffic originating at the named origins and destined to points in the above named destination states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Marc Sokolik, Vice President of Transportation, Royal Packing Co., P.O. Box 156, National Stockyards, Ill. 62071. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 10 North 14th St., Omaha, Nebr. 68102.

No. MC 142743 (Sub-No. 3TA), filed June 14, 1977. Applicant: FAST FREIGHT SYSTEMS, INC., 118 North Congress Street, Jackson, Miss. 39205. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor sweeping compounds and absorbents* (except in bulk), from Ripley, Miss., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia, and Wisconsin with no transportation for compensation on return except as otherwise authorized, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oil-Dri Corp. of America, 520 North Michigan Avenue, Chicago, Ill. 60611. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 142948 (Sub-No. 3TA), filed June 10, 1977. Applicant: THE GRADER LINE, INC., P.O. Box 5807, 1022 6th Avenue N., Nashville, Tenn. 37208. Applicant's representative: Edward C. Blank II, Middle Tenn. Bank Building, P.O. Box 1004, Columbia, Tenn. 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gum solvents, aluminum plate or sheet, plastic powder, plates photo-offset printing, aluminum*, coated on on side with plastic, *sponges*, cellulose or plastic dry, *plates or sheets, photo-offset, printing, aluminum*, not further processed than surface grained, from the plantsite of Citiplate—Sumner Williams in Jackson, Tenn., to points in Oklahoma, Texas, New Mexico, Arizona, California, Nevada, Utah, Colorado, Illinois, Ohio, and New York. Restriction: Restricted to traffic originating at the above named locations and destined to the above named designation points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sumner Williams, Inc. (subsidiary of Citiplate, Inc.), Jackson, Tenn. 38301. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 143226TA (Correction), filed May 5, 1977, published in the FEDERAL REGISTER issue of June 2, 1977, and republished as corrected this issue. Applicant: LOON AIR CARGO LTD., 763 Lajoie Avenue, Dorval, Quebec, Canada H9P 1G7. Applicant's representative: Dieter Wende, 406 Crepeau Ave., St. Laurent, Quebec, Canada H4N 1N3. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery parts, bits, sawblades, abrasives, die castings, aircraft parts, radio transmitting equipment, diesel engine parts, computer and typewriter parts, electronic parts, and small machinery, television broadcast equipment, electrical apparatus, communications equipment, and parts*, limited to maximum weight of 350 pounds per piece, restricted to shipments having a prior or subsequent movement by air; between the port of entry on the United States/Canada international boundary line at or near Champlain, N.Y., on the one hand, and, on the other, to Plattsburgh Airport, Plattsburgh, N.Y., and Burlington International Airport, Burlington, Vt., for 180 days. Supporting shipper(s): There are approximately seven (7) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602. The purpose of this republication is to indicate the territorial description.

No. MC 143278TA, filed May 18, 1977. Applicant: J. E. A. CARTAGE, INC., 7005 Northwest 41st Street, Virginia Gardens, Fla. 33166. Applicant's representative: John P. Bond, 2766 Douglas Rd., Miami, Fla. 33133. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except the transportation of said commodities in bulk, Class A and B explosives, household goods, livestock, commodities requiring special handling and special equipment, commodities requiring refrigeration, motor vehicles and cement, between all points in Dade County, lying East of State Road 27, South of State Road 826, North of State Road 94, and West of the Atlantic Ocean, all shipments having a prior or subsequent movement by water, for 180 days. Supporting shipper: Sandcaribe, Inc., 4471 Northwest 36th Street, Miami Springs, Fla.; Imperial Freight Brokers, Inc., 7005 Northwest 41st St., Miami, Fla. 33166; Almar International, 6595 Northwest 36th St., Miami, Fla. 33166; Caltrex Forwarders Corp., 4471 Northwest 36th St., Miami, Fla.; Edward Rodriguez & Co., Inc., 1344 Northwest 22nd St., Miami, Fla. 33142; Swiss Chalet Fine Foods, P.O. Box 431405, S. Miami, Fla. 33143. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce, Bureau of Operations, Monterey Building, Suite 101, 8410 Northwest 53rd Terrace, Miami, Fla. 33166.

No. MC 143366TA, filed June 13, 1977. Applicant: ROBERT W. PICKERT JR., AND JUDY PICKERT, d.b.a. See America, First Travel Camp, Hackley School, Tarrytown, N.Y. 10591. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Students*, ages 13 through 17, in all expense, round trip camping tours, beginning and ending at Tarrytown, N.Y., and extending throughout the United States (except Alaska and Hawaii), in specially equipped camper type vehicles, one seating 11, including driver, and one seating 16, including driver, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Mrs. Barbara Robson, 30 Oak Lane, Larchmont, N.Y. 10538; (2) Mr. Lawrence Israel, Park Drive South, Rye, N.Y. 10580; (3) Dr. Foo Chu, 116 Atamont Avenue, Tarrytown, N.Y. 10591; (4) Mr. William Furth, 10 Ritchey Place, White Plains, N.Y. 10605; (5) Mr. Edward Mullaney, 30 Lancaster Place, Mahopac, N.Y. 10541; (6) Dr. Alfred Gomez, Park Road, Irvington, N.Y.; (7) Dr. J. J. Smith, One Hen Hawk Road, Kings Point, N.Y. 11024; (8) Mr. Robert Goldsmith, 200 Brewster Road, Scarsdale, N.Y. 10583; (9) Mr. Murray Rosen, 30 Lancaster Place, Stamford, Conn. 06905; (10) Mr. John Mitchell, 29 Grandview Avenue, Suffern, N.Y. 10901; (11) Mr. Robert Wiessman, 32 East 64th Street, New York, N.Y. 10021. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 143373TA, filed June 14, 1977. Applicant: WEILAND TRUCKING CO., INC., P.O. Box 268, Wautoma, Wis. 54982. Applicant's representative: Edward H. Instens, P.O. Box 676, Winona, Minn. 55987. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and empty beverage containers*, between Newport, Ky., and Evansville, Ind., on the one hand, and, on the other, Brown Deer, Cedarburg, Green Bay, Hartland, and Racine, Wis., under a continuing contract, or contracts, with G. Heileman Brewing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): G. Heileman Brewing Co., 925 S. 3rd Street, La Crosse, Wis. 54601. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson Street, Room 202, Madison, Wis. 53703.

No. MC 143375TA, filed June 13, 1977. Applicant: PROVOST INDUSTRIAL TANKERS LTD., 90 North Queen

Street, Etobicoke, Ontario, Canada. Applicant's representative: J. P. Vermette, 7887 Grenache Street, Ville d'Anjou, Quebec, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from the port of entry on the international boundary line between the United States and Canada located at or near Port Huron, Mich., to Ecorse, Mich., restricted to the transportation of traffic having an immediate prior movement in foreign commerce in local, through, single-line service for 180 days. Supporting shipper(s): Allied Chemical Canada Ltd., 237 Hymus Blvd., Point Claire, Quebec, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 142548 (Sub-No. 3TA) (correction), filed May 16, 1977, published in the FEDERAL REGISTER issue of June 8, 1977, and republished as corrected this issue. Applicant: STALEY EXPRESS, INC., 2501 N. Brush College Road, Decatur, Ill. 62521. Applicant's representative: Fritz R. Kahn, Suite 1000, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron castings*, in steel bins, (1) from Decatur, Ill., to Toledo and Dayton, Ohio, and Kokomo, Ind., and (2) from Decatur, Ill., to Lima, Ohio, with stop in transit permitted for inspection at Cleveland, Ohio. Both (1) and (2) above restricted to the transportation of shipments from the plantsites or storage facilities of Wagner Castings Co., at Decatur, Ill., under a continuing contract with Wagner Castings Co. for 180 days. Supporting shipper(s): C. E. Allison, Vice President-Administration, Wagner Castings Co., P.O. Box 1319, Decatur, Ill. 62525. Send protests to: District Supervisor Harold C. Jolliff, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705. The purpose of this republication is to add "Send protests to" which was previously omitted.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-18522 Filed 6-27-77;8:45 am]

[Notice No. 83]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 23, 1977.

Important notice: 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 3281 (Sub-No. 8TA), filed June 9, 1977. Applicant: POWELL TRUCK LINE, INC., 800 S. Main St., Searcy, Ark. 72143. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Forrest City, Ark., and the plantsite of American Greetings Corp., at or near McCrory, Ark., from Forrest City, Ark., over Arkansas Highway 1 to the intersection of U.S. Highway 64 at or near Wynne, Ark., thence over U.S. Highway 64 to junction U.S. 64-B, thence over U.S. 64-B to the plantsite of American Greetings Corp., and return over the same route, restricted to transportation of shipments with an immediately prior or subsequent movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Greetings Corp., McGrory, Ark. 72101. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 61396 (Sub-No. 331TA), filed June 9, 1977. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from the plantsite and storage facilities of Agriculture Chemicals, Inc., at or near Old Monroe, Mo., to points in Illinois, for 180 days. Supporting shipper(s): James S. Bremmer, President, Agriculture Chemicals, Inc., P.O. Box 155, Old Monroe, Mo. 63369. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 78276 (Sub-No. 7TA), filed June 6, 1977. Applicant: MAZZEO & SONS EXPRESS, 311 South River Street, Hackensack, N.J. 07601. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wearing apparel, materials, supplies and equipment*, used in the manufacture and sale of wearing apparel, between points in Baltimore, Md., Commercial Zone, points in New Jersey, New York, N.Y., Commercial zone, Nassau, Rockland, and Suffolk Counties, N.Y., points in Philadelphia, Pa., Commercial zone, and York, Pa., and also points in Wilmington, Del., Commercial zone, on the one hand, and, on the other points in the states of Georgia, North Carolina and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately ten (10) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C. or copies thereof may be examined at the field office named below. Send protests to: Joel Morrows District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 87511 (Sub-No. 20TA), filed June 6, 1977. Applicant: SAIA MOTOR FREIGHT LINE, INC., P.O. Box 10157, Station 1, Houma, La. 70360. Applicant's representative: Philip Robinson, P.O. Box 2207, Austin, Tex. 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment), serving the compressor station of United Gas Pipe Line Company located near Vinton, La., as an off-route point in connection with carrier's presently authorized regular route operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): United Gas Pipe Line Company, P.O. Box 1478, Houston, Tex. 77001. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Ave., 9038 Federal Building, New Orleans, La. 70113.

No. MC 88380 (Sub-No. 26TA), filed June 9, 1977. Applicant: REB TRANSPORTATION, INC., 2400 Cold Springs

Rd., Box 4309, Fort Worth, Tex. 76106. Applicant's representative: John L. Payne, 2400 Cold Springs Rd., Box 4309, Fort Worth, Tex. 76106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel bar joists, rods, beams, and channels*, from the plantsite of TEX-ARK Joist Company at or near Hope, Ark., to points in Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Tex-Ark Joist Company, P.O. Box TAJ, Hope, Ark. 71801. Send protests to: Robert J. Kirspel District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 95876 (Sub-No. 202TA), filed June 9, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, plywood, accessories and materials*, used in the installation and sale thereof, from the plant and warehouse sites of Abitibi Corporation, Chicago, Ill., to points in Wisconsin, Iowa and Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Abitibi Corporation, 3250 W. Big Beaver Road, Troy, Mich. 48084. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U. S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 100666 (Sub-No. 349TA), filed June 10, 1977. Applicant: MELTON TRUCK LINES, INC., P. O. Box 7666, 1129 Grimmett Dr., Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 3535 N.W. 58th Street, 280 National Foundation Life Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pottery and plaster products*, from Comanche, Tex., and Oxford, Miss., to points in the United States for 180 days. Supporting shipper(s): Jim Ratcliff, db/a Janco Manufacturing Co., P.O. Box 443, Commanche, Tex. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Avenue, 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 105566 (Sub-No. 148TA), filed June 8, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, 6901 Old Keene Mill Road, Suite 406, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, anti-freeze, anti-freeze preparations, plastic pellets, resins, lumps or granules and chemical compounds*, from Ottawa, Ill.; Gary, Ind.; Chicago, Ill.; Calumet City, Ill., and Hammond, Ind., to points in Arizona, California, Nevada, Utah, Idaho, Oregon, Washington, New Mexico and Texas, for 180 days. Supporting shipper(s): Northern Petrochemical Company, 2350 E. Devon Avenue, Des Plaines, Ill. 60018. Cosden Oil & Chemical Company, P. O. Box 2159, Dallas, Tex. 75221. Borg-Warner Chemicals, International Center, Parkersburg, W. Va. 26101. Send protests to: J. P. Werthmann District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 106920 (Sub-No. 71TA), filed June 7, 1977. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, West Monroe St., New Bremen, Ohio 45869. Applicant's representative: Betty Kominsk (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, in mechanically refrigerated equipment, except in bulk, from Carol Stream and points within the Chicago, Illinios Commerce Zone, to points within the State of Ohio, Pennsylvania, New York, Maryland, West Virginia, Virginia, Delaware, District of Columbia, New Jersey, Connecticut, Massachusetts, Rhode Island, Maine, Vermont, and New Hampshire, restricted to the plant site and storage facilities of E. J. Brach & Sons, and restricted to traffic originating at named origin and destined to named destination, for 180 days. Supporting shipper: E. J. Brach & Sons, 4656 W. Kinzie St., Chicago, Ill. 60644. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Sumit St., Toledo, Ohio 43604.

No. MC 107496 (Sub-No. 1086TA), filed June 13, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mixed fertilizer solution*, in bulk, from Eau Claire, Mich., to points in Minnesota, Illinois, Indiana, and Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): St. Lawrence Corporation, 2505 Ardmore, S.E. Grand Rapids, Mich. 49501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 110012 (Sub-No. 35TA), filed June 9, 1977. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Rd., P.O. Box 68, Morristown, Tenn. 37814. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th St., N.W., Washington, D.C. 20423. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from the plantsites of Lea Industries, Incorporated, Division of Sperry Hutchinson Co., located at or near Richmond and Kenbridge, Va., and Waynesville, N.C. to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas, (2) returned shipments of *new furniture*, from the above named destination states to the above named origins, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lea Industries, Incorporated, Division of Sperry-Hutchinson Co., P.O. Box 25476, Richmond, Va. 23260. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 114632 (Sub-No. 114TA), filed June 9, 1977. Applicant: APPLE LINES, 212 S.W. Second St., P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative: Robert T. Meisner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Payette, Idaho to Pueblo and Denver, Colo., Golden Valley, Minn., Des Moines, Iowa, Milwaukee, Wis., Sioux City, Iowa, Omaha, Nebr., and Fargo, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wells & Davies, Inc., P.O. Box 219, Payette, Idaho 83661, Earl Tromburg, Plant Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 115654 (Sub-No. 64TA), filed June 9, 1977. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 1193, No. 1 Candy Lane, Nashville, Tenn. 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, 13th & Pennsylvania Ave., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products*, in mechanically refrigerated equipment, (except in bulk), from the plantsite and warehouse facilities of M&M/Mars, a division of Mars, Inc., at or near Little Rock, Ark., to points on and west of the Tennessee River in Tenn., and Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M&M/Mars, a division of Mars, Inc., High Street, Hackettstown, N.J. 07840. Send protests to: Joe J. Tate,

District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 115654 (Sub-No. 65TA), filed June 9, 1977. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 1193, No. 1 Candy Lane, Nashville, Tenn. 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Bldg., Pennsylvania Avenue and 13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery* in mechanically refrigerated equipment, (except in bulk), from the plantsite and storage facilities of M&M/Mars, a division of Mars Inc., at or near Chicago, Ill., to points in Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M&M/Mars, A division of Mars, Inc. High Street, Hackettstown, N.J. 07840. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 116073 (Sub-No. 356TA), filed June 9, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett, P.O. Box 919, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, and buildings, complete or in sections, from the plantsite of Continental Spacemaster Corp., at or near Elkhart, Ind., to all points in the states of Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Continental Spacemaster Corporation, 25702 Miner Street, Elkhart, Ind. 46514. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 117633 (Sub-No. 3TA, filed June 8, 1977. Applicant: BLUE BIRD CAB CO., INC., 502-504 North Barry Street, Olean, N.Y. 14760. Applicant's representative: Ronald W. Malin, Bankers Trust Building, Jamestown, N.Y. 14701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Railroad crews and their equipment*, in vehicles limited to eleven (11 passengers or less, between Niagara, Erie, Chautauqua and Cattaraugus Counties, N.Y., on the one hand, and, on the other, Clinton Potter, Cameron and McKean Counties, Pa., under a continuing contract, or contracts, with Consolidated Rail Corporation, for 180 days. Supporting shipper(s): Consolidated Rail Corporation, P.O. Box 42, Olean, N.Y. 14760. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 119789 (Sub-No. 357TA), filed June 10, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid plastic*, in containers in mechanically refrigerated equipment, from Riverside, Calif., to Illinois, Indiana, Iowa, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Mexico, Oregon, Texas, and Washington, Carbondale, Ill., Evansville, Ind., Holstein, Spencer, Marshalltown, Aldonna, Iowa, New Orleans, La., Detroit, Mich., Minneapolis, Roger, Minn., St. Louis, Mo., David City, Nebr., Albuquerque, N. Mex., Portland, Oreg., Houston, Tex., Arlington, Pasco, Wash., for 180 days. Supporting shipper: Foam Systems Co., 3640 Chicago Ave., P.O. Box 5347, Riverside, Calif. 92507. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce St., Rm. 13C12, Dallas, Tex. 75242.

No. MC 124048 (Sub-No. 26TA), filed June 2, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from Macon, Ga., to Grand Island, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, Ohio. 45201. (William J. Payne, Analyst) Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 128527 (Sub-No. 85TA), filed June 9, 1977. Applicant: MAY TRUCKING COMPANY, P.O. Box 398, Payette, Idaho 83661. Applicant's representative: C. Marvin May (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and (b) *equipment, materials, and supplies* used in the conduct of such businesses, in Portland, Salem, Hillsboro, Forest Grove, Albany, Eugene, Stayton and Hood River, Oreg., and Seattle, Kent, Tacoma, Bellingham, Bellevue, Vancouver, Yakima, Markham, Sunnyside, Arlington, Puyallup, Kennewick, La Conner, Walla Walla, Selah and Prosser, Wash., to the warehouse facilities of American Strevell Inc., located at Boise, Idaho, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Strevell, Inc., 506 S. 11th, Boise, Idaho, 83706. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort St. Box 07, Boise, Idaho 83724.

No. MC 128592 (Sub-No. 9TA), filed June 8, 1977. Applicant: KLM, INC., P.O. Box 162, Railroad Avenue, Center, Tex. 79535. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from points in Pennsylvania, Wisconsin and Texas, to the distribution facilities of the Burger King Corporation located at Greensboro, N.C.; Syosett, N.Y.; Bellmawr, N.J.; Atlanta, Ga.; Miami, Fla.; Minneapolis, Minn.; Detroit, Mich.; Solon, Ohio; Santa Fe Springs, Calif.; Kansas City, Mo.; Denver, Colo.; Houston and Arlington, Tex.; and Boston, Mass.; (2) *Such commodities as are sold or used by operators or restaurant chains* (except commodities in bulk), from Miami, Fla., to the distribution facilities of the Burger King Corporation located at Greensboro, N.C.; Syosett, N.Y.; Bellmawr, N.J.; Atlanta, Ga.; Minneapolis, Minn.; Detroit, Mich.; Solon, Ohio; Santa Fe Springs, Calif.; Kansas City, Mo.; Denver, Colo.; Houston and Arlington Tex.; and Boston, Mass. The transportation service to be performed under (1) and (2) shall be pursuant to a continuing contract, or contracts, with the Burger King Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Burger King Corporation—Distron Division, P.O. Box 520843, Miami, Fla. 33152. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 128801 (Sub-No. 3TA), filed June 10, 1977. Applicant: RONALD SHREINER, R.D. No. 1, Labanon, Pa. 17042. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third St., Harrisburg, Pa. 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Non-ferrous metals and alloys, and scrap non-ferrous metals and scrap non-ferrous metal articles and alloys*, between Columbia, Pa., on the one hand, and, on the other, Fort Riley, Kans., and Fort Sill, Okla., and points in Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Texas and Wisconsin, under a continuing contract with Colonial Metals Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Colonial Metals Co., P.O. Box 311, Columbia, Pa. 17512. Send protests to: Charles F. Myers, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 129963 (Sub-No. 6TA), filed June 13, 1977. Applicant: Fann McKelvey, d.b.a. McKELVEY TRUCKING, 5420 W. Missouri, Glendale, Ariz. 85301. Applicant's representative: A. Michael Bernstein, 1441 E. Thomas Road, Phoenix, Ariz. 85014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lettuce cartons*, from Los Angeles, Calif., to Center and Alamosa, Colo., under a continuing contract, or contracts, with Desert Supply Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Desert Supply Company, 1055 Walnut, Yuma, Ariz. 85364. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 134734 (Sub-No. 34TA), filed June 10, 1977. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, Nebr. 68137. Applicant's representative: Joseph Winter, 33 N. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts, tools, and related advertising materials*, (a) from the plantsite and facilities of Moog Automotive, Inc., at or near Creve Coeur, Mo., to Reno, Nev., and (b) from the facilities of D.J.T. Realty Co. at Reno, Nev., to points in Orange, Riverside, Los Angeles, San Bernadino, San Diego, San Francisco, San Mateo, Santa Clara, Contra Costa, Sacramento, Fresno, Kern, Tulare, and San Joaquin Counties, Calif., under a continuing contract or contracts with Moog Automotive, Inc., for 180 days. Supporting shipper: William L. Mussbaum, Asst. General Counsel, Moog Automotive, Inc., Box 7224, St. Louis, Mo. 63177.

No. MC 135539 (Sub-No. 8TA), filed June 6, 1977. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 5351, Evansville, Ind. 47715. Applicant's representative: Margie Market, 305 Van Buren St., Marengo, Ill. 60152. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Grain bins, storage tanks, fans, heaters, augers, dryers, pre-engineered steel buildings*, and all related parts and accessories between the plantsite of Superior Equipment Manufacturing Co., Division of Tiffany Industries, Inc., Matoon, Ill., and all points in the states of Iowa, Indiana, Ohio, Kentucky and Tennessee, under a continuing contract with Superior Equipment Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Superior Equipment Manufacturing Co., Div. of Tiffany Industries, Inc. 1321 S. Nineteenth St., Matoon, Ill. 61938. Send protests to: William S. Ennis, D/S Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 East Ohio St., Rm. 429 Indianapolis, Ind. 46204.

No. MC 136220 (Sub-No. 42TA), filed June 9, 1977. Applicant: Roy Sullivan, d.b.a. SULLIVAN TRUCKING CO., P.O. Box 2164, Ponca City, Okla. 74601. Applicant's representative: G. Timothy Armstrong, 6161 N. May Avenue, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa pellets and alfalfa meal*, in bulk, in dump vehicles, from points in Sumner County, Kans., to points in Arkansas and Oklahoma, for 180 days. Supporting shipper(s): Western Alfalfa Corporation, P.O. Box 69, Shawnee Mission, Kans. 66201. Send protests to: Joe Green District Supervisor, Room 240, Old Post Office Bldg., 215 Northwest Third Street, Oklahoma City, Okla. 73102.

No. MC 138036 (Sub-No. 9TA), filed June 8, 1977. Applicant: J & S, INC., P.O. Box 288, Indianola, Pa. 15051. Applicant's representative: William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail drug and variety stores, *and equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), between the facilities of Thrift Drug Division of J.C. Penney Company, Inc., in Atlanta Southern Industrial Park, Morrow (Clayton County), Ga., on the one hand, and, on the other, points in California, under a continuing contract or contracts with Thrift Drug Division of J.C. Penney Company, Inc., of New York, N.Y. for 180 days. Supporting shipper: Thrift Drug Division of J.C. Penney Co., Inc. 615 Alpha Drive, Pittsburgh, Pa. 15238. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 139495 (Sub-No. 244TA), filed June 13, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 E. 8th Street, Liberal, Kans. 67901. Applicant's representative: Frederk J. Coffman, Peterson, Bowman, Coffman & Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe fittings and connectors*, from the facilities of ITT-Grinnell at Temple, Tex, to points in the United States, (except Alaska, Hawaii and Texas), restricted to traffic originating at the above facilities, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): ITT-Grinnell Corporation, P.O. Box 687, Temple, Tex. 76501. Send protests to: M. E. Taylor District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Building, Wichita, Kans. 67202.

No. MC 142268 (Sub-No. 15TA), filed June 7, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R.R. No. 4, Harrow, Ontario, Canada. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water and sewage treatment chemicals*, in bulk, in tank vehicles, from Detroit, Michigan and points in its commercial zone, to the international boundary line between the United States and Canada, at points in Michigan, for furtherance to points in Ontario, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) West Windsor Pollution Control Plant, W. J. Newman Superintendent, 4155 Objibway Parkway, Windsor, Ontario, Canada. (2) Ontario Ministry of the Environment, Area Superintendent H. F. Sanger, Box 298, Kingsville, Ontario. N9Y 2E9. (3) Windsor Utilities Commission, Superintendent, Water Division, E. A. Loft, 787 Ouellette Avenue, Windsor, Ontario, N9A, 5T7. (4) Amherstburg Water Filtration Plant, Superintendent Louis Singer, Amherstburg, Ontario. (5) Harrow Water Filtration Plant, Superintendent Ernie Johnston, Box 909, Harrow, Ontario, Canada. (6) Ministry of the Environment, Superintendent Richard Fletcher, RR No. 1, Blenhein, Ontario. Send protests to: James A. Augustyn District Supervisor, Interstate Commerce Commission, 1110 Broderick Tower, 10 Witherell Avenue, Bureau of Operations, Detroit, Mich. 48226.

No. MC 142291 (Sub-No. 2TA), filed June 6, 1977. Applicant: MDI, INC., 6202 Concord Blvd. East, Inver Grove Heights, Minn. 55075. 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: *Alcoholic liquors and wines*, (except in bulk), from points in Kentucky to Long Prairie, Minn., under a continuing contract, or contracts, with Minnesota Distillers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Minnesota Distillers, Inc. Long Prairie, Minn. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 143163 (Sub-No. 2TA), filed May 16, 1977. Applicant: RICHARDSON TRUCKING INC., 330 East 8th St., P.O. Box 967, Greeley, Colo. 80631. Applicant's representative: Western Traffic Service, 5900 West Colfax Ave., Suite 20, P.O. Box 14006, Denver, Colo. 80214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat indible meat and meat by-products* (except hides and commodities in bulk, in tank vehicles), used as, or in the manufacture of animal feed and feed ingredients, from Greeley, Colo., and its commercial zone to Fort Dodge and Des Moines, Iowa; Independence, Kansas City, and St. Joseph, Mo.: Forest

Grove, Hillsboro, and Portland, Oreg.; and Jefferson, Wis., and their commercial zones, under a continuing contract with J. R. Nylen Ltd. and their Man Handling Company Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. R. Nylen Ltd., and their Man-Handling Company Division, P.O. Box 1314, Sioux City, Iowa 51102. Send protests to: Roger L. Buchanan, Dist. Supervisor, Interstate Commerce Commission, 721 19th St. 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 143359 (Sub-No. 1TA), filed June 8, 1977. Applicant: HELEN McNAY, d/b/a, McNAY TRUCK LINE, R. R. No. 8, Quincy, Ill. 62301. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages*, from Quincy, Ill., to Burlington, Iowa for the account of Pepsi-Cola Quincy Bottling Co., Quincy, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gordon Cornwell, Executive Vice President, Pepsi-Cola Quincy Bottling Co., 1121 Locust Street, Quincy, Ill. 62301. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 143367TA, filed June 13, 1977. Applicant: ORANGEBURG REDI-MIX CONCRETE, INC., P.O. Box 706, Orangeburg, S.C. 29115. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mill scale*, in bulk, in dump vehicles, from Groft, N.C., to Orangeburg, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Paul Blum Company, Inc., 189 Van Rensselaer Street, Buffalo, N.Y. 14210. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 143368TA, filed June 7, 1977. Applicant: WALTER D. BROOKS, 447 Range Road, Cumberland, Maine 04021. Applicant's representative: John G. Feehan, Hewes, Culley & Feehan, One Canal Plaza, Portland, Maine 04112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Portland and South Portland, Maine to Portsmouth, Dover, Durham, Newington, Gonic and Rochester, N.H., for 180 days. Supporting shipper(s): Sunmark Industries, Division of Sun Oil Co. of Pennsylvania, P.O. Box 7368–19101, 1845 Walnut Street, Philadelphia, Pa. 19103. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 76 Pearl Street, Room 307, Portland, Maine 04111.

No. MC 143369TA, filed June 9, 1977. Applicant: ON-A-WAY TRUCKING, INC., Route 3, Box 426C, Molalla, Oreg. 97038. Applicant's representative: John A. Anderson, 200 S.W. Market Street, Suite 1440, 200 Market Building, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Woodchips and hog fuel*, from points in Benton, Polk and Yamhill Counties, Oreg., to Longview, Wash., under a continuing contract, or contracts, with Wilson, Wilson & Wilson, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wilson, Wilson & Wilson, 22625 Jennie Road, Lyons, Oreg. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, Oreg. 97204.

No. MC 143370TA, filed June 9, 1977. Applicant: H. D. JORDAN AND EMMETT O. McKENZIE, d/b/a EMPIRE TRUCKING COMPANY, P.O. Box 206, Old Washington, Ohio. 43768. Applicant's representative: E. H. van Deusen, Sanborn, Brandon & Duvall, P.O. Box 97, Dublin, Ohio. 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, (except in bulk), from the facilities of Industrial Terminal Systems, Inc., at or near Logans Ferry, Plum Borough, Allegheny County, Pa., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, Pa. 16301. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg. and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 143371TA, filed June 13, 1977. Applicant: JOHN M. PARSONS, South Green Street, Tuckerton, N.J. 08087. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meats, meat byproducts, frozen foods, and dairy products*, from Philadelphia, Pa., to points in Atlantic, Burlington, Cape May, Monmouth, and Ocean Counties, N.J., restricted to shipments picked up and delivered the same day for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Milden and White, Inc., 1224 North 9th Street, Philadelphia, Pa. 19122. (2) Stein-Henry Company, 1705 North America Street, Philadelphia, Pa. 19122. (3) E. F. Schulze Co. 414 N. Percy Street, Philadelphia, Pa. 19123. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 143372 TA, filed June 13, 1977. Applicant: PEOPLES TRANSFER, INC., 1712 S. Bunn Street, Bloomington, Ill. 61701. Applicant's representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting, carpet padding, vinyl flooring and flooring products*, between the facilities of Carpetland U.S.A., at or near Munster, Ind., on the one hand, and, on the other, points and places in the Commercial Zones of Bloomington, Champaign, Decatur, Elk Grove Village, Joliet, Peoria and Springfield, Ill., for 180 days. Supporting shipper(s): Carpetland U.S.A. David Brownlee, Service Manager, 8201 Calumet Avenue, Munster, Ind. 46321. Send protests to: Patricia A. Roscoe District Supervisor, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

PASSENGER APPLICATION

No. MC 141063 (Sub-No. 2TA), filed June 9, 1977. Applicant: THE CITY CONTRACT BUS SERVICE, INC., P.O. Box 2182, Jacksonville, Fla. 32203. Applicant's representative: Archie B. Culbreth, 1252 West Peachtree St., N.W., Suite 246, Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers* who are employees of Louisville and Nashville Railroad Company, *and their baggage*, between points in Georgia on and north of Interstate 20, on the one hand, and, on the other, points in Tennessee along the line of Louisville and Nashville Railroad Company, under a continuing contract, or contracts, with Louisville and Nashville Railroad Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Louisville and Nashville Railroad Company, 1590 Marietta Blvd., N.W. Atlanta, Ga. 30301. Send protests to: G. H. Fauss, Jr. District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-18521 Filed 6-27-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1, 2, 3
Civil Service Commission	11
Federal Deposit Insurance Corporation	4
Federal Election Commission	5
Federal Reserve System	6
Foreign Claims Settlement Commission	7
International Trade Commission	8
Interstate Commerce Commission	9
Nuclear Regulatory Commission	10

1

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

[MA-10 amending M-25]

Notice of deletion of item from June 28, 1977 meeting agenda.

REVISED AGENDA

TIME AND DATE: 10 a.m., June 28, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratification of Items Adopted by Negotiation.[1]

2. Docket 30714, Application of Braniff Airways Inc. for an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958 to provide free transportation for travel agents to attend the TravelAge MidAmerica Sales Seminar, Trade Show and Familiarization Program in Houston, Texas between September 16 and 18, 1977.

3. Docket 30362, Petition of Air Freight Forwarders Association to amend Part 296 to permit the payment of commissions or international consolidated shipments or, in the alternative, the issuance of a Policy Statement by the Board recognizing that freight forwarders may be compensated for delivering freight shipments to the Direct Carriers "ready for carriage."

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 4 on the announced agenda for the June 28, 1977 Board meeting was Docket 29139, EDR-296, "Reexamination of the Board's Policies Concerning Deliberate Overbooking and Oversales."

At the June 23, 1977 Board meeting, Chairman Kahn noted that one of the Office of General Counsel attorneys who is involved in the Overbooking proceeding would not be available for the June 28, 1977 Board meeting and that the item would be rescheduled in the near future.

The following Members voted that agency business that this item be deleted from the June 28, 1977, agenda and that no earlier announcement of the change was possible:

Chairman Alfred E. Kahn
Member G. Joseph Minetti
Member Lee R. West

PHYLLIS T. KAYLOR,
Secretary.

[S-757-77 Filed 6-24-77;9:01 am]

2

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

[M-26]

TIME AND DATE: 10 a.m., June 30, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratification of Items Adopted by Notation.[1]

2. Discussion of regulatory reform legislation currently before Congress.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

PHYLLIS T. KAYLOR,
Secretary.

[S-758-77 Filed 6-24-77;9:01 am]

3

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

[M-25]

TIME AND DATE: 10 a.m., June 28, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratification of Items Adopted by Notation.[1]

2. Docket 30714, Application of Braniff Airways Inc. for an exemption pursuant to section 416 (b) of the Federal Aviation Act of 1958 to provide free transportation for travel agents to attend the TravelAge MidAmerica Sales Seminar, Trade Show and Familiarization Program in Houston, Texas between September 16 and 18, 1977.

3. Docket 30362, Petition of Air Freight Forwarders Association to amend Part 296 to permit the payment of commissions on international consolidated shipments or, in the alternative, the issuance of a Policy Statement by the Board recognizing that freight forwarders may be compensated for delivering freight shipments to the Direct Carriers "ready for carriage."

4. Docket 29139, EDR-296 Reexamination of the Board's Policies Concerning Deliberate Overbooking and Oversales

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

PHYLLIS T. KAYLOR,
Secretary.

[S-759-77 Filed 6-24-77;9:01 am]

4

AGENCY HOLDING THE MEETING: Federal Deposit Insurance Corporation.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 31518.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., June 27, 1977.

CHANGES IN THE MEETING:

Notice is hereby given of the addition of a Resolution regarding a one month extention of time within which certain employees may file a Statement of Employment and Financial Interests and a Resolution to establish an Office of Personnel Management to the agenda for consideration at its open meeting

[1] The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428) following the meeting.

[1] The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428) following the meeting.

[1] The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428) following the meeting.

scheduled for 11 a.m. at the above time and date.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-760-77 Filed 6-24-77;9:26 am]

5

AGENCY HOLDING THE MEETING: Federal Election Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-734-77, 42 FR 32348, June 24, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 30, 1977, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

CHANGE IN THE MEETING:

Please Add Advisory Opinion 1977-16.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, telephone: 202-523-4065.

[S-761-77 Filed 6-24-77;9:58 am]

6

AGENCY HOLDING THE MEETING: Federal Reserve System; Board of Governors.

TIME AND DATE: 10 a.m., Friday, July 1, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Draft testimony to be presented before the Subcommittee on Consumer Affairs of the Senate Committee on Banking, Housing and Urban Affairs, regarding bills to simplify the Truth in Lending Act.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: June 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-762-77 Filed 6-24-77;11:09 am]

7

AGENCY HOLDING THE MEETING: Foreign Claims Settlement Commission.

[Notice No. 9-77]

ANNOUNCEMENT IN REGARD TO COMMISSION MEETINGS AND HEARINGS

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of routine Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Wednesday, July 6, 1977, at 10:30 a.m., Routine Business.
Wednesday, July 13, 1977, at 10:30 a.m., Routine Business.
Wednesday, July 20, 1977, at 10:30 a.m. Routine Business.
Wednesday, July 27, 1977, at 10:30 a.m., Routine Business.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579. Telephone: 202-653-6156.

Dated at Washington, D.C., on June 22, 1977.

FRANCIS T. MASTERSON,
Executive Director.

[S-753-77 Filed 6-23-77; 3:35 pm]

8

AGENCY HOLDING THE MEETING: United States International Trade Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 30574.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., June 23, 1977.

CHANGES IN THE MEETING:

Agenda item No. 2 (Press reports on predatory pricing in steel), previously announced as being open to the public, was closed to the public by vote of a majority of the entire membership of the Commission.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-752-77 Filed 6-23-7; 3:35 p.m.]

9

AGENCY HOLDING THE MEETING: Interstate Commerce Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published June 27, 1977.

TIME AND DATE: Changed time from 9:30 a.m., to 9 a.m., Tuesday, June 28, 1977.

PLACE: Commission's Offices, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: *Closed Special Conference.* Voting to close as to the following item on the agenda were Chairman O'Neal, Commissioners Clapp, Murphy, Stafford, Gresham, MacFarland and Christian (Commissioners Brown and Hardin did not participate) on the grounds that such meeting is likely to specifically concern the initiation and conduct by the Commission of a particular case of formal adjudication involving a determination on the record after opportunity for a hearing, within the meaning of 5 U.S.C. 552b(c)(10) and 49 CFR 1012.7(d)(12). The General Counsel has issued his certificate accordingly.

No. 36611, Trans Alaska Pipeline System—Tariff Consideration

In addition to the Commission, the following will be in attendance: Mark L. Evans, General Counsel; Janice M. Rosenak, Deputy Director, Section of Rates, Office of Proceedings; John A. Grady, Director, Bureau of Accounts; and William Bono, Thomas Carpenter, Joseph Morgan, David Drucker and Edward Johnson, all of the Bureau of Accounts.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin, telephone 202-275-7252.

[S-756-77 Filed 6-24-77;9:01 am]

10

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

TIME AND DATE: Wednesday, June 22, and Friday, June 24, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Wednesday, June 22, 4:30 p.m. (approx): Discussion of Awards (Exemptions 2 and 6).
Friday, June 24, 4:30 p.m.: 1 Discussion of Tarapur Export License (Exemptions 1 and 10) (Approx. 1 hr). 2. Vote to Extend Review of Indian Point ALAB Decision (Exemption 10) (Approx. 10 min.). 3. Order on Seabrook (Exemption 10) (Approx. 5 min.).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202–634–1410.

Dated: June 22, 1977.

WALTER MAGEE,
Office of the Secretary.

[S-754-77 Filed 6-23-77;3:39 pm]

11

AGENCY HOLDING MEETING: Civil Service Commission.

TIME AND DATE OF MEETING: 9 a.m., July 5, 1977.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Continuation of discussion of Recommendations of the Task Force on Merit Staffing Review Recommendations.

(2) Approval of a Graduate Level Work Experience Program.

CONTACT PERSON FOR MORE INFORMATION:

Georgia Metropulos, Office of the Executive Assistant to the Commissioners, 202–632–5556.

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

[S-768-77 Filed 6-27-77;9:43 am]

federal register

TUESDAY, JUNE 28, 1977
PART II



FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

FEDERAL ELECTION COMMISSION

[Notice 1977-35, AOR 1977-27]

ADVISORY OPINION REQUEST

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-27 has been made public at the Commission. Copies of AOR 1977-27 were made available on June 21, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of General Counsel, Advisory Opinion Section at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

AOR 1977-27: Is the Intern Program Trust Fund of Florida's Tenth Congressional District, which was established to receive and disburse funds for the purpose of sending high school students to Washington "to observe various operations of the federal government," an office account of the Member of Congress representing the district under 2 U.S.C. 439a.

Requested by Representative L.A. Bafalis, House of Representatives, Washington, D.C.

Dated: June 20, 1977.

THOMAS E. HARRIS,
Chairman for the
Federal Election Commission.

[FR Doc.77-18126 Filed 6-27-77;8:45 am]

federal register

TUESDAY, JUNE 28, 1977

PART III



ENVIRONMENTAL PROTECTION AGENCY

■

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Republication of the 1977, 1978, and 1979 Model Year Motor Vehicle Certification Regulations

Title 40—Protection of Environment

[FRL 748-6]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Republication of the 1977, 1978, and 1979 Model Year Motor Vehicle Certification Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action is a republication of the 1977 model year motor vehicle certification regulations, a publication of the complete 1978 model year motor vehicle certification regulations, and a publication of the existing 1979 model year motor vehicle certification regulations. This publication is being issued to provide the public with complete, updated 1977, 1978, and 1979 model year motor vehicle certification regulations to aid in the use of those regulations. This action is needed due to the numerous amendments that have been made to the regulations since they were last published in their complete form (July 1, 1976 edition of the Code of Federal Regulations, Title 40, Parts 60 to 99). This document does not make any changes to the existing motor vehicle certification requirements.

EFFECTIVE DATE: These amendments are effective June 28, 1977.

FOR FURTHER INFORMATION CONTACT:

David A. Finley, Regulatory Management Staff, Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-0596.

SUPPLEMENTARY INFORMATION: The Agency finds good cause to omit as unnecessary a notice of proposed rulemaking and public rulemaking procedure in the issuance of these regulations. These regulations are a recodification of existing regulatory requirements, applicable to 1977, 1978 and 1979 model year certification. For the same reasons, the Agency finds good cause to make these regulations effective on the date of publication in the FEDERAL REGISTER.

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major regulation requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and under OMB Circular A-107.

Dated: June 14, 1977.

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

40 CFR Part 86 is amended by revising Subpart A, Subpart B, and Appendices I through VI, to read as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, and for 1977 and Later Model Year New Heavy-Duty Engines

Sec.
86.077-1 General applicability.
86.077-2 Definitions.
86.077-3 Abbreviations.
86.077-4 Section numbering; construction.
86.077-5 General standards; increase in emissions; unsafe conditions.
86.077-6 Hearings on certification.
86.077-7 Maintenance of records; submittal of information; right of entry.
86.077-8 Emission standards for 1977 light-duty vehicles.
86.077-9 Emission standards for 1977 light-duty trucks.
86.077-10 Emission standards for 1977 gasoline-fueled heavy-duty engines.
86.077-11 Emission standards for 1977 Diesel heavy-duty engines.
86.077-12—86.077-20 [Reserved].
86.077-21 Application for certification.
86.077-22 Approval of application for certification; test fleet selections.
86.077-23 Required data.
86.077-24 Test vehicles and engines.
86.077-25 Maintenance.
86.077-26 Mileage and service accumulation; emission measurements.
86.077-27 Special test procedures.
86.077-28 Compliance with emission standards.
86.077-29 Testing by the Administrator.
86.077-30 Certification.
86.077-31 Separate certification.
86.077-32 Addition of a vehicle or engine after certification.
86.077-33 Changes to a vehicle or engine covered by certification.
86.077-34 Alternative procedure for notification of additions and changes.
86.077-35 Labeling.
86.077-36 Submission of vehicle identification numbers.
86.077-37 Production vehicles and engines.
86.077-38 Maintenance instructions.
86.077-39 Submission of maintenance instructions.
86.078-1 General applicability.
86.078-2 Definitions.
86.078-3 Abbreviations.
86.078-4 Section numbering; construction.
86.078-5 General standards; increase in emissions; unsafe conditions.
86.078-6 Hearings on certification.
86.078-7 Maintenance of records; submittal of information; right of entry.
86.078-8 Emission standards for 1978 light-duty vehicles.
86.078-9 Emission standards for 1978 light-duty trucks.
86.078-10 Emission standards for 1978 gasoline-fueled heavy-duty engines.
86.078-11 Emission standards for 1978 Diesel heavy-duty engines.
86.078-12—86.078-20 [Reserved].
86.078-21 Application for certification.
86.078-22 Approval of application for certification; test fleet selections.
86.078-23 Required data.
86.078-24 Test vehicles and engines.
86.078-25 Maintenance.
86.078-26 Mileage and service accumulation; emission measurements.
86.078-27 Special test procedures.
86.078-28 Compliance with emission standards.
86.078-29 Testing by the Administrator.
86.078-30 Certification.
86.078-31 Separate certification.
Sec.
86.078-32 Addition of a vehicle or engine after certification.
86.078-33 Changes to a vehicle or engine covered by certification.
86.078-34 Alternative procedure for notification of additions and changes.
86.078-35 Labeling.
86.078-36 Submission of vehicle identification numbers.
86.078-37 Production vehicles and engines.
86.078-38 Maintenance instructions.
86.078-39 Submission of maintenance instructions.
86.079-1 General applicability.
86.079-2 Definitions.
86.079-9 Emission standards for 1979 and later model light-duty trucks.
86.079-20 Incomplete vehicles, classification.
86.079-21 Application for certification.
86.079-26 Mileage and service accumulation; emission measurements.
86.079-30 Certification.
86.079-35 Labeling.

Subpart B—Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles and New Light-Duty Trucks; Test Procedures

86.101 General applicability.
86.102 Definitions.
86.103 Abbreviations.
86.104-78 Section numbering; construction.
86.105-78 Introduction; structure of subpart.
86.106-78 Equipment required; overview.
86.107-78 Sampling and analytical system; evaporative emissions.
86.108-78 Dynamometer.
86.109-78 Exhaust gas sampling system.
86.110-78 [Reserved].
86.111-78 Exhaust gas analytical system.
86.112-78 [Reserved].
86.113-78 Fuel specifications.
86.114-78 Analytical gases.
86.114-79 Analytical gases.
86.115-78 EPA urban dynamometer driving schedule.
86.116-78 Calibrations; frequency and overview.
86.117-78 Evaporative emission enclosure calibrations.
86.118-78 Dynamometer calibration.
86.119-78 CVS calibration.
86.120-78 [Reserved].
86.121-78 Hydrocarbon analyzer calibration.
86.122-78 Carbon monoxide analyzer calibration.
86.123-78 Oxides of nitrogen analyzer calibration.
86.124-78 Carbon dioxide analyzer calibration.
86.125-78 [Reserved].
86.126-78 Calibration of other equipment.
86.127-78 Test procedures; overview.
86.128-78 Transmissions.
86.129-78 Road load power and inertia weight determination.
86.129-79 Road load power and inertia weight determination.
86.130-78 Test sequence; general requirements.
86.131-78 Vehicle preparation.
86.132-78 Vehicle preconditioning.
86.133-78 Diurnal breathing loss test.
86.134-78 Running loss test.
86.135-78 Dynamometer procedure.
86.135-79 Dynamometer procedure.
86.136-78 Engine starting and restarting.
86.137-78 Dynamometer test runs.
86.138-78 Hot-soak runs.
86.139-78 [Reserved].
86.140-78 Exhaust sample analysis.
86.141-78 [Reserved].
86.142-78 Records required.
86.142-79 Records required.

Sec.
86.143-78 Calculations; evaporative emissions.
86.144-78 Calculations; exhaust emissions.
86.145-78 [Reserved].
86.177-1—86.177-3 [Reserved].
86.177-4 Section numbering; construction.
86.177-5 Test procedures.
86.177-6 Fuel specifications.
86.177-7 Gasoline-fueled vehicle and engine preparation.
86.177-8 Vehicle preconditioning.
86.177-9 Evaporative emission collection procedure for gasoline-fueled vehicles.
86.177-10 Dynamometer driving schedule.
86.177-11 Dynamometer procedures.
86.177-12 Manual transmissions.
86.177-13 [Reserved].
86.177-14 Automatic transmissions.
86.177-15 Engine starting and restarting.
86.177-16 Sampling and analytical system (exhaust emissions).
86.177-17 Sampling and analytical system (fuel evaporative emissions, gasoline-fueled vehicles).
86.177-18 Information to be recorded.
86.177-19 Analytical system calibration and sample handling.
86.177-20 Dynamometer test runs.
86.177-21 Chart reading.
86.177-22 Calculations (exhaust emissions).
86.177-23 Calculations (fuel evaporative emissions, gasoline-fueled vehicles).
Appendix I—EPA Urban Dynamometer Driving Schedules.
Appendix II—Procedure for Dynamometer Road Horsepower Calibration.
Appendix III—Constant Volume Sampler Flow Calibration.
Appendix IV—Durability Driving Schedules.
Appendix V—[Reserved].
Appendix VI—Vehicle and Engine Components.

AUTHORITY: Secs. 202, 206, 207, 208, 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, 1857f-5a, 1857f-6, 1857g(a)).

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, and for 1977 and Later Model Year New Heavy-Duty Engines

§ 86.077-1 General applicability.

The provisions of this subpart are applicable to 1977 and later model year new gasoline-fueled and Diesel light-duty vehicles, 1977 and later model year new gasoline-fueled and Diesel light-duty trucks and 1977 and later model year new gasoline-fueled and Diesel heavy-duty engines.

§ 86.077-2 Definitions.

(a) The definitions in this section apply to this subpart and also to Subparts B, H, I, and J.

(b) As used in this subpart all terms not defined herein shall have the meaning given them in the Act:

"Act" means Part A of title II of the Clean Air Act, 42 U.S.C. 1857 f-1 through f-7, as amended by Pub. L. 91-604.

"Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

"Auxiliary Emission Control Device (AECD)" means any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.

"Calibrating gas" means a gas of known concentration which is used to establish the response curve of an analyzer.

"Configuration" means a subclassification of an engine-system combination on the basis of engine code, inertia weight class, transmission type and gear ratios, rear axle ratio, and other parameters which may be designated by the Administrator.

"Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the engine crankcase ventilation or lubrication systems.

"Defeat Device" means an AECD that reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal urban vehicle operation and use, unless (1) such conditions are substantially included in the Federal emission test procedure, or (2) the need for the AECD is justified in terms of protecting the vehicle against damage or accident, or (3) the AECD does not go beyond the requirements of engine starting.

"Diurnal breathing loss" means fuel evaporative emissions as a result of the daily range in temperature to which the fuel system is exposed.

"Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 86.077-24.

"Engine-system combination" means an engine family-exhaust emission control system-fuel evaporative emission control system (where applicable) combination.

"EPA Enforcement Officer" means any officer or employee of the Environmental Protection Agency so designated in writing by the Administrator (or by his designee).

"Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

"Fuel evaporative emissions" means vaporized fuel emitted into the atmosphere from the fuel system of a motor vehicle.

"Fuel system" means the combination of fuel tank, fuel pump, fuel lines, and carburetor, or fuel injection components, and includes all fuel system vents and fuel evaporative emission control systems.

"Gross vehicle weight" means the manufacturer's gross weight rating for the individual vehicle.

"Heavy-duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at more than 6,000 pounds GVW or designed primarily for transportation of persons and having a capacity of more than 12 persons.

"Heavy-duty engine" means any engine which the engine manufacturer could reasonably expect to be used for motive power in a heavy duty vehicle.

"High-altitude" means any elevation over 1219 meters (4000 feet).

"High-altitude conditions" means a test altitude of 1585 meters (5200 feet), plus or minus 274 meters (900 feet), or equivalent observed barometric test conditions of 83.48 kPa (24.72 inches Hg), plus or minus 2.77 kPa (0.82 inches Hg): *Provided*, That the Administrator may approve conditions other than those specified herein on the basis of a written application by the manufacturer.

"Hot soak loss" means fuel evaporative emissions during the 1-hour hot soak period which begins immediately after the engine is turned off.

"Intermediate speed" means the peak torque speed or 60 percent of rated speed, whichever is higher.

"Light-duty truck" means any motor vehicle rated at 6,000 pounds GVW or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

"Light-duty vehicle' means a passenger car or passenger car derivative capable of seating 12 passengers or less.

"Loaded vehicle weight" means the vehicle curb weight of a light-duty vehicle or light-duty truck plus 300 pounds.

"Maximum rated horsepower" means the maximum brake horsepower output of an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 86.077-21.

"Maximum rated torque" means the maximum torque produced by an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 86.077-21.

"Military engine" means any engine manufactured solely for the Department of Defense to meet military specifications.

"Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year: *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

"Nominal fuel tank capacity" means the volume of the fuel tank, specified by the manufacturer to the nearest tenth of a U.S. gallon, which may be filled with fuel from the fuel tank filler inlet.

"Opacity" means the fraction of a beam of light, expressed in percent, which fails to penetrate a plume of smoke.

"Oxides of nitrogen" means the sum of the nitric oxide and nitrogen dioxide contained in a gas sample as if the nitric oxide were in the form of nitrogen dioxide.

"Peak torque speed" means the speed at which an engine develops maximum torque.

"Percent load" means the fraction of the maximum available torque at a specified engine speed.

"Rated speed" means the speed at which the manufacturer specifies the maximum rated horsepower of an engine.

"Running loss" means fuel evaporative emissions resulting from an average trip

in an urban area or the simulation of such a trip.

"Scheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed on a periodic basis to prevent part failure or vehicle (if the engine were installed in a vehicle) malfunction.

"Smoke" means the matter in the exhaust emissions which obscures the transmission of light.

"Span gas" means a gas of known concentration which is used routinely to set the output level of an analyzer.

"System" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicles.

"Tank fuel volume" means the volume of fuel in the fuel tank(s), which is determined by multiplying the manufacturer's nominal tanks(s) capacity by 0.40, the result being rounded using ASTM E29-67 to the nearest tenth of a U.S. gallon.

"Throttle" means the mechanical linkage which either directly or indirectly controls the fuel flow to the engine.

"Unscheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed to correct a part failure or vehicle (if the engine were installed in a vehicle) malfunction.

"Useful life" means:

(1) For light-duty vehicles and light-duty trucks a period of use of 5 years or 50,000 miles, whichever first occurs.

(2) For gasoline-fueled heavy-duty engines a period of use of 5 years or 50,000 miles of vehicle operation or 1,500 hours of engine operation (or an equivalent period of 1,500 hours of dynamometer operation), whichever first occurs.

(3) For Diesel heavy-duty engines a period of use of 5 years or 100,000 miles of vehicle operation or 3,000 hours of engine operation (or an equivalent period of 1,000 hours of dynamometer operation), whichever first occurs.

"Vehicle curb weight" means the actual or the manufacturer's estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with § 86.077-24.

"Zero (0) hours" means that point after normal assembly line operations and adjustments are completed and before one (1) additional operating hour has been accumulated.

"Zero (0) miles" means that point after initial engine starting (not to exceed 10 miles of vehicle operation, or one hour of engine operation) at which normal assembly line operations and adjustments are completed.

§ 86.077-3 Abbreviations.

(a) The abbreviations in this section apply to this subpart and also to Subparts B, H, I, and J and have the following meanings:

accel.—acceleration.
AECD—Auxiliary emission control device.
API—American Petroleum Institute.
ASTM—American Society for Testing and Materials.
BHP—Brake horsepower.
BSCO—Brake specific carbon monoxide.
BSHC—Brake specific hydrocarbons.
$BSNO_x$—Brake specific oxides of nitrogen.
C—Celsius.
cfh—cubic feet per hour.
CFV—Critical flow venturi.
CFV-CVS—Critcal flow venturi—constant volume sampler.
CL—Chemiluminescence.
CO_2—carbon dioxide.
CO—carbon monoxide.
conc.—concentration.
cfm—cubic feet per minute.
CT—Closed throttle.
cu. in.—cubic inch(es).
CVS—Constant volume sampler.
decel.—deceleration.
EP—End point.
evap.—evaporative.
F—Fahrenheit.
FID—Flame ionozation detector.
FL—Full load.
ft.—feet.
g—gram(s).
gal.—U.S. gallon(s).
GVW—Gross vehicle weight.
GVWR—Gross vehicle weight rating.
h—hour(s).
H_2O—water.
HC—hydrocarbon(s).
HFID—Heated flame ionization detector.
Hg—mercury.
hi—high.
hp.—horsepower.
IBP—Initial boiling point.
ID—Internal diameter.
in.—inch(es).
K—kelvin.
kg—kilogram(s).
km—kilometer(s).
kPa—kilopascal(s).
lb.—pound(s).
lb.-ft.—pound-feet.
m—meter(s).
max.—maximum.
mg—milligram(s).
mi.—mile(s).
min.—minute(s).
ml—milliliter(s).
mm—millimeter(s).
mph—miles per hour.
mv—millivolt(s).
N_2—nitrogen.
NDIR—Nondispersive infrared.
NO—nitric oxide.
NO_2—nitrogen dioxide.
NO_x—oxides of nitrogen.
No.—Number.
O_2—oxygen.
Pb—lead.
pct.—percent.
PDP-CVS—Positive displacement pump-constant volume sampler.
ppm—parts per million by volume.
ppm C—parts per million, carbon.
psi—pounds per square inch.
psig—pounds per square inch gauge.
PTA—Part throttle acceleration.
PTD—Part throttle deceleration.
R—Rankin.
rpm—revolutions per minute.
RVP—Reid vapor pressure.
s—second(s).
SAE—Society of Automotive Engineers.
SI—International system of units.
sp.—speed.
TEL—Tetraethyl lead.
TML—Tetramethyl lead.
UDDS—Urban dynamometer driving schedule.
V—volt(s).
vs—versus.
W—watt(s).
WF—Weighting factor.
WOT—Wide open throttle.
wt.—weight.
'—feet.
''—inch(es).
°—degree(s).
Σ—summation.

§ 86.077-4 Section numbering; construction.

(a) *Section numbering.* The model year of initial applicability is indicated by the last two digits of the 5 digit group. A section remains in effect for subsequent model years until it is superseded. The number following the hyphen designates what previous section is replaced by a future regulation.

EXAMPLES: Section 86.077-6 applies to the 1977 and subsequent model years until superseded. If a § 86.080-6 is promulgated it would take effect with the 1980 model year; § 86.077-6 would not apply after the 1979 model year. Section 86.077-10 would be replaced by § 86.078-10 beginning with the 1978 model year.

(b) *Construction.* Except where indicated, the language in this subpart applies to both vehicles and engines. In many instances language referring to engines is enclosed in parentheses and immediately follows the language discussing vehicles.

§ 86.077-5 General standards; increase in emissions; unsafe conditions.

(a)(1) Every new motor vehicle (or new motor vehicle engine) manufactured for sale, sold, offered for sale, introduced, or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this subpart shall be covered by a certificate of conformity issued pursuant to §§ 86.077-21 through 86.077-23 and §§ 86.077-29 through 86.077-34.

(2) No heavy-duty vehicle manufacturer shall take any of the actions specified in section 203(a)(1) of the Act with respect to any gasoline-fueled or Diesel heavy-duty vehicle which uses an engine which has not been certified as meeting applicable standards. Each heavy-duty vehicle manufacturer shall provide to the Administrator prior to the beginning of each model year a statement signed by an authorized representative which includes the following information:

(i) A description of the vehicles which will be produced subject to this section;

(ii) Identification of the engines used in the vehicles;

(iii) Projected sales data on each vehicle-engine combination;

(iv) A statement that the engines will not be modified by the vehicle manufacturer or a detailed specification of any changes which will be made. Changes made solely for the purpose of mounting an engine in a vehicle need not be included.

(v) A statement that the engine maintenance instruction supplied by the engine manufacturer, in compliance with § 86.077-38, will be furnished to the ultimate purchaser. If these maintenance instructions are modified, a detailed description of the modifications and a justification for each must be provided to the

Administrator for review. The Administrator will notify the manufacturer of the determination whether the modified instructions are reasonable and necessary to assure proper functioning of the emission control system.

(b)(1) Any system installed on or incorporated in a new motor vehicle (or new motor vehicle engine) to enable such vehicle (or engine) to conform to standards imposed by this subpart:

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such vehicle (or engine) without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motor vehicles (or new motor vehicle engines) subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles (or motor vehicle engines) in accordance with good engineering practice to ascertain that such test vehicles (or test engines) will meet the requirements of this section for the useful life of the vehicle (or engine).

§ 86.077–6 Hearings on certification.

(a)(1) After granting a request for a hearing under §§ 86.077–22 or 86.077–30 the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing has not been fixed by the Administrator under §§ 86.077–22 or 86.077–30, the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(4) In the case of any hearing requested pursuant to § 86.077–30(c)(5)(i), the Administrator may in his discretion direct that all argument and presentation of evidence be concluded within such fixed period not less than 30 days as he may establish from the date that the first written offer of a hearing is made to the manufacturer. To expedite proceedings, the Administrator may direct that the decision of the Presiding Officer (who may, but need not be the Administrator himself) shall be the final EPA decision.

(b)(1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under §§ 86.077–22 or 86.077–30 together with any accompanying material, the request for a hearing and the supporting data submitted therewith, and all documents relating to the request for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The hearing file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d)(1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(i) Simplification of the issues;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e)(1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

(f)(1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

§ 86.077–7 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motor vehicle (or new motor vehicle engine) subject to any of the standards or procedures prescribed in this subpart shall establish, maintain and retain the following adequately organized and indexed records.

(1) *General records.* (i) The records required to be maintained by this paragraph shall consist of:

(A) Identification and description of all certification vehicles (or certification engines) for which testing is required under this subpart.

(B) A description of all emission control systems which are installed on or incorporated in each certification vehicle (or certification engine).

(C) A description of all procedures used to test each such certification vehicle (or certification engine).

(ii) A properly filed application for certification, following the format prescribed by the US EPA for the appropriate model year, fulfills each of the requirements of this paragraph (a)(1).

(2) *Individual records.* (i) A brief history of each motor vehicle (or motor vehicle engine) used for certification under this subpart in the form of a separate booklet or other document for each separate vehicle (or each separate engine) in which shall be recorded:

(A) In the case where a current production engine is modified for use in a certification vehicle (or as a certification engine), a description of the process by which the engine was selected and of the modifications made, giving specifically the place of modification and installation of the engine into the certification vehicle and the person(s) in charge of modification and installation, as applicable. In the case where the engine for a certification vehicle (or certification engine) is not derived from a current production engine, a general description of the build up of the engine (e.g., experimental heads were cast and machined according to supplied drawings, etc.) giving specifically the place of engine assembly and installation into a certification vehicle and the person(s) in charge of engine assembly and installation, as applicable. In both cases above, a description of the origin and selection process for the carburetor, distributor, fuel system components, fuel injection components, emission control system components, smoke exhaust emission control system components, and exhaust

aftertreatment devices as applicable, shall be included. The required descriptions shall specify the steps taken to assure that the certification vehicle (or certification engine) with respect to its engine, drive train, fuel system, emission control system components, exhaust aftertreatment devices, smoke exhaust emission control system components, vehicle weight or any other devices or components as applicable, that can reasonably be expected to influence exhaust or evaporative emissions, as applicable, will be representative of production vehicles (or engines) and that either all components and/or vehicle (or engine) construction processes, component inspection and selection techniques, and assembly techniques employed in constructing such vehicles (or engines) are reasonably likely to be implemented for production vehicles (or engines) or that they are as closely analogous as practicable to planned construction and assembly processes.

(B) A complete record of all emission tests performed under Subparts B, H, I, and J, as applicable (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each such test, or exact copies thereof, the date, time, purpose, and location of each test, the number of miles accumulated on the vehicle (or the number of hours accumulated on the engine), when the tests began and ended, and the names of supervisory personnel responsible for the conduct of the tests.

(C) The date and times of each mileage (or service) accumulation run, listing both the mileage (or number of operating hours) accumulated and the name of each driver or each operator of the automatic mileage accumulation device (or dynamometer operator).

(D) If used, the record of any devices employed to record the speed and/or mileage in relationship to time of the test vehicle (or engine RPM, and/or horsepower and/or torque ir relationship to engine operating time).

(E) A record and description of all maintenance and other servicing performed, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service. The description shall indicate whether or not EPA specifically consented to the work and, if EPA did not, shall list the provision of this part which authorizes its performance.

(F) A record and description of each test performed to diagnose engine or emissions control system performance, giving the date and time of the tests, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the test.

(G) The dates and times that the vehicle (or engine) was idle in storage, and in transit or transport.

(H) A brief description of any significant events affecting the vehicle (or engine) during any time in the period covered by the history not described by an entry under one of the previous headings incl ding such extraordinary events as vehicle accidents (or accidents involving the engine) or driver speeding citations or warnings (or dynamometer runaway).

(ii) Each such his.ory shall be started on the date that the first of any of the selection or buildup activities in paragraph (a)(2)(i)(A) of this section occurred with respect to the certification vehicle (or engine), shall be updated each time the operational status of the vehicle (or engine) changes or additional work is done on it, and shall be kept in a designated location.

(3) All records required to be maintained under this subpart shall be retained by the manufacturer for a period of six (6) years after issuance of all certificates of conformity to which they relate. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer, *Provided*, That in every case all the information contained in the hard copy shall be retained.

(b) The manufacturer of any new motor vehicle (or new motor vehicle engine) subject to any of the standards prescribed in this subpart shall submit to the Administrator at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such vehicle (or engine) relevant to the control of crankcase, exhaust or evaporative emissions, as applicable, issued by the manufacturer for use by other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers; *Provided*, That any material not translated into the English language need not be submitted unless specifically requested by the Administrator.

(c)(1) Any manufacturer who has applied for certification of a new motor vehicle (or new motor vehicle engine) subject to certification test under this subpart shall admit or cause to be admitted any EPA Enforcement Officer during operating hours on presentation of credentials to any of the following:

(i) Any facility where any such tests or any procedures or activities connected with such tests are or were performed.

(ii) Any facility where any new motor vehicle (or new motor vehicle engine) which is being, was, or is to be tested is present.

(iii) Any facility where any construction process or assembly process used in the modification or build up of such a vehicle (or engine) into a certification vehicle (or certification engine) is taking place or has taken place.

(iv) Any facility where any record or other document relating to any of the above is located.

(2) Upon admission to any facility referred to in paragraph (c)(1) of this section, any EPA Enforcement Officer shall be allowed:

(i) To inspect and monitor any part or aspect of such procedures, activities, and testing facilities, including, but not limited to, monitoring vehicle (or engine) preconditioning, emissions tests and mileage (or service) accumulation, maintenance, and vehicle soak and storage procedures (or engine storage procedures), and to verify correlation or calibration of test equipment;

(ii) To inspect and make copies of any such records, designs, or other documents; and

(iii) To inspect and/or photograph any part or aspect of any such certification vehicle (or certification engine) and any components to be used in the construction thereof.

(3) In order to allow the Administrator to determine whether or not production motor vehicles (or production motor vehicle engines) conform in all material respects to the design specifications which applied to those vehicles (or engines) described in the application for certification for which a certificate of conformity has been issued to standards prescribed under section 202 of the Act, any manufacturer shall admit any EPA Enforcement Officer on presentation of credentials to both:

(i) Any facility where any document, design, or procedure relating to the translation of the design and construction of engines and emission related components described in the application for certification or used for certification testing into production vehicles (or production engines) is located or carried on; and

(ii) Any facility where any motor vehicles (or motor vehicle engines) to be introduced into commerce are manufactured or assembled.

(4) On admission to any such facility referred to in paragraph (c)(3) of this section, any EPA Enforcement Officer shall be allowed:

(i) To inspect and monitor any aspects of such manufacture or assembly and other procedures;

(ii) To inspect and make copies of any such records, documents or designs; and

(iii) To inspect and photograph any part or aspect of any such new motor vehicles (or new motor vehicle engines) and any component used in the assembly thereof that are reasonably related to the purpose of his entry.

(5) Any EPA Enforcement Officer shall be furnished by those in charge of a facility being inspected with such reasonable assistance as he may request to help him discharge any function listed in this paragraph. Each applicant for or recipient of certification is required to cause those in charge of a facility operated for its benefit to furnish such reasonable assistance without charge to EPA whether or not the applicant controls the facility.

(6) The duty to admit or cause to be admitted any EPA Enforcement Officer applies whether or not the applicant owns or controls the facility in question and applies both to domestic and to foreign manufacturers and facilities. EPA will not attempt to make any inspections which it has been informed that local law forbids. However, if local law makes it impossible to do what is necessary to insure the accuracy of data generated at a facility, no informed judgment that a

vehicle or engine is certifiable or is covered by a certificate can properly be based on those data. It is the responsibility of the manufacturer to locate its testing and manufacturing facilities in jurisdictions where this situation will not arise.

(7) For purposes of this paragraph:

(i) "Presentation of credentials" shall mean display of the document designating a person as an EPA Enforcement Officer.

(ii) Where vehicle, component, or engine storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(iii) Where facilities or areas other than those covered by paragraph (c)(7)(ii) of this section are concerned, "operating hours" shall mean all times during which an assembly line is in operation or all times during which testing, maintenance, mileage (or service) accumulation, production or compilation of records, or any other procedure or activity related to certification testing, to translation of designs from the test stage to the production stage, or to vehicle (or engine) manufacture or assembly is being carried out in a facility.

(iv) "Reasonable assistance" includes, but is not limited to, clerical, copying, interpretation and translation services, the making available on request of personnel of the facility being inspected during their working hours to inform the EPA Enforcement Officer of how the facility operates and to answer his questions, and the performance on request of emissions tests on any vehicle (or engine) which is being, has been, or will be used for certification testing. Such tests shall be nondestructive, but may require appropriate mileage (or service) accumulation. A manufacturer may be compelled to cause the personal appearance of any employee at such a facility before an EPA Enforcement Officer by written request for his appearance, signed by the Assistant Administrator for Enforcement, served on the manufacturer. Any such employee who has been instructed by the manufacturer to appear will be entitled to be accompanied, represented, and advised by counsel.

(v) Any entry without 24 hour prior written or oral notification to the affected manufacturer shall be authorized in writing by the Assistant Administrator for Enforcement.

§ 86.077–8 Emission standards for 1977 light-duty vehicles.

(a)(1) Exhaust emissions from 1977 model year light duty vehicles shall not exceed:

(i) *Hydrocarbons.* 0.41 grams per vehicle mile.

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 2.0 grams per vehicle mile.

(2) For those manufacturers who have been granted a suspension of the standards specified in paragraph (a)(1) the following standards for exhaust emissions from 1977 model year light-duty vehicles shall apply:

(i) *Hydrocarbons.* 1.5 grams per vehicle mile.

(ii) *Carbon monoxide.* 15 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 2.0 grams per vehicle mile.

(3) The standards set forth in paragraphs (a)(1) and (a)(2) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B and measured and calculated in accordance with those procedures.

(b)(1) Fuel evaporative emissions from 1977 model year gasoline-fueled light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per test.

(2) The standard set forth in paragraph (a)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1977 model year gasoline-fueled light-duty vehicle.

§ 86.077–9 Emission standards for 1977 light-duty trucks.

(a)(1) Exhaust emissions from 1977 and later model year light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per vehicle mile.

(ii) *Carbon monoxide.* 20 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 3.1 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B and measured and calculated in accordance with those procedures.

(b)(1) Fuel evaporative emissions from 1977 model year gasoline-fueled light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1977 model year gasoline-fueled light-duty truck.

§ 86.077–10 Emission standards for 1977 gasoline-fueled heavy-duty engines.

(a)(1) Exhaust emissions from new 1977 and later model year gasoline-fueled heavy-duty engines shall not exceed:

(i) *Hydrocarbons plus oxides of nitrogen (as NO_2).* 16 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 40 grams per brake horsepower hour.

(2) The standards set forth in paragraph (b)(1) of this section refer to composite samples representing the operating cycle set forth in Subpart H and measured in accordance with those procedures.

(b) [Reserved]

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1977 and later model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subpart H to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

§ 86.077–11 Emission standards for 1977 Diesel heavy-duty engines.

(a)(1) The opacity of smoke emissions from new 1977 and later model year Diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (a)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I and measured and calculated in accordance with those procedures.

(b)(1) Exhaust gaseous emissions from new 1977 and later model year Diesel heavy-duty engines shall not exceed:

(i) *Hydrocarbons plus oxides of nitrogen (as NO_2).* 16 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 40 grams per brake horsepower hour.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust gaseous emissions generated under the conditions set forth in Subpart J and measured and calculated in accordance with those procedures.

(c)–(d) [Reserved]

(e) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subparts I and J to ascertain that such test engines meet the requirements of paragraphs (a) and (b) of this section.

§ 86.077–12—§ 86.077–20 [Reserved]

§ 86.077–21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles (or engines) covered by the application and a description of their engine (vehicles only), emission control

system, and fuel system components. This shall include a detailed description of each auxiliary emission control device (AECD) to be installed in or on any certification test vehicle (or certification test engine).

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed mileage (or service) accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under §§ 86.077–32, 86.077–33, and 86.077–34 shall be submitted in such multiple copies as the Administrator may require.

§ 86.077–22 Approval of application for certification; test fleet selections.

(a) After a review of the application for certification and any other information which the Administrator may require, the Administrator may approve the application and select a test fleet in accordance with § 86.077–24.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons including incompleteness, inaccuracy, inappropriate proposed mileage (or service) accumulation procedures, test equipment, or fuel, and incorporation of defeat devices in vehicles (or on engines) described by the application.

(c) Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection. Within 30 days following receipt of such notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.077–6 with respect to such issue.

§ 86.077–23 Required data.

(a) The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information: *Provided, however,* That: (1) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles (or engines) for which emission data are available, or will be made available, under the provisions of § 86.077–29, or

(2) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles (or engines) at zero kilometers (or zero hours) of operation.

(b) Durability data on such vehicles (or engines) tested in accordance with the applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle (or engine) for extended mileage (or extended operation), as well as a record of all pertinent maintenance (all maintenance and servicing for Diesel heavy-duty engines) performed on the test vehicles (or test engines).

(c) *Emission data.* (1) *Certification vehicles.* (i) Emission data on such vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show their emissions after zero kilometers (zero miles) and 6436 kilometers (4000 miles) of operation.

(ii) Emission data on those vehicles selected under § 86.077–24(b)(1)(v) and tested in accordance with the applicable test procedures of this part and in such numbers as therein specified, which shall be tested at zero kilometers (zero miles) at any altitude, and under high-altitude conditions after 6436 kilometers (4000 miles) of operation at any altitude.

(2) *Certification engines.* Emission data on such engines tested in accordance with applicable emission test procedures and in such numbers as specified, which will show their emissions after zero hours and 125 hours of operation.

(d) A statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.077–5(b) and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.077–5(b) and the data derived from such tests are available to the Administrator upon request.

(e) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with §§ 86.077–8, 86.077–9, 86.077–10, or § 86.077–11, as applicable, are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification, and that on the basis of such tests the vehicles (or engines) conform to the requirements of the regulations in this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicle (or test engine) was not as described in the application for certification or was not tested in accordance with applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards. The provisions of § 86.077–30 (b) shall then be followed.

§ 86.077–24 Test vehicles and engines.

(a)(1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a ⅛-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics; gasoline-fueled vehicles and engines only.

(ix) Thermal reactor characteristics; gasoline-fueled vehicles and engines only.

(3) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine.

(i) The bore and stroke.

(ii) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition or injection timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a) (2) and (3) of this section, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(b) Emission data. (1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system-evaporative emission control system combinations as applicable. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to such features as transmission type, fuel system, and inertia weight class.

(iii) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options, and axle ratios.

(iv) If the vehicles selected in accordance with paragraphs (b)(1) (ii) and (iii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to such features as transmission type, fuel system, and inertia weight class.

(v) The Administrator will also select one vehicle for each engine-system combination within an engine family for which vehicles are to be sold to ultimate purchasers at high altitude.

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b)(1)(v) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraphs (b)(1) (ii), (iii), or (iv) of this section by requiring a vehicle selected for testing under paragraphs (b)(1) (ii), (iii), or (iv) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance in accordance with § 86.077-23(c)(1)(ii).

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the applicable model year. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(iii) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(iv) If the engines selected in accordance with paragraphs (b)(2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to Diesel heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon their exhaust emission control systems. One engine of each engine-system combination shall be run for smoke emission data and gaseous emission data as prescribed in § 86.077-26(c)(3). Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine-system combination, then one military engine shall be also selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) Durability data. (1) *Durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system, and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(2) *Gasoline-fueled heavy-duty durability-data engines.* Paragraph (c)(2) of this section applies to gasoline-fueled heavy-duty durability-data engines.

(i) A durability-data engine will be selected by the Administrator to represent each engine-system combination. The engine selected shall be of the displacement with the largest projected sales volume of engines with that exhaust emission control system in that engine family and will be designated by the Administrator as to fuel system.

(ii) [Reserved]

(iii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of paragraph (c)(2)(i) of this section. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(3) *Diesel heavy-duty durability-data engines.* Paragraph (c)(3) of this section applies to Diesel heavy-duty durability-data engines.

(i) One engine from each engine-system combination shall be tested as prescribed in § 86.077-26(c)(3)(ii). At each test point, either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine

which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will usually be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will usually be selected for durability testing. If an engine-system combination includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will usually be selected for durability testing.

(ii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of paragraph (c)(3)(i) of this section. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(d) For purposes of testing under § 86.077-26(a)(9), (b)(9) or (c)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (or durability-data engines) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles (or engines) selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle (or engine) whichever is greater.

(e) Any manufacturer whose projected sales for the model year in which certification is sought is less than

(1) 2000 gasoline-fueled light-duty vehicles, or

(2) 2000 Diesel light-duty vehicles, or

(3) 2000 gasoline-fueled light-duty trucks, or

(4) 2000 Diesel light-duty trucks, or

(5) 700 gasoline-fueled heavy-duty engines, or

(6) 200 Diesel heavy-duty engines,

may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.077-23 has previously been submitted.

(g)(1) This paragraph applies to light-duty vehicles and light-duty trucks.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, unless excluded by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items of optional equipment shall actually be installed, unless specifically excluded by the Administrator, on all emission-data and durability-data vehicles in the engine family on which the option is intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes, and other items determined by the Administrator.

(4) Optional equipment that can reasonably be expected to influence emissions which is utilized on 33 percent or less of the vehicles in the engine family shall not be installed on any vehicle in that engine family unless specifically required under this section.

§ 86.077-25 Maintenance.

(a) *Light-duty vehicles and light-duty trucks.* Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(1) Scheduled maintenance on the engine, emission control system and fuel system of durability-data vehicles shall be scheduled for performance during durability testing at the same mileage intervals that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle. Such maintenance shall be performed, except as provided in paragraph (a)(5)(iii) of this section, only under the following provisions:

(i) Scheduled major engine tuneups to manufacturer's specifications may be performed no more frequently than every 12,500 miles of scheduled driving, provided that no tuneup may be performed after 45,000 miles of scheduled driving. A scheduled major engine tuneup shall be restricted to paragraph (a)(1)(i)(A) or (B) of this section, as applicable, and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel.

(A) *For gasoline-fueled vehicles*, the following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Ignition system.

(*2*) Cold starting enrichment system (includes fast idle speed setting).

(*3*) Curb idle speed and air/fuel mixture.

(*4*) Drive belt tension on engine accessories.

(*5*) Valve lash.

(*6*) Inlet air and exhaust gas control valves.

(*7*) Engine bolt torque.

(*8*) Spark plugs.

(*9*) Fuel filter and air filter.

(*10*) Crankcase emission control system.

(*11*) Fuel evaporative emission control system.

(B) *For Diesel vehicles*, a major engine tuneup shall be restricted to the following:

(*1*) Adjust low idle speed.

(*2*) Adjust valve lash if required.

(*3*) Adjust injector timing.

(*4*) Adjust governor.

(*5*) Clean and service injector tips.

(*6*) Adjust drive belt tension on engine accessories.

(*7*) Check engine bolt torque and tighten as required.

(ii) Change of engine and transmission oil, and change or service of oil filter will be allowed at the same mileage intervals that will be specified in the manufacturer's maintenance instructions.

(iii) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to adjustment during scheduled major engine tuneups, once during the first 5,000 miles of vehicle operation.

(2)(i) *For gasoline-fueled vehicles*, unscheduled maintenance on the engine, emission control system and fuel system of durability-data vehicles may be performed, except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Any persistently misfiring spark plug may be replaced, in addition to replacement at scheduled major engine tuneup points.

(B) Readjustment of the engine cold starting enrichment system may be performed if there is a problem of stalling or if there is visible black smoke.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(D) The idle mixture may be reset, other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(ii) *For Diesel vehicles*, unscheduled maintenance on the engine, emission control system and fuel system of durability-data vehicles may be performed, except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Injectors may be changed if a persistent misfire is detected.

(B) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(3) An exhaust gas recirculation (EGR) system may be serviced during durability testing only under one of the following provisions:

(i) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneups if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance at each of those mileage points. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(ii) Manufacturers may service the EGR system as unscheduled maintenance a maximum of three times during the 50,000 miles if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for EGR system maintenance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(iii) Manufacturers may service the EGR system a maximum of three times during the 50,000 miles either at a scheduled major engine tuneup point or as unscheduled maintenance, if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance. The signal may be activated either by EGR system failure (unscheduled maintenance) or need for scheduled periodic maintenance. If maintenance is performed, the signal for scheduled periodic maintenance shall be reset. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of the vehicles in use.

(iv) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup(s) if failure to perform EGR system maintenance is not likely, as determined by the Administrator, to result in an improvement in vehicle performance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(4) The catalytic converter may be serviced once during 50,000 miles if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for maintenance. The signal may be activated either by component failure or need for maintenance at a scheduled point.

(5) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data vehicles shall be performed only with the advance approval of the Administrator.

(i) In the case of unscheduled maintenance, such approval will be given if the Administrator:

(A) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle unrepresentative of vehicles in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement (as applicable); and

(B) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, vehicle stalling, overheating, fluid leakage, loss of oil pressure, or charge indicator warning.

(ii) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (a)(5)(i)(A).

(iii) Requests for authorization of scheduled maintenance of emission control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on vehicles in use.

(6) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle unrepresentative of vehicles in use, the vehicle shall not be used as a durability-data vehicle.

(7) Where the Administrator agrees under § 86.077-26 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(8)(i) Adjustment of engine idle speed on emission-data vehicles may be performed once before the 6436-kilometer (4000-mile) test point. Any other engine, emission control system or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission-data vehicles shall be performed only with the advance approval of the Administrator.

(ii) Maintenance on emission-data vehicles selected under § 86.077-24(b)(1)(v) and permitted to be tested for purposes of § 86.077-23(b)(1)(ii) under the provisions of § 86.077-24(b)(1)(vi) may be performed in conjunction with emission control system modifications at the 6436-kilometer (4000-mile) test point, and shall be performed in accordance with the maintenance instructions to be provided to the ultimate purchaser required under § 86.077-33.

(iii) Maintenance on those emission-data vehicles selected under § 86.077-24(b)(1)(v) which are not capable of being modified in the field for the purpose of complying with emission standards at an altitude other than intended by the original design may be performed in conjunction with the emission control system modifications at the 6436-kilometer (4000-mile) test point, and shall be approved in advance by the Administrator.

(9) Repairs to vehicle components of the durability-data or emission-data vehicle other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(10) Complete emission tests (see §§ 86.177-5 through 86.177-23) are required, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be air posted to the Administrator within 24 hours (or delivered within 3 working days) after the test along with a complete record of all pertinent maintenance including a preliminary engineering report of any malfunction diagnosis and corrective action taken. A complete engineering report shall be delivered or air posted to the Administrator within 10 working days after the tests. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 86.077-23.

(11) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or vehicle malfunction (e.g., misfiring, stalling, black smoke), or an activation of an audible and/or visual signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(12) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and

(i) Are used in conjunction with scheduled maintenance on such components.

(ii) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (a)(5)(i) of this section for durability-data vehicles or paragrap (a)(8)(i) of this section for paragraph (a)(8)(i) of this section for emission-data vehicles, or

(iii) Unless specifically authorized by the Administrator.

(b) [Reserved]

(c)(1) *Gasoline-fueled heavy-duty engines.* Paragraph (c) of this section applies to gasoline-fueled heavy-duty engines.

(2)(i) Scheduled maintenance may be performed on durability-data engines only under the following provisions:

(A) Major engine tuneups to manufacturer's specifications may be performed no more frequently than every 375 hours of scheduled dynamometer operation, provided no tuneups are performed after 1375 hours of scheduled dynamometer operation. The maintenance to be performed on the durability-data engines shall be requested in the application for certification and shall be specified at the same intervals in the maintenance instructions which will be furnished to the ultimate purchaser of the vehicle in which the engine, which is represented by the test engine, is installed. (For equivalent dynamometer hours, engine hours, and mileage intervals, see § 86.077–2.) A scheduled major engine tuneup shall be restricted to paragraphs (c)(2)(i)(A)(*1*) through (*12*) of this section and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by the customer service personnel. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Ignition system.

(2) Cold starting enrichment system (includes fast idle speed setting).

(3) Curb idle speed and air/fuel mixture.

(*4*) Drive belt tension on engine accessories.

(*5*) Valve lash.

(*6*) Inlet air and exhaust gas control valves.

(*7*) Engine bolt torque.

(*8*) Spark plugs.

(*9*) Fuel filter and air filter.

(*10*) Crankcase emission control system.

(*11*) Fuel evaporative emission control system.

(*12*) Exhaust gas recirculation system.

(B) Change of engine oil, and change or service of oil filter will be allowed at the equivalent intervals that will be specified in the manufacturer's maintenance instructions.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to during scheduled major engine tuneups, once during the first 125 hours of engine operation.

(ii) Unscheduled maintenance may be performed on durability-data engines, except as provided in paragraph (c)(v)(A) of this section, only under the following provisions:

(A) Any persistently misfiring spark plug may be replaced, in addition to replacement at scheduled major engine tuneup points.

(B) Readjustment of the engine cold starting enrichment system may be performed if there is a problem of stalling or if there is visible black smoke.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (c)(2)(i) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(D) The idle mixture may be reset, other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(iii)—(iv) [Reserved]

(v) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data engines shall be performed only with the advance approval of the Administrator.

(A) In the case of unscheduled maintenance such approval will be given if the Administrator:

(*1*) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the engine unrepresentative of engines in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and

(2) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine stalling, overheating, fluid leakage, loss of oil pressure, excessive fuel consumption, or excessive power loss.

(B) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (c)(2)(v)(A)(*1*) of this section.

(C) Requests for authorization of scheduled maintenance of emission control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on engines in use.

(vi) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the engine unrepresentative of engines in use, the engine shall not be used as a durability-data engine.

(3)(i) Scheduled maintenance on emission-data engines is limited to the adjustment of idle speed once before the 125-hour test point, provided the idle speed is outside the manufacturer's specifications to be shown on the engine label (see § 86.077–35(a)(2)(iii)).

(ii) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement shall be performed only with the advance approval of the Administrator.

(4) [Reserved]

(5)(i) Complete emission tests (see §§ 86.777–5 through 86.777–15) are required unless waived by the Administrator, before and after:

(A) Scheduled maintenance approved for durability-data engines.

(B) Unscheduled maintenance which may reasonably be expected to affect emissions.

(ii) The tests before and after scheduled maintenance, which are performed on durability-data engines prior to 117 hours, are waived. The test before scheduled maintenance, which is performed on durability-data engines after 117 hours and prior to 133 hours, is waived. The after-maintenance test must be run and the results used in the deterioration factor calculation in accordance with § 86.077–28(b)(4)(i)(A)(2).

(iii) The idle speed reset and any scheduled maintenance on the emission-data engine shall be performed prior to the 125-hour test. The before-maintenance and after-maintenance tests associated with idle speed reset and scheduled maintenance on the emission-data engine are waived.

(iv) Test data required by this paragraph shall be air posted to the Administrator within 72 hours (or delivered within 5 working days), along with a complete record of all pertinent maintenance.

(v) When unscheduled maintenance is approved, a preliminary engineering report, unless waived by the Administrator, shall be air posted within 72 hours (or delivered within 5 working days). A final engineering report shall be delivered or air posted within 10 working days after the completion of the emission tests. The Administrator may approve an extension of the time requirements for the final engineering report.

(vi) All test data, maintenance reports, and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.077–23.

(6) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or engine malfunction (e.g., misfiring, stalling).

(7) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets, and

(i) Are used in conjunction with scheduled maintenance on such components;

(ii) Are used subsequent to the identification of an engine failure or malfunction, as provided in paragraph (c)(2)(v)(A) of this section for durability-data engines or paragraph (c)(3) of this section for emission-data engines; or

(iii) Unless specifically authorized by the Administrator.

(d)(1) *Diesel heavy-duty engines.* Paragraph (d) of this section applies to Diesel heavy-duty engines.

(2)(i) Scheduled maintenance may be performed on durability-data engines only under the following provisions:

(A) One major engine servicing to manufacturer's specifications may be performed prior to 875 hours (±8 hours) of scheduled dynamometer operation provided such maintenance is requested in the application for certification and is specified in the maintenance instructions which will be furnished to the ultimate

purchaser of the motor vehicle in which the engine, which is represented by the test engine, is installed. (For equivalent dynamometer hours, engine hours, and mileage intervals, see § 86.077–2.) A scheduled major servicing shall be restricted to paragraphs (d)(2)(i)(A)(*1*) through (*7*) of this section and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Low idle speed.
(*2*) Drive belt tension.
(*3*) Engine bolt torque.
(*4*) Valve lash.
(*5*) Injection timing.
(*6*) Injector assemblies.
(*7*) Governor settings.

(B) Normal engine servicing such as engine oil change, and oil filter, fuel filter, and air filter cleaning or replacement will be allowed at manufacturer's recommended intervals. If approved in advance by the Administrator, the maintenance for these items may differ from that specified in the manufacturer's maintenance instructions.

(C) Readjustment of the engine low idle speed may be performed once during the first 125 hours of engine operation.

(ii) Unscheduled maintenance may be performed on durability-data engines, except as provided in paragraph (d)(2)(v)(A) of this section, only under the following provisions:

(A) Injectors may be changed if a persistent misfire is detected.

(B) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (d)(2)(i) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(iii)–(iv) [Reserved]

(v) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data engines shall be performed only with the advance approval of the Administrator.

(A) In the case of unscheduled maintenance such approval will be given if the Administrator:

(*1*) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the engine unrepresentative of engines in use, and does not require direct access to the combustion chamber, except for fuel injection component, or removable prechamber removal or replacement; and

(*2*) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine stalling, overheating, fluid leakage, loss of oil pressure, excessive fuel consumption or excessive power loss.

(B) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (d)(2)(v)(A)(*1*) of this section.

(C) Requests for authorization of scheduled maintenance of emission control related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on engines in use.

(vi) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the engine unrepresentative of engines in use, the engine shall not be used as a durability-data engine.

(3)(i) Scheduled maintenance on emission-data engines is limited to the adjustment of idle speed once before the 125-hour test point, provided the idle speed is outside the manufacturer's specifications required to be shown on the engine label (see § 86.077–35(a)(3)(iii)).

(ii) Any other engine, emission control system, or fuel system, adjustment, repair, removal, disassembly, cleaning, servicing, or replacement shall be performed only with the advance approval of the Administrator.

(4) [Reserved]

(5)(i) Complete emission tests (see §§ 86.877–5 through 86.877–14 and §§ 86.977–5 through 86.977–15) are required, unless waived by the Administrator, before and after:

(A) Scheduled maintenance approved for durability-data engines.

(B) Unscheduled maintenance which may reasonably be expected to affect emissions.

(ii) The tests before and after scheduled maintenance, which are performed on durability-data engines prior to 117 hours, are waived. The test before scheduled maintenance, which is performed on durability-data engines after 117 hours and prior to 133 hours, is waived. The after-maintenance test must be run and the results used in the deterioration factor calculation in accordance with § 86.077–28(c)(4)(i)(B) or (C).

(iii) The idle speed reset and any scheduled maintenance on the emission-data engine shall be performed prior to the 125-hour test. The before-maintenance and after-maintenance tests associated with idle speed reset and scheduled maintenance on the emission-data engine are waived.

(iv) Test data required by this paragraph shall be air posted to the Administrator within 72 hours of test completion (or delivered within 5 working days), along with a complete record of all pertinent maintenance.

(v) When unscheduled maintenance is approved, a preliminary engineering report, unless waived by the Administrator, shall be air posted within 72 hours (or delivered within 5 working days). A final engineering report shall be delivered or air posted within 10 working days after the completion of the emission tests. The Administrator may approve an extension of the time requirements for the final engineering report.

(vi) All test data, maintenance reports, and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.077–23.

(6) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or engine malfunction (e.g., misfiring, stalling).

(7) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and

(i) Are used in conjunction with scheduled maintenance on such components;

(ii) Are used subsequent to the identification of an engine failure or malfunction, as provided in paragraph (d)(2)(v)(A) of this section for durability-data engines or paragraph (d)(3) of this section for emission-data engines; or

(iii) Unless specifically authorized by the Administrator.

§ 86.077–26 Mileage and service accumulation; emission measurements.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV of this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.177–11(d), the manufacturer may elect to conduct the respective emission tests at the inertia weight corresponding to the higher loaded vehicle weight.

(3) Emission-data vehicles: Unless as otherwise provided for in § 86.077–23(a), emission-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* (A) Each gasoline-fueled emission-data vehicle shall be driven 6436 kilometers (4000 miles) with all emission control systems installed and operating. Complete exhaust emission and fuel evaporative emission tests (see § 86.177–5(a)) shall be conducted at zero kilometers (zero miles) and 6436 kilometers (4000 miles) unless the Administrator determines, based on data submitted under § 86.077–24(f), that only the exhaust emission test (see § 86.177–5(b)) shall be conducted at zero kilometers (zero miles) and 6436 kilometers (4000 miles).

(B) The emission-data vehicle(s) selected for testing under § 86.077–24(b)(1)(v) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and

6436 kilometers (4000 miles) under high altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.077–24(b)(1)(v) and permitted to be tested for purposes of § 86.077–23(c)(1)(ii) under the provisions of § 86.077–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low- and high-altitude conditions. For the purposes of this subparagraph, "low altitude" means any elevation less than 549 meters (1800 feet).

(ii) *Diesel.* (A) Each Diesel emission-data vehicle shall be driven 6436 kilometers (4000 miles) with all emission control systems installed and operating. Emission tests shall be conducted at zero kilometers (zero miles) and 6436 kilometers (4000 miles).

(B) The emission-data vehicle(s) selected for testing under § 86.077–24(b)(1)(v) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.077–24(b)(1)(v) and permitted to be tested for purposes of § 86.077–23(c)(1)(ii) under the provisions of § 86.077–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low- and high-altitude conditions. For the purpose of this subparagraph "low altitude" means any elevation less than 549 meters (1800 feet).

(4) Durability-data vehicles: Unless as otherwise provided for in § 86.077–23(a), durability-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* Each gasoline-fueled durability-data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objective of this procedure. Complete exhaust emission and fuel evaporative emission tests (see § 86.177–5(a)) shall be made at the following mileage points: 0, 5,000, 10,000, 15,000, 20,000, 25,000, 30,000, 35,000, 40,000, 45,000 and 50,000, unless the Administrator determines based on data submitted under § 86.077–24(f) that only the exhaust emission tests (see § 86.177–5(b)) shall be made at the mileage points specified in this paragraph.

(ii) *Diesel.* Each Diesel durability-data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. Complete emission tests (see §§ 86.177–6 through 86.177–23) shall be made at the following mileage points: 0, 5,000, 10,000, 15,000, 20,000, 25,000, 30,000, 35,000, 40,000, 45,000, and 50,000.

(5) All tests required by this subpart to be conducted after every 5,000 miles of driving for durability-data vehicles and 4,000 miles for emission-data vehicles must be conducted at any accumulated mileage within 250 miles of each of those test points.

(6)(i) The results of each emission test shall be supplied to the Administrator immediately after the test. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delivered within 3 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.077–23. Where the Administrator conducts a test on durability-data vehicle at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E 29–67, to the number of places to the right of the decimal point indicated by expressing the applicable emission standards of this subpart to three significant figures.

(7) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero-mile test data to the Administrator (except for those vehicles for which the zero-mile test requirement has been waived under § 86.077–23(a)(2)) and make the vehicle available for such testing under § 86.077–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(8) Once a manufacturer begins to operate an emission-data or durability-data vehicle, as indicated by compliance with paragraph (a)(7) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 86.077–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(9)(i) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(ii) The test procedures in §§ 86.177–5 through 86.177–23 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification vehicle other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

(b)(1) Paragraph (b) of this section applies to gasoline-fueled heavy-duty engines.

(2) The engine dynamometer service accumulation schedule will consist of several operating conditions which give the same percentage of time at various manifold vacuums and modes as specified in the emission test cycle. The average speed shall be between 1,650 and 1,700 r.p.m. Subject to the requirements as to average speed, there must be operation at speeds in excess of 3,200 r.p.m. (but not in excess of governed speed for governed engines or rated speed for non-governed engines) for a cumulative maximum of 0.5 percent of the actual cycle time, excluding time in transient conditions. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(3) Emission-data engines: Unless as otherwise provided for in § 86.077–23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(4) Durability-data engines: Unless as otherwise provided for in § 86.077–23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated, with all emission control systems installed and operating, for 1,500 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(5) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(6)(i) The results of each emission test shall be supplied to the Administrator within 72 hours (or delivered within

5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.077–23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E 29–67.

(7) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.077–23(a)(2)) and make the engine available for such testing under § 86.077–29 as the Administrator may require before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(8) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (b)(7) of this section, he shall continue to run the engine to 125 hours or 1,500 hours, respectively, and the data from the engine will be used in the calculations under § 86.777–15. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(9)(i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (§§ 86.777–5 through 86.777–15) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification engine other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

(c)(1) Paragraph (c) of this section applies to Diesel heavy-duty engines.

(2) The procedures set forth in this section describe the service accumulation that shall be accomplished on each test engine and when tests are to be conducted.

(3)(i) Emission-data engines: Unless as otherwise provided for in § 86.077–23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours.

(ii) Durability-data engines: Unless as otherwise provided for in § 86.077–23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated, with all emission control systems installed and operating, for 1,000 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval.

(4) A break-in procedure, not to exceed 20 hours, may be run if approved in writing in advance by the Administrator. This procedure would run after the zero-hour test, and the hours accumulated would not be counted as part of the service accumulation.

(5) Before service accumulation can begin, the following criteria must be met. Failure to comply with these requirements shall invalidate all test data submitted for an engine.

(i) Each engine shall produce at least 95 percent of the maximum horsepower, corrected to rating conditions, at 95 to 100 percent of the rated speed.

(ii) The fuel rate at maximum horsepower shall be within manufacturer's specifications.

(iii) The zero-hour test data shall be provided to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.077–23(a)(2)) and the engine shall be made available for such testing under § 86.077–29 as the Administrator may require.

(6) During service accumulation, hours can be credited toward the required service accumulation hours when the following criteria are met. If these criteria cannot be met, engine operation shall be discontinued and the Administrator shall be notified immediately. (Adjustments to the fuel rate can be approved under the provisions of § 86.077–25).

(i) Each engine shall produce at least 95 percent of the maximum horsepower, at 95 to 100 percent of the rated speed, observed during zero-hour testing. Horsepower values shall be corrected to the rating conditions.

(ii) The engine shall be operated at 75 percent of the inlet and exhaust restrictions specified in § 86.877–8 except that the tolerance will be ±3 inches of water and ±0.5 inches of Hg respectively.

(7) During each emission test the inlet and exhaust restrictions shall be as specified in § 86.877–8.

(8) Tests, other than zero-hour tests, may be conducted within eight (8) hours of the nominal test point.

(9)(i) The results of each emission test shall be air posted to the Administrator within 72 hours of test completion (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests (not to exceed three valid tests) at any test point, the number of tests must be the same at each point. The data obtained from all valid tests shall be used in the calculation of the deterioration factor. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.077–23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E 29–67.

(10) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (c) of this section, he shall continue to run the engine to 125 hours or 1,000 hours respectively, and the data from the engine shall be used in the calculations under §§ 86.877–14 and 86.977–15. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(11)(i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases, the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (§§ 86.877–5 through 86.877–14 and §§ 86.977–5 through 86.977–15) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(12) Emission testing of any type with respect to any certification engine other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

§ 86.077–27 Special test procedures.

(a) For light-duty vehicles or light-duty trucks, the Administrator may, on the basis of a written application therefore by a manufacturer, prescribe test procedures other than those set forth in this part for any motor vehicle which he determines is not susceptible to satisfactory testing by the procedures set forth in Subpart B.

(b) For heavy-duty engines, the Administrator may prescribe test procedures other than those set forth in this part for any motor vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth in Subparts H, I, or J.

§ 86.077–28 Compliance with emission standards.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The applicable exhaust and fuel evaporative emission standards of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new motor vehicle with exhaust and fuel evaporative emission standards, as applicable, is as follows:

(i) Separate emission deterioration factors shall be determined from the emission results of the durability-data vehicle(s) for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, exhaust NO_x, and fuel evaporative HC, as applicable.

(A) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*1*) All valid emission data from the tests required under § 86.077–26(a)(4), except the zero-mile tests. This shall include the official test results, as determined in § 86.077–29 for all tests conducted on all durability-data vehicles of the combination selected under § 86.077–24(c) (including all vehicles elected to be operated by the manufacturer under § 86.077–24(c)(1)(ii)).

(2) All emission data from the tests conducted before and after the scheduled maintenance provided in § 86.077–25.

(3) All emission data from tests required by maintenance approved under § 86.077–25, in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(B) All applicable results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in §§ 86.077–8 or 86.077–9, as applicable, or the data will not be acceptable for use in calculation of a deterioration factor, unless no applicable data point exceeded the standard.

(C) An exhaust emission deterioration factor shall be calculated for each combination as follows:

Factor=exhaust emissions interpolated to 50,000 miles divided by exhaust emissions interpolated to 4,000 miles.

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29–67.

(D) For gasoline-fueled vehicles, an evaporative emission deterioration factor shall be calculated for each combination by subtracting the evaporative emissions interpolated to 4,000 miles from the evaporative emissions interpolated to 50,000 miles. These interpolated values shall be carried out, in accordance with ASTM E 29–67, to a minimum of three decimal places to the right of the decimal point before subtracting one from the other to determine the deterioration factor.

(ii)(A) The exhaust emission test results for each emission-data vehicle shall be multiplied by the appropriate deterioration factor, *Provided*, That if a deterioration factor as computed in paragraph (a)(4)(i)(C) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(B) The evaporative emission test results for each combination shall be adjusted by addition of the appropriate deterioration factor. *Provided*, That if a deterioration factor as computed in paragraph (a)(4)(i)(D) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(iii) The emissions to compare with the standard shall be the adjusted emissions of paragraphs (a)(4)(ii)(A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(iv) Every test vehicle of an engine family must comply with all applicable standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(b)(1) Paragraph (b) of this section applies to gasoline-fueled heavy-duty engines.

(2) The exhaust emission standards in § 86.077–10 apply to the emissions of engines for their useful life.

(3) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of an engine which has accumulated 1,500 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the emission results of the durability-data engines for each engine-system combination. Separate factors shall be established for CO and for the combined emissions of HC and NO_x.

(A) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*1*) All valid emission data from the test required under § 86.077–26(b)(4), except the zero-hour tests. This shall include the official test results, as determined in § 86.077–29, for all tests conducted on all durability-data engines of the combination selected under § 86.077–24(c)(2) (including all engines elected to be operated by the manufacturer under § 86.077–24(c)(2)(iii)).

(2) All emission data from the test conducted before and after maintenance provided in § 86.077–25(c)(2)(i)(A).

(3) All emission data from the test conducted before and after maintenance provided in § 86.077–25(c)(2)(v)(C) if emission tests were conducted.

(B) All applicable emission results for (*1*) HC+NO_x and (2) CO shall be plotted as a function of durability hours which shall be consistently rounded to the nearest hour. Emission data shall have two figures to the right of the decimal. The best fit straight lines ((*1*) HC+NO_x and (2) CO), fitted by the method of least squares, shall be drawn through these data points. The interpolated 125-hour and 1500-hour points on each line, rounded to whole numbers in accordance with ASTM E 29–67, must be within the standards specified in § 86.077–10 or the data shall not be used in the calculation of a deterioration factor, unless no applicable data points exceed the standards.

(C) The interpolated values shall be used to calculate a deterioration factor as follows:

Factor=Exhaust emissions interpolated to 1500 hours minus the exhaust emissions interpolated to 125 hours. (Negative deterioration factors shall be considered zero.)

(ii) The appropriate deterioration factor, carried out to two places to the right of the decimal point, shall be added to the exhaust emission test results, carried out to two places to the right of

the decimal point, for each emission-data engine.

(iii) The emission values to compare with the standards shall be the adjusted emission values of paragraph (b)(4)(ii) of this section rounded to whole numbers in accordance with ASTM E 29-67 for each emission-data engine.

(iv) Every test engine of an engine family must comply with all applicable standards, as determined in paragraph (b)(4)(iii) of this section, before any engine in that family will be certified.

(c)(1) Paragraph (c) of this section applies to Diesel heavy-duty engines.

(2) The emission standards in § 86.077-11 apply to the emissions of engines for their useful lives.

(3) Since emission control efficiency decreases with accumulation of hours on the engine, the emission level of an engine which has accumulated 1,000 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance with emission standards for Diesel heavy-duty engines is as follows:

(i) Emission deterioration factors for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), the peak opacity (designated as "C"), the CO exhaust emissions, and the $HC+NO_x$ exhaust emissions shall be established separately for each engine-system combination.

(A) The applicable results to be used in determining the deterioration factors for each combination shall be:

(1) All emission data from the tests required under § 86.077-26(c)(3)(ii), except the zero-hour tests. This shall include the official test results, as determined in § 86.077-29, for all tests conducted on all durability-data engines of the combination selected under § 86.077-24(c)(3)(i) (including all engines selected to be operated by the manufacturer under § 86.077-24(c)(3)(ii)).

(2) All emission data from the tests conducted before and after the maintenance provided in § 86.077-25(d)(2)(i)(A) if emission tests were conducted.

(3) All emission data from the tests conducted before and after maintenance provided in § 86.077-25(d)(2)(v)(C) if emission tests were conducted.

(B) All applicable emission results for (1) $HC+NO_x$, (2) CO, (3) acceleration smoke ("a"), (4) lugging smoke ("b"), and (5) peak smoke ("c") shall be plotted as a function of durability hours which shall be consistently rounded to the nearest hour. Emission data shall have two figures to the right of the decimal. The best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1000-hour points on each line, rounded to whole numbers in accordance with ASTM E 29-67, must be within the standards specified in § 86.077-11 or the data shall not be used in the calculation of the deterioration factor, unless no applicable data points exceeded the standards.

(C) The interpolated values shall be used to calculate a deterioration factor as follows:

Factor = Exhaust emissions (both smoke and gaseous) interpolated to 1000 hours minus the exhaust emissions interpolated to 125 hours. (Negative deterioration factors shall be considered zero).

(ii) The appropriate deterioration factor, carried out to two places to the right of the decimal point, shall be added to the exhaust emission test results, carried out to two places to the right of the decimal point, for each emission-data engine.

(iii) The emission values to compare with the standards shall be the adjusted emission values of paragraph (c)(4)(ii) of this section rounded to whole numbers in accordance with ASTM E 29-67 for each emission-data engine.

(iv) Every test engine of an engine family must comply with all applicable standards, as determined in paragraph (c)(4)(iii) of this section, before any engine in that family will be certified.

§ 86.077-29 Testing by the Administrator.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purposes of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point, *Provided*, That if the Administrator makes a determination based on testing under paragraph (a)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *And further provided*, That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer are not accurate or have been obtained in violation of any provisions of this part, the Administrator may refuse to accept those data as the official data pending retesting or submission or further information.

(iii)(A) The emission-data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 86.077-35(a)(1)(iii)(D)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle shall be adjusted, at the facility designated by the Administrator, prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle shall be used as an emission-data vehicle.

(B) If the Administrator determines that the test data developed under paragraph (a)(3)(iii)(A) of this section would cause an emission-data vehicle to fail due to excessive 4,000 mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(1) The manufacturer may request a retest. Before the retest, the vehicle may be readjusted to manufacturer's specifications, if these adjustments were made incorrectly prior to the first test, and other maintenance or repairs may be performed in accordance with § 85.077-25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(2) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data vehicle.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a)(2) of this section to enable the Administrator to determine whether an emission-data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (a)(3)(iii)(A) and (B) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test engine the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the engine at that prescribed test point and the manufacturer's data for that prescribed

test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point, *Provided*, That if the Administrator makes a determination based on testing under paragraph (b)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *And further provided*, That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information.

(iii)(A) The emission-data engine presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the engine label (see § 86.077-35(a)(2)(iii)) as specified in the application for certification. If the Administrator determines that an engine is not within such tolerances, the engine shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report the Administrator will determine if the engine shall be used as an emission-data engine.

(B) If the Administrator determines that the test data developed under paragraph (b)(3)(iii)(A) of this section would cause the emission-data engine to fail due to excessive 125-hour emission values or by the application of the appropriate deterioration factor, then the following procedure shall be observed.

(*1*) The manufacturer may request a retest. Before the retest, the engine may be readjusted to manufacturer's specifications, if these adjustments were made incorrectly prior to the first test, and other maintenance or repairs may be performed in accordance with § 86.077-25. All work on the engine shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The engine will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data engine.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (b)(2) of this section to enable the Administrator to determine whether an emission-data engine would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (b)(3)(iii)(B)(*1*) and (*2*) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

§ 86.077-30 Certification.

(a)(1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.077-7(c) and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (c) of this section. If applicable, the certificate will state which vehicles are certified for sale at high altitude.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part. Each such certificate shall contain the following language:

This certificate covers only those new motor vehicles (or new motor vehicle engines) which conform, in all material respects, to the design specifications that applied to those vehicles (or engines) described in the application for certification and which are produced during the ____ model year production period of the said manufacturer, as defined in 40 CFR 86.077-2.

It is a term of this certificate that the manufacturer shall consent to all inspections described in 40 CFR 86.077-7(c) which concern either the vehicle (or engine) certified, or any production vehicle (or production engine) covered by this certificate, or any production vehicle (or production engine) which when completed will be claimed to be covered by this certificate. Failure to comply with all the requirements of § 86.077-7(c) with respect to any such vehicle (or engine) may lead to revocation or suspension of this certificate as specified in 40 CFR 86.077-30(c). It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in § 86.077-30 (c) or (d).

(3) One such certificate will be issued for each engine family and will certify compliance with no more than one set of applicable standards.

(4) A violation of section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells, offers for sale, introduces or delivers for introduction into commerce, any light-duty vehicle or light-duty truck, subject to the regulations under the Act, which is not covered by a certificate of conformity at high altitude issued under this part:

(i) At a designated high-altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or,

(ii) At an other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle is intended by the ultimate purchaser to be used principally at a designated high-altitude location.

(5) For the purpose of paragraph (a) of this section, "designated high-altitude location" is any county which has substantially all of its area located above 1219 meters (4,000 feet) and which is identified below.

COUNTIES LOCATED SUBSTANTIALLY ABOVE 1,219 METERS (4,000 FEET) IN ELEVATION

STATE OF ARIZONA	
Apache	Navajo
STATE OF COLORADO	
Adams	Jefferson
Alamosa	Lake
Arapahoe	La Plata
Archuleta	Larimer
Boulder	Las Animas
Chaffee	Lincoln
Clear Creek	Mesa
Conejos	Mineral
Costilla	Moffat
Crowley	Montezuma
Custer	Montrose
Dolores	Morgan
Delta	Ouray
Denver	Park
Douglas	Pitkin
Eagle	Pueblo
Elbert	Rio Blanco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saguache
Gilpin	San Juan
Grand	San Miguel
Gunnison	Summit
Hinsdale	Teller
Huerfano	Washington
Jackson	Weld
STATE OF IDAHO	
Bannock	Custer
Bear Lake	Franklin
Bingham	Fremont
Blaine	Jefferson
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Caribou	Power
Cassia	Teton
Clark	Valley
STATE OF MONTANA	
Beaverhead	Madison
Deer Lodge	Meagher
Gallatin	Park
Jefferson	Silver Bow
STATE OF NEBRASKA	
Banner	Sioux
Kimball	
STATE OF NEVADA	
Carson City	Lander
Douglas	Lyon
Elko	Mineral
Esmeralda	Storey
Eureka	White Pine
Humboldt	
STATE OF NEW MEXICO	
Bernalillo	Mora
Catron	Rio Arriba
Colfax	Sandoval
Curry	San Juan
De Baca	San Miguel
Grant	Santa Fe
Guadalupe	Sierra
Harding	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
STATE OF OREGON	
Lake	

STATE OF UTAH

Beaver	Piute
Box Elder	Rich
Cache	Salt Lake
Carbon	San Juan
Daggett	Sanpete
Davis	Sevier
Duchesne	Summit
Emery	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber
Morgan	

STATE OF WYOMING

Albany	Natrona
Carbon	Niobrara
Converse	Park
Fremont	Platte
Goshen	Sublette
Hot Springs	Sweetwater
Johnson	Teton
Laramie	Uinta
Lincoln	Weston

(6) The provisions of paragraph (a)(4) of this section shall not apply to any light-duty vehicle or light-duty truck, sold, offered for sale, introduced, or delivered for introduction into commerce in California, provided that the vehicle is covered by a certificate of conformity with emission standards in effect in California.

(7) Certificates issued for light-duty vehicles or light-duty trucks certified with catalytic converters shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "Catalyst-equipped vehicles, otherwise covered by this certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for importation without retrofit of the catalyst, they will be considered not to be within the coverage of this certificate unless included in a catalyst control program operated by a manufacturer or a United States Government Agency and approved by the Administrator."

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) *Light-duty vehicles and light-duty trucks.*

(A) A test vehicle selected under § 86.077-24(b)(1)(ii) or (iv) shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-evaporative emission control system combination, as applicable, to be sold below 1219 meters (4,000 feet) in elevation.

(B) A test vehicle selected under § 86.077-24(b)(1)(iii) shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-transmission type-fuel system combination to be sold below 1219 meters (4,000 feet) in elevation.

(C) A test vehicle selected under § 86.077-24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(D) A test vehicle selected under § 86.077-24(b)(1)(v) shall represent all vehicles of the same engine-system combination to be sold at high altitude.

(ii) *Gasoline-fueled heavy-duty engines.*

(A) A test engine selected under § 86.077-24(b)(2)(ii) and (iv) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(B) A test engine selected under § 86.077-24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A test engine selected under § 86.077-24(c)(2)(i) shall represent all engines of the same engine-system combination.

(iii) *Diesel heavy-duty engines.*

(A) A test engine selected under § 86.077-24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(B) A test engine selected under § 86.077-24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

(C) A test engine selected under § 86.077-24(c)(3)(i) shall represent all engines of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.077-29, data or information derived from any inspection carried out under § 86.077-7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.077-6 with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test vehicle(s) (or test engine(s)) determined not in compliance with applicable standards.

(i) Request a hearing under § 86.077-6; or

(ii) Delete from the application for certification the vehicles (or engines) represented by the failing test vehicle (or failing test engine). (Vehicles or engines so deleted may be included in a later request for certification under § 86.077-32.) The Administrator will then select in place of each failing vehicle (or failing engine) an alternate vehicle (or alternate engine) chosen in accordance with selection criteria employed in selecting the vehicle (or engine) that failed; or

(iii) Modify the test vehicle (or test engine) and demonstrate by testing that it meets applicable standards. Another vehicle (or engine) which is in all material respects the same as the first vehicle (or engine) as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under paragraph (b)(4) of this section, the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto.

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.077-7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or build up into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in (C) of this subdivision;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above.

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.077-7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1)(i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to

be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii), or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.077–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.077–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.077–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue he will grant the request with respect to such issue.

(d)(1) *For light-duty vehicles and light-duty trucks.* Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606.

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606 to

(A) Monitor vehicle selection pursuant to § 86.607,

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, 86.607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1)(i), (ii) or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1)(iii), (iv), (v), (vi), (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

§ 86.077–31 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles (or engines) for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles (or test engines) and the computation of test results will be determined separately for each application.

§ 86.077–32 Addition of a vehicle or engine after certification.

(a) If a manufacturer proposes to add to his product line a vehicle (or engine) of the same engine-system combination as vehicles (or engines) previously certified but which was not described in the application for certification when the test vehicle(s) (or test engine(s)) representing other vehicles (or engines) of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 86.077–34. This notification shall include a full description of the vehicle (or engine) to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test vehicle(s) (or test engine(s)) representing the vehicle (or engine) to be added which would have been required if the vehicle (or engine) had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 86.077–29, the Administrator determines that the test vehicle(s) or test engine(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test vehicle(s) (or test engine(s)) does not meet applicable standards, he will proceed under § 86.077–30(b).

§ 86.077–33 Changes to a vehicle or engine covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production vehicles (or production engines) in respect to any of the parameters listed in § 86.077–24(a)(3), § 86.077–24(b)(1)(iii), § 86.077–24(b)(2)(iii), or § 86.077–24(b)(3)(iii) as applicable, giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 86.077–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the vehicle (or engine), as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified vehicles (or engines) he will notify the manufacturer in writing. Except as provided in § 86.077–34, the change may not be put into effect prior to the manufacturer's receiving this noti-

fication. If the Administrator determines that the modified vehicles (or engines) would not be covered by the certificate then in effect, the modified vehicles (or engines) shall be treated as additions to the product line subject to § 86.077–32.

§ 86.077–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of a vehicle (or engine) under § 86.077–32 or a change in a vehicle (or engine) under § 86.077–33, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce vehicles (or engines) as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 86.077–32 (b) and (c), or § 86.077–33 (b) and (c) as appropriate.

(d) Election to produce vehicles (or engines) under this section will be deemed to be a consent to recall all vehicles (or engines) which the Administrator determines under § 86.077–32(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

§ 86.077–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards of this subpart, shall at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.077–30(a).

(1) *Light-duty vehicles and light-duty trucks.* (i) A legible, permanent label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family identification;

(D) Engine tuneup specifications and adjustments, as recommended by the manufacturer in accordance with the altitude at which the vehicle is to be sold to the ultimate purchaser, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable) as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty vehicles or light-duty trucks.

(F) The altitude at which the vehicle is intended for sale to the public as specified by a certificate of conformity under § 86.077–30.

(2) *Gasoline-fueled heavy-duty engines.* (i) A legible, permanent label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Engine Exhaust Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family identification;

(D) Date of engine manufacture (month and year);

(E) Engine tuneup specifications and adjustments as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), and valve lash. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(F) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations applicable to gasoline-fueled heavy-duty engines.

(iv) The label may be made up of one or more pieces provided that all pieces are permanently attached to the same engine part.

(3) *Diesel heavy-duty engines.* (i) A legible, permanent label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Engine Exhaust Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine family identification and model;

(D) Date of engine manufacture (month and year);

(E) Engine specification:

Advertised hp. ____ at ____ r.p.m.
Fuel rate at advertised hp. ____ mm³/stroke.
Valve lash ____ (inches).
Initial injection timing (if adjustable) ____.
(The information applicable to each engine is to be inserted on the appropriate line.)

(F) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations applicable to Diesel heavy-duty engines.

(iv) The label may be made up of one or more pieces provided that all pieces are permanently attached to the same engine or vehicle part as applicable.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle (or engine) conforms to any applicable state emission standards for new motor vehicles (or new motor vehicle engines) or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle (or engine).

(c) (1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 49 CFR 567.4(b) the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrasts with the background of the label:

(i) The Heading: "Vehicle Emission Control Information"

(ii) The Statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 1977 Model Year New Motor Vehicles"

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as non-catalyst-equipped: "NON-CATALYST"

(B) For all vehicles certified as catalyst-equipped which are included in a manufacturer's catalyst control program

for which approval has been given by the Administrator: "CATALYST—APPROVED FOR IMPORT"

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST"

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii).

§ 86.077–36 Submission of vehicle identification numbers.

(a) The manufacturer of any light-duty vehicle or light-duty truck covered by a certificate of conformity under § 86.077–30(a) shall, not later than 60 days after its manufacture, submit to the Administrator the vehicle identification number of such vehicle: *Provided*, That this requirement shall not apply with respect to any vehicle manufactured within any State, as defined in section 302(d) of the Act.

(b) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Administrator which will enable the Administrator to identify those vehicles which are covered by a certificate of conformity.

§ 86.077–37 Production vehicles and engines.

(a) Any manufacturer obtaining certification under this part shall supply to the Administrator, upon his request, a reasonable number of production vehicles (or engines) selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles (or engines) shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Heavy-duty engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b) *Light-duty vehicles and light-duty trucks.*

(1) Any light-duty vehicle or light-duty truck manufacturer obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of vehicles of each engine family-engine displacement-exhaust emission control system-fuel system-transmission type-inertia weight class combination produced for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead of quarterly, to combine it with the notification required under § 86.077–36.

(2) All light-duty vehicles and light-duty trucks covered by a certificate of conformity under § 86.077–30(a) shall be adjusted by the manufacturer to the ignition or injection timing specification detailed in § 86.077–35(a)(1)(iii)(D).

(c) *Heavy-duty engines.* Any heavy-duty engine manufacturer obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of engines of each engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter.

§ 86.077–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the purchaser of each new motor vehicle (or motor vehicle engine) subject to the standards prescribed in §§ 86.077–8 through 86.077–11 as applicable, written instructions for the maintenance and use of the vehicle (or engine) by the purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

(c) For gasoline-fueled light-duty vehicles and light-duty trucks.

(1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under §§ 86.077–25(a)(2) or 86.077–25(b)(2) as applicable, and shall explain the conditions under which EGR system and catalytic converter maintenance is to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at low altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at high altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at high altitude.

(3) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at high altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at low altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at low altitude.

(d) For Diesel light-duty vehicles and light-duty trucks.

(1) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at low altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at high altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at high altitude.

(2) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at high altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at low altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at low altitude.

(e) For gasoline-fueled heavy-duty engines, such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.077–25(c)(2). Scheduled maintenance in addition to that performed on the durability-data engine under § 86.077–25(d)(2) may be recommended for reasons such as to offset the effects of operating conditions which differ from the dynamometer durability cycle or to increase the life of the engine beyond 1500 hours (or the equivalent). The instructions may schedule maintenance on a calendar time basis and/or mileage basis in addition to the engine service time basis that was followed by the manufacturer under § 86.077–25(c)(2).

(f) For Diesel heavy-duty engines, such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.077–25(d)(2). Scheduled maintenance in addition to that performed on the durability-data engine under § 86.077–25(d)(2) may be recommended for reasons such as to offset the effects of operating conditions which differ from the dynamometer durability cycle or to increase the life of the engine beyond 1,000 hours (or the equivalent). The instructions may schedule maintenance on a calendar time basis, mileage basis, engine service time basis, or combinations of each.

§ 86.077–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 86.077–23, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 86.077–38(a). The Adminis-

trator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the vehicle's (or engine's) emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

§ 86.078–1 General applicability.

(a) The provisions of this subpart apply to 1978 model year new gasoline-fueled and Diesel light-duty vehicles, 1978 model year new gasoline-fueled and Diesel light-duty trucks and 1978 model year new gasoline-fueled and Diesel heavy-duty engines.

(b) Optional applicability. A manufacturer may request to certify any heavy-duty vehicle 10,000 pounds GVWR or less as a light-duty truck; heavy-duty vehicle provisions do not apply to such a vehicle. Provisions applicable for the 1979 model year shall be followed with respect to such vehicles; however, the standards in § 86.078–9 shall apply. Any 1978 model year light-duty truck may be certified under the provisions applicable for the 1979 model year except that the standards in § 86.078–9 still apply.

§ 86.078–2 Definitions.

The following definitions apply beginning with the 1978 model year. Section 86.077–2 remains effective excepting those definitions which are hereby superseded.

"Accuracy" means the difference between a measurement and true value.

"Basic engine" means a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator.

"Body type" means a name denoting a group of vehicles that are either in the same car line or in different car lines provided the only reason the vehicles qualify to be considered in different car lines is that they are produced by separate divisions of a single manufacturer.

"Calibration" means the set of specifications, including tolerances, unique to a particular design, version, or application of a component or components assembly capable of functionally describing its operation over its working range.

"Car line" means a name denoting a group of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis). Car line does not consider any level of decor or opulence and is not generally distinguished by characteristics as roof line, number of doors, seats or windows except for station wagons or light-duty trucks. Station wagons and light-duty trucks are considered to be different car lines than passenger cars.

"Diurnal breathing losses" means evaporative emissions as a result of the daily range in temperature.

"Engine code" means a unique combination, within an engine-system combination, of displacement, carburetor (or fuel injection) calibration, choke calibration, distributor calibration, auxiliary emission control devices and other engine and emission control system components specified by the Administrator.

"Engine—system combination" means an engine family-exhaust emission control system combination.

"Evaporative emission code" means a unique combination in an evaporative emission family—evaporative emission control system combination, of purge system calibrations, fuel tank and carburetor bowl vent calibrations and other fuel system and evaporative emission control system components and calibrations specified by the Administrator.

"Evaporative emissions" means hydrocarbons emitted into the atmosphere from a motor vehicle, other than exhaust and crankcase emissions.

"Evaporative vehicle configuration" means a unique combination of basic engine, engine code, body type, and evaporative emission code.

"Fuel system" means the combination of fuel tank(s), fuel pump, fuel lines, and carburetor or fuel injection components, and includes all fuel system vents and fuel evaporative emission control system components.

"Hot-soak losses" means evaporative emissions after termination of engine operation.

"Malfunction" means not operating according to specifications (e.g., those specifications listed in the application for certification).

"Model type" means a unique combination of car line, basic engine, and transmission class.

"Nominal fuel tank capacity" means the volume of the fuel tank(s), specified by the manufacturer to the nearest tenth of a U.S. gallon, which may be filled with fuel from the fuel tank filler inlet.

"Precision" means the standard deviation of replicated measurements.

"Tank fuel volume" means the volume of fuel in the fuel tank(s), which is determined by taking the manufacturer's nominal fuel tank(s) capacity and multiplying by 0.40, the result being rounded using ASTM E 29–67 to the nearest tenth of a U.S. gallon.

"Transmission class" means the basic type of transmission, e.g., manual, automatic, semi-automatic.

"Transmission configuration" means a unique combination, within a transmission class, of the number of the forward gears and, if applicable, overdrive. The Administrator may further subdivide a transmission configuration (based on such criteria as gear ratios, torque convertor multiplication ratio, stall speed and shift calibration, etc.), if he determines that significant fuel economy or exhaust emission differences exist within that transmission configuration.

"Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, axle ratio.

"Zero (0) miles" means that point after initial engine starting (not to exceed 10 miles of vehicle operation, or one hour of engine operation) at which normal assembly line operations and adjustments are completed.

§ 86.078–3 Abbreviations.

(a) The abbreviations in this section apply to this subpart and also to Subparts B, H, I, and J and have the following meanings:

accel.—acceleration.
AECD—Auxiliary emission control device.
API—American Petroleum Institute.
ASTM—American Society for Testing and Materials.
BHP—Brake horsepower.
BSCO—Brake specific carbon monoxide.
BSHC—Brake specific hydrocarbons.
$BSNO_x$—Brake specific oxides of nitrogen.
C—Celsius.
cfh—cubic feet per hour.
CFV—Critical flow venturi.
CFV–CVS—Critical flow venturi—constant volume sampler.
CL—Chemiluminescence.
CO_2—carbon dioxide.
CO—Carbon monoxide.
conc.—concentration.
cfm—cubic feet per minute.
CT—Closed throttle.
cu. in.—cubic inch(es).
CVS—Constant volume sampler.
decel.—deceleration.
EP—End point.
evap.—evaporative.
F—Fahrenheit.
FID—Flame ionization detector.
FL—Full load.
ft.—feet.
g—gram(s).
gal.—U.S. gallon(s).
GVW—Gross vehicle weight.
GVWR—Gross vehicle weight rating.
h—hour(s).
H_2O—water.
HC—hydrocarbon(s).
HFID—Heated flame ionization detector.
Hg—mercury.
hi—high.
hp.—horsepower.
IBP—Initial boiling point.
ID—Internal diameter.
in.—inch(es).
K—kelvin.
kg—kilogram(s).
km—kilometer(s).
kPa—kilopascal(s).
lb.—pound(s).
lb.-ft.—pound-feet.
m—meter(s).
max.—maximum.
mg—milligram(s).
mi.—mile(s).
min.—minute(s).
ml—milliliter(s).
mm—millimeter(s).
mph—miles per hour.
mv—millivolt(s).
N_2—nitrogen.
NDIR—Nondispersive infrared.
NO—nitric oxide.
NO_2—nitrogen dioxide.
NO_x—oxides of nitrogen.
No.—Number.
O_2—oxygen.
Pb—lead.
pct.—percent.
PDP–CVS—Positive displacement pump—constant volume sampler.
ppm—parts per million by volume.

ppm C—parts per million, carbon.
psi—pounds per square inch.
psig—pounds per square inch gauge.
PTA—Part throttle acceleration.
PTD—Part throttle deceleration.
R—Rankin.
rpm—revolutions per minute.
RVP—Reid vapor pressure.
s—second(s).
SAE—Society of Automotive Engineers.
SI—International system of units.
sp.—speed.
TEL—Tetraethyl lead.
TML—Tetramethyl lead.
UDDS—Urban dynamometer driving schedule.
V—volt(s).
vs—versus.
W—watt(s).
WF—Weighting factor.
WOT—Wide open throttle.
wt.—weight.
'—feet.
''—inch(es).
°—degree(s).
Σ—summation.

§ 86.078–4 Section numbering; construction.

(a) *Section numbering.* The model year of initial applicability is indicated by the last two digits of the 5 digit group. A section remains in effect for subsequent model years until it is superseded. The number following the hyphen designates what previous section is replaced by a future regulation.

EXAMPLES: Section 86.077–6 applies to the 1977 and subsequent model years until superseded. If a § 86.080–6 is promulgated it would take effect with the 1980 model year; § 86.077–6 would not apply after the 1979 model year. Section 86.077–10 would be replaced by § 86.078–10 beginning with the 1978 model year.

(b) *Construction.* Except where indicated, the language in this subpart applies to both vehicles and engines. In many instances language referring to engines is enclosed in parentheses and immediately follows the language discussing vehicles.

§ 86.078–5 General standards; increase in emissions; unsafe conditions.

(a)(1) Every new motor vehicle (or new motor vehicle engine) manufactured for sale, sold, offered for sale, introduced, or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this subpart shall be covered by a certificate of conformity issued pursuant to §§ 86.078–21 through 86.078–23 and §§ 86.078–29 through 86.078–34.

(2) No heavy-duty vehicle manufacturer shall take any of the actions specified in section 203(a)(1) of the Act with respect to any gasoline-fueled or Diesel heavy-duty vehicle which uses an engine which has not been certified as meeting applicable standards. Each heavy-duty vehicle manufacturer shall provide to the Administrator prior to the beginning of each model year a statement signed by an authorized representative which includes the following information:

(i) A description of the vehicles which will be produced subject to this section;

(ii) Identification of the engines used in the vehicles;

(iii) Projected sales data on each vehicle-engine combination;

(iv) A statement that the engines will not be modified by the vehicle manufacturer or a detailed specification of any changes which will be made. Changes mode solely for the purpose of mounting an engine in a vehicle need not be included.

(v) A statement that the engine maintenance instructions supplied by the engine manufacturer, in compliance with § 86.078–38, will be furnished to the ultimate purchaser. If these maintenance instructions are modified, a detailed description of the modifications and a justification for each must be provided to the Administrator for review. The Administrator will notify the manufacturer of the determination whether the modified instructions are reasonable and necessary to assure proper functioning of the emission control system.

(b)(1) Any system installed on or incorporated in a new motor vehicle (or new motor vehicle engine) to enable such vehicle (or engine) to conform to standards imposed by this subpart:

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such vehicle (or engine) without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motor vehicles (or new motor vehicle engines) subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles (or motor vehicle engines) in accordance with good engineering practice to ascertain that such test vehicles (or test engines) will meet the requirements of this section for the useful life of the vehicle (or engine).

§ 86.078–6 Hearings on certification.

(a)(1) After granting a request for a hearing under §§ 86.078–22 or 86.078–30 the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing has not been fixed by the Administrator under §§ 86.078–22 or 86.078–30, the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(4) In the case of any hearing requested pursuant to § 86.078–30(c)(5)(i), the Administrator may in his discretion direct that all argument and presentation of evidence be concluded within such fixed period not less than 30 days as he may establish from the date that the first written offer of a hearing is made to the manufacturer. To expedite proceedings, the Administrator may direct that the decision of the Presiding Officer (who may, but need not be the Administrator himself) shall be the final EPA decision.

(b)(1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under §§ 86.078–22 or 86.078–30 together with any accompanying material, the request for a hearing and the supporting data submitted therewith, and all documents relating to the request for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The hearing file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d)(1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(i) Simplification of the issues;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e)(1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearings shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Offi-

cer and shall be reported as part of the record unless otherwise ordered by him.

(f) (1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

§ 86.078–7 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motor vehicle (or new motor vehicle engine) subject to any of the standards or procedures prescribed in this subpart shall establish, maintain and retain the following adequately organized and indexed records.

(1) *General records.* (i) The records required to be maintained by this paragraph shall consist of:

(A) Identification and description of all certification vehicles (or certification engines) for which testing is required under this subpart.

(B) A description of all emission control systems which are installed on or incorporated in each certification vehicle (or certification engine).

(C) A description of all procedures used to test each such certification vehicle (or certification engine).

(ii) A properly filed application for certification, following the format prescribed by the US EPA for the appropriate model year, fulfills each of the requirements of this paragraph (a)(1).

(2) *Individual records.* (i) A brief history of each motor vehicle (or motor vehicle engine) used for certification under this subpart in the form of a separate booklet or other document for each separate vehicle (or each separate engine) in which shall be recorded:

(A) In the case where a current production engine is modified for use in a certification vehicle (or as a certification engine), a description of the process by which the engine was selected and of the modifications made, giving specifically the place of modification and installation of the engine into the certification vehicle and the person(s) in charge of modification and installation, as applicable. In the case where the engine for a certification vehicle (or certification engine) is not derived from a current production engine, a general description of the build up of the engine (e.g., experimental heads were cast and machined according to supplied drawings, etc.) giving specifically the place of engine assembly and installation into a certification vehicle and the person(s) in charge of engine assembly and installation, as applicable. In both cases above, a description of the origin and selection process for the carburetor, distributor, fuel system components, fuel injection components, emission control system components, smoke exhaust emission control system components, and exhaust aftertreatment devices as applicable, shall be included. The required descriptions shall specify the steps taken to assure that the certification vehicle (or certification engine) with respect to its engine, drive train, fuel system, emission control system components, exhaust aftertreatment devices, smoke exhaust emission control system components, vehicle weight or any other devices or components, as applicable, that can reasonably be expected to influence exhaust or evaporative emissions, as applicable, will be representative of production vehicles (or engines) and that either all components and/or vehicle (or engine) construction processes, component inspection and selection techniques, and assembly techniques employed in constructing such vehicles (or engines) are reasonably likely to be implemented for production vehicles (or engines) or that they are as closely analogous as practicable to planned construction and assembly processes.

(B) A complete record of all emission tests performed under Subparts B, H, I, and J, as applicable (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each such test, or exact copies thereof, the date, time, purpose, and location of each test, the number of miles accumulated on the vehicle (or the number of hours accumulated on the engine), when the tests began and ended, and the names of supervisory personnel responsible for the conduct of the tests.

(C) The date and times of each mileage (or service) accumulation run, listing both the mileage (or number of operating hours) accumulated and the name of each driver or each operator of the automatic mileage accumulation device (or dynamometer operator).

(D) If used, the record of any devices employed to record the speed and/or mileage in relationship to time of the test vehicle (or engine RPM, and/or horsepower and/or torque in relationship to engine operating time).

(E) A record and description of all maintenance and other servicing performed, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service. The description shall indicate whether or not EPA specifically consented to the work and, if EPA did not, shall list the provision of this part which authorizes its performance.

(F) A record and description of each test performed to diagnose engine or emissions control system performance, giving the date and time of the test, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the test.

(G) The dates and times that the vehicle (or engine) was idle in storage, and in transit or transport.

(H) A brief description of any significant events affecting the vehicle (or engine) during any time in the period covered by the history not described by an entry under one of the previous headings including such extraordinary events as vehicle accidents (or accidents involving the engine) or driver speeding citations or warnings (or dynamometer runaway).

(ii) Each such history shall be started on the date that the first of any of the selection or buildup activities in paragraph (a)(2)(i)(A) of this section occurred with respect to the certification vehicle (or engine), shall be updated each time the operational status of the vehicle (or engine) changes or additional work is done on it, and shall be kept in a designated location.

(3) All records required to be maintained under this subpart shall be retained by the manufacturer for a period of six (6) years after issuance of all certificates of conformity to which they relate. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer, *Provided*, That in every case all the information contained in the hard copy shall be retained.

(b) The manufacturer of any new motor vehicle (or new motor vehicle engine) subject to any of the standards prescribed in this subpart shall submit to the Administrator at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such vehicle (or engine) relevant to the control of crankcase, exhaust or evaporative emissions, as applicable, issued by the manufacturer for use by other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers; *Provided*, That any material not translated into the English language need not be submitted unless specifically requested by the Administrator.

(c) (1) Any manufacturer who has applied for certification of a new motor vehicle (or new motor vehicle engine) subject to certification test under this subpart shall admit or cause to be admitted any EPA Enforcement Officer during operating hours on presentation of credentials to any of the following:

(i) Any facility where any such tests or any procedures or activities connected with such tests are or were performed.

(ii) Any facility where any new motor vehicle (or new motor vehicle engine)

which is being, was, or is to be tested is present.

(iii) Any facility where any construction process or assembly process used in the modification or build up of such a vehicle (or engine) into a certification vehicle (or certification engine) is taking place or has taken place.

(iv) Any facility where any record or other document relating to any of the above is located.

(2) Upon admission to any facility referred to in paragraph (c)(1) of this section, any EPA Enforcement Officer shall be allowed:

(i) To inspect and monitor any part or aspect of such procedures, activities, and testing facilities, including, but not limited to, monitoring vehicle (or engine) preconditioning, emissions tests and mileage (or service) accumulation, maintenance, and vehicle soak and storage procedures (or engine storage procedures), and to verify correlation or calibration of test equipment;

(ii) To inspect and make copies of any such records, designs, or other documents; and

(iii) To inspect and/or photograph any part or aspect of any such certification vehicle (or certification engine) and any components to be used in the construction thereof.

(3) In order to allow the Administrator to determine whether or not production motor vehicles (or production motor vehicle engines) conform in all material respects to the design specifications which applied to those vehicles (or engines) described in the application for certification for which a certificate of conformity has been issued to standards prescribed under section 202 of the Act, any manufacturer shall admit any EPA Enforcement Officer on presentation of credentials to both:

(i) Any facility where any document, design, or procedure relating to the translation of the design and construction of engines and emission related components described in the application for certification or used for certification testing into production vehicles (or production engines) is located or carried on; and

(ii) Any facility where any motor vehicles (or motor vehicle engines) to be introduced into commerce are manufactured or assembled.

(4) On admission to any such facility referred to in paragraph (c)(3) of this section, any EPA Enforcement Officer shall be allowed:

(i) To inspect and monitor any aspects of such manufacture or assembly and other procedures;

(ii) To inspect and make copies of any such records, documents or designs; and

(iii) To inspect and photograph any part or aspect of any such new motor vehicles (or new motor vehicle engines) and any component used in the assembly thereof that are reasonably related to the purpose of his entry.

(5) Any EPA Enforcement Officer shall be furnished by those in charge of a facility being inspected with such reasonable assistance as he may request to help him discharge any function listed in this paragraph. Each applicant for or recipient of certification is required to cause those in charge of a facility operated for its benefit to furnish such reasonable assistance without charge to EPA whether or not the applicant controls the facility.

(6) The duty to admit or cause to be admitted any EPA Enforcement Officer applies whether or not the applicant owns or controls the facility in question and applies both to domestic and to foreign manufacturers and facilities. EPA will not attempt to make any inspections which it has been informed that local law forbids. However, if local law makes it impossible to do what is necessary to insure the accuracy of data generated at a facility, no informed judgment that a vehicle or engine is certifiable or is covered by a certificate can properly be based on those data. It is the responsibility of the manufacturer to locate its testing and manufacturing facilities in jurisdictions where this situation will not arise.

(7) For purposes of this paragraph:

(i) "Presentation of credentials" shall mean display of the document designating a person as an EPA Enforcement Officer.

(ii) Where vehicle, component, or engine storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(iii) Where facilities or areas other than those covered by paragraph (c)(7)(ii) of this section are concerned, "operating hours" shall mean all times during which an assembly line is in operation or all times during which testing, maintenance, mileage (or service) accumulation, production or compilation of records, or any other procedure or activity related to certification testing, to translation of designs from the test stage to the production stage, or to vehicle (or engine) manufacture or assembly is being carried out in a facility.

(iv) "Reasonable assistance" includes, but is not limited to, clerical, copying, interpretation and translation services, the making available on request of personnel of the facility being inspected during their working hours to inform the EPA Enforcement Officer of how the facility operates and to answer his questions, and the performance on request of emissions tests on any vehicle (or engine) which is being, has been, or will be used for certification testing. Such tests shall be nondestructive, but may require appropriate mileage (or service) accumulation. A manufacturer may be compelled to cause the personal appearance of any employee at such a facility before an EPA Enforcement Officer by written request for his appearance, signed by the Assistant Administrator for Enforcement, served on the manufacturer. Any such employee who has been instructed by the manufacturer to appear will be entitled to be accompanied, represented, and advised by counsel.

(v) Any entry without 24 hour prior written or oral notification to the affected manufacturer shall be authorized in writing by the Assistant Administrator for Enforcement.

§ 86.078–8 Emission standards for 1978 light-duty vehicles.

(a)(1) Exhaust emissions from 1978 and later model year light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 0.41 grams per vehicle mile.

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 0.4 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(b)(1) Fuel evaporative emissions from 1978 and later model year gasoline-fueled light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 6.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1978 and later model year gasoline-fueled light-duty vehicle.

§ 86.078–9 Emission standards for 1978 light-duty trucks.

(a)(1) Exhaust emissions from 1978 model year light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per vehicle mile.

(ii) *Carbon monoxide.* 20 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 3.1 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B and measured and calculated in accordance with those procedures.

(b)(1) Evaporative emissions from 1978 and later model year gasoline-fueled light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 6.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1978 and later model year gasoline-fueled light-duty truck.

§ 86.078–10 Emission standards for 1978 gasoline-fueled heavy-duty engines.

(a)(1) Exhaust emissions from new 1978 and later model year gasoline-fueled heavy-duty engines shall not exceed:

(i) *Hydrocarbons plus oxides of nitrogen (as NO_2).* 16 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 40 grams per brake horsepower hour.

(2) The standards set forth in paragraph (a)(1) of this section refer to composite samples representing the operating cycle set forth in Subpart H and measured in accordance with those procedures.

(b) [Reserved]

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1978 and later model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subpart H to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

§ 86.078–11 Emisison standards for 1978 Diesel heavy-duty engines.

(a)(1) The opacity of smoke emissions from new 1978 and later model year Diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (a)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I and measured and calculated in accordance with those procedures.

(b)(1) Exhaust gaseous emissions from new 1978 and later model year Diesel heavy-duty engines shall not exceed:

(i) *Hydrocarbons plus oxides of nitrogen (as NO_2).* 16 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 40 grams per brake horsepower hour.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust gaseous emissions generated under the conditions set forth in Subpart J and measured and calculated in accordance with those procedures.

(c)–(d) [Reserved]

(e) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subparts I and J to ascertain that such test engines meet the requirements of paragraphs (a) and (b) of this section.

§§ 86.078–12—86.078–20 [Reserved]

§ 86.078–21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards and each class of new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles (or engines) covered by the application and a description of their engine (vehicles only), emission control system, and fuel system components. This shall include a detailed description of each AECD to be installed in or on any certification test vehicle (or certification test engine).

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4)(i) A description of the proposed mileage (or service) accumulation procedures for durability testing.

(ii) A description of the test procedures to be used to establish the evaporative emission deterioration factors required to be determined and supplied in § 86.078–23(b)(2).

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission-data and durability-data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under §§ 86.078–32, 86.078–33, and 86.078–34 shall be submitted in such multiple copies as the Administrator may require.

§ 86.078–22 Approval of application for certification; test fleet selections.

(a) After a review of the application for certification and any other information which the Administrator may require, the Administrator may approve the application and select a test fleet in accordance with § 86.078–24.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons including incompleteness, inaccuracy, inappropriate proposed mileage (or service) accumulation procedures, test equipment, or fuel, and incorporation of defeat devices in vehicles (or on engines) described by the application.

(c) Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection. Within 30 days following receipt of such notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(d) The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors. The manufacturer shall submit the procedures as required in § 86.078–21(b)(4)(ii) prior to the Administrator's selection of the test fleet under § 86.078–24(b)(1) and if such procedures will involve testing of durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.078–24(c)(1), prior to initiation of such testing.

§ 86.078–23 Required data.

(a) The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information: *Provided, however,* That:

(1) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles (or engines) for which emission data are available, or will be made available, under the provisions of § 86.078–29, or

(2) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles (or engines) at zero kilometers (or zero hours) of operation.

(b)(1) Exhaust emission durability data on such vehicles (or engines) tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle (or engine) for extended mileage (or extended operation), as well as a record of all pertinent maintenance (all maintenance and servicing for Diesel heavy-duty engines) performed on the test vehicles (or test engines).

(2) Evaporative emission deterioration factors for each evaporative emission family—evaporative emission control system combination and all test data that are derived from testing described under § 86.078–21(b)(4)(ii) designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.078–30 will meet the evaporative emission standards in § 86.078–8 or § 86.078–9, as appropriate, for the useful life of the vehicle.

(c) Emission data. (1) *Certification vehicles.* (i) Emission data on such vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show their emissions after zero kilometers (zero miles) and 6436 kilometers (4000 miles) of operation.

(ii) Emission data on those vehicles selected under §§ 86.078–24(b)(1)(v) and 86.078–24(b)(1)(vii)(D) and tested in accordance with the applicable test procedures of this subpart and in such

numbers as therein specified, which shall be tested at zero kilometers (zero miles) at any altitude, and under high-altitude conditions after 6436 kilometers (4000 miles) of operation at any altitude.

(2) *Certification engines.* Emission data on such engines tested in accordance with applicable emission test procedures and in such numbers as specified, which will show their emissions after zero hours and 125 hours of operation.

(d) A statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.078–5(b) and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.078–5(b) and the data derived from such tests are available to the Administrator upon request.

(e)(1) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with §§ 86.078–8, 86.078–9, 86.078–10, or § 86.078–11, as applicable, are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification and that on the basis of such tests the vehicles (or engines) conform to the requirements of the regulations in this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicle (or test engine) was not as described in the application for certification or was not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards. The provisions of § 86.078–30(b) shall then be followed.

(2) For evaporative emission durability, the statement of compliance with paragraph (b)(2) of this section.

§ 86.078–24 Test vehicles and engines.

(a) (1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a ⅛-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics; gasoline-fueled vehicles and engines only.

(ix) Thermal reactor characteristics; gasoline-fueled vehicles and engines only.

(3) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition or injection timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a)(2) and (3) of this section, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(5) The gasoline-fueled vehicles covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) To be classed in the same evaporative emission family, vehicles must be similar with respect to:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Canister design characteristics.

(iii) Fuel system characteristics.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(b) Emission data. (1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Vehicles for each engine family will be divided into engine displacement-exhaust emission control system combinations as applicable. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to such features as engine code, transmission type, fuel system, and inertia weight class.

(iii) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options, and axle ratio.

(iv) If the vehicles selected in accordance with paragraphs (b)(1)(ii) and (iii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to such features as engine code, transmission type, fuel system, and inertia weight class.

(v) The Administrator will also select one vehicle for each engine-system combination within an engine family for which vehicles are to be sold to ultimate purchasers at high altitude.

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b)(1)(v) or (b)(1)(vii)(D) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraph (b)(1)(ii), (iii), or (iv) of this section or any similar vehicle in the same engine-system, evaporative emission family, evaporative emission control system combination selected under paragraph (b)(1)(vii)(A) or (B) of this section. The testing requirements may be combined by the Administrator by requiring a vehicle selected for testing under paragraphs (b)(1)(ii), (iii), (iv), (vii)(A), or (vii)(B) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance with § 86.078–23(c)(1)(ii).

(vii)(A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems.

One vehicle of each evaporative emission control system within the evaporative emission family will be selected.

(B) The Administrator may select a maximum of four additional vehicles within each evaporative emission family based upon features indicating that they may have the highest evaporative emission levels of vehicles in that family.

(C) The Administrator may determine that the vehicles selected under paragraphs (b)(1)(ii) through (iv) of this section may be used to satisfy the requirements of paragraphs (b)(1)(vii)(A) and (B) of this section.

(D) The Administrator will also select one vehicle for each evaporative emission control system within each evaporative family for which vehicles are to be sold at high altitude.

(E) Vehicles selected under (b)(1)(v) may be used to satisfy the requirements of (b)(1)(vii)(D).

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the applicable model year. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(iii) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(iv) If the engines selected in accordance with paragraphs (b)(2)(ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to Diesel heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon exhaust emission control system. One engine of each engine-system combination shall be run for smoke emission data and gaseous emission data as prescribed in § 86.078-26(c)(3). Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine-system combination, then one military engine shall also be selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) Durability data. (1) *Durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system, and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(2) *Gasoline-fueled heavy-duty durability-data engines.* Paragraph (c)(2) of this section applies to gasoline-fueled heavy-duty durability-data engines.

(i) A durability-data engine will be selected by the Administrator to represent each engine-system combination. The engine selected shall be of the displacement with the largest projected sales volume of engines with that exhaust emission control system in that engine family and will be designated by the Administrator as to fuel system.

(ii) [Reserved.]

(iii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of paragraph (c)(2)(i) of this section. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(3) *Diesel heavy-duty durability-data engines.* Paragraph (c)(3) of this section applies to Diesel heavy-duty durability-data engines.

(i) One engine from each engine-system combination shall be tested as prescribed in § 86.078-26(c)(3)(ii). At each test point, either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will usually be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will usually be selected for durability testing. If an engine-system combination includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will usually be selected for durability testing.

(ii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of paragraph (c)(3)(i) of this section. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(d) For purposes of testing under § 86.078-26 (a)(9), (b)(9) or (c)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (or durability-data engines) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales for the model year in which certification is sought is less than

(1) 2000 gasoline-fueled light-duty vehicles, or

(2) 2000 Diesel light-duty vehicles, or

(3) 2000 gasoline-fueled light-duty trucks, or

(4) 2000 Diesel light-duty trucks, or

(5) 700 gasoline-fueled heavy-duty engines, or

(6) 200 Diesel heavy-duty engines, may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.078–23 has previously been submitted.

(g)(1) This paragraph applies to light-duty vehicles and light-duty trucks.

(2) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, if required by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items of optional equipment shall actually be installed, unless specifically excluded by the Administrator, on all emission-data and durability-data vehicles in the engine family on which the option is intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes and other items determined by the Administrator.

(4) Optional equipment that can reasonably be expected to influence emissions which is utilized on 33 percent or less of the vehicles in the engine family shall not be installed on any vehicle in that engine family unless specifically required under this section.

§ 86.078–25 Maintenance.

(a) *Light-duty vehicles and light-duty trucks.* Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(1) Scheduled maintenance on the engine, emission control system, and fuel system of durability-data vehicles, selected by the Administrator or elected by the manufacturer under § 86.078–24(c)(1), shall be scheduled for performance during durability testing at the same mileage intervals that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle. Such maintenance shall be performed, except as provided in paragraph (a)(5)(iii) of this section, only under the following provisions:

(i) Scheduled major engine tuneups to manufacturer's specifications may be performed no more frequently than every 12,500 miles of scheduled driving, provided that no tuneup may be performed after 45,000 miles of scheduled driving. A scheduled major engine tuneup shall be restricted to paragraph (a)(1)(i)(A) or (B) of this section, as applicable, and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel.

(A) *For gasoline-fueled vehicles,* the following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Ignition system.
(*2*) Cold starting enrichment systems (includes fast idle speed setting).
(*3*) Curb idle speed and air/fuel mixture.
(*4*) Drive belt tension on engine accessories.
(*5*) Valve lash.
(*6*) Inlet air and exhaust gas control valves.
(*7*) Engine bolt torque.
(*8*) Spark plugs.
(*9*) Fuel filter and air filter.
(*10*) Crankcase emission control system.
(*11*) Fuel evaporative emission control system.

(B) *For Diesel vehicles,* a major engine tuneup shall be restricted to the following:

(*1*) Adjust low idle speed.
(*2*) Adjust valve lash if required.
(*3*) Adjust injector timing.
(*4*) Adjust governor.
(*5*) Clean and service injector tips.
(*6*) Adjust drive belt tension on engine accessories.
(*7*) Check engine bolt torque and tighten as required.

(ii) Change of engine and transmission oil, and change or service of oil filter will be allowed at the same mileage intervals that will be specified in the manufacturer's maintenance instructions.

(iii) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to adjustment during scheduled major engine tuneups, once during the first 5,000 miles of vehicle operation.

(2)(i) *For gasoline-fueled vehicles,* unscheduled maintenance on the engine, emission control system and fuel system of durability-data vehicles may be performed, except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Any persistently misfiring spark plug may be replaced in addition to replacement at scheduled major engine tuneup points.

(B) Readjustment of the engine cold starting enrichment system may be performed if there is a problem of stalling or if there is visible black smoke.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(D) The idle mixture may be reset other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(ii) For Diesel vehicles, unscheduled maintenance on the engine, emission control system and fuel system of durability-data vehicles may be performed, except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Injectors may be changed if a persistent misfire is detected.

(B) Readjustment of the engine idle speed (curb idle and fast idle) may be performed in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(3) An exhaust gas recirculation (EGR) system may be serviced during durability testing only under one of the following provisions:

(i) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneups if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance at each of those mileage points. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(ii) Manufacturers may service the EGR system as unscheduled maintenance a maximum of three times during the 50,000 miles if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for EGR system maintenance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(iii) Manufacturers may service the EGR system a maximum of three times during the 50,000 miles either at a scheduled major engine tune-up point or as unscheduled maintenance, if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance. The signal may be activated either by EGR system failure (unscheduled maintenance) or need for scheduled periodic maintenance. If maintenance is performed, the signal for scheduled periodic maintenance shall be reset. One additional servicing may also be performed

as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of the vehicles in use.

(iv) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup(s) if failure to perform EGR system maintenance is not likely, as determined by the Administrator, to result in an improvement in vehicle performance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(4) The catalytic converter may be serviced once during 50,000 miles if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for maintenance. The signal may be activated either by component failure or need for maintenance at a scheduled point.

(5) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data vehicles shall be performed only with the advance approval of the Administrator.

(i) In the case of unscheduled maintenance, such approval will be given if the Administrator:

(A) Has made preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle unrepresentative of vehicles in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement (as applicable); and

(B) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, vehicle stalling, overheating, fluid leakage, loss of oil pressure, or charge indicator warning. For the evaporative emission control system, this overt indication may be indicated by such items as fuel odor or fluid leakage.

(ii) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (a)(5)(i)(A) of this section.

(iii) Requests for authorization of scheduled maintenance of emission control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on vehicles in use.

(6) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle unrepresentative of vehicles in use, the vehicle shall not be used as a durability-data vehicle.

(7) Where the Administrator agrees under § 86.078–26 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(8)(i) Adjustment of engine idle speed on emission-data vehicles may be performed once before the 6436-kilometer (4000-mile) test point. Any other engine, emission control system or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission-data vehicles shall be performed only with the advance approval of the Administrator.

(ii) Maintenance on emission-data vehicles selected under § 86.078–24(b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.078–23(c)(1)(ii) under the provisions of § 86.078–24(b)(1)(vi) may be performed in conjunction with emission control system modifications at the 6436-kilometer (4000-mile) test point, and shall be performed in accordance with the maintenance instructions to be provided to the ultimate purchaser required under § 86.078–38.

(iii) Maintenance on those emission-data vehicles selected under § 86.078–24(b)(1)(v) which are not capable of being modified in the field for the purpose of complying with emission standards at an altitude other than intended by the original design may be performed in conjunction with the emission control system modifications at the 6436-kilometer (4000-mile) test point and shall be approved in advance by the Administrator.

(9) Repairs to vehicle components of the durability-data or emission-data vehicle other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(10) Complete emission tests (see §§ 86.106 through 86.145) are required, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be air posted to the Administrator within 24 hours (or delivered within 3 working days) after the test along with a complete record of all pertinent maintenance including a preliminary engineering report of any malfunction diagnosis and corrective action taken. A complete engineering report shall be delivered or air posted to the Administrator within 10 working days after the tests. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 86.078–23.

(11) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or vehicle malfunction (e.g., misfiring, stalling, and/or black smoke), or an activation of an audible and/or visual signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(12) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets, and:

(i) Are used in conjunction with scheduled maintenance on such components.

(ii) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (a)(5)(i) of this section for durability-data vehicles or paragraph (a)(8)(i) of this section for emission-data vehicles, or

(iii) Unless specifically authorized by the Administrator.

(b) [Reserved]

(c)(1) *Gasoline-fueled heavy-duty engines.* Paragraph (c) of this section applies to gasoline-fueled heavy-duty engines.

(2)(i) Scheduled maintenance may be performed on durability-data engines only under the following provisions:

(A) Major engine tuneups to manufacturer's specifications may be performed no more frequently than every 375 hours of scheduled dynamometer operation: *Provided*, No tuneups are performed after 1375 hours of scheduled dynamometer operation. The maintenance to be performed on the durability-data engines shall be requested in the application for certification and shall be specified at the same intervals in the maintenance instructions which will be furnished to the ultimate purchaser of the vehicle in which the engine, which is represented by the test engine, is installed. (For equivalent dynamometer hours, engine hours, and mileage intervals, see § 86.078–2. A scheduled major engine tuneup shall be restricted to paragraphs (c)(2)(i)(A) (*1*) through (*12*) of this section and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by the customer service personnel. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Ignition system.

(*2*) Cold starting enrichment system (includes fast idle speed setting).

(*3*) Curb idle speed and air/fuel mixture.

(*4*) Drive belt tension on engine accessories.

(*5*) Valve lash.

(*6*) Inlet air and exhaust gas control valves.

(*7*) Engine bolt torque.

(*8*) Spark plugs.

(*9*) Fuel filter and air filter.

(*10*) Crankcase emission control system.

(*11*) Fuel evaporative emission control system.

(*12*) Exhaust gas recirculation system.

(B) Change of engine oil, and change or service of oil filter will be allowed at the equivalent intervals that will be specified in the manufacturer's maintenance instructions.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to during scheduled major engine tuneups, once during the first 125 hours of engine operation.

(ii) Unscheduled maintenance may be performed on durability-data engines, except as provided in paragraph (c)(v)(A) of this section, only under the following provisions:

(A) Any persistently misfiring spark plug may be replaced in addition to replacement at scheduled major engine tuneup points.

(B) Readjustment of the engine cold starting enrichment system may be performed if there is a problem of stalling or if there is visible black smoke.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (c)(2)(i) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(D) The idle mixture may be reset, other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(iii)–(iv) [Reserved]

(v) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data engines shall be performed only with the advance approval of the Administrator.

(A) In the case of unscheduled maintenance such approval will be given if the Administrator:

(*1*) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the engine unrepresentative of engines in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and

(*2*) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine stalling, overheating, fluid leakage, loss of oil pressure, excessive fuel consumption or excessive power loss.

(B) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (c)(2)(v)(A)(*1*) of this section.

(C) Requests for authorization of scheduled maintenance of emission control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on engines in use.

(vi) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the engine unrepresentative of engines in use, the engine shall not be used as a durability-data engine.

(3)(i) Scheduled maintenance on emission-data engines is limited to the adjustment of idle speed once before the 125-hour test point: *Provided*, The idle speed is outside the manufacturer's specifications to be shown on the engine label (see § 86.078–35(a)(2)(iii)).

(ii) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement shall be performed only with the advance approval of the Administrator.

(4) [Reserved]

(5)(i) Complete emission tests (see § 86.777–5 through 86.777–15) are required unless waived by the Administrator, before and after:

(A) Scheduled maintenance approved for durability-data engines.

(B) Unscheduled maintenance which may reasonably be expected to affect emissions.

(ii) The tests before and after scheduled maintenance, which are performed on durability-data engines prior to 117 hours, are waived. The test before scheduled maintenance, which is performed on durability-data engines after 117 hours and prior to 133 hours, is waived. The after-maintenance test must be run and the results used in the deterioration factor calculation in accordance with § 86.078–28(b)(4)(i)(A)(*2*).

(iii) The idle speed reset and any scheduled maintenance on the emission-data engine shall be performed prior to the 125-hour test. The before-maintenance and after-maintenance tests associated with idle speed reset and scheduled maintenance on the emission-data engine are waived.

(iv) Test data required by this paragraph shall be air posted to the Administrator within 72 hours (or delivered within 5 working days), along with a complete record of all pertinent maintenance.

(v) When unscheduled maintenance is approved, a preliminary engineering report, unless waived by the Administrator, shall be air posted within 72 hours (or delivered within 5 working days). A final engineering report shall be delivered or air posted within 10 working days after the completion of the emission tests. The Administrator may approve an extension of the time requirements for the final engineering report.

(vi) All test data, maintenance reports, and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.078–23.

(6) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or engine malfunction (e.g., misfiring, stalling).

(7) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets, and

(i) Are used in conjunction with scheduled maintenance on such components;

(ii) Are used subsequent to the identification of an engine failure or malfunction, as provided in paragraph (c)(2)(v)(A) of this section for durability-data engines or paragraph (c)(3) of this section for emission-data engines; or

(iii) Unless specifically authorized by the Administrator.

(d)(1) *Diesel heavy-duty engines.* Paragraph (d) of this section applies to Diesel heavy-duty engines.

(2)(i) Scheduled maintenance may be performed on durability-data engines only under the following provisions:

(A) One major engine servicing to manufacturer's specifications may be performed prior to 875 hours (±8 hours) of scheduled dynamometer operation provided such maintenance is requested in the application for certification and is specified in the maintenance instructions which will be furnished to the ultimate purchaser of the motor vehicle in which the engine, which is represented by the test engine, is installed. (For equivalent dynamometer hours, engine hours, and mileage intervals, see § 86.078–2.) A scheduled major servicing shall be restricted to paragraphs (d)(2)(i)(A)(*1*) through (*7*) of this section and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Low idle speed.
(*2*) Drive belt tension.
(*3*) Engine bolt torque.
(*4*) Valve lash.
(*5*) Injection timing.
(*6*) Injector assemblies.
(*7*) Governor settings.

(B) Normal engine servicing such as engine oil change, and oil filter, fuel filter, and air filter cleaning or replacement will be allowed at the manufacturer's recommended intervals. If approved in advance by the Administrator, the maintenance for these items may differ from that specified in the manufacturer's maintenance instructions.

(C) Readjustment of the engine low idle speed may be performed once during the first 125 hours of engine operation.

(ii) Unscheduled maintenance may be performed on durability-data engines, except as provided in paragraph (d)(2)(v)(A) of this section, only under the following provisions:

(A) Injectors may be changed if a persistent misfire is detected.

(B) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (d)(2)(i) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(iii)–(iv) [Reserved.]

(v) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data engines shall be performed only with the advance approval of the Administrator.

(A) In the case of unscheduled maintenance such approval will be given if the Administrator:

(*1*) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction does not render the engine unrepresentative of engines in use, and does not require direct access to the combustion chamber, except for fuel injection component, or removable prechamber removal or replacement; and

(2) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine overheating, fluid leakage, loss of oil pressure, excessive fuel consumption, or excessive power loss.

(B) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (d)(2)(v)(A)(*1*) of this section.

(C) Requests for authorization of scheduled maintenance of emission-control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on engines in use.

(vi) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the engine unrepresentative of engines in use, the engine shall not be used as a durability-data engine.

(3)(i) Scheduled maintenance on emission-data engines is limited to the adjustment of idle speed once before the 125-hour test point, provided the idle speed is outside the manufacturer's specifications shown on the engine label (see § 86.078–35(a)(iii)).

(ii) Any other engine, emission-control system, or fuel system adjustment, repair, removal, disassembly, cleaning, servicing, or replacement shall be performed only with the advance approval of the Administrator.

(4) [Reserved.]

(5)(i) Complete emission tests (see §§ 86.877–5 through 86.877–14 and §§ 86.977–5 through 86.977–15) are required, unless waived by the Administrator, before and after:

(A) Scheduled maintenance approved for durability-data engines.

(B) Unscheduled maintenance which may reasonably be expected to affect emissions.

(ii) The tests before and after scheduled maintenance, which are performed on durability-data engines prior to 117 hours are waived. The test before scheduled maintenance, which is performed on durability-data engines after, 117 hours and prior to 133 hours, is waived. The after-maintenance test must be run and the results used in the deterioration factor calculation in accordance with § 86.078–28(c)(4)(i)(B) or (C).

(iii) The idle speed reset and any scheduled maintenance on the emission-data engine shall be performed prior to the 125-hour test. The before-maintenance and after-maintenance test associated with idle speed reset and scheduled maintenance on the emission-data engine are waived.

(iv) Test data required by this paragraph shall be air posted to the Administrator within 72 hours of the test completion (or delivered within 5 working days), along with a complete record of all pertinent maintenance.

(v) When unscheduled maintenance is approved, a preliminary engineering report, unless waived by the Administrator, shall be air posted within 72 hours (or delivered within 5 working days). A final engineering report shall be delivered or air posted within 10 working days after the completion of the emission tests. The Administrator may approve an extension of the time requirements for the final engineering report.

(vi) All test data, maintenance reports and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.078–23.

(6) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or engine malfunction (e.g., misfiring, stalling).

(7) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and

(i) Are used in conjunction with scheduled maintenance on such components;

(ii) Are used subsequent to the identification of an engine failure or malfunction, as provided in paragraph (d)(2)(v)(A) of this section for durability-data engines or paragraph (d)(3) of this section for emission-data engines; or

(iii) Unless specifically authorized by the Administrator.

§ 86.078–26 Mileage and service accumulation; emission measurements.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV of this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.129, the manufacturer may elect to conduct the respective emission tests at the inertia weight corresponding to the higher loaded vehicle weight.

(3) *Emission-data vehicles.* Unless as otherwise provided for in § 86.078–23(a), emission-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* (A) Each gasoline-fueled emission-data vehicle shall be driven 4000 miles with all emission control systems installed and operating. Complete exhaust emission tests shall be conducted at zero and 4000 miles on those vehicles selected under § 86.078–24(b)(1)(ii) through (b)(1)(v). Complete exhaust and evaporative emission tests shall be conducted at zero miles and 4000 miles on those vehicles selected under § 86.078–24(b)(1)(vii). The manufacturer may at his option test the vehicles selected under § 86.078–24(b)(1)(vii) up to three times at the 4000-mile test point as long as the ±250-mile test tolerance is adhered to. The Administrator may determine under § 86.078–24(*f*) that no testing is required.

(B) The emission-data vehicle(s) selected for testing under § 86.078–24 (b)(1)(v) or (b)(1)(vii)(D) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high-altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.078–24 (b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.078–23(c)(1)(ii) under the provisions of § 86.078–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low- and high-altitude conditions. For the purposes of this subparagraph, "low altitude" means any elevation less than 549 meters (1800 feet).

(ii) *Diesel.* (A) Each Diesel emission-data vehicle shall be driven 6436 kilometers (4000 miles) with all emission control systems installed and operating. Emission tests shall be conducted at zero kilometers (zero miles) and 6436 kilometers (4000 miles).

(B) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high-altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) and permitted to be tested for purposes of § 86.078–23(c)(1)(ii) under the provisions of § 86.078–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low- and high-altitude conditions. For the purpose of this subparagraph "low altitude" means any elevation less than 549 meters (1800 feet).

(4) *Durability-data vehicles.* Unless as otherwise provided for in § 86.078–23(a), durability-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* Each gasoline-fueled durability-data vehicle selected by the Administrator or elected by the manufacturer under § 86.078–24(c)(1) shall be driven, with all emission control

systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objective of this procedure. Complete exhaust emission tests shall be made on all durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.078–24(c) at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000. The Administrator may determine under § 86.078–24(f) that no testing is required.

(ii) *Diesel.* Each Diesel durability-data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of the procedure. Complete emission tests (see §§ 86.106 through 86.145) shall be made at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000.

(5) All tests required by this subpart to be conducted after every 5,000 miles of driving for durability-data vehicles and 4,000 miles for emission-data vehicles must be conducted at any accumulated mileage within 250 miles of each of those test points.

(6) (i) The results of each emission test shall be supplied to the Administrator immediately after the test. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delivered within 3 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.078–23. Where the Administrator conducts a test on a durability-data vehicle at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E29–67, to the number of places to the right of the decimal point indicated by expressing the applicable emission standards of this subpart to three significant figures.

(7) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero-mile test data to the Administrator (except for those vehicles for which the zero-mile test requirement has been waived under § 86.078–23(a)(2)) and make the vehicle available for such testing under § 86.078–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(8) Once a manufacturer begins to operate an emission-data or durability-data vehicle, as indicated by compliance with paragraph (a)(7) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 86.078–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(9) (i) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(ii) The test procedures in §§ 86.106 through 86.145 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification vehicle other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

(11) This section does not apply to testing conducted to meet the requirements of § 86.078–23(b)(2).

(b) (1) Paragraph (b) of this section applies to gasoline-fueled heavy-duty engines.

(2) The engine dynamometer service accumulation schedule will consist of several operating conditions which give the same percentage of time at various manifold vacuums and modes as specified in the emission test cycle. The average speed shall be between 1,650 and 1,700 r.p.m. Subject to the requirements as to average speed, there must be operation at speeds in excess of 3,200 r.p.m. (but not in excess of governed speed for governed engines or rated speed for nongoverned engines) for a cumulative maximum of 0.5 percent of the actual cycle time, excluding time in transient conditions. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(3) *Emission-data engines.* Unless as otherwise provided for in § 86.078–23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(4) *Durability-data engines.* Unless as otherwise provided for in § 86.078–23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated with all emission control systems installed and operating, for 1,500 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(5) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(6) (i) The results of each emission test shall be supplied to the Administrator within 72 hours (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.078–23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E29–67.

(7) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.078–23(a)(2)) and make the engine available for such testing under § 86.078–29 as the Administrator may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(8) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (b)(7) of this section,

be shall continue to run the engine to 125 hours or 1,500 hours, respectively, and the data from the engine will be used in the calculations under § 86.078–28. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(9)(i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (§§ 86.777–5 through 86.777–15) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification engine other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

(c)(1) Paragraph (c) of this section applies to Diesel heavy-duty engines.

(2) The procedures set forth in this section describe the service accumulation that shall be accomplished on each test engine and when tests are to be conducted.

(3)(i) *Emission-data engines.* Unless as otherwise provided for in § 86.078–23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours.

(ii) *Durability-data engines.* Unless as otherwise provided for in § 86.078–23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated, with all emission control systems installed and operating, for 1,000 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval.

(4) A break-in procedure, not to exceed 20 hours, may be run if approved in writing in advance by the Administrator. This procedure would be run after the zero-hour test, and the hours accumulated would not be counted as part of the service accumulation.

(5) Before service accumulation can begin, the following criteria must be met. Failure to comply with these requirements shall invalidate all test data submitted for an engine.

(i) Each engine shall produce at least 95 percent of the maximum horsepower, corrected to rating conditions, at 95 to 100 percent of the rated speed.

(ii) The fuel rate at maximum horsepower shall be within manufacturer's specifications.

(iii) The zero-hour test data shall be provided to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.078–23(a)(2)) and the engine shall be made available for such testing under § 86.078–29 as the Administrator may require.

(6) During service accumulation, hours can be credited toward the required service accumulation hours when the following criteria are met. If these criteria cannot be met, engine operation shall be discontinued and the Administrator shall be notified immediately. (Adjustments to the fuel rate can be approved under the provisions of § 86.078–25).

(i) Each engine shall produce at least 95 percent of the maximum horsepower, at 95 to 100 percent of the rated speed, observed during zero-hour testing. Horsepower values shall be corrected to the rating conditions.

(ii) The engine shall be operated at 75 percent of the inlet and exhaust restrictions specified in § 86.877–8 except that the tolerance will be ±3 inches of water and ±0.5 inches of Hg, respectively.

(7) During each emission test the inlet and exhaust restrictions shall be as specified § 86.877–8.

(8) Tests, other than zero-hour tests, may be conducted within 8 hours of the nominal test point.

(9)(i) The results of each emission test shall be air posted to the Administrator within 72 hours of test completion (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided tests. If a manufacturer conducts multiple tests (not to exceed three valid tests) at any test point, the number of tests must be the same at each point. The data obtained from all valid tests shall be used in the calculation of the deterioration factor. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.078–23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E29–67.

(10) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (c) of this section, he shall continue to run the engine to 125 hours or 1,000 hours respectively, and the data from the engine shall be used in the calculations under § 86.078–28. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(11)(i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases, the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (§§ 86.877–5 through 86.877–14 and §§ 86.977–5 through 86.977–15) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(12) Emission testing of any type with respect to any certification engine other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

§ 86.078–27 Special test procedures.

(a) For light-duty vehicles or light-duty trucks, the Administrator may, on the basis or a written application therefore by a manufacturer, prescribe test procedures other than those set forth in this part for any motor vehicle which he determines is not susceptible to satisfactory testing by the procedures set forth in Subpart B.

(b) For heavy-duty engines, the Administrator may prescribe test procedures other than those set forth in this part for any motor vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth in Subparts H, I, or J.

§ 86.078–28 Compliance with emission standards.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The applicable exhaust and fuel evaporative emission standards of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as

the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards is as follows.

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability-data vehicle(s) for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NOx for each engine-system combination. A separate evaporative emission deterioration factor shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer.

(A) The applicable results to be used in determining the exhaust emission deterioration factors for each engine-system combination shall be:

(*1*) All valid exhaust emission data from the tests required under § 86.078–26(a)(4), except the zero-mile tests. This shall include the official test results, as determined in § 86.078–29 for all tests conducted on all durability-data vehicles of the combination selected under § 86.078–24(c) (including all vehicles elected to be operated by the manufacturer under § 86.078–24(c)(1)(ii)).

(2) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.078–25.

(*3*) All exhaust emission data from tests required by maintenance approved under § 86.078–25, in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(B) All applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in § 86.078–8 or § 86.078–9, as applicable, or the data will not be acceptable for use in calculation of a deterioration factor, unless no applicable data point exceeded the standard. An exhaust emission deterioration factor shall be calculated for each engine-system combination as follows:

factor=Exhaust emissions interpolated to 50,000 miles divided by exhaust emissions interpolated to 4,000 miles.

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29–67.

(C) An evaporative emissions deterioration factor shall be determined from the testing conducted as described in § 86.078–21(b)(4)(ii), for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at 50,000 miles relative to the evaporative emission level at 4,000 miles as follows:

factor=Evaporative emission level at 50,000 miles minus the evaporative emission level at 4,000 miles.

The factor shall be established to a minimum of two places to the right of the decimal.

(ii)(A) The official exhaust-emission test results for each emission data vehicle at the 4,000-mile test point shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in paragraph (a)(4)(i)(B) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(B) The official evaporative emission test results for each evaporative emission-data vehicle at the 4000-mile test point shall be adjusted by addition of the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in paragraph (a)(4)(i)(c) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(iii) The emissions to compare with the standard shall be the adjusted emissions of paragraphs (a)(4)(ii)(A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(iv) Before any engine family-evaporative emission family combination may be certified, every test vehicle selected under § 85.078–24(b)(1)(ii) through (b)(1)(v) to represent that engine family must comply with all exhaust emission standards for which it was tested (as determined in paragraph (a)(4)(iii) of this section) and every test vehicle selected under § 86.078–24(b)(1)(vii) to represent that evaporative emission family must comply with all exhaust and evaporative emission standards for which it was tested (as determined in paragraph (a)(4)(iii) of this section).

(v) [delete]

(b)(1) Paragraph (b) of this section applies to gasoline-fueled heavy-duty engines.

(2) The exhaust emission standards in § 86.078–10 apply to the emissions of engines for their useful life.

(3) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of an engine which has accumulated 1,500 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the emission results of the durability-data engines for each engine-system combination. Separate factors shall be established for CO and for the combined emissions of HC and NOx.

(A) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*1*) All valid emission data from the tests required under § 86.078–26(b)(4), except the zero-hour tests. This shall include the official test results, as determined in § 86.078–29, for all tests conducted on all durability-data engines of the combination selected under § 86.078–24(c)(2) (including all engines elected to be operated by the manufacturer under § 86.078–24(c)(2)(iii)).

(2) All emission data from the test conducted before and after maintenance provided in § 86.078–25(c)(2)(i)(A).

(3) All emission data from the test conducted before and after maintenance provided in § 86.078–25(c)(2)(v)(C) if emission tests were conducted.

(B) All applicable emission results for (*1*) HC+NOx and (*2*) CO shall be plotted as a function of durability hours which shall be consistently rounded to the nearest hour. Emission data shall have two figures to the right of the decimal. The best fit straight lines ((*1*) HC+NOx and (*2*) CO), fitted by the method of least squares, shall be drawn through these data points. The interpolated 125-hour and 1500-hour points on each line, rounded to whole numbers in accordance with ASTM E 29–67, must be within the standards specified in § 86.078–10 or the data shall not be used in the calculation of a deterioration factor, unless no applicable data points exceed the standards.

(C) The interpolated values shall be used to calculate a deterioration factor as follows:

Factor=Exhaust emissions interpolated to 1500 hours minus the exhaust emissions interpolated to 125 hours. (Negative deterioration factors shall be considered zero.)

(ii) The appropriate deterioration factor, carried out to two places to the right of the decimal point, shall be added to the exhaust emission test results, carried out to two places to the right of the decimal point, for each emission-data engine.

(iii) The emission values to compare with the standards shall be the adjusted emission values of paragraph (b)(4)(ii) of this section rounded to whole numbers in accordance with ASTM E 29–67 for each emission-data engine.

(iv) Every test engine of an engine family must comply with all applicable standards, as determined in paragraph (b)(4)(iii) of this section, before any engine in that family will be certified.

(c)(1) Paragraph (c) of this section applies to Diesel heavy-duty engines.

(2) The emission standards in § 86.078–11 apply to the emissions of engines for their useful lives.

(3) Since emission control efficiency decreases with accumulation of hours on the engine, the emission level of an engine which has accumulated 1,000 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance with emission standards for Diesel heavy-duty engines is as follows:

(i) Emission deterioration factors for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), the peak opacity (designated as "C"), the CO exhaust emissions, and the HC+NOx exhaust emissions shall be established separately for each engine-system combination.

(A) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*1*) All emission data from the tests required under § 86.078–26(c)(3)(ii), except the zero-hour tests. This shall include the official test results, as determined in § 86.078–29, for all tests conducted on all durability-data engines of the combination selected under § 86.078–24(c)(3)(i) (including all engines elected to be operated by the manufacturer under § 86.078–24(c)(3)(ii)).

(*2*) All emission data from the tests conducted before and after the maintenance provided in § 86.078–25(d)(2)(i)(A) if emission tests were conducted.

(*3*) All emission data from the tests conducted before and after maintenance provided in § 86.078–25(d)(2)(v)(C) if emission tests were conducted.

(B) All applicable emission results for (1) HC+NOx, (2) CO, (3) acceleration smoke ("a"), (4) lugging smoke ("b"), and (5) peak smoke ("c") shall be plotted as a function of durability hours which shall be consistently rounded to the nearest hour. Emission data shall have two figures to the right of the decimal. The best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1000-hour points on each line, rounded to whole numbers in accordance with ASTM E 29–67, must be within the standards specified in § 86.078–11 or the data shall not be used in the calculation of the deterioration factor, unless no applicable data points exceeded the standards.

(C) The interpolated values shall be used to calculate a deterioration factor as follows:

Factor = Exhaust emissions (both smoke and gaseous) interpolated to 1000 hours minus the exhaust emissions interpolated to 125 hours. (Negative deterioration factors shall be considered zero).

(ii) The appropriate deterioration factor, carried out to two places to the right of the decimal point, shall be added to the exhaust emission test results, carried out to two places to the right of the decimal point, for each emission-data engine.

(iii) The emission values to compare with the standards shall be the adjusted emission values of paragraph (c)(4)(ii) of this section rounded to whole numbers in accordance with ASTM E 29–67 for each emission-data engine.

(iv) Every test engine of an engine family must comply with all applicable standards, as determined in paragraph (c)(4)(iii) of this section, before any engine in that family will be certified.

§ 86.078–29 Testing by the Administrator.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purposes of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *And Further Provided*, That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission or further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.078–26(a)(3)(i)(A), the data from the last test in that series of tests on that vehicle, will constitute the official data.

(iii)(A) The emission-data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 86.078–35(a)(1)(iii)(D)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle shall be adjusted, at the facility designated by the Administrator, prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle shall be used as an emission-data vehicle.

(B) If the Administrator determines that the test data developed on an emission-data vehicle under paragraph (a)(3)(i) of this section would cause that vehicle to fail due to excessive 4000 mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, the vehicle may be readjusted to manufacturer's specifications, if these adjustments were made incorrectly prior to the first test, and other maintenance or repairs may be performed in accordance with § 86.078–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data vehicle.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a)(2) of this section to enable the Administrator to determine whether an emission-data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (a)(3)(iii)(A) and (B) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test engine the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the engine at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point. *Provided*, That if the Administrator makes a determination based on testing under paragraph (b)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by

the manufacturer, *And Further Provided*, That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information.

(iii) (A) The emission-data engine presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the engine label (see § 86.078–35(a)(2)(iii)) as specified in the application for certification. If the Administrator determines that an engine is not within such tolerances, the engine shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report the Administrator will determine if the engine shall be used as an emission-data engine.

(B) If the Administrator determines that the test data developed under paragraph (b)(3)(iii)(A) of this section would cause the emission-data engine to fail due to excessive 125-hour emission values or by the application of the appropriate deterioration factor, then the following procedure shall be observed.

(*1*) The manufacturer may request a retest. Before the retest, the engine may be readjusted to manufacturer's specifications, if these adjustments were made incorrectly prior to the first test, and other maintenance or repairs may be performed in accordance with § 86.078–25. All work on the engine shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The engine will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data engine.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (b)(2) of this section to enable the Administrator to determine whether an emission-data engine would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (b)(3)(iii)(B) (*1*) and (*2*) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest, A request for retest must be made before the manufacturer removes the engine from the test premises.

§ 86.078–30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078–7(c) and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (c) of this section. If applicable, the certificate will state which vehicles are certified for sale at high altitude.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part. Each such certificate shall contain the following language:

> This certificate covers only those new motor vehicles (or new motor vehicle engines) which conform, in all material respects, to the design specifications that applied to those vehicles (or engines) described in the application for certification and which are produced during the ____ model year production period of the said manufacturer, as defined in 40 CFR § 86.078–2.
>
> It is a term of this certificate that the manufacturer shall consent to all inspections described in 40 CFR § 86.078–7(c) which concern either the vehicle (or engine) certified, or any production vehicle (or production engine) covered by this certificate, or any production vehicle (or production engine) which when completed will be claimed to be covered by this certificate. Failure to comply with all the requirements of § 86.078–7(c) with respect to any such vehicle (or engine) may lead to revocation or suspension of this certificate as specified in 40 CFR § 86.078–30(c). It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in § 86.078–30 (c) or (d).

(3) One such certificate will be issued for each engine family and will certify compliance with no more than one set of applicable standards except that for gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination and will certify compliance with no more than one set of applicable standards.

(4) A violation of section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells, offers for sale, introduces or delivers for introduction into commerce, any light-duty vehicle or light-duty truck, subject to the regulations under the Act, which is not covered by a certificate of conformity at high altitude issued under this part:

(i) At a designated high-altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or,

(ii) At an other than designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle is intended by the ultimate purchaser to be used principally at a designated high-altitude location.

(5) For the purpose of paragraph (a) of this section, "designated high-altitude location" is any county which has substantially all of its area located above 1219 meters (4,000 feet) and which is identified below.

COUNTIES LOCATED SUBSTANTIALLY ABOVE 1,219 METERS (4,000 FEET) IN ELEVATION

STATE OF ARIZONA	
Apache	Navajo
STATE OF COLORADO	
Adams	Jefferson
Alamosa	Lake
Arapahoe	La Plata
Archuleta	Larimer
Boulder	Las Animas
Chaffee	Lincoln
Clear Creek	Mesa
Conejos	Mineral
Costilla	Moffat
Crowley	Montezuma
Custer	Montrose
Dolores	Morgan
Delta	Ouray
Denver	Park
Douglas	Pitkin
Eagle	Pueblo
Elbert	Rio Blanco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saguache
Gilpin	San Juan
Grand	San Miguel
Gunnison	Summit
Hinsdale	Teller
Huerfano	Washington
Jackson	Weld
STATE OF IDAHO	
Bannock	Custer
Bear Lake	Franklin
Bingham	Fremont
Blaine	Jefferson
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Caribou	Power
Cassia	Teton
Clark	Valley
STATE OF MONTANA	
Beaverhead	Madison
Deer Lodge	Meagher
Gallatin	Park
Jefferson	Silver Bow
STATE OF NEBRASKA	
Banner	Sioux
Kimball	
STATE OF NEVADA	
Carson City	Lander
Douglas	Lyon
Elko	Mineral
Esmeralda	Storey
Eureka	White Pine
Humboldt	
STATE OF NEW MEXICO	
Bernalillo	Mora
Catron	Rio Arriba
Colfax	Sandoval
Curry	San Juan
De Baca	San Miguel
Grant	Santa Fe
Guadalupe	Sierra
Lincoln	Socorro
Harding	Taos
Lincoln	Torrance
Los Alamos	Union
Luna	Valencia
McKinley	
STATE OF OREGON	
Lake	

STATE OF UTAH

Beaver	Piute
Box Elder	Rich
Cache	Salt Lake
Carbon	San Juan
Daggett	Sanpete
Davis	Sevier
Duchesne	Summit
Emery	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber
Morgan	

STATE OF WYOMING

Albany	Natrona
Carbon	Niobrara
Converse	Park
Fremont	Platte
Goshen	Sublette
Hot Springs	Sweetwater
Johnson	Teton
Laramie	Uinta
Lincoln	Weston

(6) The provisions of paragraph (a)(4) of this section shall not apply to any light-duty vehicle or light-duty truck, sold, offered for sale, introduced, or delivered for introduction into commerce in California, provided that the vehicle is covered by a certificate of conformity with emission standards in effect in California.

(7) Certificates issued for light-duty vehicles or light-duty trucks certified with catalyltic converters shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "Catalyst-equipped vehicles, otherwise covered by this certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for importation without retrofit of the catalyst, they will be considered not to be within the coverage of this certificate unless included in a catalyst control program operated by a manufacturer or a United States Government Agency and approved by the Administrator."

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) *Light-duty vehicles and light-duty trucks.*

(A) The durability-data vehicle(s) selected under § 86.078-24 (c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.078-24 (b)(1)(ii), (b)(1)(iii), and (b)(1)(iv) shall represent all vehicles of the same engine-system combination as applicable to be sold below 4000 ft.

(C) The emission-data vehicle(s) selected under § 86.078-24 (b)(1)(vii)(A) and (b)(1)(vii)(B) shall represent all vehicles of the same evaporative control system within the evaporative family, as applicable, to be sold below 4000 ft.

(D) The emission-data vehicle(s) selected under § 86.078-24(b)(1)(v) shall represent all vehicles of the same engine-system combination to be sold at high altitude.

(E) The emission-data vehicle(s) selected under § 86.078-24(b)(1)(vii)(D) shall represent all vehicles of the same evaporative control system within the evaporative family sold at high altitude.

(ii) *Gasoline-fueled heavy-duty engines.*

(A) A test engine selected under § 86.078-24(b)(2)(ii) and (iv) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(B) A test engine selected under § 86.078-24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A test engine selected under § 86.078-24(c)(2)(i) shall represent all engines of the same engine-system combination.

(iii) *Diesel heavy-duty engines.*

(A) A test engine selected under § 86.078-24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(B) A test engine selected under § 86.078-24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

(C) A test engine selected under § 86.078-24(c)(3)(i) shall represent all engines of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.078-29, data or information derived from any inspection carried out under § 86.078-7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

(i) Request a hearing under § 86.078-6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application;

(A) If the failed vehicle was tested for compliance with exhaust emission standards only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from his application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.078-24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration as applicable) to the failed

vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 86.078–32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b)(4) or (b)(5) (as applicable) of this section, the Administrator will deny certification.

(c)(1) Nothwithstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto.

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or build up into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in (C) of this subdivision;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above.

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1)(i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii), or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue he will grant the request with respect to such issue.

(d)(1) *For light-duty vehicles and light-duty trucks.* Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606.

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606 to

(A) Monitor vehicle selection pursuant to § 86.607,

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, 86.607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1)(i), (ii) or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1)(iii), (iv), (v), (vi), (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to a degree that would warrent suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section.

shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

§ 86.078–31 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles (or engines) for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles (or test engines) and the computation of test results will be determined separately for each application.

§ 86.078–32 Addition of a vehicle or engine after certification.

(a) If a manufacturer proposes to add to his product line a vehicle (or engine) of the same engine-system combination as vehicles (or engines) previously certified but which was not described in the application for certification when the test vehicle(s) (or test engine(s)) representing other vehicles (or engines) of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 86.078–34.

This notification shall include a full description of the vehicle (or engine) to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test vehicles(s) (or test engine(s)) representing the vehicle (or engine) to be added which would have been required if the vehicle (or engine) had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 86.078–29, the Administrator determines that the test vehicle(s) or test engine(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test vehicle(s) (or test engine(s)) does not meet applicable standards, he will proceed under § 86.078–30(b).

§ 86.078–33 Changes to a vehicle or engine covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production vehicles (or production engines) in respect to any of the parameters listed in § 86.078–24(a)(3), § 86.078–24(b)(1)(iii), § 86.078–24(b)(2)(iii), or § 86.078–24(b)(3)(iii) as applicable, giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 86.078–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the vehicle (or engine), as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified vehicles (or engines) he will notify the manufacturer in writing. Except as provided in § 86.078–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles (or engines) would not be covered by the certificate then in effect, the modified vehicles (or engines) shall be treated as additions to the product line subject to § 86.078–32.

§ 86.078–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of a vehicle (or engine) under § 86.078–32 or a change in a vehicle (or engine) under § 86.078–33, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce vehicles (or engines) as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 86.078–32 (b) and (c), or § 86.078–33 (b) and (c) as appropriate.

(d) Election to produce vehicles (or engines) under this section will be deemed to be a consent to recall all vehicles (or engines) which the Administrator determines under § 86.078–32(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

§ 86.078–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards of this subpart, shall at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.078–30(a).

(1) *Light-duty vehicles and light-duty trucks.* (i) A permanent legible label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches), engine family identification and evaporative family identification.

(D) Engine tuneup specifications and adjustments, as recommended by the manufacturer in accordance with the altitude at which the vehicle is to be sold to the ultimate purchaser, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable) as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty vehicles or light-duty trucks.

(F) The altitude at which the vehicle is intended for sale to the public as specified by a certificate of conformity under § 86.078–30.

(2) *Gasoline-fueled heavy-duty engines.* (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Engine Exhaust Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family identification;

(D) Date of engine manufacture (month and year);

(E) Engine tuneup specifications and adjustments as recommended by the

manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), and valve lash. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(F) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations applicable to gasoline-fueled heavy-duty engines.

(iv) The label may be made up of one or more pieces provided that all pieces are permanently attached to the same engine part.

(3) *Diesel heavy-duty engines.* (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Engine Exhaust Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine family identification and model;

(D) Date of engine manufacture (month and year);

(E) Engine specification:

Advertised hp. ____ at ____ r.p.m.
Fuel rate at advertised hp. ____ mm³/stroke.
Valve lash ____ (inches).
Initial injection timing (if adjustable) ____.
(The information applicable to each engine is to be inserted on the appropriate line.)

(F) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations applicable to Diesel heavy-duty engines.

(iv) The label may be made up of one or more pieces provided that all pieces are permanently attached to the same engine or vehicle part as applicable.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle (or engine) conforms to any applicable state emission standards for new motor vehicles (or new motor vehicle engines) or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle (or engine).

(c) (1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth, on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 49 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrasts with the background of the label:

(i) The Heading: "Vehicle Emission Control Information"

(ii) The Statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 1978 Model Year New Motor Vehicles"

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as non-catalyst-equipped: "NON-CATALYST"

(B) For all vehicles certified as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST—APPROVED FOR IMPORT"

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST"

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii).

§ 86.078–36 Submission of vehicle identification numbers.

(a) The manufacturer of any light-duty vehicle or light-duty truck covered by a certificate of conformity under § 86.078–30(a) shall, not later than 60 days after its manufacture, submit to the Administrator the vehicle identification number of such vehicle: *Provided*, That this requirement shall not apply with respect to any vehicle manufactured within any State, as defined in section 302(d) of the Act.

(b) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Administrator which will enable the Administrator to identify those vehicles which are covered by a certificate of conformity.

§ 86.078–37 Production vehicles and engines.

(a) Any manufacturer obtaining certification under this part shall supply to the Administrator, upon his request, a reasonable number of production vehicles (or engines) selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles (or engines) shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Heavy-duty engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b)(1) Any manufacturer of light-duty vehicles or light-duty trucks, obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of vehicles domestically produced for sale in the United States and the number of vehicles produced and imported for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead of quarterly, to combine it with the notification required under § 86.078–36. The notification must be submitted 30 days after the close of the reporting period. The vehicle production information required shall be submitted as follows:

(i) Total production volume expressed in terms of units produced.

(ii) Model type production volume, expressed for each model type in terms of units produced and as a percentage of total production.

(iii) Base level production volume, expressed for each base level in terms of units produced and as a percentage of (A) the total production of its respective model type(s) and, (B) total production.

(iv) Vehicle configuration production volume, expressed for each vehicle configuration in terms of units produced, and as a percentage of the total production of its respective base level. In addition, each vehicle configuration shall be identified by its appropriate engine-system combination.

(2) All light-duty vehicles and light-duty trucks covered by a certificate of conformity under § 86.078–30(a) shall be adjusted by the manufacturer to the ignition or injection timing specification detailed in § 86.078–35(a)(1)(iii)(D).

(c) *Heavy-duty engines.* Any heavy-duty engine manufacturer obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of engines of each engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter.

(d) The following definitions apply to this section:

(1) "Model type" means a unique combination of car line, basic engine, and transmission class.

(2) "Base level" means a unique combination of basic engine, inertia weight, and transmission class.

(3) "Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio within a base level.

§ 86.078–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the purchaser of each new motor vehicle (or motor vehicle engine) subject to the standards prescribed in §§ 86.078–8 through 86.078–11 as applicable, written instructions for the maintenance and use of the vehicle (or engine) by the purchaser as may be reasonable and necessary to assure the

proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

(c) For gasoline-fueled light-duty vehicles and light-duty trucks.

(1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under §§ 86.078–25(a)(2) or 86.078–25(b)(2) as applicable, and shall explain the conditions under which EGR system and catalytic converter maintenance is to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at low altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at high altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at high altitude.

(3) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at high altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at low altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at low altitude.

(d) For Diesel light-duty vehicles and light-duty trucks.

(1) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at low altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at low altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at high altitude.

(2) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at high altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at low altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at low altitude.

(e) For gasoline-fueled heavy-duty engines, such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.078–25(c)(2). Scheduled maintenance in addition to that performed on the durability-data engine under § 86.078–25(d)(2) may be recommended for reasons such as to offset the effects of operating conditions which differ from the dynamometer durability cycle or to increase the life of the engine beyond 1500 hours (or the equivalent). The instructions may schedule maintenance on a calendar time basis and/or mileage basis in addition to the engine service time basis that was followed by the manufacturer under § 86.078–25(c)(2).

(f) For Diesel heavy-duty engines, such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.078–25(d)(2). Scheduled maintenance in addition to that performed on the durability-data engine under § 86.078–25(d)(2) may be recommended for reasons such as to offset the effects of operating conditions which differ from the dynamometer durability cycle or to increase the life of the engine beyond 1,000 hours (or the equivalent). The instructions may schedule maintenance on a calendar time basis, mileage basis, engine service time basis, or combinations of each.

§ 86.078–39 Submisison of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 86.078–23, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 86.078–38(a). The Administrator will review such instructions in determine whether they are reasonable and necessary to assure the proper functioning of the vehicle's (or engine's) emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

§ 86.079–1 General applicability.

(a) The provisions of this subpart apply to 1979 and later model year new gasoline-fueled and Diesel light-duty vehicles, 1979 and later model year new gasoline-fueled and Diesel light-duty trucks and 1979 and later model year new gasoline-fueled and Diesel heavy-duty engines.

(b) Optional applicability. A manufacturer may request to certify any heavy-duty vehicle 10,000 pounds GVWR or less as a light-duty truck: heavy-duty vehicle provisions do not apply to such a vehicle.

§ 86.079–2 Definitions.

The following definitions apply beginning with the 1979 model year. Section 86.078–2 remains effective excepting those definitions which are hereby superseded.

"Basic vehicle frontal area" means the area enclosed by the geometric projection of the basic vehicle along the longitudinal axis, which includes tires but excludes mirrors and air deflectors, onto a plane perpendicular to the longitudinal axis of the vehicle.

"Gross vehicle weight rating" means the value specified by the manufacturer as he loaded weight of a single vehicle.

"Heavy-duty vehicle" means any motor vehicle rated at more than 8500 pounds GVWR or that has a vehicle curb weight of more than 6000 pounds or that has a basic vehicle frontal area in excess of 46 square feet.

"Incomplete truck" means any truck which does not have the primary load carrying device or container attached.

"Light-duty truck" means any motor vehicle rated at 8500 pounds GVWR or less which has a vehicle curb weight of 6000 pounds or less and which has a basic vehicle frontal area of 46 square feet or less, which is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons, or

(3) Available with special features enabling off-street or off-highway operation and use.

"Loaded vehicle weight" means the vehicle curb weight plus 300 pounds.

"Vehicle curb weight" means the actual or the manufacturer's estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with § 86.078–24; incomplete light-duty trucks shall have vehicle curb weight specified by the manufacturer.

"Van" means a light-duty truck having an integral enclosure, fully enclosing the driver compartment and load carrying device, and having no body sections protruding more than 30 inches ahead of the leading edge of the windshield.

§ 86.079–9 Emission standards for 1979 and later model light-duty trucks.

(a)(1) Exhaust emissions from 1979 and later model year light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 1.7 grams per vehicle mile.

(ii) *Carbon monoxide.* 18 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 2.3 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B and measured and calculated in accordance with those procedures.

(b) (1) Evaporative emissions from 1979 and later model year gasoline-fueled light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 6.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1979 and later model year gasoline-fueled light-duty truck.

§ 86.079–20 Incomplete vehicles, classification.

(a) An incomplete truck less than 8500 pounds gross vehicle weight rating shall be classified by the manufacturer as a light-duty truck or as a heavy-duty vehicle. Incomplete light-duty trucks shall be described in the manfuacturer's application for certification. The frontal area and curb weight used for certification purposes shall be specified on the label required in § 86.079–35(d). Incomplete heavy-duty trucks must be labeled as required in § 86.079–35(e).

§ 86.079–21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles (or engines) covered by the application and a description of their engine (vehicles only), emission control system, and fuel system components. This shall include a detailed description of each AECD to be installed in or on any certification test vehicle (or certification test engine).

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) (i) A description of the proposed mileage (or service) accumulation procedures for durability testing.

(ii) A description of the test procedures to be used to establish the evaporative emission deterioration factors required to be determined and supplied in § 86.078–23(b)(2).

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission-data and durability-data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under §§ 86.078–32, 86.078–33, and 86.078–34 shall be submitted in such multiple copies as the Administrator may require.

(d) Incomplete light-duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

§ 86.079–26 Mileage and service accumulation; emission measurements.

(a) (1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV of this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.125, the manufacturer may elect to conduct the respective emission tests at the inertia weight corresponding to the higher loaded vehicle weight. Mileage will be accumulated on four wheel drive vehicles in their normal on-highway mode of operation.

(3) *Emission-data vehicles.* Unless as otherwise provided for in § 86.078–23(a), emission-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* (A) Each gasoline-fueled emission-data vehicle shall be driven 4000 miles with all emission control systems installed and operating. Complete exhaust emission tests shall be conducted at zero and 4000 miles on those vehicles selected under § 86.078–24(b)(1)(ii) through (b)(1)(v). Complete exhaust and evaporative emission tests shall be conducted at zero miles and 4000 miles on those vehicles selected under § 86.078–24(b)(1)(vii). The manufacturer may at his option test the vehicles selected under § 86.078–24(b)(1)(vii) up to three times at the 4000-mile test point as long as the ±250-mile test tolerance is adhered to. The Administrator may determine under § 86.078–24(f) that no testing is required.

(B) The emission-data vehicle(s) selected for testing under § 86.078–24 (b)(1)(v) or (b)(1)(vii)(D) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high-altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.078–24 (b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.078–23(c)(1)(ii) under the provisions of § 86.078–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low- and high-altitude conditions. For the purposes of this subparagraph, "low altitude" means any elevation less than 549 meters (1800 feet).

(ii) *Diesel.* (A) Each Diesel emission-data vehicle shall be driven 6436 kilometers (4000 miles) with all emission control systems installed and operating. Emission tests shall be conducted at zero kilometers (zero miles) and 6436 kilometers (4000 miles).

(B) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high-altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) and permitted to be tested for purposes of § 86.078–23(c)(1)(ii) under the provisions of § 86.078–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low- and high-altitude conditions. For the purpose of this subparagraph "low altitude" means any elevation less than 549 meters (1800 feet).

(4) *Durability-data vehicles.* Unless as otherwise provided for in § 86.078–23(a), durability-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* Each gasoline-fueled durability-data vehicle selected by the Administrator or elected by the manufacturer under § 86.078–24(c)(1) shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objective of this procedure. Complete exhaust emission tests shall be made on all durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.078–24(c) at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000. The Administrator may determine under § 86.078–24(f) that no testing is required.

(ii) *Diesel.* Each Diesel durability-data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of the procedure. Complete emission tests (see §§ 86.106 through 86.145) shall be made at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000.

(5) All tests required by this subpart to be conducted after every 5,000 miles of driving for durability-data vehicles and 4,000 miles for emission-data vehicles must be conducted at any accumulated mileage within 250 miles of each of those test points.

(6) (i) The results of each emission test shall be supplied to the Administrator immediately after the test. The

manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delivered within 3 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.-078-23. Where the Administrator conducts a test on a durability-data vehicle at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E29-67, to the number of places to the right of the decimal point indicated by expressing the applicable emission standards of this subpart to three significant figures.

(7) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero-mile test data to the Administrator (except for those vehicles for which the zero-mile test requirement has been waived under § 86.078-23(a)(2)) and make the vehicle available for such testing under § 86.078-29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(8) Once a manufacturer begins to operate an emission-data or durability-data vehicle, as indicated by compliance with paragraph (a)(7) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 86.078-28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(9) (i) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(ii) The test procedures in §§ 86.106 through 86.145 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification vehicle other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

(11) This section does not apply to testing conducted to meet the requirements of § 86.078-23(b)(2).

(b) (1) Paragraph (b) of this section applies to gasoline-fueled heavy-duty engines.

(2) The engine dynamometer service accumulation schedule will consist of several operating conditions which give the same percentage of time at various manifold vacuums and modes as specified in the emission test cycle. The average speed shall be between 1,650 and 1,700 r.p.m. Subject to the requirements as to average speed, there must be operation at speeds in excess of 3,200 r.p.m. (but not in excess of governed speed for governed engines or rated speed for nongoverned engines) for a cumulative maximum of 0.5 percent of the actual cycle time, excluding time in transient conditions. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(3) *Emission-data engines.* Unless as otherwise provided for in § 86.078-23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(4) *Durability-data engines.* Unless as otherwise provided for in § 86.078-23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated with all emission control systems installed and operating, for 1,500 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(5) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(6) (i) The results of each emission test shall be supplied to the Administrator within 72 hours (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.078-23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E29-67.

(7) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.078-23(a)(2)) and make the engine available for such testing under § 86.078-29 as the Administrator may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(8) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (b)(7) of this section, he shall continue to run the engine to 125 hours or 1,500 hours, respectively, and the data from the engine will be used in the calculations under § 86.078-28. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(9) (i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (§§ 86.777-5 through 86.777-15) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall

be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification engine other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

(c)(1) Paragraph (c) of this section applies to Diesel heavy-duty engines.

(2) The procedures set forth in this section describe the service accumulation that shall be accomplished on each test engine and when tests are to be conducted.

(3)(i) *Emission-data engines.* Unless as otherwise provided for in § 86.078–23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours.

(ii) *Durability-data engines.* Unless as otherwise provided for in § 86.078–23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated, with all emission control systems installed and operating, for 1,000 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval.

(4) A break-in procedure, not to exceed 20 hours, may be run if approved in writing in advance by the Administrator. This procedure would be run after the zero-hour test, and the hours accumulated would not be counted as part of the service accumulation.

(5) Before service accumulation can begin, the following criteria must be met. Failure to comply with these requirements shall invalidate all test data submitted for an engine.

(i) Each engine shall produce at least 95 percent of the maximum horsepower, corrected to rating conditions, at 95 to 100 percent of the rated speed.

(ii) The fuel rate at maximum horsepower shall be within manufacturer's specifications.

(iii) The zero-hour test data shall be provided to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.078–23(a)(2)) and the engine shall be made available for such testing under § 86.078–29 as the Administrator may require.

(6) During service accumulation, hours can be credited toward the required service accumulation hours when the following criteria are met. If these criteria cannot be met, engine operation shall be discontinued and the Administrator shall be notified immediately. (Adjustments to the fuel rate can be approved under the provisions of § 86.078–25).

(i) Each engine shall produce at least 95 percent of the maximum horsepower, at 95 to 100 percent of the rated speed, observed during zero-hour testing. Horsepower values shall be corrected to the rating conditions.

(ii) The engine shall be operated at 75 percent of the inlet and exhaust restrictions specified in § 86.877–8 except that the tolerance will be ±3 inches of water and ±0.5 inches of Hg, respectively.

(7) During each emission test the inlet and exhaust restrictions shall be as specified in § 86.877–8.

(8) Tests, other than zero-hour tests, may be conducted within 8 hours of the nominal test point.

(9)(i) The results of each emission test shall be air posted to the Administrator within 72 hours of test completion (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided tests. If a manufacturer conducts multiple tests (not to exceed three valid tests) at any test point, the number of tests must be the same at each point. The data obtained from all valid tests shall be used in the calculation of the deterioration factor. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.078–23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E29–67.

(10) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (c) of this section, he shall continue to run the engine to 125 hours or 1,000 hours respectively, and the data from the engine shall be used in the calculations under § 86.078–28. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(11) (i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases, the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (§§ 86.877–5 through 86.877–14 and §§ 86.977–5 through 86.977–15) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(12) Emission testing of any type with respect to any certification engine other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

(a)(1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078–7(c) and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (c) of this section. If applicable, the certificate will state which vehicles are certified for sale at high altitude.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part. Each such certificate shall contain the following language:

> This certificate covers only those new motor vehicles (or new motor vehicle engines) which conform, in all material respects, to the design specifications that applied to those vehicles (or engines) described in the application for certification and which are produced during the ____ model year production period of the said manufacturer, as defined in 40 CFR § 86.079–2.
>
> It is a term of this certificate that the manufacturer shall consent to all inspections described in 40 CFR § 86.078–7(c) which concern either the vehicle (or engine) certified, or any production vehicle (or production engine) covered by this certificate, or any production vehicle (or production engine) which when completed will be claimed to be covered by this certificate. Failure to comply with all the requirements of § 86.078–7(c) with respect to any such vehicle (or engine) may lead to revocation or suspension of this certificate as specified in 40 CFR § 86.079–30(c). It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in § 86.079–30 (c) or (d).

(3) One such certificate will be issued for each engine family and will certify compliance with no more than one set of applicable standards except that for gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination and will certify compliance with no more than one set of applicable standards.

(4) A violation of section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells, offers for sale, introduces or delivers for introduction into commerce, any light-duty vehicle or

light-duty truck, subject to the regulations under the Act, which is not covered by a certificate of conformity at high altitude issued under this part:

(i) At a designated high-altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or,

(ii) At an other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle is intended by the ultimate purchaser to be used principally at a designated high-altitude location.

(5) For the purpose of paragraph (a) of this section, "designated high-altitude location" is any county which has substantially all of its area located above 1219 meters (4,000 feet) and which is identified below.

COUNTIES LOCATED SUBSTANTIALLY ABOVE 1,219 METERS (4,000 FEET) IN ELEVATION

STATE OF ARIZONA

Apache	Navajo

STATE OF COLORADO

Adams	Jefferson
Alamosa	Lake
Arapahoe	La Plata
Archuleta	Larimer
Boulder	Las Animas
Chaffee	Lincoln
Clear Creek	Mesa
Conejos	Mineral
Costilla	Moffat
Crowley	Montezuma
Custer	Montrose
Dolores	Morgan
Delta	Ouray
Denver	Park
Douglas	Pitkin
Eagle	Pueblo
Elbert	Rio Blanco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saguache
Gilpin	San Juan
Grand	San Miguel
Gunnison	Summit
Hinsdale	Teller
Huerfano	Washington
Jackson	Weld

STATE OF IDAHO

Bannock	Custer
Bear Lake	Franklin
Bingham	Fremont
Blaine	Jefferson
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Caribou	Power
Cassia	Teton
Clark	Valley

STATE OF MONTANA

Beverhead	Madison
Deer Lodge	Meagher
Gallatin	Park
Jefferson	Silver Bow

STATE OF NEBRASKA

Banner	Sioux
Kimball	

STATE OF NEVADA

Carson City	Lander
Douglas	Lyon
Elko	Mineral
Esmeralda	Storey
Eureka	White Pine
Humboldt	

STATE OF NEW MEXICO

Bernalillo	Mora
Catron	Rio Arriba
Colfax	Sandoval
Curry	San Juan
De Baca	San Miguel
Grant	Santa Fe
Guadalupe	Sierra
Harding	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia

STATE OF OREGON

Lake	

STATE OF UTAH

Beaver	Piute
Box Elder	Rich
Cache	Salt Lake
Carbon	San Juan
Daggett	Sanpete
Davis	Sevier
Duchesne	Summit
Emery	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasaich
Kane	Wayne
Millard	Weber
Morgan	

STATE OF WYOMING

Albany	Natrona
Carbon	Niobrara
Converse	Park
Fremont	Platte
Goshen	Sublette
Hot Springs	Sweetwater
Johnson	Teton
Laramie	Uinta
Lincoln	Weston

(6) The provisions of paragraph (a) (4) of this section shall not apply to any light-duty vehicle or light-duty truck, sold, offered for sale, introduced, or delivered for introduction into commerce in California, provided that the vehicle is covered by a certificate of conformity with emission standards in effect in California.

(7) Certificates issued for light-duty vehicles or light-duty trucks certified with catalytic converters shall be subject to the following term in addition to the term in paragraph (a) (2) of this section: "Catalyst-equipped vehicles, otherwise covered by this certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for importation without retrofit of the catalyst, they will be considered not to be within the coverage of this certificate unless included in a catalyst control program operated by a manufacturer or a United States Government Agency and approved by the Administrator."

(8) Certificates issued for incomplete light-duty trucks shall be subject to the following term in addition to the term in paragraph (a) (2) of this section: "For incomplete light-duty trucks, this certificate covers only those new motor vehicles which when completed by having the primary load carry device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in 40 CFR 86.079-21(d)."

(9) Certificates issued for heavy-duty engines shall be subject to the following term in addition to the term in paragraph (a) (2) of this section: "For heavy-duty engines, this certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in 40 CFR 86.079-2."

(b) (1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) *Light-duty vehicles and light-duty trucks.*

(A) The durability-data vehicle(s) selected under § 86.078-24(c) (1) (i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.078-24 (b) (1) (ii), (b) (1) (iii), and (b) (1) (iv) shall represent all vehicles of the same engine-system combination as applicable to be sold below 4000 ft.

(C) The emission-data vehicle(s) selected under § 86.078-24 (b) (1) (vii) (A) and (b) (1) (vii) (B) shall represent all vehicles of the same evaporative control system within the evaporative family, as applicable, to be sold below 4000 ft.

(D) The emission-data vehicle(s) selected under § 86.078-24(b) (1) (v) shall represent all vehicles of the same engine-system combination to be sold at high altitude.

(E) The emission-data vehicle(s) selected under § 86.078-24(b) (1) (vii) (D) shall represent all vehicles of the same evaporative control system within the evaporative family sold at high altitude.

(ii) *Gasoline-fueled heavy-duty engines.*

(A) A test engine selected under § 86.078-24(b) (2) (ii) and (iv) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(B) A test engine selected under § 86.078-24(b) (2) (iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A test engine selected under § 86.078-24(c) (2) (i) shall represent all engines of the same engine-system combination.

(iii) *Diesel heavy-duty engines.*

(A) A test engine selected under § 86.078-24(b) (3) (ii) shall represent all engines in the same engine-system combination.

(B) A test engine selected under § 86.078-24(b) (3) (iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

(C) A test engine selected under § 86.078-24(c) (3) (i) shall represent all engines of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) be-

longing to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.078–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

(i) Request a hearing under § 86.078–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application:

(A) If the failed vehicle was tested for compliance with exhaust emission standards only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from his application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.078–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 86.078–32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b)(4) or (b)(5) (as applicable) of this section, the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto.

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or build up into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine), which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in (C) of this subdivision;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above.

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1)(i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii), or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by certification which are still in the hands of the manufacturer, except in cases of

such fraud or other misconduct as makes certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue he will grant the request with respect to such issue.

(d)(1) *For light-duty vehicles and light-duty trucks,* notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606.

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606 to

(A) Monitor vehicle selection pursuant to § 86.607,

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, 86.607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1) (i), (ii) or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1), (iii), (iv), (v), (vi), (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

§ 86.079–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards of this subpart, shall at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.078–30(a).

(1) *Light-duty vehicles and light-duty trucks.* (i) A permanent legible label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches), engine family identification and evaporative family identification.

(D) Engine tuneup specifications and adjustments, as recommended by the manufacturer in accordance with the altitude at which the vehicle is to be sold to the ultimate purchaser, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable) as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty vehicles or light-duty trucks.

(F) The altitude at which the vehicle is intended for sale to the public as specified by a certificate of conformity under § 86.078–30.

(2) *Gasoline-fueled heavy-duty engines.* (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Engine Exhaust Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family identification;

(D) Date of engine manufacture (month and year);

(E) Engine tuneup specifications and adjustments as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), and valve lash. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(F) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations applicable to gasoline-fueled heavy-duty engines.

(iv) The label may be made up of one or more pieces provided that all pieces are permanently attached to the same engine part.

(3) *Diesel heavy-duty engines.* (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Engine Exhaust Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine family identification and model;

(D) Date of engine manufacture (month and year);

(E) Engine specification:

Advertised hp. ____ at ____ r.p.m.
Fuel rate at advertised hp. ____ mm³/stroke.
Valve lash ____ (inches).
Initial injection timing (if adjustable) ____
(The information applicable to each engine is to be inserted on the appropriate line.)

(F) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations applicable to Diesel heavy-duty engines.

(iv) The label may be made up of one or more pieces provided that all pieces are permanently attached to the same engine or vehicle part as applicable.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle (or engine) conforms to any applicable state emission standards for new motor vehicles (or new motor vehicle engines) or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle (or engine).

(c) (1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4 set forth on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 49 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrasts with the background of the label:

(i) The Heading: "Vehicle Emission Control Information"

(ii) The Statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 1978 Model Year New Motor Vehicles"

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as non-catalyst-equipped: "NON-CATLYST"

(B) For all vehicles certified as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST—APPROVED FOR IMPORT"

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST"

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manuafacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii).

(d) Incomplete light-duty trucks and incomplete heavy-duty vehicles optionally certified as light duty trucks shall have the following statement printed on the label required in paragraph (a)(1) of this section in lieu of the statement required by (a)(1)(iii)(E) of this section: "This vehicle conforms to U.S. EPA regulations applicable to 19__ Model Year New Motor Vehicles when completed at a maximum curb weight of ____ pounds and a maximum frontal area of ____ square feet."

(e) Incomplete heavy-duty vehicles having an 8500 pound gross vehicle weight rating or less shall have the following statement printed on the label required in paragraph (a)(2) or (a)(3) of this section in lieu of the statement required by paragraph (a)(2)(iii)F or (a)(3)(iii)F of this section: "This engine conforms to U.S. EPA regulations applicable to 19__ Model Year New Heavy Duty Engines when installed in a vehicle completed at a curb weight of more than 6000 pounds or with a frontal area greater than 46 square feet."

(f) The manufacturer of any incomplete vehicle shall notify the purchaser of such vehicle of any curb weight, frontal area or gross vehicle weight rating limitations affecting the emissions certificate applicable to that vehicle. This notification shall be transmitted in a manner consistent with NHTSA safety notification requirements published in 40 CFR 568.

Subpart B—Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles and New Light-Duty Trucks; Test Procedures.

§ 86.101 General applicability.

(a) The provisions of this subpart are applicable to 1977 and later model year new light-duty vehicles and light-duty trucks.

(1) Sections 86.101 through 86.145–78 apply for 1978 and later model years.

(2) Sections 86.177–4 through 86.177–23 apply for the 1977 model year only.

(b) Provisions of this subpart apply to tests performed by both the Administrator and motor vehicle manufacturers.

§ 86.102 Definitions.

The definitions in §§ 86.077–2 and 86.078–2 apply to this subpart.

§ 86.103 Abbreviations.

The abbreviations in § 86.078–3 apply to this subpart.

§ 86.104–78 Section numbering; construction.

(a) The model year of initial applicability is indicated by the section number. The two digits following the hyphen designate the first model year for which a section is effective. A section remains effective until superseded.

Example. Section 86.111–78 applies to the 1978 and subsequent model years until superseded. If a § 86.111–81 is promulgated it would take effect beginning with the 1981 model year; § 86.111–78 would apply to model years 1978 through 1980.

(b) Unless indicated otherwise, all provisions in this subpart apply to both gasoline-fueled and Diesel vehicles.

§ 86.105–78 Introduction; structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to perform exhaust and evaporative emission tests on light-duty vehicles and light-duty trucks. Subpart A sets forth the testing requirements and test intervals necessary to comply with EPA certification procedures.

(b) Three topics are addressed in this subpart. Sections 86.106 through 86.115 set forth specifications and equipment requirements; §§ 86.116 through 86.126 discuss calibration methods and frequency; test procedures and data requirements are listed (in approximate order of performance) in §§ 86.127 through 86.145.

§ 86.106–78 Equipment required; overview.

(a) This subpart contains procedures for both exhaust and evaporative emissions tests on Diesel or gasoline-fueled light-duty vehicles and light-duty trucks. Certain items of equipment are not necessary for a particular test, e.g., evaporative enclosure when testing Diesel vehicles. Equipment required and specifications are as follows:

(1) *Evaporative emission tests; gasoline-fueled vehicles.* The evaporative emission test is closely related to and connected with the exhaust emission test. All vehicles tested for evaporative emissions must be tested for exhaust emissions. Further, unless the evaporative emission test is waived by the Administrator under § 86.078–26, all gasoline-fueled vehicles must undergo both tests. (Diesel vehicles are excluded from the evaporative emission standard.) Section 86.107 specifies the necessary equipment.

(2) *Exhaust emission tests.* All vehicles subject to this subpart are tested for exhaust emissions. Diesel and gasoline-fueled vehicles are tested identically with the exception of hydrocarbon measurements; Diesel vehicles require a heated hydrocarbon detector, § 86.109. All gasoline-fueled vehicles are either tested for evaporative emissions or undergo a diurnal heat build, Diesel vehicles are excluded from this requirement. Equipment necessary and specifications appear in §§ 86.108 through 86.114.

(3) *Fuel, analytical gas, and driving schedule specifications.* Fuel specifications for exhaust and evaporative emis-

sion testing and for mileage accumulation for gasoline-fueled and Diesel vehicles are specified in § 86.113. Analytical gases are specified in § 86.114. The EPA Urban Dynamometer Driving Schedule for use in exhaust testing is specified in § 86.115 and Appendix I.

§ 86.107–78 Sampling and analytical system; evaporative emissions.

(a) Component description (evaporative emissions sampling system). The following components will be used in evaporative emissions sampling systems for testing under this subpart.

(1) *Evaporative emission measurement enclosure.* The enclosure shall be readily sealable, rectangular in shape, with space for personnel access to all sides of the vehicle. When sealed, the enclosure shall be gas tight in accordance with § 86.117. Interior surfaces must be impermeable to hydrocarbons. One surface should be of flexible, impermeable material to allow for minor volume changes, resulting from temperature changes. Wall design should promote maximum dissipation of heat, and if artificial cooling is used, interior surface temperatures shall not be less than 68° F (20° C).

(2) *Evaporative emission hydrocarbon analyzers.* A hydrocarbon analyzer utilizing the hydrogen flame ionization principle (FID) shall be used to monitor the atmosphere within the enclosure. Instrument bypass flow may be returned to the enclosure. The FID shall have a response time to 90 percent of final reading of less than 1.5 seconds, and be capable of meeting performance requirements expressed as a function of C_{eq}: where C_{eq} is the specific enclosure hydrocarbon level, in ppm, corresponding to the evaporative emission standard:

(i) Stability of the analyzer shall be better than 0.01 C_{eq} ppm at zero and span over a 15-minute period on all ranges used.

(ii) Repeatability of the analyzer, expressed as one standard deviation, shall be better than 0.005 C_{eq} ppm on all ranges used.

(3) *Evaporative emission hydrocarbon data recording system.* The electrical output of the FID shall be recorded at least at the initiation and termination of each diurnal or hot soak. The recording may be by means of a strip chart potentiometric recorder, by use of an on-line computer system or other suitable means. In any case, the recording system must have operational characteristics (signal to noise ratio, speed of response, etc.) equivalent to or better than those of the signal source being recorded, and must provide a permanent record of results. The record shall show a positive indication of the initiation and completion of each diurnal or hot soak along with the time elapsed between initiation and completion of each soak.

(4) *Tank fuel heating system.* The tank fuel heating system shall consist of a heat source and a temperature controller. A typical heat source is a 2000 W heating pad. Other sources may be used as required by circumstances. The temperature controller may be manual, such as a variable voltage transformer, or may be automated. The heating system must not cause hot spots on the tank wetted surface which could cause local overheating of the fuel. Heat must not be applied to the vapor in the tank above the liquid fuel. The temperature controller must be capable of controlling the fuel tank temperature during the diurnal soak to within ±3° F (1.7° C) of the following equation:

$$F = T_s + 0.4\ t$$

or for SI units:

$$C = T_s + (2/9)t$$

Where:

F = Temperature in °F
C = Temperature in °C
t = Time since start of test in minutes
T_s = Initial temperature

(5) *Temperature recording system.* Strip chart recorder(s) or automatic data processor shall be used to record enclosure ambient and vehicle fuel tank temperature during the evaporative emissions test. The temperature recorder or data processor shall record each temperature at least once every minute. The recording system shall be capable of resolving time to ±15s and capable of resolving temperature to ±0.75° F. (0.42° C). The temperature recording system (recorder and sensor) shall have an accuracy of ±3° F (1.7° C). The recorder (data processor) shall have a time accuracy of ±15s and a precision of ±15s. Two ambient temperature sensors, connected to provide one average output, shall be located in the enclosure. These sensors shall be located at the approximate vertical centerline of each side wall extending 4 inches (nominally) into the enclosure at a height of 3±0.5 ft (0.9±0.2 m). The vehicle fuel tank temperature sensor shall be located in the fuel tank so as to measure the temperature of the prescribed test fuel at the approximate mid-volume of the fuel. Manufacturers shall arrange that vehicles furnished for testing at Federal certification facilities be equipped with iron-constantan Type J thermocouples for measurement of fuel tank temperature.

(6) *Purge blower.* One or more portable or fixed blowers shall be used to purge the enclosure. The blowers shall have sufficient flow capacity to reduce the enclosure hydrocarbon concentration from the test level to the ambient level between tests. Actual flow capacity will depend upon the time available between tests.

(7) *Mixing blower.* One or more small blowers or fans with a total capacity of 200 to 1000 cfm shall be used to mix the contents of the enclosure during evaporative emission testing. No portion of the air stream shall be directed towards the vehicle. Maintenance of uniform concentrations throughout the enclosure is important to the accuracy of the test.

§ 86.108–78 Dynamometer.

The dynamometer shall have a power absorption unit for simulation of road load power and flywheels or other means of simulating the inertia weight as specified in § 86.129.

§ 86.109–78 Exhaust gas sampling system.

(a) (1) *General.* The exhaust gas sampling system is designed to measure the true mass emissions of vehicle exhaust. In the CVS concept of measuring mass emissions, two conditions must be satisfied; the total volume of the mixture of exhaust and dilution air must be measured, and a continuously proportioned sample of volume must be collected for analysis. Mass emissions are determined from the sample concentration and totalized flow over the test period.

(2) *Positive Displacement Pump.* The Positive Displacement Pump-Constant Volume Sampler (PDP–CVS), Figure B78–1, satisfies the first condition by metering at a constant temperature and pressure through the pump. The total volume is measured by counting the revolutions made by the calibrated positive displacement pump. The proportional sample is achieved by sampling at a constant flow rate.

(3) *Critical Flow Venturi.* The operation of the Critical Flow Venturi-Constant Volume Sample (CFV–CVS), Figure B78–2, is based upon the principles of fluid dynamics associated with critical flow. Proportional sampling throughout temperature excursions is maintained by use of a small CFV in the sample line. The variable mixture flow rate is maintained at sonic velocity, which is directly proportional to the square root of the gas temperature, and is computed continuously. Since the pressure and temperature are the same at both venturi inlets, the sample volume is proportional to the total volume.

(4) *Diesel sampling.* Diesel vehicles require a heated flame ionization detector (HFID) for hydrocarbon analysis. The sample must be taken as close as practical to the mixing point of the dilution air and exhaust sample. The HFID, by design, draws its sample at a constant flow rate. Unless compensation for varying flow is made the HFID must be used with a constant flow system to insure a representative sample.

(5) *Other systems.* Other sampling systems may be used if shown to yield equivalent results, and if approved in advance by the Administrator (e.g., a heat exchanger with the CFV–CVS; an electronic flow integrator without a heat exchanger, with the PDP–CVS; or, for Diesel HC measurements, an electronic flow compensator with the CFV–CVS).

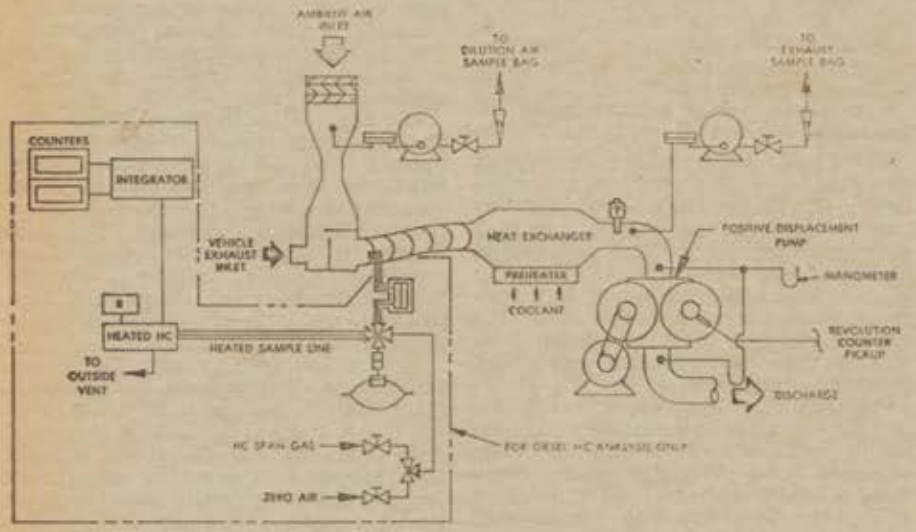
(b) *Component description, PDP–CVS.* The PDP–CVS, Figure B78–1, consists of a dilution air filter and mixing assembly, heat exchanger, positive displacement pump, sampling system, and associated valves, pressure and temperature sensors. The PDP–CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the vehicle shall remain within ±5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

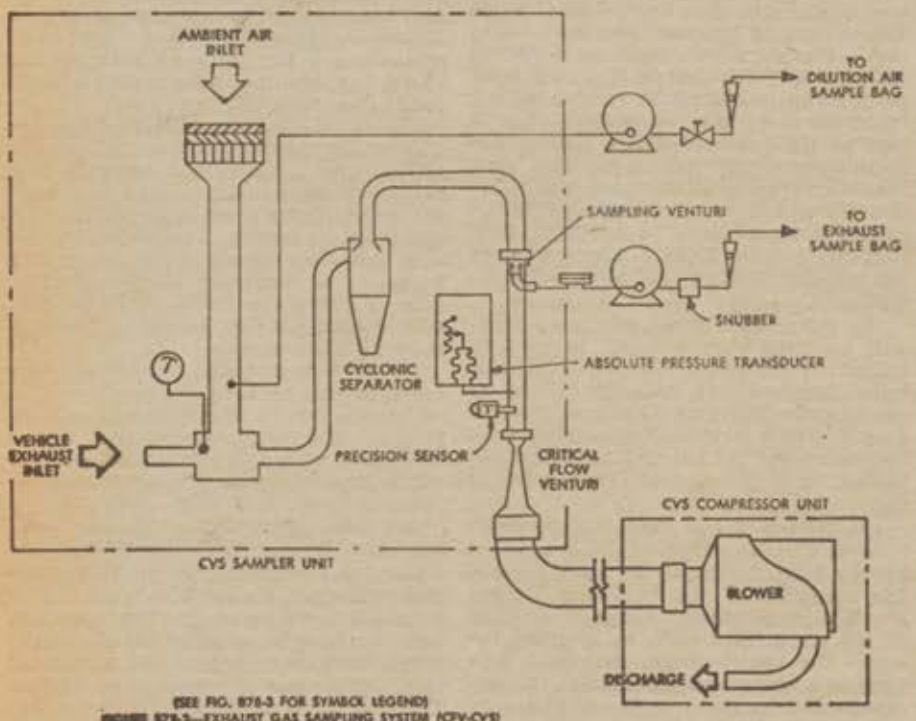
(2) The gas mixture temperature, measured at a point immediately ahead of the positive displacement pump, shall be within ±10° F (5.6° C) of the designed operating temperature at the start of the test. The gas mixture temperature variation from its value at the start of the test shall be limited to ±10° F (5.6° C) during the entire test. The temperature measuring system shall have an accuracy and precision of ±2° F (1.1° C).

(3) The pressure gauges shall have an accuracy and precision of ±3 mm Hg (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to eliminate water condensation in the system (300 to 350 cfm, 0.140 to 0.165 m³/s, is sufficient for most vehicles).



[SEE FIG. B78-3 FOR SYMBOL LEGEND]
FIGURE B78-1—EXHAUST GAS SAMPLING SYSTEM (PDP-CVS)



[SEE FIG. B78-3 FOR SYMBOL LEGEND]
FIGURE B78-2—EXHAUST GAS SAMPLING SYSTEM (CFV-CVS)

(5) Sample collection bags for dilution air and exhaust samples shall be of sufficient size so as not to impede sample flow.

(c) *Component description, CFV-CVS.* The CFV-CVS, Figure B78-2 consists of a dilution air filter and mixing assembly, cyclone particulate separator, sampling venturi, critical flow venturi, sampling system, and assorted valves, pressure and temperature sensors. The CFV-CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the vehicle shall remain within ±5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The temperature measuring system shall have an accuracy and precision of ±2° F (1.1° C) and a response time of 0.100 seconds to 62.5 percent of a temperature change (as measured in hot silicone oil).

(3) The pressure measuring system shall have an accuracy and precision of ±3 mm Hg (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to virtually eliminate water condensation in the system (300 to 350 cfm, 0.142 to 0.165 m³/s, is sufficient for most vehicles).

(5) Sample collection bags for dilution air and exhaust samples shall be of sufficient size so as not to impede sample flow.

§ 86.110–78 [Reserved]

§ 86.111–78 Exhaust gas analytical system.

(a) *Schematic drawings.* Figure B78-3 is a schematic drawing of the exhaust gas analytical system. The schematic of the hydrocarbon analysis train for Diesel vehicles is shown as part of Figure B78-1. Since various configurations can produce accurate results, exact conformance with either drawing is not required. Additional components such as instruments, valves, solenoids, pumps and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Major component description.* The analytical system, Figure B78-3, consists of a flame ionization detector (FID) for the determination of hydrocarbons, nondispersive infrared analyzers (NDIR) for the determination of carbon monoxide and carbon dioxide and a chemiluminescence analyzer (CL) for the determination of oxides of nitrogen. A heated flame ionization detector (HFID) is used for the continuous determination of hydrocarbons from Diesel fueled vehicles, Figure B78-1. The exhaust gas analytical system shall conform to the following requirements:

(1) The CL requires that the nitrogen dioxide present in the sample be con-

verted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(2) The carbon monoxide (NDIR) analyzer may require a sample conditioning column containing $CaSO_4$, or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

(i) If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted, see §§ 86.-122 and 86.144.

(ii) A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2 which has been bubbled through water at room temperature produces an equivalent CO response, as measured on the most sensi-

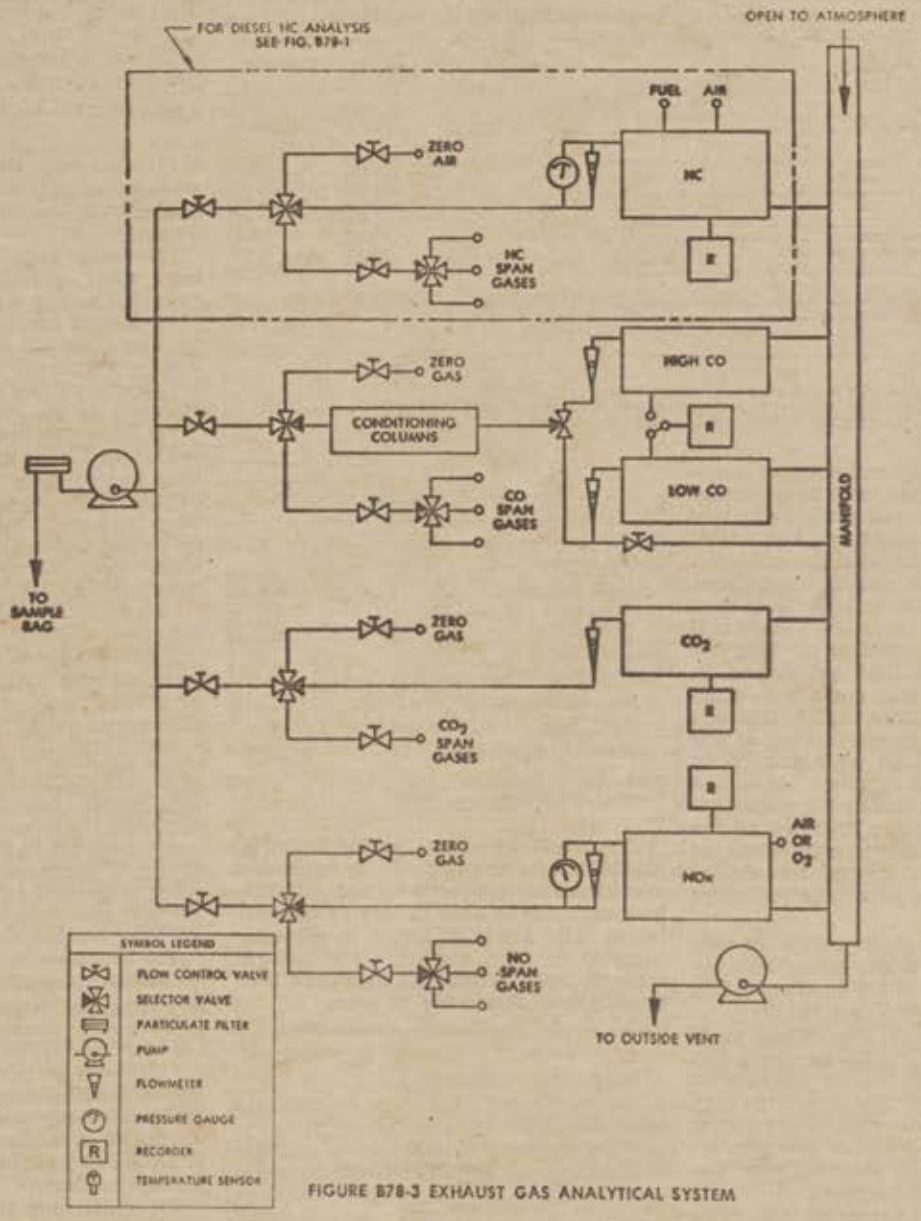


FIGURE B78-3 EXHAUST GAS ANALYTICAL SYSTEM

tive CO range, which is less than 1 percent of full scale CO concentration on ranges above 300 ppm full scale or less than 3 ppm on ranges below 300 ppm full scale, see § 86.122.

(3) For Diesel vehicles a continuous sample shall be measured using a heated analyzer train as shown in Figure B78–1. The train shall include a heated continuous sampling line, a heated particulate filter, and a heated hydrocarbon instrument (HFID) complete with heated pump, filter and flow control system.

(i) The response time of this instrument shall be less than 1.5 seconds for 90 percent of full-scale response.

(ii) Sample transport time from sampling point to inlet of instrument shall be less than 4 seconds.

(iii) The sample line and filter shall be heated to a set point ±10° F (±5.6° C) between 300 and 390° F (149 and 199° C).

(c) *Other analyzers and equipment.* Other types of analyzers and equipment may be used if shown to yield equivalent results and if approved in advance by the Administrator.

§ 86.112–78 [Reserved]

§ 86.113–78 Fuel specifications.

(a) *Gasoline.* (1) Gasoline having the following specifications will be used by the Administrator in exhaust and evaporative emission testing. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer in exhaust and evaporative testing, except that the lead and octane specifications do not apply.

Item	ASTM	Leaded	Unleaded
Octane, research, minimum	D2699	100	96
Pb. (organic), grams/U.S. gallon		[1] 1.4	0.00–0.05
Distillation range:			
IBP [2], °F	D86	75–95	75–95
10 pct point, °F	D86	120–135	120–135
50 pct point, °F	D86	200–230	200–230
90 pct point, °F	D86	300–325	300–325
EP, °F (maximum)	D86	415	415
Sulphur, weight percent, maximum	D1266	0.10	0.10
Phosphorous, grams/U.S. gallon, maximum		0.01	0.005
RVP [3] [4], per square inch	D323	8.7–9.2	8.7–9.2
Hydrocarbon composition:			
Olefins, percent, maximum	D1319	10	10
Aeromatics, percent, maximum	D1319	35	35
Saturates	D1319	[5]	[5]

[1] Minimum.
[2] For testing at altitudes above 1,219 m (4,000 ft) the specified range is 75–105.
[3] For testing which is unrelated to evaporative emission control, the specified range is 8.0–9.2.
[4] For testing at altitudes above 1,219 m (4,000 ft) the specified range is 7.9–9.2.
[5] Remainder.

(2) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation. For leaded gasoline the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that vehicles represented by a test vehicle will be operated using gasoline of different lead content than that prescribed in this paragraph, he may consent in writing to use of a gasoline with a different lead content. The octane rating of the gasoline used shall be no higher than 4.0 research octane numbers above the minimum recommended by the manufacturer. The Reid Vapor Pressure of the gasoline used shall be characteristic of the motor fuel used during the season in which the service accumulation takes place.

(3) The specification range of the gasoline to be used under paragraph (a)(2) of this section shall be reported in accordance with § 86.078–21(b)(3).

(b) *Diesel fuel.* (1) The Diesel fuels employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The Diesel fuel may contain nonmetallic additives as follows: Centane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(2) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of Diesel fuel recommended by the engine manufacturer commercially designated as "Type 2D" grade Diesel fuel shall be used.

Item	ASTM test method No.	Type 2-D
Cetane	D613	42–50
Distillation range	D86	
IBP, °F		340–400
10 pct point, °F		400–460
50 pct point, °F		470–540
90 pct point, °F		550–610
EP, °F		580–660
Gravity, °API	D287	33–37
Total sulfur, percent	D129 or D2622	0.2–0.5
Hydrocarbon composition	D1319	
Aromatics, percent (minimum)		27
Paraffins, naphthenes, olefins		Remainder
Flashpoint °F (minimum)	D93	130
Viscosity, centistokes	D445	2.0–3.2

(3) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administractor, shall be used in service accumulation. The grade of Diesel fuel recommended by the engine manufacturer, commercially designated as "Type 2-D" grade Diesel fuel shall be used.

Item	ASTM test method No.	Type 2-D
Cetane (minimum)	D613	38–58
Distillation range:		
90 percent point, °F	D86	430–630
Gravity °API	D287	30–42
Total sulfur, percent (minimum)	D129 or D2622	0.2
Flashpoint, °F (minimum)	D93	130
Viscosity, centistokes	D455	1.5–4.5

(4) Other petroleum distillate fuel specifications:

(i) Other petroleum distillate fuels may be used for testing and service accumulation provided they are commercially available, and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service, and

(iii) Use of a fuel listed under paragraphs (b)(2) and (b)(3) of this section would have a detrimental effect on emissions or durability, and

(iv) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(5) The specification range of the fuels to be used under paragraphs (b)(2), (b)(3), and (b)(4) of this section shall be reported in accordance with § 86.078–21(b)(3).

§ 86.114–78 Analytical gases.

(a) Analyzer gases.

(1) Gases for the CO and CO_2 analyzers shall be single blends of CO and CO_2 respectively using nitrogen as the diluent.

(2) Gases for the hydrocarbon analyzer shall be single blends of propane using air as the diluent.

(3) Gases for the NO_x analyzer shall be single blends of NO named as NO_x with a maximum NO_2 concentration of 5 percent of the nominal value using nitrogen as the diluent.

(4) Fuel for the evaporative emission enclosure FID shall be a blend of 40 ±2 percent hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response. 98 to 100 percent hydrogen fuel may be used with advance approval by the Administrator.

(5) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 0.04 percent (400 ppm) carbon dioxide and 0.1 ppm nitric oxide.

(6) "Zero-grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(7) The use of proportioning and precision blending devices to obtain the required analyzer gas concentrations is allowable provided their use has been approved in advance by the Administrator.

(b) Calibration gases should be known to within ±2 percent of the true values.

§ 86.114–79 Analytical gases.

(a) Analyzer gases.

(1) Gases for the CO and CO_2 analyzers shall be single blends of CO and CO_2 respectively using nitrogen as the diluent.

(2) Gases for the hydrocarbon analyzer shall be single blends of propane using air as the diluent.

(3) Gases for NOx analyzer shall be single blends of NO named as NOx, with a maximum NO_2 concentration of 5 percent of the nominal value, using nitrogen as the dilutent.

(4) Fuel for the evaporative emission enclosure FID shall be a blend of 40±2% hydrogen with the balance being helium. The mixture shall contain less than 1

ppm equivalent carbon response. 98 to 100 percent hydrogen fuel may be used with advance approval by the Administrator.

(5) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 0.04 percent (400 ppm) carbon dioxide and 0.1 ppm nitric oxide.

(6) "Zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(b) Calibration gases shall be traceable to within 1 percent of NBS gas standards, or other gas standards which have been approved by the Administrator.

(c) Span gases shall be accurate to within 2 percent of true concentration, where true concentration refers to NBS gas standards, or other gas standards which have been approved by the Administrator.

§ 86.115–78 EPA urban dynamometer driving schedule.

(a) The dynamometer driving schedule is listed in Appendix I. The driving schedule is defined by a smooth trace drawn through the specified speed vs. time relationships. It consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates.

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I or as printed on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of § 86.137 is defined by upper and lower limits. The upper limit is 2 mph (3.2 km/h) higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 mph (3.2 km/h) lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as may occur during gear changes) are acceptable provided they occur for less than 2 seconds on any occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences. When conducted to meet the requirements of § 86.128 the speed tolerance shall be as specified above, except that the upper and lower limits shall be 4 mph (6.4 km/h).

(c) Figures B78–4(a) and B78–4(b) show the range of acceptable speed tolerances for typical points. Figure B78–4 (a) is typical of portions of the speed curve which are increasing or decreasing throughout the two second time interval. Figure B78–4(b) is typical of portions of the speed curve which include a maximum or minimum value.

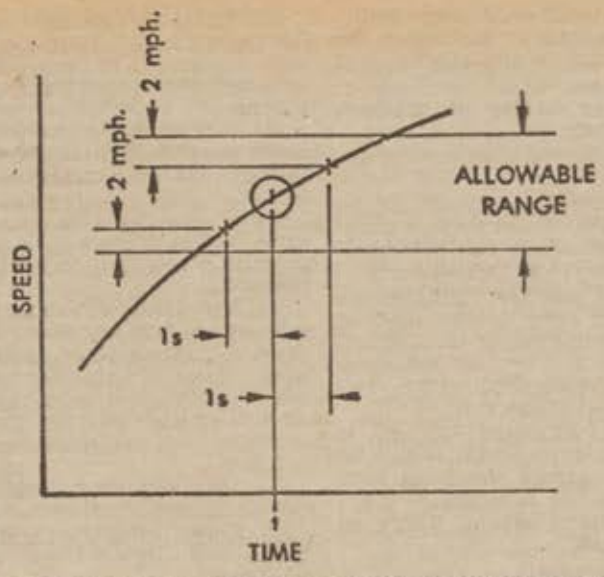


FIGURE B78-4a—DRIVERS TRACE, ALLOWABLE RANGE

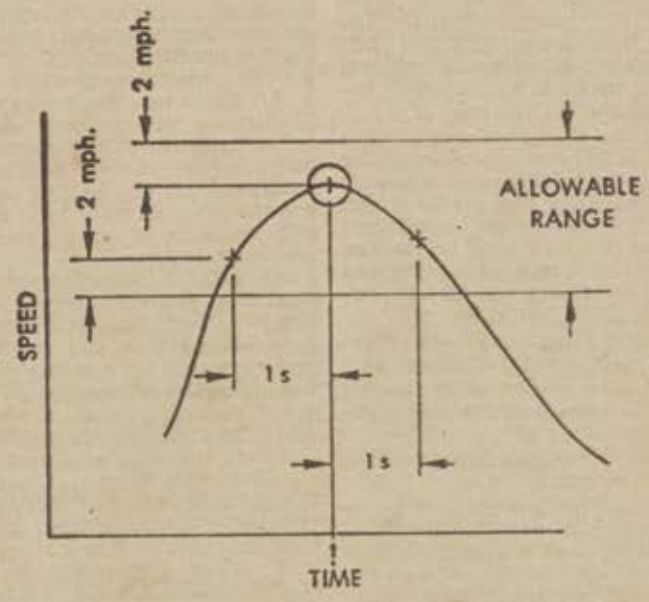


FIGURE B78-4b—DRIVERS TRACE, ALLOWABLE RANGE

§ 86.116–78 Calibrations; frequency and overview.

(a) Calibrations shall be performed as specified in §§ 86.117 through 86.126.

(b) At least yearly or after any maintenance which could alter background emission levels, enclosure background emission measurements shall be performed.

(c) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the hydrocarbon analyzers (both evaporative and exhaust instruments), carbon dioxide analyzer, carbon monoxide analyzer, and oxides of nitrogen analyzer.

(2) Calibrate the dynamometer. If the dynamometer receives a weekly performance check (and remains within calibration) the monthly calibration need not be performed.

(3) Perform a hydrocarbon retention check and calibration on the evaporative emission enclosure.

(d) At least weekly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Check the oxides of nitrogen converter efficiency, and

(2) Perform a CVS system verification, and

(3) Run a performance check on the dynamometer. This check may be omitted if the dynamometer has been calibrated within the preceding month.

(e) The CVS positive displacement pump or Critical Flow Venturi shall be calibrated following initial installation, major maintenance or as necessary when indicated by the CVS system verification (described in § 86.119).

(f) Sample conditioning columns, if used in the CO analyzer train, should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

§ 86.117–78 Evaporative emission enclosure calibrations.

The calibration of the evaporative emission enclosure consists of three parts: Initial and periodic determination of enclosure background emissions; initial determination of enclosure internal volume; and periodic hydrocarbon retention check and calibration.

(a) *Initial and periodic determination of enclosure background emissions.* Prior to its introduction into service, annually thereafter, and after any repair which can affect the enclosure background emissions, the enclosure shall be checked to determine that it does not contain materials which will themselves emit hydrocarbons. Proceed as follows:

(1) Zero and span (calibrate if required) the hydrocarbon analyzer.

(2) Purge the enclosure until a stable background hydrocarbon reading is obtained.

(3) Turn on the mixing blower (if not already on).

(4) Seal enclosure and measure background hydrocarbon concentration, temperature, and barometric pressure. These are the initial readings C_{HCi}, T_i and P_{Bi} for the enclosure background determination.

(5) Allow the enclosure to stand undisturbed without sampling for four hours.

(6) Measure the hydrocarbon concentration on the same FID. This is the final concentration, C_{HCf}. Also measure final temperature and barometric pressure.

(7) Calculate the mass change of hydrocarbons in the enclosure according to the equations in paragraph (d) of this section. The enclosure background emissions shall not be greater than 0.4g for the 4 hours.

(b) *Initial determination of enclosure internal volume.* Prior to its introduction into service the enclosure internal volume shall be determined by the following procedure.

(1) Carefully measure the internal length, width and height of the enclosure, accounting for irregularities (such as braces) and calculate the internal volume.

(2) Perform an enclosure calibration check according to subparagraphs (1) through (7) of paragraph (c) of this section.

(3) If the calculated mass does not agree within 2 percent of the injected propane mass, then corrective action is required.

(c) *Hydrocarbon retention check and calibration.* The hydrocarbon retention check provides a check upon the calculated volume and also measures the leak rate. Prior to its introduction into service and at least monthly thereafter the enclosure leak rate shall be determined as follows:

(1) Zero and span (calibrate if required) the hydrocarbon analyzer.

(2) Purge the enclosure until a stable background hydrocarbon reading is obtained.

(3) Turn on the mixing blower (if not already on).

(4) Seal enclosure and measure background hydrocarbon concentration, temperature and barometric pressure. These are the initial readings C_{HCi}, T_i and P_{Bi} for the enclosure calibration.

(5) Inject into the enclosure a known quantity of pure propane. (4 g is a convenient quantity.) The propane may be measured by volume flow or by mass measurement. The method used to measure the propane shall have an accuracy and precision of ±0.5 percent of the measured value.

(6) After a minimum of 5 minutes of mixing, analyze the enclosure atmosphere for hydrocarbon content, also record temperature and pressure. These measurements are the final readings for the enclosure calibration as well as the initial readings for the retention check.

(7) To verify the enclosure calibration calculate the mass of propane using the measurements taken in steps (4) and (6). See paragraph (d) of this section. This quantity must be within ±2 percent of that measured in step 5 above.

(8) Allow the enclosure to remain sealed for a minimum of 4 hours without sampling and with the mixing blower operating. After 4 hours analyze the enclosure atmosphere for hydrocarbon content; record temperature and barometric pressure. These are the final readings for the hydrocarbon retention check.

(9) Calculate, using the equations in paragraph (d) and the readings taken in (8), the hydrocarbon mass. It may not differ by more than 4 percent of the value in step (6).

(d) *Calculations.* The calculation of net hydrocarbon mass change is used to determine enclosure background and leak rate. It is also used to check the enclosure volume measurements. The mass change is calculated from the initial and final readings of hydrocarbon concentration, temperature and pressure according to the following equation:

$$M_{HC} = kV \times 10^{-4}\left[\frac{C_{HCf}P_{Bf}}{T_f} - \frac{C_{HCi}P_{Bi}}{T_i}\right]$$

Where:

M_{HC} = Hydrocarbon mass change, g.
C_{HC} = Hydrocarbon concentration as ppm carbon.
V = Enclosure volume, ft^3 (m^3), as measured in paragraph (b)(1) of this section.
P_B = Barometric pressure, in. Hg (kPa).
T = Enclosure ambient temperature, R(K).
k = 3.05.

for SI units,

k = 17.60.

i = Indicates initial reading.
f = Indicates final reading.

NOTE: Hydrocarbon concentration is stated in ppm carbon, that is, ppm propane x3. Expressions in parenthesis are for SI units.

§ 86.118–78 Dynamometer calibration.

(a) The dynamometer shall be calibrated at least once each month or performance verified at least once each week and then calibrated as required. The calibration shall consist of the manufacturer's recommended calibration procedure plus a determination of the dynamometer frictional power absorption at 50.0 mph (80.5 km/h). One method for determining dynamometer frictional power absorption at 50.0 mph (80.5 km/h) is described below, other methods may be used if shown to yield equivalent results. The measured absorbed road power includes the dynamometer friction as well as the power absorbed by the power absorption unit. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll(s) is (are) allowed to coast down. The kinetic energy of the system is dissipated by the dynamometer. This method neglects the variations in roll bearing friction due to the drive axle weight of the vehicle. The inertia of the free (rear) roll may be neglected in the case of dynamometers with paired rolls.

(1) Devise a method to determine the speed of the drive roll if it is not already measured. A fifth wheel, revolution pickup, or other suitable means may be used.

(2) Place a vehicle on the dynamometer or devise another method of driving the dynamometer.

(3) Engage the inertial flywheel or other inertial simulation system for the most common vehicle mass category for which the dynamometer is used. In addition other vehicle mass categories may be calibrated, if desired.

(4) Drive the dynamometer up to 50.0 mph (80.5 km/h).

(5) Record indicated road power.

(6) Drive the dynamometer up to 60.0 mph (96.9 km/h).

(7) Disengage the device used to drive the dynamometer.

(8) Record the time for the dynamometer drive roll to coastdown from 55.0 mph (88.5 km/h) to 45 mph (72.4 km/h).

(9) Adjust the power absorption unit to a different level.

(10) Repeat steps (4) to (9) above sufficient times to cover the range of road power used.

(11) Calculate absorbed road power (HP_a). See paragraph (c) of this section.

(12) Plot indicated road load power at 50 mph (80.5 km/h) versus road load power at 50 mph (80.5 km/h) as shown in Figure B78–5.

(b) The performance check consists of conducting a dynamometer coastdown at one or more inertia-horsepower settings and comparing the coastdown time to that recorded during the last calibration. If the coastdown times differ by more than 1 s, a new calibration is required.

(c) *Calculations.* The road load power actually absorbed by the dynamometer is calculated from the following equation:

$$HP_a = (1/2)\ (W/32.2)\ (V_1^2 - V_2^2)/550t$$

Where:

HP_a = Power, horsepower (kilowatts)

W = Equivalent inertia, lb (kg)

V_1 = Initial Velocity, ft/s (m/s)
(55 mph = 88.5 km/h = 80.67 ft/s = 24.58 m/s)

V_2 = Final Velocity, ft/s (m/s)
(45 mph = 72.4 km/h = 66 ft/s = 20.11 m/s)

t = elapsed time for rolls to coast from 55 mph to 45 mph (88.5 to 72.4 km/h)

(Expressions in parenthesis are for SI units.) When the coastdown is from 55 to 45 mph (88.5 to 72.4 km/h) the above equation reduces to:

$HP_a = 0.06073\ (W/t)$
for SI units,
$HP_a = 0.09984\ (W/t)$

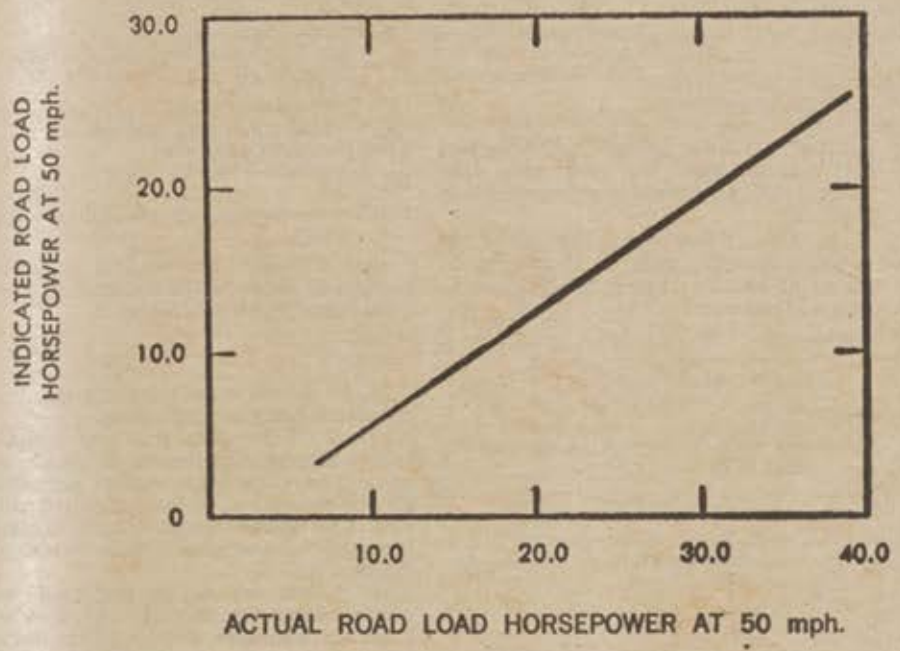


FIGURE B78-5—ROAD LOAD HORSEPOWER, ACTUAL VS. INDICATED

§ 86.119–78 CVS calibration.

The CVS is calibrated using an accurate flowmeter and restrictor valve. Measurements of various parameters are made and related to flow through the unit. Procedures used by EPA for both PDP and CFV are outlined below. Other procedures yielding equivalent results may be used if approved in advance by the Administrator. After the calibration curve has been obtained, verification of the entire system can be performed by injecting a known mass of gas into the system and comparing the mass indicated by the system to the true mass injected. An indicated error does not necessarily mean that the calibration is wrong, since other factors can influence the accuracy of the system, e.g. analyzer calibration. A verification procedure is found in paragraph (c) of this section.

(a) *PDP calibration.* (1) The following calibration procedure outlines the equipment, the test configuration, and the various parameters which must be measured to establish the flow rate of the CVS pump. All the parameters related to the pump are simultaneously measured with the parameters related to a flowmeter which is connected in series with the pump. The calculated flow rate (ft^3/min. (at pump inlet absolute pressure and temperature) can then be plotted versus a correlation function which is the value on a specific combination of pump parameters. The linear equation which relates the pump flow and the correlation function is then determined. In the event that a CVS has a multiple speed drive, a calibration for each range used must be performed.

(2) This calibration procedure is based on the measurement of the absolute values of the pump and flowmeter parameters that relate the flow rate at each point. Three conditions must be maintained to assure the accuracy and integrity of the calibration curve. First, the pump pressures should be measured at taps on the pump rather than at the external piping on the pump inlet and outlet. Pressure taps that are mounted at the top center and bottom center of the pump drive headplate are exposed to the actual pump cavity pressures, and

therefore reflect the absolute pressure differentials. Secondly, temperature stability must be maintained during the calibration. The laminar flowmeter is sensitive to inlet temperature oscillations which cause the data points to be scattered. Gradual changes (±2° F (1.1° C)) in temperature are acceptable as long as they occur over a period of several minutes. Finally, all connections between the flowmeter and the CVS pump must be absolutely void of any leakage.

(3) During an exhaust emission test the measurement of these same pump parameters enables the user to calculate the flow rate from the calibration equation.

(4) Connect a system as shown in Figure B78–6. Although particular types of equipment are shown, other configurations that yield equivalent results may be used if approved in advance by the Administrator. For the system indicated, the following data with given accuracy are required:

CALIBRATION DATA MEASUREMENTS

Parameter	Symbol	Units	Tolerances
Barometric pressure (corrected)	P_B	Inches Hg (kPa).	±.01 in Hg (±.034 kPa).
Ambient temperature	T_A	°F (°C).	±.5°F (±.28°C).
Air temperature into LFE	ETI	°F (°C).	±.25°F (±.14°C).
Pressure depression upstream of LFE	EPI	Inches H_2O (kPa).	±.05 in H_2O (±.012 kPa).
Pressure drop across the LFE matrix	EDP	Inches H_2O (kPa).	±.005 in H_2O (±.001 kPa).
Air temperature at CVS pump inlet	PTI	°F (°C).	±.5°F (±.28°C).
Pressure depression at CVS pump inlet	PPI	Inches fluid (kPa).	±.05 in fluid (±.022 kPa).
Specific gravity of manometer fluid (1.75 oil).	Sp. Gr		
Pressure head at CVS pump outlet	PPO	Inches fluid (kPa).	±.05 in fluid (±.022 kPa).
Air temperature at CVS pump outlet (optional).	PTO	°F (°C).	±.5°F (±.28°C).
Pump revolutions during test period	N	Revs.	±1 Rev.
Elapsed time for test period	t	s.	±.05 s.

(5) After the system has been connected as shown in Figure B78–6, set the variable restrictor in the wide open position and run the CVS pump for 20 minutes. Record the calibration data.

(6) Reset the restrictor valve to a more restricted condition in an increment of pump inlet depression (about 4" H_2O (1.0 kPa) that will yield a minimum of six data points for the total calibration. Allow the system to stabilize for 3 minutes and repeat the data acquisition.

(7) Data analysis:

(i) The air flow rate, Qs, at each test point is calculated in standard cubic feet per minute from the flowmeter data using the manufacturer's prescribed method.

(ii) The air flow rate is then converted to pump flow, V_o, in cubic feet per revolution at absolute pump inlet temperature and pressure.

$$V_o = \frac{Qs}{n} \times \frac{T_p}{528} \times \frac{29.92}{P_p}$$

Where:

V_o = Pump flow, ft³/revolution (m³/revolution) at T_p, P_p

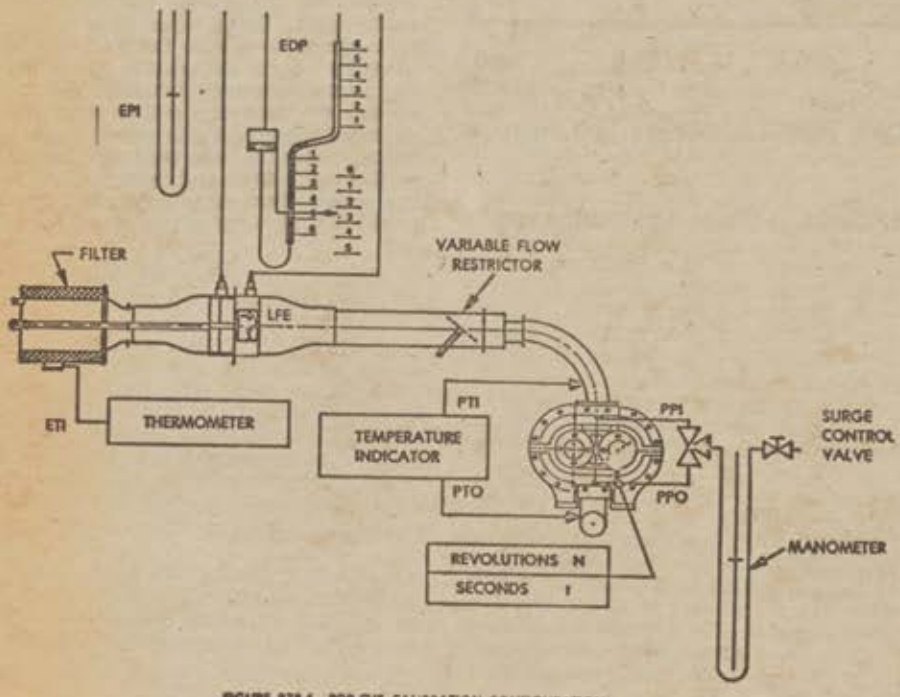


FIGURE 878-6—PDP-CVS CALIBRATION CONFIGURATION

Qs = Meter air flow rate in standard cubic feet per minute, standard conditions are 68° F, 29.92 in. Hg (20° C, 101.3 kPa).

n = Pump speed in revolutions per minute.

T_p = Pump inlet temperature, R(K) = PTI + 460

for SI units, T_p = PTI + 273

P_p = Absolute pump inlet pressure, in. Hg (kPa) = P_B − PPI (SP. GR./13.57)

for SI units, $P_p = P_B - PPI$

Where:

P_B = barometric pressure, in. Hg (kPa)

PPI = Pump inlet depression, in. fluid (kPa)

SP. GR. = Specific gravity of manometer fluid relative to water.

(iii) The correlation function at each test point is then calculated from the calibration data:

$$X_o = \frac{1}{n}\sqrt{\frac{\Delta P_p}{P_e}}$$

Where:

X_o = correlation function.

ΔP_p = The pressure differential from pump inlet to pump outlet, in. Hg (kPa) = $P_e - P_p$

P_e = Absolute pump outlet pressure, in. Hg (kPa) = P_B + PPO (SP. GR./13.57)

for SI units, $P_e = P_B + PPO$

Where:

PPO = Pressure head at pump outlet, in. fluid (kPa)

(iv) A linear least squares fit is performed to generate the calibration equations which have the forms:

$V_o = D_o - M(X_o)$

$n = A - B(\Delta P_p)$

D_o, M, A, and B are the slope-intercept constants describing the lines.

(8) A CVS system that has multiple speeds should be calibrated on each speed used. The calibration curves generated for the ranges will be approximately parallel and the intercept values, D_o, will increase as the pump flow range decreases.

(9) If the calibration has been performed carefully, the calculated values from the equation will be within ±0.50 percent of the measured value of V_o. Values of M will vary from one pump to another, but values of D_o for pumps of the same make, model, and range should agree within ±3 percent of each other. Particulate influx from use will cause the pump slip to decrease as reflected by lower values for M. Calibrations should be performed at pump start-up and after major maintenance to assure the stability of the pump slip rate. Analysis of mass injection data will also reflect pump slip stability.

(b) *CFV calibration.* (1) Calibration of the CFV is based upon the flow equation for a critical venturi. Gas flow is a function of inlet pressure and temperature:

$$Q_s = \frac{K_v P}{\sqrt{T}}$$

Where:

Q_s = Flow

K_v = Calibration coefficient

P = Absolute pressure

T = Absolute temperature

The calibration procedure described below establishes the value of the calibration coefficient at measured values of pressure, temperature and air flow.

(2) The manufacturer's recommended procedure shall be followed by calibrating electronic portions of the CFV.

(3) Measurements necessary for flow calibration are as follows:

CALIBRATION DATA MEASUREMENTS

Parameter	Symbol	Units	Tolerances
Barometric pressure (corrected)	PB	Inches Hg (kPa)	±.01 in Hg (±.034 kPa).
Air temperature, flowmeter	ETI	°F (°C).	±.25°F (±.14°C).
Pressure depression upstream of LFE	EPI	Inches H_2O (kPa).	±.05 in H_2O (±.012 kPa).
Pressure drop across LFE matrix	EDP	Inches H_2O (kPa).	±.005 in H_2O (±.001 kPa).
Air flow	Q_s	Ft^3/min. (m^3/min.)	±.5 pct.
CFV inlet depression	PPI	Inches fluid (kPa).	±.05 in fluid (±.022 kPa).
Temperature at venturi inlet	T_v	°F (°C).	±.5°F (±.28°C).
Specific gravity of manometer fluid (1.75 oil).	Sp. Gr.		

(4) Set up equipment as shown in Figure B78–7 and check for leaks. Any leaks between the flow measuring device and the critical flow venturi will seriously affect the accuracy of the calibration.

(5) Set the variable flow restrictor to the open position, start the blower, and allow the system to stabilize. Record data from all instruments.

(6) Vary the flow restrictor and make at least 8 readings across the critical flow range of the venturi.

(7) Data analysis: The data recorded during the calibration are to be used in the following calculations:

(i) The air flow rate, Qs, at each test point is calculated in standard cubic feet per minute from the flow meter data using the manufacturer's prescribed method.

(ii) Calculate values of the calibration coefficient for each test point:

$$K_v = \frac{Q_s\sqrt{T_v}}{P_v}$$

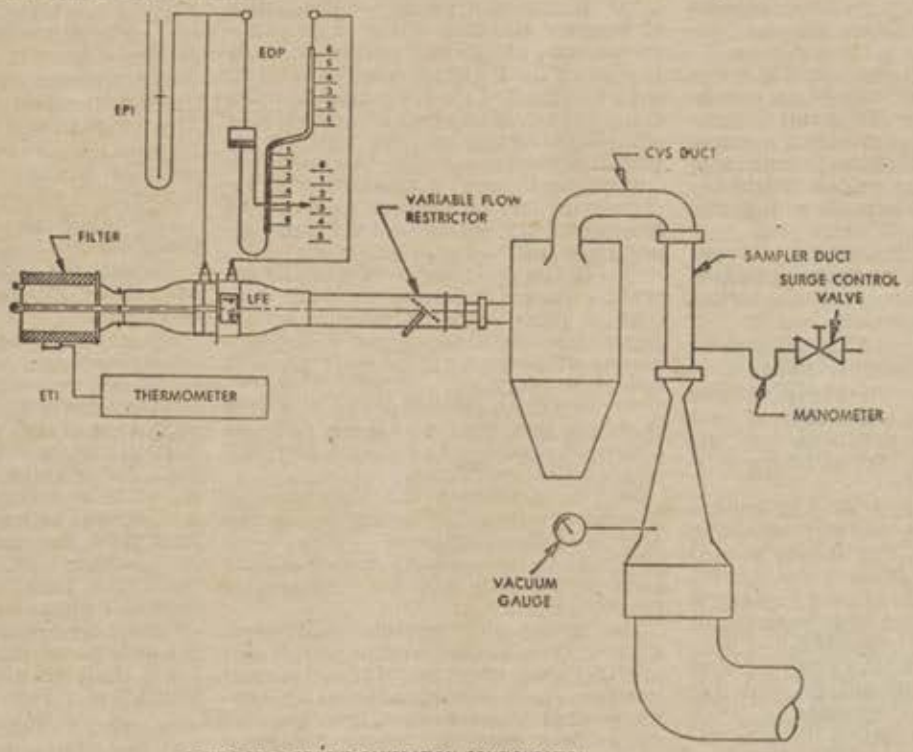


FIGURE B78-7 CFV-CVS CALIBRATION CONFIGURATION

Where:

Q_s=Flow rate in standard cubic feet per minute, standard conditions are 68° F, 29.92 in. Hg (20° C, 101.3 kPa).

T_v=Temperature at venturi inlet, R(K).

P_v=Pressure at venturi inlet, mm Hg (kPa) =P_B−PPI (SP. GR./13.57).

for SI units $P_v = P_B - PPI$.

Where:

PPI=Venturi inlet pressure depression, in. fluid (kPa).

SP. GR.=Specific gravity of manometer fluid, relative to water.

(iii) Plot K_v as a function of venturi inlet pressure. For sonic flow K_v will have a relatively constant value. As pressure decreases (vacuum increases) the venturi becomes unchoked and K_v decreases. See Figure B78–8.

(iv) For a minimum of 8 points in the critical region calculate an average K_v and the standard deviation.

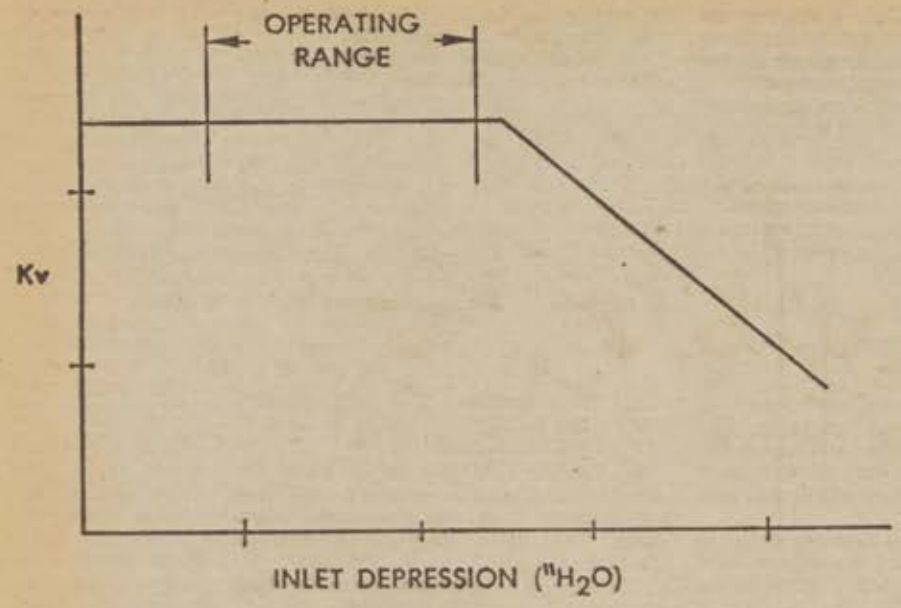


FIGURE B78-8—SONIC FLOW CHOKING

(v) If the standard deviation exceeds 0.3 percent of the average K, take corrective action.

(c) *CVS System Verification.* The following "gravimetric" technique can be used to verify that the CVS and analytical instruments can accurately measure a mass of gas that has been injected into the system. (Verification can also be accomplished by constant flow metering using critical flow orifice devices.)

(1) Obtain a small cylinder that has been charged with pure propane or carbon monoxide gas (caution—carbon monoxide is poisonous).

(2) Determine a reference cylinder weight to the nearest 0.01 grams.

(3) Operate the CVS in the normal manner and release a quantity of pure propane or carbon monoxide into the system during the sampling period (approximately 5 minutes).

(4) The calculations of § 86.144 are performed in the normal way except, in the case of propane. The density of propane (17.30 g/ft³/carbon atom (0.6109 kg/m³/carbon atom)) is used in place of the density of exhaust hydrocarbons. In the case of carbon monoxide, the density of 32.97 g/ft³ (1.164 kg/m³) is used.

(5) The gravimetric mass is subtracted from the CVS measured mass and then divided by the gravimetric mass to determine the percent accuracy of the system.

(6) The cause for any discrepancy greater than ±2 percent must be found and corrected.

§ 86.120–78 [Reserved]

§ 86.121–78 Hydrocarbon analyzer calibration.

The FID hydrocarbon analyzer shall receive the following initial and periodic calibration. The HFID shall be operated to a set point ±10° F (±5.5° C) between 300 and 390° F (149 and 199° C).

(a) Initial and periodic optimization of detector response. Prior to its introduction into service and at least annually thereafter the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. Alternate methods yielding equivalent results may be used, if approved in advance by the Administrator.

(1) Follow the manufacturer's instructions for instrument startup and basic operating adjustment using the appropriate fuel and zero-grade air.

(2) Optimize on the most common operating range. Introduce into the analyzer, a propane in air mixture with a propane concentration equal to approximately 90 percent of the most common operating range.

(3) Select an operating fuel flow rate that will give near maximum response and least variation in response with minor fuel flow variations.

(4) To determine the optimum air flow, use the fuel flow setting determined above and vary air flow.

(5) After the optimum flow rates have been determined, they are recorded for future reference.

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the FID hydrocarbon analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples.

(1) Adjust analyzer to optimize performance.

(2) Zero the hydrocarbon analyzer with zero-grade air.

(3) Calibrate on each normally used operating range with propane in air calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

§ 86.122–78 Carbon monoxide analyzer calibration.

The NDIR carbon monoxide analyzer shall receive the following initial and periodic calibrations:

(a) *Initial and periodic interference check.* Prior to its introduction into service and annually thereafter the NDIR carbon monoxide analyzer shall be checked for response to water vapor and CO_2:

(1) Follow the manufacturer's instructions for instrument startup and operation. Adjust the analyzer to optimize performance on the most sensitive range to be used.

(2) Zero the carbon monoxide analyzer with either zero-grade air or zero-grade nitrogen.

(3) Bubble a mixture of 3 percent CO_2 in N_2 through water at room temperature and record analyzer response.

(4) An analyzer response of more than 1 percent of full scale for ranges above 300 ppm full scale or of more than 3 ppm on ranges below 300 ppm full scale will require corrective action. (Use of conditioning columns is one form of corrective action which may be taken.)

(b) *Initial and periodic calibration.* Prior to its introduction into service and monthly thereafter the NDIR carbon monoxide analyzer shall be calibrated.

(1) Adjust the analyzer to optimize performance.

(2) Zero the carbon monoxide analyzer with either zero-grade air or zero-grade nitrogen.

(3) Calibrate on each normally used operating range with carbon monoxide in N_2 calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

§ 86.123–78 Oxides of nitrogen analyzer calibration.

The chemiluminescent oxides of nitrogen analyzer shall receive the following initial and periodic calibration.

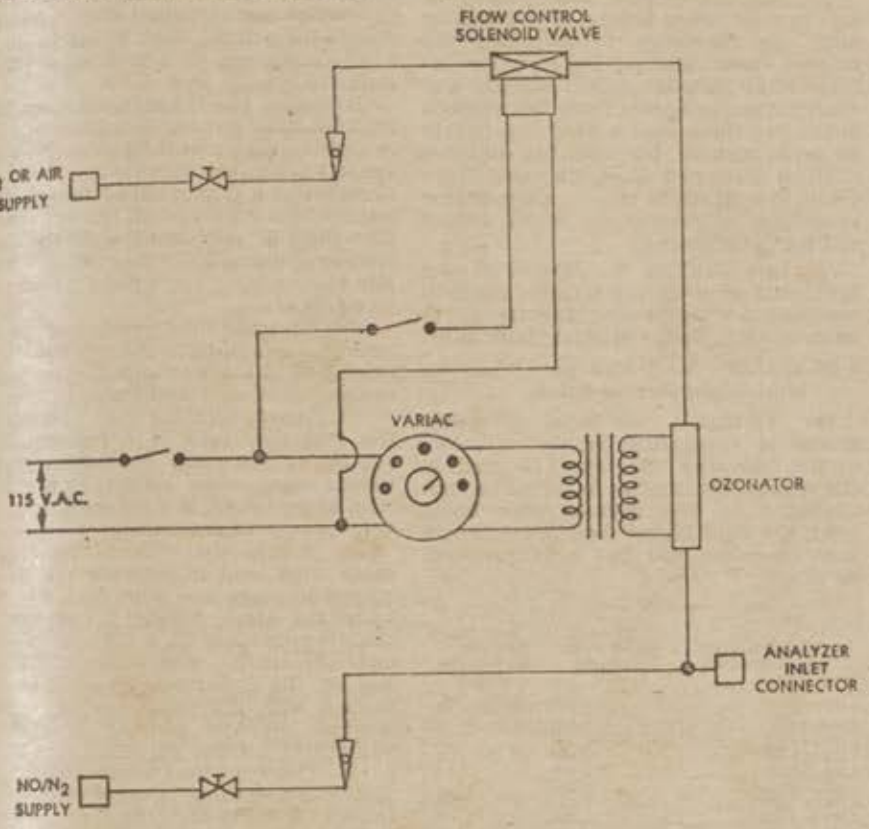
(a) Prior to its introduction into service and weekly thereafter the chemiluminescent oxides of nitrogen analyzer shall be checked for NO_2 to NO converter efficiency. Figure B78-9 is a reference for the following steps:

(1) Follow the manufacturer's instructions for instrument startup and operation. Adjust the analyzer to optimize performance.

(2) Zero the oxides of nitrogen analyzer with zero-grade air or zero-grade nitrogen.

(3) Connect the outlet of the NOx generator to the sample inlet of the oxides of nitrogen analyzer which has been set to the most common operating range.

(4) Introduce into the NOx generator analyzer-system an NO in nitrogen (N_2) mixture with an NO concentration equal to approximately 80 percent of the most common operating range. The NO_2 content of the gas mixture shall be less than 5 percent of the NO concentration.



(SEE FIG 878-3 FOR SYMBOL LEGEND)
FIGURE 878-9—NOx CONVERTER EFFICIENCY DETECTOR

(5) With the oxides of nitrogen analyzer in the NO mode, record the concentration of NO indicated by the analyzer.

(6) Turn on the NOx generator O_2 (or air) supply and adjust the O_2 (or air) flow rate so that the NO indicated by the analyzer is about 10 percent less than indicated in step (5). Record the concentration of NO in this NO+O_2 mixture.

(7) Switch the NOx generator to the generation mode and adjust the generation rate so that the NO measured on the analyzer is 20 percent of that measured in step (5). There must be at least 10 percent unreacted NO at this point. Record the concentration of residual NO.

(8) Switch the oxides of nitrogen analyzer to the NOx mode and measure total NOx. Record this value.

(9) Switch off the NOx generation but maintain gas flow through the system. The oxides of nitrogen analyzer will indicate the NOx in the NO+O_2 mixture. Record this value.

(10) Turn off the NOx generator O_2 (or air) supply. The analyzer will now indicate the NOx in the original NO in N_2 mixture. This value should be no more than 5 percent above the value indicated in step (4).

(11) Calculate the efficiency of the NOx converted by substituting the concentrations obtained into the following equation:

$$\text{Percent Eff.} = \left(1 + \frac{a-b}{c-d}\right) \times 100$$

where a=concentration obtained in step (8).
b=concentration obtained in step (9).
c=concentration obtained in step (6).
d=concentration obtained in step (7).

If converter efficiency is not greater than 90 percent corrective action will be required.

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the chemiluminescent oxides of nitrogen analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples. Proceed as follows:

(1) Adjust analyzer to optimize performance.

(2) Zero the oxides of nitrogen analyzer with zero-grade air or zero-grade nitrogen.

(3) Calibrate on each normally used operating range with NO in N_2 calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

§ 86.124–78 Carbon dioxide analyzer calibration.

Prior to its introduction into service and monthly thereafter the NDIR carbon dioxide analyzer shall be calibrated:

(a) Follow the manufacturer's instructions for instrument startup and operation. Adjust the analyzer to optimize performance.

(b) Zero the carbon dioxide analyzer with either zero-grade air or zero-grade nitrogen.

(c) Calibrate on each normally used operating range with carbon dioxide in N_2 calibration gases with nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

§ 86.125–78 [Reserved]

§ 86.126–78 Calibration of other equipment.

Other test equipment used for testing shall be calibrated as often as required by the manufacturer or as necessary according to good practice.

§ 86.127–78 Test procedures; overview.

The procedures described in this and subsequent sections are used to determine the conformity of vehicles with the standards set forth in Subpart A for light-duty vehicles and light-duty trucks.

(a) The overall test consists of prescribed sequences of fueling, parking, and operating conditions. Vehicles are either tested for only exhaust emissions or are tested for exhaust and evaporative emissions. The evaporative portion of the test procedure occurs before and after the exhaust emission test, and, in some cases, during the exhaust emission test.

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles

(12.1 km). The test consists of engine startups and vehicle operation on a chassis dynamometer, through a specified driving schedule. A proportional part of the diluted exhaust emissions is collected continuously for subsequent analysis, using a constant volume (variable dilution) sampler (Diesel dilute exhaust is continuously analyzed for hydrocarbons using a heated sample line and analyzer).

(c) The evaporative emission test (gasoline-fueled vehicles only) is designed to determine hydrocarbon evaporative emissions as a consequence of diurnal temperature fluctuation, urban driving, and hot soaks during parking. It is associated with a series of events representative of a motor vehicle's operation, which result in hydrocarbon vapor losses. The test procedure is designed to measure:

(1) Diurnal breathing losses resulting from daily temperature changes, measured by the enclosure technique;

(2) Running losses from suspected sources (if indicated by engineering analysis or vehicle inspection) resulting from a simulated trip on a chassis dynamometer, measured by carbon traps; and

(3) Hot soak losses which result when the vehicle is parked and the hot engine is turned off, measured by the enclosure technique.

(d) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this subpart. Maintenance to correct component malfunction or failure shall be authorized in accordance with § 86.078–25.

§ 86.128–78 Transmissions.

(a) All test conditions, except as noted, shall be run according to the manufacturer's recommendation to the ultimate purchaser.

(b) Vehicles equipped with free wheeling or overdrive shall be tested with these features operated according to the manufacturer's recommendations to the ultimate purchaser.

(c) Idle modes shall be run with automatic transmission in "Drive" and the wheels braked; manual transmissions shall be in gear with the clutch disengaged, except first idle (see §§ 86.136 and 86.137).

(d) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(e) Accelerations shall be driven smoothly according to the manufacturer's recommendation to the ultimate purchaser. For manual transmissions, the operator shall release the accelerator pedal during each shift and accomplish the shift with minimum time. If the vehicle cannot accelerate at the specified rate, the vehicle shall be operated with the accelerator pedal fully depressed until the vehicle speed reaches the value prescribed for that time in the driving schedule.

(f) The deceleration modes shall be run in gear using brakes or accelerator pedal as necessary to maintain the desired speed. Manual transmission vehicles shall have the clutch engaged and shall not change gears from the previous mode. For those modes which decelerate to zero, manual transmission clutches shall be depressed when the speed drops below 15 mph (24.14 km/h), when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode in accordance with the manufacturer's recommendation to the ultimate purchaser.

§ 86.129–78 Road load power and inertia weight determination.

(a) Flywheels, electrical or other means of simulating inertia as shown in the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 lbs) available shall be used.

Loaded vehicle weight (pounds)	Equivalent inertia weight (pounds)	Road load power at 50 mph (horsepower)
Up to 1,125	1,000	5.9
1,126 to 1,375	1,250	6.5
1,376 to 1,625	1,500	7.1
1,626 to 1,875	1,750	7.7
1,876 to 2,125	2,000	8.3
2,126 to 2,375	2,250	8.8
2,376 to 2,625	2,500	9.4
2,626 to 2,875	2,750	9.9
2,876 to 3,250	3,000	10.3
3,251 to 3,750	3,500	11.2
3,751 to 4,250	4,000	12.0
4,251 to 4,750	4,500	12.7
4,751 to 5,250	5,000	13.4
5,251 to 5,750	5,500	13.9
5,751 to above	5,500	14.4

(b) *Power absorption unit adjustment.* (1) The power absorption unit shall be adjusted to reproduce road load power at 50 mph true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in § 86.118 or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator, or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) *Gasoline-fueled vehicles.* (A) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 mph (80 km/h), and

(B) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when the same vehicle is operated on the dynamometer at a true speed of 50 mph. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e., within ±5 mm Hg (±0.7 kPa).

(C) The road load power shall be determined according to the procedure outlined in § 86.118 and adjusted according to the following if applicable.

(ii) *Diesel vehicles.* (A) Measuring the fuel flow rate of a representative vehicle of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 mph, and

(B) Noting the dynamometer indicated road load horsepower setting required to reproduce that fuel flow rate when the same vehicle is operated on the dynamometer at a true speed of 50 mph (80 km/h). The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e., within ±5 mm Hg (±0.7 kPa).

(C) The road load power shall be determined according to the procedure outlined in § 86.118 and adjusted according to the following if applicable.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph (b)(2) of this section shall be increased by 10 percent for testing all test vehicles representing such an engine family if those vehicles are intended to be offered with air conditioning in production.

§ 86.129–79 Road load power and inertia weight determination.

(a) Flywheels, electrical or other means of simulating inertia as shown in the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 pounds) available shall be used.

Loaded vehicle weight (pounds)	Equivalent inertia weight (pounds)	Road load power at 50 mph (horsepower)	
		Light Duty Vehicles	Light Duty Trucks
Up to 1,125	1,000	5.9	
1,126 to 1,375	1,250	6.5	
1,376 to 1,625	1,500	7.1	
1,626 to 1,875	1,750	7.7	
1,876 to 2,125	2,000	8.3	
2,126 to 2,375	2,250	8.8	
2,376 to 2,625	2,500	9.4	
2,626 to 2,875	2,750	9.9	
2,875 to 3,250	3,000	10.3	
3,251 to 3,750	3,500	11.2	See notes (2) thru (4)
3,751 to 4,250	4,000	12.0	
4,251 to 4,750	4,500	12.7	
4,751 to 5,250	5,000	13.4	
5,251 to 5,750	5,500	13.9	
5,751 to 6,250	6,000(1)	14.4(1)	
6,251 to 6,750	6,500	-	
6,751 to 7,250	7,000	-	
7,251 to 7,750	7,500	-	
7,751 to 8,250	8,000	-	
8,251 to 8,750	8,500	-	
8,751 to 9,250	9,000	-	
9,251 to 9,750	9,500	-	
9,751 to 10,000	10,000	-	

Notes:

(1) Light duty vehicles over 5,750 pounds loaded vehicle weight shall be tested with a 5,500 pound equivalent inertia and a 14.4 horsepower road load.

(2) For all light duty trucks except vans, and for heavy duty vehicles optionally certified as light duty trucks, the road load power (horsepower) at 50 mph shall be 0.58 times A (defined below) rounded to the nearest one half horsepower.

(3) For vans, the road load power at 50 mph (horsepower) shall be 0.50 times A (defined below) rounded to the nearest one half horsepower.

(4) "A" is the basic vehicle frontal area (ft^2) plus the additional frontal area (ft^2) of mirrors and optional equipment exceeding 0.1 square feet which are anticipated to be sold on more than 33 percent of the car line. Frontal area measurements shall be computed to the nearest tenth of a square foot.

(b) *Power absorption unit adjustment.* (1) The power absorption unit shall be adjusted to reproduce road load power at 50 mph true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in § 86.118 or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator, or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) *Gasoline-fueled vehicles.* (A) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 mph (80 km/h), and

(B) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when the same vehicle is operated on the dynamometer at a true speed of 50 mph. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e., within ±5 mm Hg (±0.7 kPa).

(C) The road load power shall be determined according to the procedure outlined in § 86.118 and adjusted according to the following if applicable.

(ii) *Diesel vehicles.* (A) Measuring the fuel flow rate of a representative vehicle of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 mph, and

(B) Noting the dynamometer indicated road load horsepower setting required to reproduce that fuel flow rate when the same vehicle is operated on the dynamometer at a true speed of 50 mph (80 km/h). The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e., within ±5 mm Hg (±0.7 kPa).

(C) The road load power shall be determined according to the procedure outlined in § 86.118 and adjusted according to the following if applicable.

(b)(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph (b)(2) of this section shall be increased by 10 percent, up to a maximum increase of 1.4 horsepower, for testing all test vehicles representing such an engine family if those vehicles are intended to be offered with air conditioning in production. If the table in paragraph (b)(1) of this section is used to determine the road load power for light-duty trucks, the above increase for air conditioning shall be added prior to rounding off as instructed by notes 2 and 3 of the table.

§ 86.130–78 Test sequence; general requirements.

The test sequence shown in Figure B78–10 shows the steps encountered as the test vehicle undergoes the procedures subsequently described to determine conformity with the standards set forth. Ambient temperature levels encountered by the test vehicle throughout the test sequence shall not be less than 68° F (20° C) nor more than 86° F (30° C). The vehicle shall be approximately level during all phases of the test sequence to prevent abnormal fuel distribution.

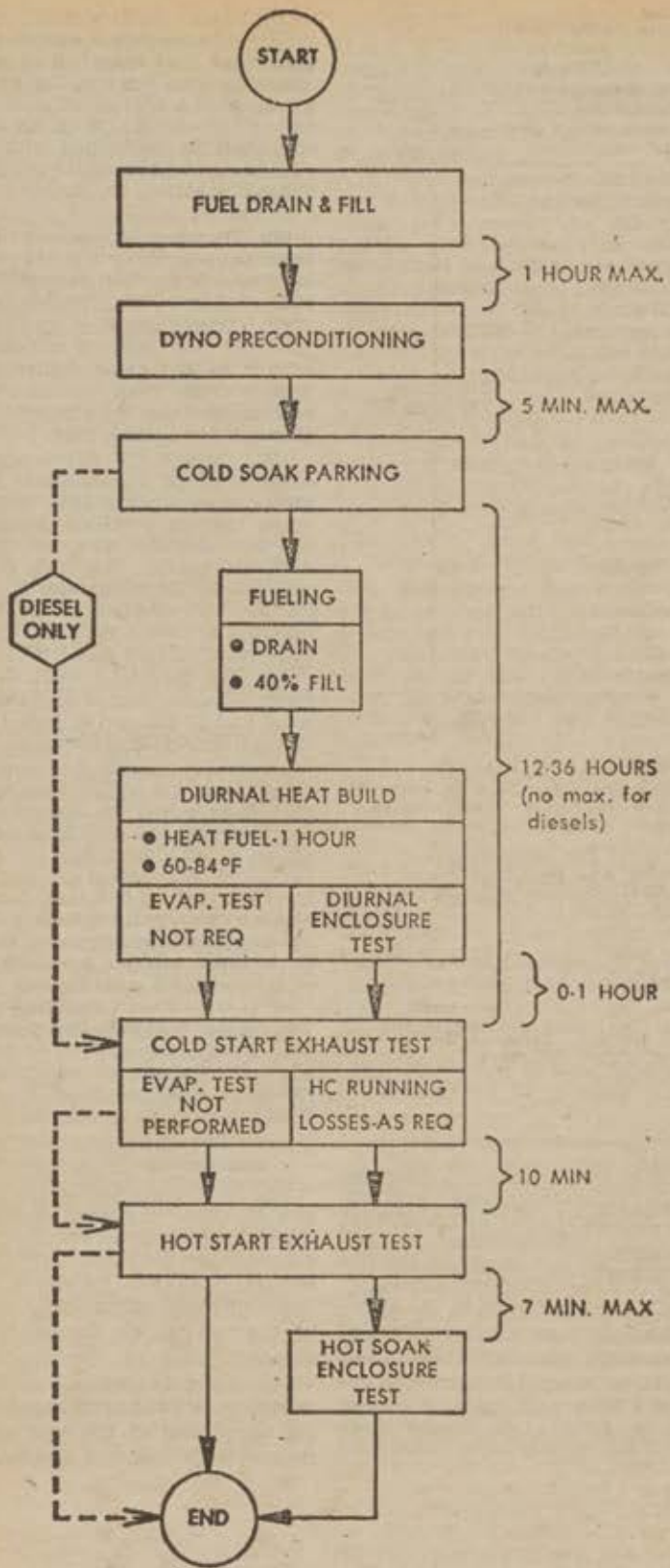


FIGURE B78-10 TEST SEQUENCE

§ 86.131–78 Vehicle preparation.

(a) For gasoline-fueled vehicles prepare the fuel tank(s) for recording the temperature of the prescribed test fuel at the approximate mid-volume of the fuel.

(b) Provide additional fittings and adapters, as required, to accommodate a fuel drain at the lowest point possible in the tank(s) as installed on the vehicle.

§ 86.132–78 Vehicle preconditioning.

(a) The vehicle shall be moved to the test area and the following operations performed:

(1) The fuel tank(s) shall be drained through the provided fuel tank(s) drain(s) and filled to the prescribed "tank fuel volume" with the specified test fuel, § 86.113. For the above operations the evaporative emission control system shall neither be abnormally purged nor abnormally loaded.

(2) Within one hour of being fueled the vehicle shall be placed, either by being driven or pushed, on a dynamometer and operated through one UDDS test procedure, see § 86.115 and Appendix I. A gasoline-fueled test vehicle may not be used to set dynamometer horsepower.

(3) For those unusual circumstances where additional preconditioning is desired by the manufacturer, such preconditioning may be allowed with the advance approval of the Administrator. The Administrator may also choose to conduct or require the conduct of additional preconditioning to insure that the evaporative emission control system is stabilized. The additional preconditioning shall consist of an initial one hour minimum soak and, one, two or three driving cycles of the UDDS, as described in paragraph (a)(2) of this section, each followed by a soak of at least one hour with engine off, engine compartment cover closed and cooling fan off. The vehicle may be driven off the dynamometer following each UDDS for the soak period.

(b) Within five minutes of completion of preconditioning the vehicle shall be driven off the dynamometer and parked. The vehicle shall be stored for not less than 12 hours nor for more than 36 hours (except Diesel vehicles which have no maximum time limitation) prior to the cold start exhaust test. (Gasoline-fueled vehicles undergo a one hour diurnal heat build prior to the cold start exhaust test. A wait of up to one hour is permitted between the end of the diurnal heat build and the beginning of the cold start exhaust test. See § 86.130 and Figure B78–10.)

(c) Vehicles to be tested for evaporative emissions shall be processed in accordance with procedures in §§ 86.133 through 86.138. Vehicles to be tested for exhaust emissions only shall be processed according to §§ 86.133 through 86.137.

§ 86.133–78 Diurnal breathing loss test.

(a)(1) Following vehicle preparation and vehicle preconditioning procedures described in §§ 86.131 and 86.132 the test

vehicle shall be allowed to soak for a period of not less than 12 or more than 36 hours prior to the exhaust emission test. The diurnal test shall start not less than 10 or more than 35 hours after the end of the preconditioning procedure. The start of the exhaust test shall follow the end of the diurnal test within one hour.

(2) Gasoline-fueled vehicles to be tested for exhaust emissions only shall undergo the diurnal heat build. Since no evaporative measurements are necessary, an evaporative enclosure is not required.

(b) The evaporative emission enclosure shall be purged for several minutes immediately prior to the test.

NOTE.—If at anytime the hydrocarbon concentration exceeds 15,000 ppm C the enclosure should be immediately purged. This concentration provides a 4:1 safety factor against the lean flammability limit.

(c) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the test.

(d) If not already on, the evaporative enclosure mixing fan shall be turned on at this time.

(e) Immediately prior to the diurnal breathing loss test, the fuel tank(s) of the prepared vehicle shall be drained and recharged with the specified test fuel, § 86.113, to the prescribed "tank fuel volume," defined in § 86.078–2. The temperature of the fuel prior to its delivery to the fuel tank shall be between 50 and 60° F (10 and 16° C). The fuel tank cap(s) is not installed until the diurnal heat build begins.

(f) The test vehicle, with the engine shut off, shall be moved into the evaporative emission enclosure, the test vehicle windows and luggage compartments shall be opened, the fuel tank temperature sensor shall be connected to the temperature recording system, and, if required, the heat source shall be properly positioned with respect to the fuel tank(s) and/or connected to the temperature controller.

(g) The temperature recording system shall be started.

(h) The fuel may be artificially heated to the starting diurnal temperature.

(i) When the fuel temperature recording system reaches at least 58° F (14° C), immediately:

(1) Install fuel tank cap(s).

(2) Turn off purge blowers, if not already off at this time.

(3) Close and seal enclosure doors.

(j) When the fuel temperature recording system reaches 60±2° F (16±1.1° C), immediately:

(1) Analyze enclosure atmosphere for hydrocarbons and record. This is the initial (time=0 minutes) hydrocarbon concentration, C_{HCI}, § 86.143.

(2) Start diurnal heat build and record time. This commences the 60±2 minute test period.

(k) The fuel shall be heated in such a way that its temperature change conforms to the following function to within ±3° F (±1.6° C):

$F = T_o + 0.4t$

for SI units, $C = T_o + (2/9)t$

Where:

F = fuel temperature, ° F
C = fuel temperature, ° C
t = time since beginning of test, minutes.
T_o = initial temperature.

After 60±2 minutes of heating, the fuel temperature rise shall be 24±1° F (−4° C (±0.5° C)).

(l) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the end of the diurnal test.

(m) The end of the diurnal breathing loss test occurs 60±2 minutes after the heat build begins, paragraph (j)(2). Analyze the enclosure atmosphere for hydrocarbons and record. This is the final (time=60 minutes) hydrocarbon concentration, C_{HCF} § 86.143. The time (or elapsed time) of this analysis shall be recorded.

(n) The heat source shall be turned off and the enclosure doors unsealed and opened.

(o) The heat source shall be moved away from the vehicle, if required, and/or disconnected from the temperature controller, the fuel tank temperature sensor shall be disconnected from the temperature recording system, the test vehicle windows and luggage compartments may be closed and the test vehicle, with the engine shut off, shall be removed from the evaporative emission enclosure.

(p) For vehicles with multiple tanks, the largest tank shall be designated as the primary tank and shall be heated in accordance with the procedures described in paragraph (k) of this section. All other tanks shall be designated as auxiliary tanks and shall undergo a similar heat build such that the fuel temperature shall be within 3°F (1.6°C) of the primary tank.

§ 86.134–78 Running loss test.

(a) If an engineering analysis or vehicle inspection indicates the possibility of evaporative emissions during vehicle operation, evaporative emission running loss measurements shall be made during the cold transient and stabilized portion of the exhaust emission test. Since running loss measurements cannot be made in the enclosure, the equipment described in § 86.177–17 shall be used to collect these emissions.

(1) The procedure in § 86.135 shall be followed.

(2) Prior to the initiation of the cold start exhaust emission test, the vapor loss measurement system shall be connected to all suspected sources of running loss evaporative emissions.

(3) The cold start transient and stabilized exhaust emission test portions shall be conducted according to the procedures of § 86.135 through § 86.137.

(4) Within one minute after the end of the stabilized exhaust emission test, the vapor loss measurement system shall be disconnected from the vehicle and the inlets and outlets sealed.

(5) Within one hour from the end of the running loss measurement, weigh the vapor collection traps.

§ 86.135–78 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12-hour and a maximum 36-hour soak according to the provisions of §§ 86.132 and 86.133 and a "hot" start test following the "cold" start test by 10 minutes. Engine startup (with all accessories turned off), operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with ambient air and a continuously proportional sample is collected for analysis during each phase. The composite samples collected in bags are analyzed for hydrocarbons (except diesel hydrocarbons which are analyzed continuously), carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen.

(b) During dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. In the case of vehicles with front engine compartments, the fan shall be squarely positioned within 12 inches of the vehicle. In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan shall be placed in a position to provide sufficient air to maintain vehicle cooling. The fan capacity shall normally not exceed 5,300 cfm (2.50 m^3/s). If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, and that such additional cooling is needed to provide a representative test, the fan capacity may be increased or additional fans used if approved in advance by the Administrator.

(c) The vehicle speed as measured from the dynamometer rolls shall be used. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(d) Practice runs over the prescribed driving schedule may be performed at test points, provided an emission sample is not taken, for the purpose of finding the minimum throttle action to maintain the proper speed-time relationship, or to permit sampling system adjustments.

NOTE.—When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. This rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(e) The drive wheel tires may be inflated up to a gauge pressure of 45 psi (310 kPa) in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(f) If the dynamometer has not been operated during the 2-hour period im-

mediately preceding the test it shall be warmed up for 15 minutes by operating at 30 mph (48 km/h) using a non-test vehicle or as recommended by the dynamometer manufacturer.

(g) If the dynamometer horsepower must be adjusted manually, it shall be set within 1 hour prior to the exhaust emissions test phase. The test vehicle shall not be used to make the adjustment. Dynamometers using automatic control of preselectable power settings may be set anytime prior to the beginning of the emissions test.

(h) The driving distance as measured by counting the number of dynamometer roll or shaft resolutions, shall be determined for the transient cold start, stabilized cold start, and transient hot start phases of the test. The revolutions shall be measured on the same roll or shaft used for measuring the vehicle's speed.

§ 86.135–79 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12-hour and a maximum 36-hour soak according to the provisions of §§ 86.132 and 86.133 and a "hot" start test following the "cold" start test by 10 minutes. Engine startup (with all accessories turned off), operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with ambient air and a continuously proportional sample is collected for analysis during each phase. The composite samples collected in bags are analyzed for hydrocarbons (except diesel hydrocarbons which are analyzed continuously), carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen.

(b) During dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. In the case of vehicles with front engine compartments, the fan shall be squarely positioned within 12 inches of the vehicle. In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan shall be placed in a position to provide sufficient air to maintain vehicle cooling. The fan capacity shall normally not exceed 5,300 cfm (2.50 m^3/s). If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, and that such additional cooling is needed to provide a representative test, the fan capacity may be increased or additional fans used if approved in advance by the Administrator.

(c) The vehicle speed as measured from the dynamometer rolls shall be used. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(d) Practice runs over the prescribed driving schedule may be performed at test points, provided an emission sample is not taken, for the purpose of finding the minimum throttle action to maintain the proper speed-time relationship, or to permit sampling system adjustments.

NOTE.—When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. This rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(e) The drive wheel tires may be inflated up to a gauge pressure of 45 psi (310 kPa) in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(f) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating at 30 mph (48 km/h) using a non-test vehicle or as recommended by the dynamometer manufacturer.

(g) If the dynamometer horsepower must be adjusted manually, it shall be set within 1 hour prior to the exhaust emissions test phase. The test vehicle shall not be used to make the adjustment. Dynamometers using automatic control of preselectable power settings may be set anytime prior to the beginning of the emissions test.

(h) The driving distance as measured by counting the number of dynamometer roll or shaft resolutions, shall be determined for the transient cold start, stabilized cold start, and transient hot start phases of the test. The resolutions shall be measured on the same roll or shaft used for measuring the vehicle's speed.

(i) Four wheel drive vehicles will be tested in a two wheel drive mode of operation. Full time four wheel drive vehicles will have one set of drive wheels temporarily disengaged by the vehicle manufacturer. Four wheel drive vehicles which can be manually shifted to a two wheel drive mode will be tested in the normal on-highway two wheel drive mode of operation.

§ 86.136–78 Engine starting and restarting.

(a) *Gasoline-fueled vehicles.* This paragraph (a) applies to gasoline-fueled vehicles.

(1) The engine shall be started according to the manufacturer's recommended starting procedures in the owner's manual. The initial 20-second idle period shall begin when the engine starts.

(2) Choke operation: (*i*) Vehicles equipped with automatic chokes shall be operated according to the manufacturer's operating instructions in the owner's manual, including choke setting and "kick-down" from cold fast idle.

(ii) Vehicles equipped with manual chokes shall be operated according to the manufacturer's operating instructions in the owner's manual.

(3) The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(4) The operator may use the choke, accelerator pedal, etc. where necessary to keep the engine running.

(5) If the manufacturer's operating instructions in the owner's manual do not specify a warm engine starting procedure, the engine (automatic- and manual-choke engines) shall be started by depressing the accelerator pedal about half way and cranking the engine until it starts.

(b) *Diesel vehicles.* The engine shall be started according to the manufacturer's recommended starting procedures in the owner's manual. The initial 20-second idle period shall begin when the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(c) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start shall be determined. The gas flow measuring device (or revolution counter) on the constant volume sampler (and the hydrocarbon integrator when testing Diesel vehicles, see § 85.135 Dynamometer Test Runs) shall be turned off and the sampler selector valves placed in the "standby" position during this diagnostic period. In addition, either the CVS should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start.

(1) If a failure to start occurs during the cold portion of the test and is caused by a vehicle malfunction, corrective action of less than 30 minutes duration may be taken (according to § 86.078–25), and the test continued. The sampling system shall be reactivated at the same time cranking begins. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, and corrective action may be taken according to § 86.078–25. The reasons for the malfunction (if determined) and the corrective action taken shall be reported to the Administrator.

(2) If a failure to start occurs during the hot start portion of the test and is caused by vehicle malfunction, the vehicle must be started within one minute of key on. The sampling system shall be reactivated at the same time cranking begins. When the engine starts, the driving schedule timing sequence shall begin. If the vehicle cannot be started within one minute of key on, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, (according to § 86.078–25), and the vehicle rescheduled for testing. The reason for the malfunction (if determined) and the corrective action taken shall be reported to the Administrator.

(d) If the engine "false starts," the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.).

(e) *Stalling:* (1) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts, the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle shall then be restarted and accelerated to the speed required at that point in the driving schedule and the test continued. During acceleration to this point, shifting shall be performed in accordance with § 86.128.

(3) If the vehicle will not restart within one minute, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported to the Administrator.

§ 86.137–78 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with the engine turned off for a period of not less than 12 hours or more than 36 hours before the cold start exhaust emission test. The cold start exhaust test shall follow the diurnal breathing loss test by not more than one hour. The vehicle shall be stored prior to the emission test in such a manner that precipitation (e.g., rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 7.5 miles (12.1 km) and simulates a hot start drive of 7.5 miles (12.1 km). The vehicle is allowed to stand on the dynamometer during the 10-minute time period between the cold and hot start tests. The cold start test is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of the driving schedule including engine shutdown. The hot start test similarly consists of two periods. The period, representing the hot start "transient" phase, terminates at the same point in the driving schedule as the first period of the cold start test. The second period of the hot start test, "stabilized" phase, is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine. Reset and engage the roll revolution counter.

(2) Open the vehicle engine compartment cover and position the cooling fan.

(3) With the sample selector valves in the "standby" position, connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(4) Start the CVS (if not already on), the sample pumps, the temperature recorder, the vehicle cooling fan and the heated hydrocarbon analysis recorder (Diesel only). (The heat exchanger of the constant volume sampler, if used, Diesel hydrocarbon analyzer continuous sample line and filter (if applicable) should be preheated to their respective operating temperatures before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 10 cfh, 0.28 m^3/hr) and set the gas flow measuring devices to zero.

NOTE.—CFV–CVS sample flowrate is fixed by the venturi design.

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Start the gas flow measuring device, position the sample selector valves to direct the sample flow into the "transient" exhaust sample bag and the "transient" dilution air sample bag (turn on the Diesel hydrocarbon analyzer system integrator and mark the recorder chart, if applicable), turn the key on, and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule (§ 86.115).

(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the sample flows from the "transient" bags to the "stabilized" bags, switch off gas flow measuring device No. 1 (and the Diesel hydrocarbon integrator No. 1, mark the Diesel hydrocarbon recorder chart) and start gas flow measuring device No. 2 (and Diesel hydrocarbon integrator No. 2). Before the acceleration which is scheduled to occur at 510 seconds, record the measured roll or shaft revolutions and reset the counter or switch to a second counter. As soon as possible transfer the "transient" exhaust and dilution air samples to the analytical system and process the samples according to § 86.140 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(12) Turn the engine off 2 seconds after the end of the last deceleration (at 1,369 seconds).

(13) Five seconds after the engine stops running, simultaneously turn off gas flow measuring device No. 2 (and the Diesel hydrocarbon integrator No. 2, mark the hydrocarbon recorder chart, if applicable) and position the sample selector valves to the "standby" position. Record the measured roll or shaft revolutions and reset the counter. As soon as possible transfer the "stabilized" exhaust and dilution air samples to the analytical system and process the samples according to § 86.140 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(14) Immediately after the end of the sample period turn off the cooling fan and close the engine compartment cover.

(15) Turn off the CVS or disconnect the exhaust tube from the tailpipe of the vehicle.

(16) Repeat the steps in paragraph (b) (2) through (10) of this section for the hot-start test, except only one evacuated sample bag is required for sampling exhaust gas and one for dilution air. The key-on operation step described in paragraph (b)(7) of this section shall begin between 9 and 11 minutes after the end of the sample period for the cold-start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off gas flow measuring device No. 1 (and Diesel hydrocarbon integrator No. 1, mark the Diesel hydrocarbon recorder chart, if applicable) and position the sample selector valve to the "standby" position. (Engine shutdown is not part of the hot start test sample period.) Record the measured roll or shaft revolutions.

(18) As soon as possible transfer the hot start "transient" exhaust and dilution air samples to the analytical system and process the samples according to § 86.140 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(19) Disconnect the exhaust tube from the vehicle tailpipe(s) and drive vehicle from dynamometer.

(20) The CVS may be turned off, if desired.

(21) Vehicles to be tested for evaporative emissions will proceed according to § 86.138. For all others this completes the test sequence.

§ 86.138–78 Hot-soak test.

The hot-soak evaporative emission test shall be conducted immediately following the hot transient exhaust emission test.

(a) Prior to the completion of the hot-start transient exhaust emission sampling period, the evaporative emission enclosure shall be purged for several minutes.

(b) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the test.

(c) If not already on, the evaporative enclosure mixing fan shall be turned on at this time.

(d) Upon completion of the hot transient exhaust emission sampling period, the vehicle engine compartment cover shall be closed, the cooling fan shall be moved, the vehicle shall be disconnected from the dynamometer and exhaust sampling system, and then driven at minimum throttle to the vehicle entrance of the enclosure.

(e) The vehicle's engine must be stopped before any part of the vehicle enters the enclosure. The vehicle may be pushed or coasted into the enclosure.

(f) The test vehicle windows and luggage compartments shall be opened, if not already open.

(g) The temperature recording system shall be started and the time of engine

shut off shall be noted on the evaporative emission hydrocarbon data recording system.

(h) The enclosure doors shall be closed and sealed within two minutes of engine shutdown and within seven minutes after the end of the exhaust test.

(i) The 60±0.5 minute hot soak begins when the enclosure doors are sealed. The enclosure atmosphere shall be analyzed and recorded. This is the initial (time=0 minutes) hydrocarbon concentration, C_{HCi}, for use in calculating evaporative losses, see § 86.143.

(j) The test vehicle shall be permitted to soak for a period of one hour in the enclosure.

(k) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the end of the test.

(l) At the end of the 60±0.5 minute test period, again analyze the enclosure atmosphere and record time. This is the final (time=60 minutes) hydrocarbon concentration, C_{HCf}, for use in calculating evaporative losses, see § 86.143. This operation completes the evaporative emission measurement procedure.

§ 86.139–78 [Reserved]

§ 86.140–78 Exhaust sample analysis.

The following sequence of operations shall be performed in conjunction with each series of measurements:

(a) Zero the analyzers and obtain a stable zero reading. Recheck after tests.

(b) Introduce span gases and set instrument gains. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test sample. Span gases should have concentrations equal to 75 to 100 percent of full scale. If gain has shifted significantly on the analyzers, check the calibrations. Show actual concentrations on chart.

(c) Check zeros; repeat the procedure in paragraphs (a) and (b) of this section if required.

(d) Check flowrates and pressures.

(e) Measure HC, CO, CO_2 and NO_x concentrations of samples.

(f) For Diesel vehicles, continuously record (integrate electronically if desired) dilute hydrocarbon emission levels during test. Background samples are collected in sample bags and analyzed as above.

(g) Check zero and span points. If difference is greater than 2 percent of full scale, repeat the procedure in paragraphs (a) through (f) of this section.

§ 86.141–78 [Reserved]

§ 86.142–78 Records required.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: ID number, Manufacturer, Model year, Standards, Engine family, Evaporative emissions family, Basic engine description (including displacement, number of cylinders, and catalysts usage), Fuel system (including number of carburetors, number of carburetor barrels, fuel injection type, and fuel tank(s) capacity and location), Engine code, Inertia weight class, Actual curb weight at zero miles, Actual road load at 50 mph, Transmission configuration, Axle ratio, Car line, Odometer reading, Idle rpm, and Drive wheel tire pressure, as applicable.

(g) Indicated road load power absorption at 50 mph (80 km/h) and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided the test cell records show the pertinent information.

(h) All pertinent instrument information such as tuning—gain—serial number—detector number—range. As an alternative, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided test cell calibration records show the pertinent instrument information.

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Test cell barometric pressure, ambient temperature and humidity.

NOTE.—A central laboratory barometer may be used: *Provided*, That individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(k) Fuel temperatures, as prescribed.

(l) Pressure of the mixture of exhaust and dilution air entering the CVS metering device, the pressure increase across the device, and the temperature at the inlet. The temperature may be recorded continuously or digitally to determine temperature variations.

(m) The number of revolutions of the positive displacement pump accumulated during each test phase while exhaust samples are being collected. The number of standard cubic feet metered by a critical flow venturi during each test phase would be the equivalent record for a CFV–CVS.

(n) The humidity of the dilution air.

NOTE.—If conditioning columns are not used (see § 86.122 and § 86.144) this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

(o) Temperature set point of the heated sample line and heated hydrocarbon detector temperature control system (for Diesel vehicles only).

(p) The driving distance for each of the three phases of the test, calculated from the measured roll of shaft revolutions.

§ 86.142–79 Records required.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: ID number, Manufacturer, Model year, Standards, Engine family, Evaporative emissions family, Basic engine description (including displacement, number of cylinders, and catalyst usage), Fuel system (including number of carburetors, number of carburetor barrels, fuel injection type, and fuel tank(s) capacity and location), Engine code, Gross vehicle weight rating, Inertia weight class, Actual curb weight at zero miles, Actual road load at 50 mph, Transmission configuration, Axle ratio, Car line, Odometer reading, Idle rpm and Drive wheel tire pressure, as applicable.

(g) Indicated road load power absorption at 50 mph (80 km/h) and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided the test cell records show the pertinent information.

(h) All pertinent instrument information such as tuning—gain—serial number—detector number—range. As an alternative, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided test cell calibration records show the pertinent instrument information.

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Test cell barometric pressure, ambient temperature and humidity.

NOTE.—A central laboratory barometer may be used: *Provided*, That individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(k) Fuel temperatures, as prescribed.

(l) Pressure of the mixture of exhaust and dilution air entering the CVS metering device, the pressure increase across the device, and the temperature at the inlet. The temperature may be recorded continuously or digitally to determine temperature variations.

(m) The number of revolutions of the positive displacement pump accumulated during each test phase while exhaust samples are being collected. The number of standard cubic feet metered by a critical flow venturi during each test phase would be the equivalent record for a CFV–CVS.

(n) The humidity of the dilution air.

NOTE.—If conditioning columns are not used (see § 86.122 and § 86.144) this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

(o) Temperature set point of the heated sample line and heated hydrocarbon detector temperature control system (for Diesel vehicles only).

(p) The driving distance for each of the three phases of the test, calculated from the measured roll of shaft revolutions.

§ 86.143–78 Calculations; evaporative emissions.

The calculation of the net hydrocarbon mass change in the enclosure is used to determine the diurnal and hot soak mass emissions. The mass is calculated from initial and final hydrocarbon concentrations in ppm carbon, initial and final enclosure ambient temperatures, initial and final barometric pressures, and net enclosure volume using the following equation:

$$M_{HC} = kV_e \times 10^{-4}\left[\frac{C_{HCf}P_{Bf}}{T_f} - \frac{C_{HCi}P_{Bi}}{T_i}\right]$$

Where:

M_{HC} = hydrocarbon mass, g.
C_{HC} = hydrocarbon concentration as ppm carbon.
V_e = net enclosure volume, ft^3 (m^3) as determined by subtracting 50 ft^3 (1.42 m^3) (volume of vehicle with trunk and windows open) from the enclosure volume. A manufacturer may use the measured volume of the vehicle (instead of the nominal 50 ft^3) with advance approval by the Administrator: *Provided*, The measured volume is determined and used for all vehicles tested by that manufacturer.
P_B = barometric pressure, in. Hg (kPa).
T = enclosure ambient temperature, R (K).
k = 208 (12+H/C)
for SI units, k = 1.2 (12+H/C).

Where:

H/C = Hydrogen-carbon ratio.
H/C = 2.33 for diurnal emisaions.
H/C = 2.2 for hot soak emissions.
i = indicates initial reading.
f = indicates final reading.

The final reported results shall be computed by summing the individual evaporative emission results determined for the diurnal breathing-loss test, running-loss test, and the hot-soak test.

§ 86.144–78 Calculations; exhaust emissions.

The final reported test results shall be computed by use of the following formula:

(a) For light-duty vehicles and light-duty trucks:

$$Y_{wm} = 0.43\left((Y_{sf}+Y_{sf})/(D_{sf}+D_{sf})\right) + 0.57\left((Y_{hf}+Y_{sf})/(D_{hf}+D_{sf})\right)$$

Where:

Y_{wm} = Weighted mass emissions of each pollutant, i.e., HC, CO, NO_x or CO_2, in grams per vehicle mile;
Y_{cf} = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.
Y_{hf} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.
Y_{sf} = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.
D_{cf} = The measured driving distance from the "transient" phase of the cold start test, in miles.
D_{hf} = The measured distance from the "transient" phase of the hot start test, in miles.
D_{sf} = The measured driving distance from the "stabilized" phase of the cold start test, in miles.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1) Hydrocarbon mass:

$$HC_{mass} = V_{mix} \times Density_{HC} \times (HC_{corr}/1{,}000{,}000)$$

(2) Oxides of nitrogen mass:

$$NOx_{mass} = V_{mix} \times Density_{NO_2} \times K_H \times (NOx_{corr}/1{,}000{,}000)$$

(3) Carbon monoxide mass:

$$CO_{mass} = V_{mix} \times Density_{CO} \times (CO_{corr}/1{,}000{,}000)$$

(4) Carbon dioxide mass:

$$CO_{2mass} = V_{mix} \times Density_{CO_2} \times (CO_{2corr}/100)$$

(c) Meaning of symbols:

(1) HC_{mass} = Hydrocarbon emissions, in grams per test phase.
$Density_{HC}$ = Density of hydrocarbons is 16.33 g/ft^3 (.5767 kg/m^3), assuming an average carbon to hydrogen ratio of 1:1.85, at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.
HC_{corr} = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent, i.e., equivalent propane × 3.

$$HC_{corr} = HC_e - HC_d(1-1/DF)$$

Where:

HC_e = Hydrocarbon concentration of the dilute exhaust sample or, for Diesel, average hydrocarbon concentration of the dilute exhaust sample as calculated from the integrated HC traces, in ppm carbon equivalent.
HC_d = Hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent.
(2) NOx_{mass} = Oxides of nitrogen emissions, in grams per test phase.
$Density_{NO_2}$ = Density of oxides of nitrogen is 54.16 g/ft^3 (1.913 kg/m^3), assuming they are in the form of nitrogen dioxide, at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.
NOx_{corr} = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in ppm.

$$NOx_{corr} = NOx_e - NOx_d\,(1-1/DF)$$

Where:

NOx_e = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in ppm.
NOx_d = Oxides of nitrogen concentration of the dilute air as measured, in ppm.
(3) CO_{mass} = Carbon monoxide emissions, in grams per test phase.
$Density_{CO}$ = Density of carbon monoxide is 32.97 g/ft^3 (1.164 kg/m^3), at 68° F (20°C) and 760 mm Hg (101.3 kPa) pressure.
CO_{corr} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and CO_2 extraction, in ppm.

$$CO_{corr} = CO_e - CO_d\,(1-1/DF)$$

Where:

CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in ppm. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$$CO_e = (1-0.01925\,CO_{2e} - 0.000323\,R)\,CO_{em}$$

Where:

CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.
CO_{2e} = Carbon dioxide concentration of the dilute exhaust sample, in percent.
R = Relative humidity of the dilution air, in percent (see § 86.142(n)).
CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in ppm.

$$CO_d = (1-0.000323\,R)\,CO_{dm}$$

Where:

CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in ppm.

NOTE.—If a CO instrument which meets the criteria specified in § 86.111 is used and the conditioning column has been deleted, CO_{em} can be substituted directly for CO_e and CO_{dm} can be substituted directly for CO_d.

(4) CO_{2mass} = Carbon dioxide emissions, in grams per test phase.
$Density_{CO_2}$ = Density of carbon dioxide is 51.85 g/ft^3 (1.843 kg/m^3), at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.
CO_{2corr} = Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

$$CO_{2corr} = CO_{2e} - CO_{2d}\,(1-1/DF)$$

Where:

CO_{2d} = Carbon dioxide concentration of the dilution air as measured, in percent.

(5) $DF = 13.4/[CO_{2e} + (HC_e + CO_e)\,10^{-4}]$
K_H = Humidity correction factor.
$K_H = 1/[1-0.0047(H-75)]$
for SI units $= 1/[1-0.0329(H-10.71)]$

Where:

H = Absolute humidity in grains (grams) of water per pound (kilogram) of dry air.
$H = [(43.478)R_a \times P_d]/[P_B - (P_d \times R_a/100)]$
for SI units, $H = [(6.211)R_a \times P_d]/[P_B - (P_d \times R_a/100)]$
R_a = Relative humidity of the ambient air, in percent.
P_d = Saturated vapor pressure, in mm Hg (kPa) at the ambient dry bulb temperature.
P_B = Barometric pressure, in mm Hg (kPa).
V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528 R) (293 K) and 760 mm Hg (101.3 kPa)).
For PDP–CVS, V_{mix} is:

$$V_{mix} = V_e \times \frac{N(P_B - P_i)\ 528\ R}{(760\ \text{mm Hg})\ (T_p)}$$

for SI units,

$$V_{mix} = V_e \times \frac{N(P_B - P_i)\ (293.15\ K)}{(101.325\ \text{kPa})\ (T_p)}$$

Where:

V_e = Volume of gas pumped by the positive displacement pump, in cubic feet (m^3) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.
N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.
P_B = Barometric pressure, in mm Hg (kPa).
P_i = Pressure depression below atmospheric measured at the inlet to the positive displacement pump, in mm Hg (kPa) (during an idle mode).
T_p = Average temperature of dilute exhaust entering positive displacement pump during test, R(K).

(d) Example calculation of mass values of exhaust emissions using positive displacement pump:

(1) For the "transient" phase of the cold start test assume the following: V_e = 0.29344 ft^3/revolution; N = 10,485; R = 48.0 percent; R_a = 48.2 percent; P_B = 762 mm Hg; P_d = 22.225 mm Hg; P_i = 70 mm Hg; T_p = 570 R; HC_e = 105.8 ppm, carbon equivalent; NO_{xe} = 11.2 ppm; CO_{em} = 306.6 ppm; CH_{4e} = 1.43 per-

cent; HC_d=12.1 ppm; NO_{xd}=0.8 ppm; CO_{dm}=15.3 ppm.

CO_{pf}=0.032 percent; D_{vf}=3.598 miles.

Then:

V_{mix}=(0.29344) (10,485) (762–70) (528)/(760) (570)=2595.0 ft³ per test phase.

H=(43.478) (48.2) (22.225)/[762 — (22.225 × 48.2/100)] = 62 grains of water per pound of dry air

K_H=1/[1−0.0047(62−75)]=0.9424

CO_w=[1−0.01925 (1.43) −0.000323 (48)] 306.0=293.4 ppm

CO_d=[1−0.000323 (48)] 15.3=15.1 ppm

DF=13.4/[1.43+(105.8+293.4) ×10⁻⁴]=9.116

HC_{conc}=105.8−12.1(1−1/9.116)=95.03 ppm.

HC_{mass}=(2595) (16.33) (95.03/1,000,000) =4.027 grams per test phase.

NOx_{conc}=11.2−0.8 (1−1/9.116)=10.49 ppm

NOx_{mass}=(2595) (54.16) (10.49/1,000,000) (0.9424)=1.389 grams per test phase.

CO_{conc}=293.4−15.1 (1−1/9.116)=280.0 ppm

CO_{mass}=(2595) (32.97) (280/1,000,000)= 23.96 grams per test phase.

CO_{2conc}=1.43−.032 (1−1/9.116)=1.402%

CO_{2mass}=(2595.0) (51.85) (1.402/100) =1886 grams per test phase.

(2) For the stabilized portion of the cold start test assume that similar calculations resulted in the following:

HC_{mass}=0.62 grams per test phase

NOx_{mass}=1.27 grams per test phase

CO_{mass}=5.98 grams per test phase

CO_{2mass}=2346 grams per test phase.

D_s=3.902 miles.

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in the following:

HC_{mass}=0.51 grams per test phase

NOx_{mass}=1.38 grams per test phase

CO_{mass}=5.01 grams per test phase

CO_{2mass}=1758 grams per test phase.

D_{ht}=3.598 miles.

(4) Weighted mass emission results:

HC_{wm}=0.43 [4.027+0.62)/(3.598+3.902)]+0.57 [(0.51 +0.62)/(3.598+3.902)]=.352 grams per vehicle mile.

NO_{xwm}=0.43 [(1.389+1.27)/(3.598+3.902)]+0.57 [(1.38 +1.27)/(3.598+3.902)]=.354 grams per vehicle mile.

CO_{wm}=0.43 [(23.96+5.98)/(3.598+3.902)]+0.57 [(5.01 +5.98)/(3.598+3.902)]=2.55 grams per vehicle mile.

CO_{2wm}=0.43 [(1886+2346)/(3.598+3.902)]+0.57 [(1758 +2346)/(3.598+3.902)]=555 grams per vehicle mile.

§ 86.145–78 [Reserved]

§§ 86.177–1—86.177–3 [Reserved]

§ 86.177–4 Section numbering; construction.

(a) The section numbering procedure specified in § 86.077–4(a) applies to §§ 86.177–5—86.177–23.

(b) Unless indicated otherwise, all provisions in this subpart apply to both gasoline-fueled and Diesel vehicles.

§ 86.177–5 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of vehicles with the standards set forth in §§ 86.077–8 and 86.077–9.

(a) Vehicles which are required to be tested for compliance with the exhaust and fuel evaporative emission standards of this subpart shall be tested according to the following procedures:

(1) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for subsequent analysis of specific components by prescribed analytical techniques. The fuel evaporative emissions are collected for subsequent weighing during both vehicle parking and operating events. The test applies to vehicles equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems or to uncontrolled vehicles and engines.

(2) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix I to this part. A proportional part of the diluted exhaust emissions is collected continuously for subsequent analysis using a constant volume (variable dilution) sampler.

(3) The fuel evaporative emission test is designed to determine fuel hydrocarbon evaporative emissions to the atmosphere as a consequence of urban driving and diurnal temperature fluctuations during parking. It is associated with a series of events representative of a motor vehicle's operation which result in fuel vapor losses directly from the fuel tank and carburetor. Activated carbon traps are employed in collecting the vaporized fuel. The test procedure is specifically aimed at collecting and weighing:

(i) Diurnal breathing losses from the fuel tank and other parts of the fuel system when the fuel tank is subjected to a temperature increase representative of the diurnal range;

(ii) Running losses from the fuel tank and carburetor resulting from a simulated trip on a chassis dynamometer; and

(iii) Hot soak losses from the fuel tank and carburetor which result when the vehicle is parked and the hot engine is turned off.

(4) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this subpart. Maintenence to correct component malfunction or failure shall be authorized in accordance with § 86.077–25.

(b) Vehicles which are required to be tested for compliance only with the exhaust emission standards of this subpart shall be tested according to the following procedures:

(1) Gasoline-fueled vehicles (i) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for subsequent analysis of specific components by prescribed analytical techniques. The test applies to vehicles equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems or to uncontrolled vehicles and engines.

(ii) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix I to this part. A proportional part of the diluted exhaust emissions is collected continuously, for subsequent analysis, using a constant volume (variable dilution) sampler.

(iii) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this subpart. Maintenance to correct component malfunction or failure shall be authorized in accordance with § 86.077–25.

(2) Diesel vehicles. (i) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for analysis of Diesel exhaust hydrocarbon and subsequent analysis of other specific components by prescribed techniques. The test applies to vehicles equipped with catalytic or direct flame after-burners, other control systems or to uncontrolled vehicles and engines. All test phases are conducted with an ambient temperature range between 68° and 86° F.

(ii) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix I to this part. Using a constant volume (variable dilution) sampler, a proportional part of the diluted exhaust gas is analyzed continuously for hydrocarbons and an additional proportional part of the diluted exhaust gas is collected in a bag for subsequent analysis of the other components.

(iii) Except for component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this subpart. Component malfunction or failure shall be repaired in accordance with § 86.077–25.

§ 86.177–6 Fuel specifications.

(a) Gasoline. (1) Gasoline having the following specifications will be used by the Administrator in exhaust and evaporative emission testing. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer in exhaust and evaporative testing, except that the lead and octane specifications do not apply.

Item designation	ASTM	Leaded	Unleaded
Octane, research, minimum	D 2699	100	96
Pb, (organic), grams/U.S. gallon		1.4 min.	0.00–0.5
Distillation range:			
IBP,[1] °F	D86	75–95	75–95
10 percent point, °F	D86	120–135	120–135
50 percent point, °F	D86	200–230	200–230
90 percent point, °F	D86	300–325	300–325
EP, °F (maximum)	D86	415	415
Sulfur, weight percent, maximum	D1266	0.10	.10
Phosphorus, grams/U.S. gallon, maximum		.01	.005
RVP,[2] pounds	D323	8.7–9.2	8.7–9.2
Hydrocarbon composition:			
Olefins, percent, maximum	D1319	10	
Aromatics, percent, maximum	D1319	35	35
Saturates	D1319	Remainder	Remainder

[1] For testing at altitudes above 1,219 meters (4,000 feet) the specified range is 75–105.
[2] For testing which is unrelated to fuel evaporative emission control, the specified range is 8–9.2.
[3] For testing at altitudes above 1,219 meters (4,000 feet) the specified range is 7.9–9.2.

(2) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in mileage accumulation. For leaded gasoline, the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that vehicles represented by a test vehicle will be operated using gasoline of different lead content than that prescribed in this paragraph, he may consent in writing to use of a gasoline with a different lead content. The octane rating of the gasoline used shall be no higher than 4.0 research octane numbers above the minimum recommended by the manufacturer. The Reid Vapor Pressure of the gasoline used shall be characteristic of the motor fuel during the season in which the mileage accumulation takes place.

(3) The specification range of the gasoline to be used under paragraph (a)(2) of this section shall be reported in accordance with § 86.077–21(b)(3).

(b) Diesel fuels. (1) The Diesel fuels employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The fuels may contain nonmetallic additives as follows: Cetane improver, metal deactivator, anti-oxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(2) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D," shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–50
Distillation range	D 86		
IBP, °F		330–390	340–400
10-pct point, °F		370–430	400–460
50-pct point, °F		410–480	470–540
90-pct point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, °API	D 287	40–44	33–37
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Hydrocarbon composition	D 1319		
Aromatics, percent		8–15	[1] 27
Paraffins, naphthenes, olefins		(2)	(2)
Flashpoint, °F, (minimum)	D 93	120	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

[1] Minimum.
[2] Remainder.

(3) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D," shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–55
Distillation range	D 86		
IBP, °F		330–390	340–410
10-pct point, °F		370–430	400–470
50-pct point, °F		410–480	470–540
90-pct point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, °API	D 287	40–44	33–40
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Flashpoint, °F (minimum)	D 93	120	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

(4) Other petroleum distillate fuel specification requirements:

(i) Other petroleum distillate fuels may be used for testing and service accumulation provided they are commercially available, and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service, and

(iii) Use of a fuel listed under paragraphs (b)(2) and (b)(3) of this section would have a detrimental effect on emissions or durability, and

(iv) Written approval from the Administrator of the fuel specifications was provided prior to the start of testing.

(5) The specification range of the fuels to be used under paragraphs (b)(2), (b)(3), and (b)(4) of this section shall be reported in accordance with § 86.077–21(b)(3).

§ 86.177–7 Gasoline-fueled vehicle and engine preparation.

(a) Gasoline-fueled vehicles to be tested for compliance with the exhaust and fuel evaporative emissions standards of this subpart shall be prepared as follows:

(1)(i) Apply appropriate leak proof fittings to all fuel system external vents to permit collection of effluent vapors from these vents during the course of the prescribed tests. Since the prescribed test requires the temporary plugging of the inlet pipe to the air cleaner, it will be necessary to install a probe for collecting the normal effluents from this source. Where antisurge/vent filler caps are employed on the fuel tank, plug off the normal vent if it does not conveniently lend itself to the collection of vapors which emanate from it, and introduce a separate vent, with appropriate fitting on the cap. Where the fuel tank vent line terminus is inaccessible, sever the line at a convenient point near the fuel tank and install the collection system in a closed circuit assembly with the severed ends. All fittings shall terminate in $\frac{5}{16}$-inch ID tube sections for ready connection to the collection systems and shall be designed for minimum dead space.

(ii) The design and installation of the necessary fittings shall not disturb the normal function of the fuel system components or the normal pressure relationships in the system.

(2)(i) Inspect the fuel system carefully to insure the absence of any leaks to the atmosphere of either liquid or vapor which might affect the accuracy of the test or the performance of the control system. Corrective action, if required, shall be performed in accordance with § 86.077–25 and be reported with the test results under § 86.077–23.

(ii) Care should be exercised in the application of any pressure tests, neither to purge nor load the evaporative emission control system.

(3) Prepare fuel tank for recording the temperature of the prescribed test fuel at its approximate midvolume.

(4) Provide additional fittings and adapters as required, to accommodate a fuel drain at the lowest point possible in the tank as installed on the vehicle.

(b) Gasoline-fueled vehicles to be tested for compliance only with the exhaust emission standards of this subpart shall be prepared as follows:

(1)(i) Inspect the fuel system carefully to insure the absence of any leaks to the atmosphere of either liquid or vapor which might affect the accuracy of the test or the performance of the control system. Such inspection shall include the application of a pressure of 14.5 inches

of water (plus or minus 0.5 inches of water) to the fuel system. The pressure should be applied and allowed to stabilize and the fuel system isolated from the pressure source. The fuel system may not lose more than 2.0 inches of water for five minutes beginning with the isolation of the fuel system. Corrective action, if required, shall be performed in accordance with § 86.077–25 and be reported with the test results under § 86.077–23.

(ii) Care should be exercised, in the application of any pressure tests, neither to purge nor load the evaporative emission control system.

§ 86.177–8 Vehicle preconditioning.

(a) Gasoline-fueled vehicles to be tested for compliance with the exhaust and fuel evaporative emissions standard of this part shall be preconditioned as follows:

(1) The test vehicle shall be operated under the conditions prescribed for mileage accumulation, § 86.077–26, for one hour immediately prior to the operation prescribed below.

(2) The fuel tank shall be drained and specified test fuel (§ 86.177–6(a)) added. The evaporative emission control system or device shall not be abnormally purged or loaded as a result of draining or fueling the tank.

(3) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of §§ 86.177–10 through 86.177–15 except that the engine need not be cold when starting the run on the dynamometer and only a single trip of 7.5 miles shall be run. The test vehicle may be used to set dynamometer horsepower, if necessary. During this operation the ambient temperature shall be between 68° F and 86° F.

(4) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand at an ambient temperature between 68° F and 86° F for a period of not less than one hour prior to the soak period prescribed in § 86.177–9(a)(1).

(b) Gasoline-fueled vehicles to be tested for compliance only with the exhaust emissions standards of this part shall be preconditioned as follows:

(1) The fuel tank(s) shall be drained and filled with the specified test fuel (§ 86.177–6(a)) to the prescribed tank(s) fuel volume, defined in § 86.077–2. The fuel added to the vehicle tank(s) shall have an initial temperature of no more than 86°F. The evaporative emission control system or device shall not be abnormally purged or loaded as a result of draining or fueling the tank(s).

(2) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of §§ 86.177–10 through 86.177–15 except that the engine need not be cold when starting the run on the dynamometer and only a single trip of 7.5 miles shall be run. Longer preconditioning may be permitted with advance approval of the Administrator. The test vehicle may be used to set dynamometer horsepower, if necessary. During this operation the ambient temperature shall be between 68°F and 86°F.

(3) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand at an ambient temperature between 68° F and 86° F for a period of not less than one hour.

(4) The test vehicle shall be allowed to soak in an area where the ambient temperature is maintained between 60°F and 86°F for a period of not less than 11 (eleven) hours prior to the dynamometer operation prescribed in §§ 86.177–10 through 86.177–20.

(5) The vehicle shall be operated on the dynamometer according to the requirements and procedures of § 86.177–20. This operation completes the test.

(c) Diesel vehicles to be tested for compliance with the exhaust emission standards of this part shall be preconditioned as follows:

(1) The fuel tank of the test vehicle shall be drained and charged with the specified test fuel, § 86.177–6(b)(2) to the prescribed "tank fuel volume," defined in § 86.077–2. The vehicle manufacturer shall provide additional fittings and adapters, as required to accommodate a fuel drain at the lowest point possible in the tank as installed on the vehicle. Test fuel, when charged to the tank shall be at ambient temperature, § 86.177–5(b)(2)(i).

(2) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of §§ 86.177–10 through 86.177–15 except that the engine need not be cold when starting the run on the dynamometer and only a single trip of 7.5 miles shall be run. The test vehicle may be used to set dynamometer horsepower, if necessary.

(3) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand for a period of not less than 12 hours prior to the dynamometer test.

§ 86.177–9 Evaporative emission collection procedure for gasoline-fueled vehicles.

The standard test procedure consists of three parts described below which shall be performed in sequence and without any interruption in the test conditions prescribed.

(a) Diurnal breathing loss test. (1) The test vehicle shall be allowed to soak in an area where the ambient temperature is maintained between 60°F and 86°F, for a period of not less than 10 hours. (The vehicle preparation requirements of § 86.177–7 may be performed during this period.) It shall then be transferred to a soak area where the ambient temperature is maintained between 68°F and 86°F. Upon admittance to the 68°F–86°F soak area, the prescribed fuel tank thermocouple shall be connected to the recorder and the fuel and ambient temperature recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) The fuel tank of the prepared test vehicle, preconditioned according to § 86.177–8, shall be drained and recharged with the specified test fuel, § 86.177–6, to the prescribed "tank fuel volume," defined in § 86.077–2. The temperature of the fuel following the charge to the tank shall be 60°F±2°F. Care should be exercised against abnormal loading of the evaporative-emission control system or device as a result of fueling the tank.

(3) Immediately following the fuel charge to the tank, the exhaust pipe(s) and inlet pipe to the air cleaner shall be plugged and the prescribed vapor collection systems installed on all fuel system external vents. Multiple vents may be connected to a single collection trap provided that, where there is more than one external vent on a fuel system distinguishing between carburetor and tank vapors, separate collection systems shall be employed to trap the vapors from the separate sources. Every precaution shall be taken to minimize the lengths of the collection tubing employed and to avoid sharp bends across the entire system.

(4) Artificial means shall be employed to heat the fuel in the tank to 84°F±2°F. The prescribed temperature of the fuel shall be achieved over a period of 60 minutes ±10 minutes at a constant rate of change of temperature with respect to time. After a minimum of 1 hour following admittance to the 68°F–86°F soak area, the vehicle shall be moved onto the dynamometer stand for the subsequent part of the test. The fuel tank thermocouple may be temporarily disconnected to permit moving the test vehicle. Plugs shall be removed from the exhaust pipe(s) and inlet pipe to the air cleaner.

(b) Running loss test. (1) The vehicle shall be placed on the dynamometer.

(2) Where an external vent is located such that any running loss emissions would be inducted into the engine, the vapor loss measurement system shall be temporarily disconnected from that vent and clamped. Vapor losses from this vent need not be measured during this part of the test.

(3) The vehicle shall be operated on the dynamometer according to the requirements and procedures of §§ 86.177–10 through 86.177–20. The engine and fan shall be turned off upon completion of the dynamometer run and the exhaust and air cleaner inlet pipes shall be replugged.

(4) Vapor losses need not be measured during the 10-minute soak or 505-second hot start test. Any vapor loss collection system used during the cold start shall be temporarily disconnected and clamped. At the end of the hot start test, the vapor collection systems shall be reconnected for the following phase.

(c) Hot soak test. Upon completion of the dynamometer run, the test vehicle shall be permitted to soak with hood down for a period of one hour at an ambient temperature between 68°F and 86°F. This operation completes the test. The

traps are disconnected and weighed according to § 86.177–17.

(d) Alternate to paragraph (a) of this section: Diurnal breathing loss test. (1) The test vehicle shall be allowed to soak in an area where the ambient temperature is maintained between 60°F and 86°F for a period of not less than 10 hours. (The vehicle preparation requirements of § 86.177–7 may be performed during this period.) It shall then be transferred to a soak area where the ambient temperature is maintained between 68°F and 86°F.

(2) The fuel tank of the prepared test vehicle, preconditioned according to §86.177–8, shall be drained and recharged with the specified test fuel, § 86.177–6, to the prescribed "tank fuel volume," defined in § 86.077–2. The temperature of the fuel prior to delivery to the fuel tank shall be between 50°F and 60°F. Care should be exercised against abnormal loading of the evaporative-emission control system or device as a result of fueling the tank.

(3) Connect the prescribed fuel tank thermocouple to the recorder and record the fuel and ambient temperatures at a chart speed of approximately 12 inches per hour (or equivalent record). Plug the exhaust pipe(s) and inlet pipe to the air cleaner and when the fuel temperature reaches 60°F±2°F install the prescribed vapor collection systems on all fuel system external vents. Multiple vents may be connected to a single collection trap provided that, where there is more than one external vent on a fuel system distinguishing between carburetor and tank vapors, separate collection systems shall be employed to trap the vapors from the separate sources. Every precaution shall be taken to minimize the lengths of the collection tubing employed and to avoid sharp bends across the entire system.

(4) Artificial means shall be employed to heat the fuel in the tank to 84°F±2°F. The prescribed temperature of the fuel shall be achieved over a period of 60 minutes ±10 minutes at a constant rate of change of temperature with respect to time. After a minimum of one hour following admittance to the 68°F–86°F soak area, the vehicle shall be moved onto the dynamometer stand for the subsequent part of the test. The fuel tank thermocouple may be temporarily disconnected to permit moving the test vehicle. Plugs shall be removed from the exhaust pipe(s) and inlet pipe to the air cleaner.

§ 86.177–10 Dynamometer driving schedule.

(a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates. The driving schedule is defined by a smooth transition through the speed vs. time relationships listed in Appendix I. The time sequence begins upon starting the vehicle according to the startup procedure described in § 86.177–15.

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I or as printed on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of § 86.177–11, is defined by upper and lower limits. The upper limit is 2 m.p.h. higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 m.p.h. lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of § 86.177–15(d) are adhered to. When conducted to meet the requirements of § 86.177–8, the speed tolerance shall be as specified above, except that the upper and lower limits shall be 4 m.p.h.

§ 86.177–11 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12-hour soak (according to the provisions of §§ 86.177–8, and 86.177–9 for gasoline-fueled vehicles) and a "hot" start test with a 10-minute soak between the two tests. Engine startup (with all accessories turned off), operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. (Diesel hydrocarbons are analyzed continuously.) The composite (flow integrated) samples collected in bags are analyzed for hydrocarbons, (except Diesel), carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, and oxides of nitrogen.

(b) During the dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. The fan capacity shall normally not exceed 5,300 c.f.m. If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, the fan capacity may be increased or additional fans used if approved in advance by the Administrator.

In the case of vehicles with front engine compartments, the fan(s) shall be squarely positioned between 8 and 12 inches in front of the cooling air inlets (grill). In the case of vehicles with rear engine compartments (or if special designs make the above impractical, the cooling fan(s) shall be placed in a position to provide sufficient air to maintain engine cooling.

(c) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(d) Flywheels, electrical, or other means of stimulating inertia as shown in the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 lbs.) available shall be used.

Loaded vehicle weight (pounds)	Equivalent interia weight (pounds)	Road load power at 50 m.p.h. (horsepower)
Up to 1,125	1,000	5.9
1,126 to 1,375	1,250	6.5
1,376 to 1,625	1,500	7.1
1,626 to 1,875	1,750	7.7
1,876 to 2,125	2,000	8.3
2,126 to 2,375	2,250	8.8
2,376 to 2,625	2,500	9.4
2,626 to 2,875	2,750	9.9
2,876 to 3,250	3,000	10.3
3,251 to 3,750	3,500	11.2
3,751 to 4,250	4,000	12.0
4,251 to 4,750	4,500	12.7
4,751 to 5,250	5,000	13.4
5,251 to 5,750	5,500	13.9
5,751 to above	5,500	14.4

(e) Power absorption unit adjustment.

(1) The power absorption unit shall be adjusted to reproduce road load power at 50 m.p.h. true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in Appendix II or other suitable means.

(2) The road load power listed above shall be used or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator, or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) Gasoline-fueled vehicles.

(A) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balaced wind conditions at a true speed of 50 m.p.h., and

(B) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e., within ±5 mm. Hg.

(C) The road load power shall be determined according to the procedure outlined in Appendix II and adjusted according to the following if applicable.

(ii) Diesel vehicles.

(A) Measuring the fuel flow rate of a representative vehicle of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(B) Noting the dynamometer indicated road load horsepower setting required to reproduce that fuel flow rate when the same vehicle is operated on the dynamometer at a true speed of 50

m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e., within ±5 mm. Hg.

(C) The road load power shall be determined according to the procedure outlined in Appendix II and adjusted according to the following if applicable.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph (e)(2) of this section shall be increased by 10 percent for testing all test vehicles representing such engine family if those vehicles are intended to be offered with air conditioning in production.

(f) The vehicle speed (m.p.h.) as measured from the dynamometer rolls shall be used for all conditions. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(g) Practice runs over the prescribed driving schedule may be performed at test points, provided an emission sample is not taken, for the purpose of finding the minimum accelerator pedal action to maintain the proper speed-time relationship, or to permit sampling system adjustments to comply with § 86.177–16(a)(2)(ii) or § 86.177–16(b)(2)(ii).

NOTE: When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. The rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(h) The drive wheel tires may be inflated up to 45 p.s.i.g. in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(i) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating it at 30 m.p.h. using a nontest vehicle.

(j) If the dynamometer horsepower must be adjusted manually, it shall be set within one hour prior to the exhaust emissions test phase. The test vehicle shall not be used to make this adjustment. Dynamometers using automatic control of preselectable power settings may be set anytime prior to the beginning of the emissions test.

§ 86.177–12 Manual transmissions.

(a) All test conditions except as noted shall be run according to the manufacturer's recommendation to the ultimate purchaser.

(b) Vehicles equipped with free wheeling or overdrive shall be tested with these features operated according to the manufacturer's recommendations to the ultimate purchaser.

(c) Idle shall be run with transmission in gear and with clutch disengaged (except first idle; see § 86.177–15).

(d) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(e) Acceleration modes shall be driven smoothly following the shift speeds and procedure as recommended by the manufacturer to the ultimate purchaser. The operator shall release the accelerator pedal during the shift, and accomplish the shift with minimum closed throttle time. If the vehicle cannot accelerate at the specified rates, the vehicle shall be operated with the accelerator pedal fully depressed until the vehicle speed reaches the speed at which it should be at that point during the test.

(f) The deceleration modes shall be run with clutch engaged and without shifting gears from the previous mode, using brakes or accelerator pedal as necessary to maintain the desired speed. For those modes which decelerate to zero, the clutch shall be depressed when the speed drops below 15 m.p.h., when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode in accordance with the manufacturer's recommendation to the ultimate purchaser.

(h) If the transmission ratio in first gear exceeds 5:1, follow the procedure as recommended by the manufacturer to the ultimate purchaser for the use of first gear.

§ 86.177–13 [Reserved]

§ 86.177–14 Automatic transmissions.

(a) All test conditions shall be run according to the manufacturer's recommendation to the ultimate purchaser.

(b) Idle modes shall be run with the transmission in "Drive" and the wheels braked (except first idle: see § 86.177–15).

(c) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(d) Acceleration modes shall be driven smoothly allowing the transmission to shift in accordance with the manufacturer's recommendations to the ultimate purchaser. If the vehicle cannot accelerate at the specified rates, the vehicle shall be operated with the accelerator pedal fully depressed until the vehicle speed reaches the speed at which it should be at that point during the driving schedule.

(e) The deceleration modes shall be run in gear using brakes or accelerator pedal as necessary to maintain the desired speed.

(f) Vehicles equipped with free wheeling or overdrive shall be tested with these features operated according to the manufacturer's recommendation to the ultimate purchaser.

§ 86.177–15 Engine starting and restarting.

(a) *Gasoline-fueled vehicles.* Paragraph (a) of this section applies to gasoline-fueled vehicles.

(1) The engines shall be started according to the manufacturer's recommended starting procedures. The initial 20-second idle period shall begin when the engine starts.

(2) Choke operation. (i) Vehicles equipped with automatic chokes shall be operated according to the instructions which will be included in the manufacturer's operating instructions or owner's manual including choke setting and "kick-down" from cold fast idle. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(ii) Vehicles equipped with manual chokes shall be operated according to the manufacturer's instructions to the ultimate purchaser in the owner's manual. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(3) The operator may use the choke, accelerator pedal, etc. where necessary to keep the engine running.

(4) If the manufacturer's operating or owner's manual does not specify a warm engine starting procedure, the engine (automatic and manual choke engines) shall be started by depressing the accelerator pedal about half way and cranking the engine until it starts.

(b) *Diesel vehicles.* Paragraph (b) of this section applies to Diesel vehicles.

(1) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20-second idle period shall begin when the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(c) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start shall be determined. The revolution counter on the constant volume sampler (and the hydrocarbon integrator when testing Diesel vehicles, see § 86.177–20) shall be turned off and the sample solenoid valves placed in the "dump" position during this diagnostic period. In addition, either the positive displacement pump should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. The sampling system shall be reactivated at the same time cranking is started. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(d) If the engine "false starts," the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.)

(e) Stalling. (1) If the engine stalls during an idle period, the engine shall be

restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts, the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle restarted, accelerated to the speed required at that point in the driving schedule and the test continued.

(3) If the vehicle will not restart within one minute, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined), and the corrective action taken shall be reported.

§ 86.177–16 Sampling and analytical system (exhaust emissions).

(a) *Gasoline-fueled vehicles.* The sampling and analytical systems for gasoline-fueled vehicles shall comply with paragraph (a) of this section:

(1) Schematic drawings. The following figures (Figs. B77–1 and B77–2) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Since various configurations of the required components can produce accurate results, these schematic drawings are not to be interpreted literally and exact conformance is not mandatory. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(2) Component description (exhaust gas sampling system). The following components will be used in the exhaust gas sampling systems for testing under the regulations in this subpart. See figure B77–1. Other types of constant volume samplers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(i) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream.

(ii) A leak-tight connector and tube to the vehicle tailpipe. The tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±5 inches of water of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). Sampling systems capable of tolerances of ±1 inch of water will be used by the Administrator if a written request by the manufacturer substantiates the need for this closer tolerance.

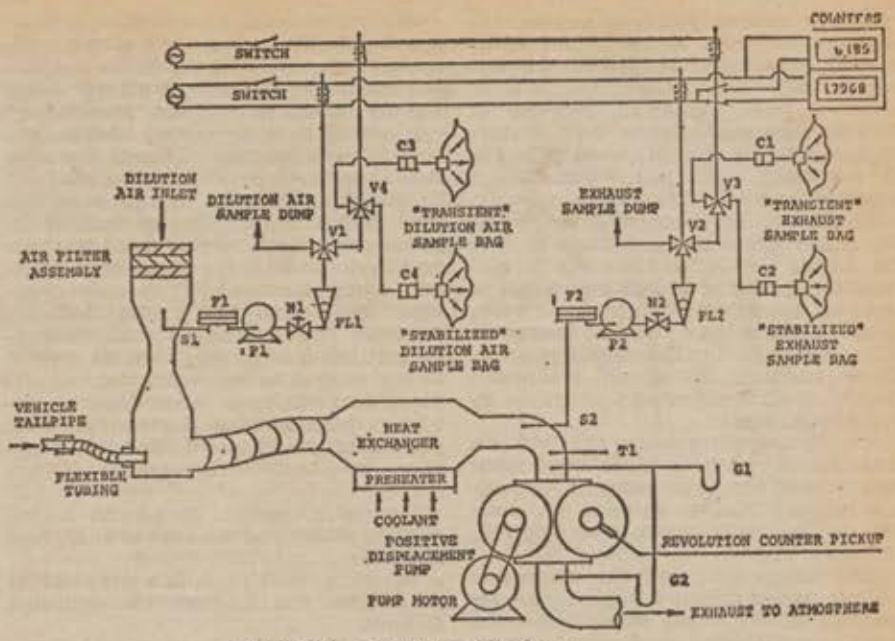


Figure B 77-1 - Exhaust Gas Sampling System

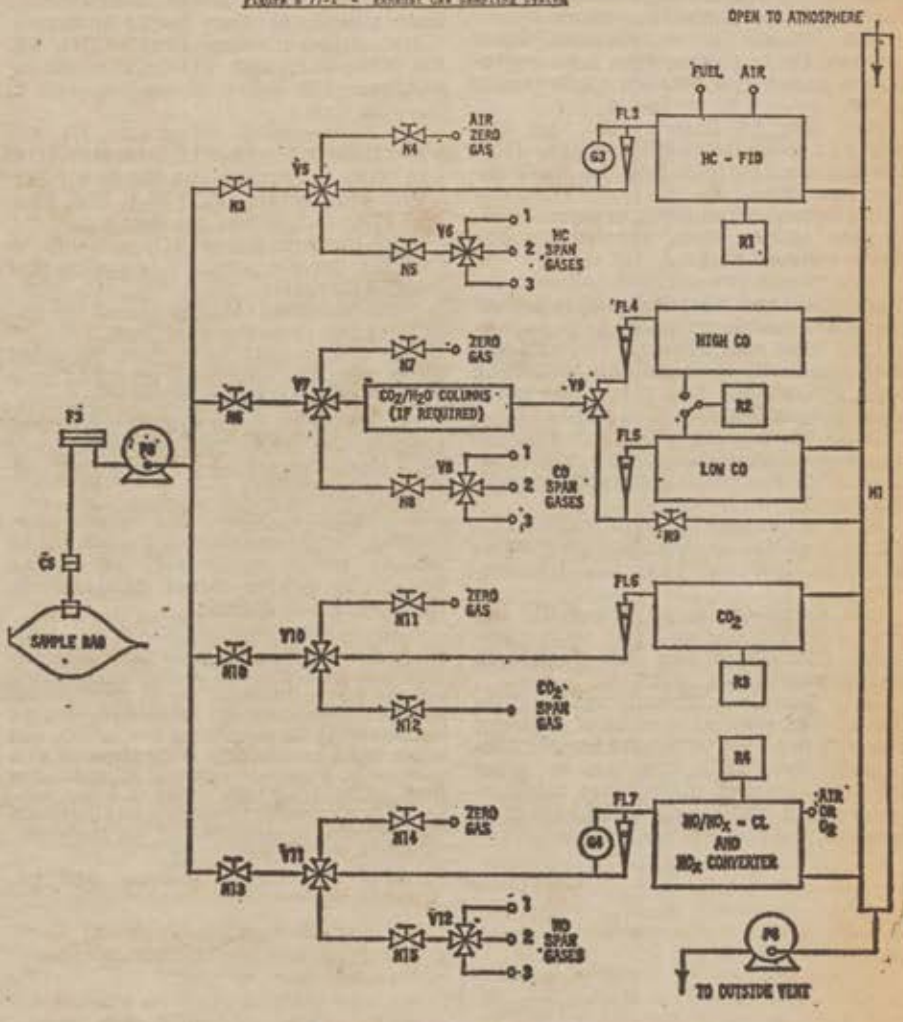


Figure B 77-2 Exhaust Gas Analytical System

(iii) A heating system to preheat the heat exchanger to within ±10°F of its operating temperature before the test begins.

(iv) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10°F as measured at a point immediately ahead of the positive displacement pump.

(v) A positive displacement pump to pump the dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix III for one flow calibration technique. Other suitable calibration techniques may be used if approved in advance by the Administrator.

(vi) Temperature sensor (T1) with an accuracy of ±2°F to allow continuous recording of the temperature of the dilute exhaust mixture entering the positive displacement pump. (See § 86.177-18(1)).

(vii) Gauge (G1) with an accuracy of ±3 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(viii) Gauge (G2) with an accuracy of ±3 mm. Hg to measure the pressure increase across the positive displacement pump.

(ix) Sample probes (S1 and S2) pointed upstream to collect samples from the dilution airstream and the dilute exhaust mixture.

(x) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples.

(xi) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(xii) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow rate shall be 10 c.f.h.

(xiii) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(xiv) Three-way solenoid valves (V1, V2, V3, and V4) to direct sample streams to either their respective bags or overboard.

(xv) Quick-connect, leak-tight fittings (C1, C2, C3, and C4) with automatic shutoff on bag side to attach sample bags to sample system.

(xvi) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(xvii) Revolution counters to count the revolutions of the positive displacement pump while each test phase is in progress and samples are being collected.

(3) Component description (exhaust gas analytical system). The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis, the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The CL method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure B77-2.

(i) Quick-connect leak-tight fitting (C5) to attach sample bags to analytical system.

(ii) Filter (F3) to remove any residual particulate matter from the collected sample.

(iii) Pump (P3) to transfer samples from the sample bags to the analyzers.

(iv) Selector valves (V5, V6, V7, V8, V9, V10, V11, and V12) for directing samples, span gases, or zeroing gases to the analyzers.

(v) Flow control valves (N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, N13, N14, and N15) to regulate the gas flow rates.

(vi) Flowmeters (FL3, FL4, FL5, FL6, and FL7) to indicate gas flow rates.

(vii) Pressure gauges (G3 and G4) to facilitate greater precision in setting and reading flowrates.

(viii) Manifold (M1) to collect the expelled gases from the analyzers.

(ix) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the test room (optional).

(x) Analyzers to determine hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen concentrations. See § 86.177-19(a).

(xi) Sample conditioning column containing $CaSO_4$ or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

NOTE: If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted. See §§ 86.177-18(h) and 86.177-22(c). A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 and N_2 which has been bubbled through water at room temperature (68°-86°F), produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on instrument ranges above 300 ppm CO or less than 3 ppm on instrument ranges below 300 ppm CO.

(xii) Recorders (R1, R2, R3, and R4) or digital printers to provide permanent records of calibration, spanning, and sample measurements; or in those facilities where computerized data acquisition systems are incorporated, the computer facility printout may be used.

(b) *Diesel vehicles.* The sampling and analytical systems for exhaust emissions tests on Diesel light-duty vehicles and Diesel light-duty trucks shall comply with paragraph (b) of this section:

(1) Schematic drawings. The following figures B77-3, B77-4, and B77-5 are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Since various configurations of the required components can produce accurate results, these schematic drawings are not to be interpreted literally and exact conformance is not mandatory. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(2) Component description (exhaust gas sampling system). The following components will be used in the exhaust gas sampling system for testing under the regulations in this part. See Figure B77-3. Other types of constant volume samplers may be used if shown to yield equivalent results, and if approved in advance by the Administrator.

(i) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream.

(ii) A leak-tight connector and tube to the vehicle tailpipe. The tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±5 inches of water of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). Sampling systems capable of tolerances of ±1 inch of water will be used by the Administrator if a written request by the manufacturer substantiates the need for this closer tolerance.

(iii) A heating system to preheat the heat exchanger to within ±10°F of its operating temperature before the test begins.

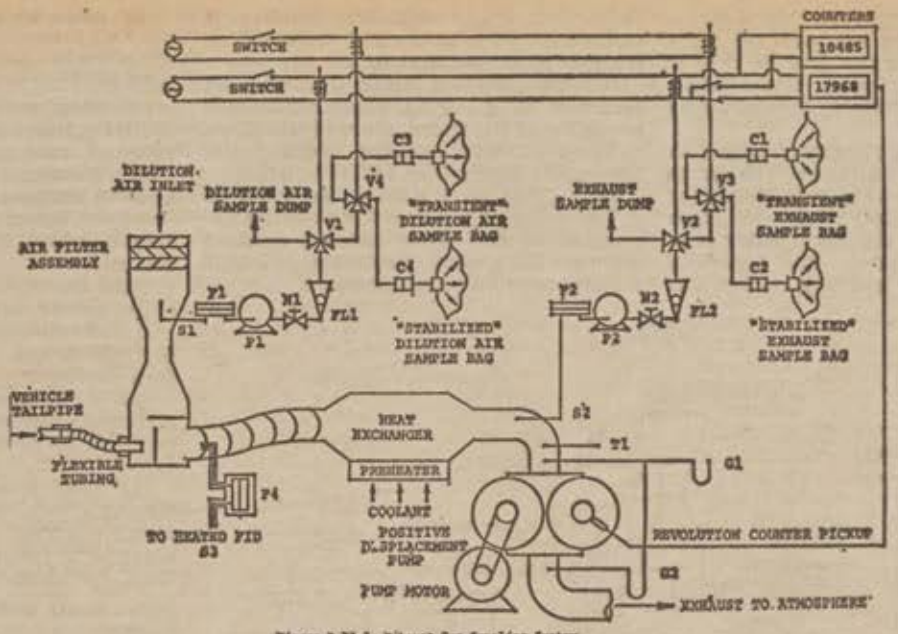


Figure B 77-3- Exhaust Gas Sampling System

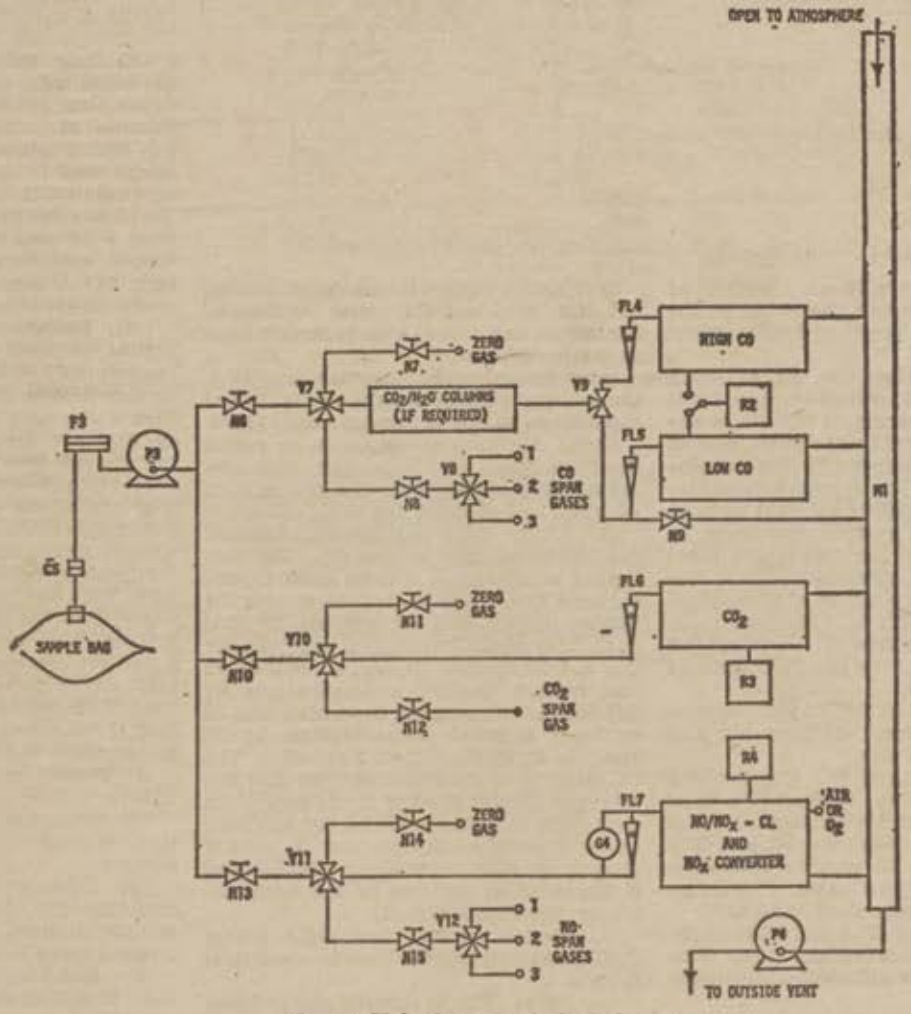


Figure B 77-4 Exhaust Gas Analytical System

(iv) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10°F as measured at a point immediately ahead of the positive displacement pump.

(v) A positive displacement pump to pump dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix III to this part for one flow calibration technique. Other suitable calibration techniques may be used if approved in advance by the Administrator.

(vi) Temperature sensor (T1) with an accuracy of ±2°F to allow continuous recording of the temperature of the dilute exhaust mixture entering positive displacement pump. (See § 86.177-18(1)).

(vii) Gage (G1) with an accuracy of ±3 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

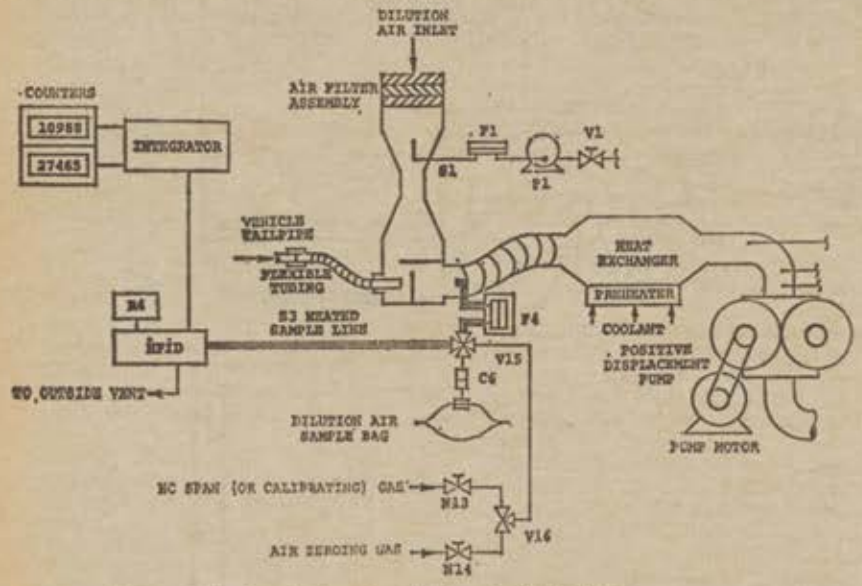


Figure B 77-3 Diesel Hydrocarbon Continuous Analysis System

(viii) Gage (G2) with an accuracy of ±3mm. Hg to measure the pressure increase across the positive displacement pump.

(ix) Sample probes (S1, S2, and S3) pointed upstream to collect samples from the dilution air steam and the dilute exhaust mixture. Additional sample probes may be used, if approved by the Administrator, to obtain continuous concentration traces of the dilute exhaust stream. In such case the sample flow rate, in standard cubic feet per test phase, must be added to the calculated dilute exhaust volume. The position of the sample probes in Figure B77-3 is pictorial only. The heated sample line (S3) between the sampling point and the analyzer shall be as short as possible.

(x) Filters (F1 and F2) to remove particulater matter from dilution air and dilute exhaust samples.

(xi) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(xii) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow rate shall be 10 c.f.h.

(xiii) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(xiv) Three-way solenoid valves (V1, V2, V3, and V4) to direct sample streams to either their respective bags or overboard.

(xv) Quick-connect, leak-tight fittings (C1, C2, C3, and C4) with automatic shutoff on bag side to attach sample bags to sample system.

(xvi) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(xvii) Revolution counters to count the revolutions of the positive displacement pump while each test phase is in progress and samples are being collected.

(3) Component description (exhaust gas batch analytical system). The following components will be used in the exhaust gas batch analytical system for testing under the regulations in this part. The analytical system provides for the determination of carbon monoxide and carbon dioxide concentrations by NDIR analysis and the determination of oxides of nitrogen concentrations by CL analysis in dilute exhaust samples. The CL method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other type of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure B77-4.

(i) Quick-connect, leak-tight fitting (C5) to attach sample bags to analytical system.

(ii) Filter (F3) to remove any residual particulate matter from the collected sample.

(iii) Pump (P3) to transfer samples from the sample bags to the analyzers.

(iv) Selector valves (V7, V8, V9, V10, V11, and V12) for directing samples, span gases or zeroing gases to the analyzers.

(v) Flow control valves (N6, N7, N8, N9, N10, N11, N12, N13, N14, and N15) to regulate the gas flow rates.

(vi) Flowmeters (FL4, FL5, FL6, and FL7) to indicate gas flow rates.

(vii) Pressure gauge (G4) to facilitate greater precision in setting and reading flow rate.

(viii) Manifold (M1) to collect the expelled gases from the analyzers.

(ix) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the testroom (optional).

(x) Analyzers to determine carbon monoxide, carbon dioxide and oxides of nitrogen concentrations (See § 86.177-19 (a)).

(xi) Sample conditioning column containing $CaSO_4$, or indicating silica gel to remove water vapor and containing ascraite to remove carbon dioxide from the CO analyses stream.

NOTE: If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted. See §§ 86.177-18(a) and 86.177-22(c).

A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2 which has been bubbled through water at room temperature (68°–86°F), produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on instrument ranges above 300 ppm CO or less than 3 ppm on instrument ranges below 300 ppm CO.

(xii) Recorders (R1, R2, and R3) or digital printers to provide permanent records of calibration, spanning and sample measurements; or in those facilities where computerized data acquisition systems are incorporated, the computer facility printout may be used.

(4) Component description (exhaust gas continuous analytical system). The following components will be used in the exhaust gas continuous analytical system for testing under the regulations in this part. This analytical system provides for the continuous determination of exhaust hydrocarbon concentration by heated flame ionization detector (HFID) analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure B77-5.

(i) Heated continuous sampling line (S3).

(ii) Heated filter (F4) to remove particulate matter from heated hydrocarbon sample.

(iii) Selector valves (V5 and V6) for directing the continuous dilute exhaust sample, dilution air bag sample, span, or zeroing gases to the analyzers.

(iv) Quick-connect, leak-tight fitting (C6) to attach dilution air sample bag to analytical system.

(v) Heated hydrocarbon analyzer (HFID) complete with heated pump, filter, and flow control system. The re-

sponse time of this instrument shall be less than 1 second for 90 percent of full-scale response. Sample transport time from sampling point to inlet of instrument shall be less than 4 seconds.

(vi) Chart recorder (R1) and analog integrator with two readouts, or chart recorder (R1) and on-line digital computer for manual or electronic integration of analyzer output signal during the three operating phases of the test.

(vii) Flow control valves (N4 and N5) to regulate the gas flow rates.

§ 86.177–17 Sampling and analytical system (fuel evaporative emissions, gasoline-fueled vehicles).

(a) *Schematic drawing.* (1) The following figures (Figures B77–6, B77–7, B77–8) are flow diagrams of typical evaporative loss collection applications.

(2) Figure B77–6 represents an arrangement for collecting losses which emanate from the carburetor. Figure B77–7 depicts the means for separately collecting the vapors which emanate from the fuel tank vent line and filler cap. Figure B77–8 shows an arrangement for collecting the losses from a closed fuel system, vented to the atmosphere solely through the air cleaner, as might be the case with certain fuel evaporative emission control devices.

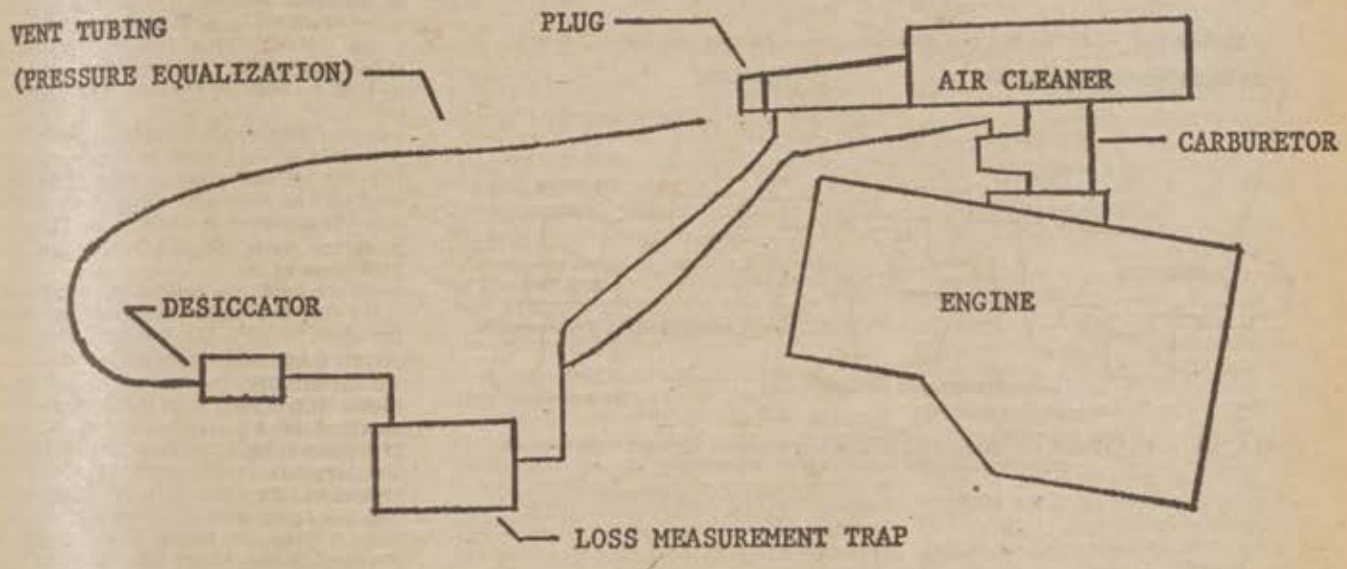


FIGURE B 77–6—Typical carburetor evaporative loss collection arrangement (schematic).

(3) Schematic drawings of arrangements to be employed shall be submitted in accordance with § 86.077–21(b)(3).

(b) *Collection equipment.* The following equipment shall be used for this collection of fuel evaporative emissions. (Item quantities are determined by individual test needs.)

(1) *Activated carbon trap.* See Figure B77–9 for specifications of one design; other configurations may be used: Provided, That they give demonstrably equivalent results.

(i) Canister —300±25 ml., cylindrical container having a length to diameter ratio of 1.4+0.1. An inlet tube, 5/16-inch ID and 1 inch long is sealed into the top of the canister, at its geometric center. A similar outlet tube is sealed into the wall ¼ inch from the bottom of the canister. The canister is designed to withstand an air pressure of 2 p.s.i., when sealed, without evidence of leaking when immersed in water for 30 seconds.

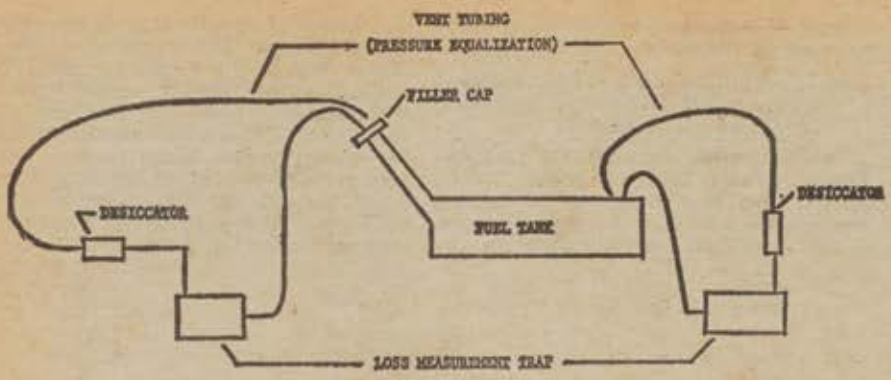


FIGURE B 77-7 - Typical fuel tank evaporative loss collection arrangement (schematic).

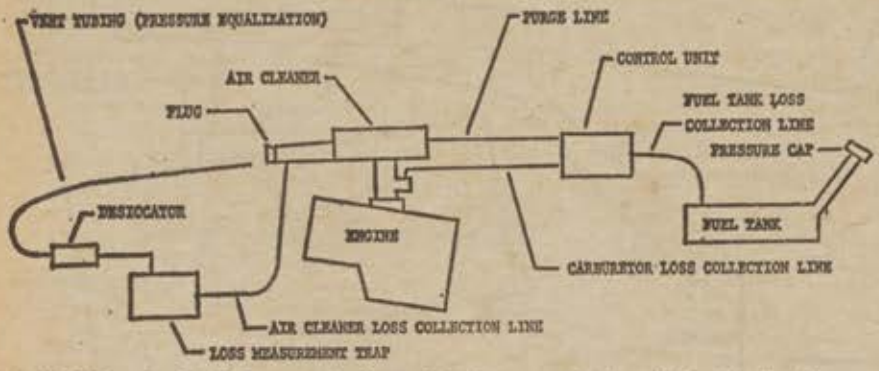


FIGURE B 77-8 - Typical fuel evaporative loss collection arrangement for vehicle equipped with evaporative emission control system (schematic).

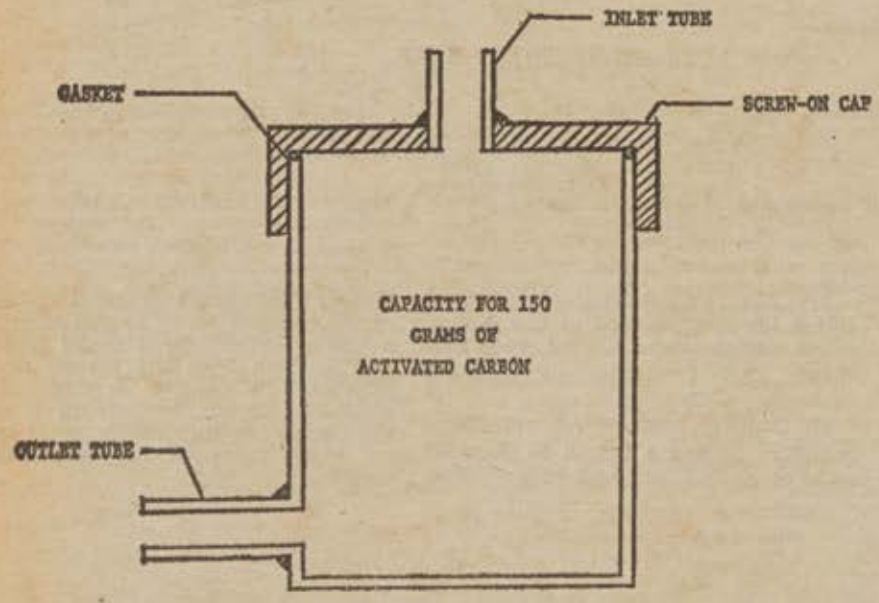


FIGURE B 77-9 - Typical activated carbon trap (schematic).

(ii) Activated carbon-meeting the following specifications:

Surface area, min. (N2 BET method),[1] 1,000 square meters per gram.

Adsorption capacity, min. (carbon tetrachloride), 60 percent, by weight.

Volatile material including adsorbed water vapor, None.

Screen analysis size:	Percent
Less than 1.4 mm	0
1.7 to 2.4 mm	90–100
More than 3 mm	0

The activated carbon trap is prepared for the test by attaching clamped sections of vinyl tubing to the inlet and outlet tubes of the canister. The canister is then filled with 150±10 g hot activated carbon which had previously been oven-dried for 3 hours at 300° F. Loss of carbon through the inlet and outlet tubes is prevented through the use of wire screens of 0.7 mm. mesh or wads of loosely packed glass wool. The canister is closed immediately after filling and the carbon is allowed to cool while the trap is vented through a drying tube via the unclamped outlet arm.

(iii) The trap is sealed and weighed after cooling and the weight, to the nearest 0.1 gram, is inscribed on the canister body. Within 12 hours of the scheduled test, the weight of the trap is checked and if it has changed by more than 0.5 gm., it is redried to constant weight. This redrying operation is performed by passing dry nitrogen, heated to 275° F, through the trap, via the inlet tube, at a rate of 1 liter per minute until checks made at 30-minute intervals do not vary by more than 0.1 percent of the gross weight. The trap and its contents are allowed to cool to room temperature, while vented through a drying tube via the outlet arm, before use.

(2) *Auxiliary collection equipment.*

(i) Drying tube—transparent, tubular body ¾-inch ID, 6 inches long, with serrated tips and removable caps.

(ii) Desiccant—indicating variety, 8 mesh. The drying tube is attached to the outlet tube of the collection traps to prevent ambient moisture from entering the trap. It is prepared by filling the empty drying tube with fresh desiccant using a loose wad of glass wool to hold the desiccant in place. The desiccant is renewed when three-quarters spent, as indicated by color change.

(iii) Collection tubing—stainless steel, aluminum, or other suitable material approved by the Administrator, ⅜-inch ID, for connecting the collection traps to the fuel system vents.

(iv) Polyvinyl chloride (vinyl) tubing—flexible tubing, 5/16-inch ID, for sealing butt-to-butt joints.

(v) Laboratory tubing—air tight flexible tubing 5/16-inch ID, attached to the outlet end of the drying tubes to equalize collection system pressure.

(vi) Clamps—hosecock, openside, for pinching off flexible tubing.

(c) *Weighing equipment.* The balance and weights used shall be capable of determining the net weight of the activated carbon trap within an accuracy of ±75 mg.

(d) *Temperature measuring equipment.* (1) Temperature recorder—multichannel, variable speed, potentiometric, or substantially equivalent, recorder with a temperature range of 50° F, to 100° F, and capable of either simultaneous or sequential recording of the ambient air and fuel temperatures within an accuracy of ±1° F.

(2) Fuel tank thermocouples—iron-constantan (type J) construction.

[1] Brunauer, Emmett & Teller: Journal of the American Chemical Society, Vol. 60, p. 309, 1938.

(3) Other types of temperature sensing systems may be provided by the manufacturer if they record the information specified in paragraph (d)(1) of this section with the required accuracy and if they are self-contained. Type J thermocouples are required for compatibility with recording instruments used in Federal certification facilities.

(e) *Assembly and use of the activated carbon vapor collection system.* (1) The prepared activated carbon trap, dried to constant weight, cooled to the ambient temperature, and sealed with clamped sections of vinyl tubing is carefully weighed to the nearest 20 milligrams and the weight recorded as the "tare weight."

(2) A drying tube is attached to the outlet tube and the clamp released, but not removed. A length of flexible tubing, for pressure equalization, is connected to the other end of the drying tube.

(3) The inlet of the adsorption trap and external vent(s) of the fuel system will be connected by minimal lengths of stainless steel or aluminum tubing and short sections of vinyl tubing. Butt-to-butt joints shall be made wherever possible and precautions taken against sharp bends in the connection lines, including any manifold systems employed to connect multiple vents to a single trap.

(4) The clamp on the inlet tube of the trap shall be released but not removed. Care shall be exercised to prevent heating the vapor collection trap by radiant or conductive heat from the engine.

(5) Upon completion of the collection sequence, the vinyl tubing sections on each arm of the collection trap shall be clamped tight and the collection system dismantled.

(6) The sealed vapor collection trap shall be weighed carefully to the nearest 20 milligrams. This constitutes the "gross weight," which is appropriately recorded. The difference between the "gross weight" and "tare weight" represents the "net weight" for purposes of calculating the fuel vapor losses.

§ 86.177–18 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: Make—Vehicle identification number—Model year—Transmission type—Odometer reading—Engine displacement—Engine family—Idle r.p.m.—Fuel system (fuel injection, nominal fuel tank capacity, fuel tank location, number of carburetors, number of carburetor barrels, as applicable)—Inertia loading—Actual curb weight recorded at 0 miles—Actual road load horsepower at 50 m.p.h., and Drive wheel tire pressure.

(g) Indicated road load power absorption at 50 m.p.h. and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided, the test cell records show the pertinent information.

(h) All pertinent instrument information such as tuning—gain—serial number—detector number—range. As an alternative, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided test cell calibration records show the pertinent instrument information.

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Test cell barometric pressure, ambient temperature, and humidity.

NOTE: A central laboratory barometer may be used, provided, that individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(k) Fuel temperatures, as prescribed (gasoline-fueled only).

(l) Pressure of the mixture of exhaust and dilution air entering the positive displacement pump, the pressure increase across the pump, and the temperature set point of the temperature control system. The sample temperature at the inlet to the pump may be measured, if desired, to verify that the temperature variations are within 5° F, of the set point.

(m) The number of revolutions of the positive displacement pump accumulated while the test is in progress and exhaust flow samples are being collected.

(n) The humidity of the dilution air.

NOTE: If conditioning columns are not used (see § 86.177–16(a)(3)(xi) and § 86.177–16(b)(3)(xi)), this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

(o) Temperature set point of the heated sample line and heated hydrocarbon detector temperature control system (for Diesel vehicles only).

§ 86.177–19 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance. For Diesel vehicles, operate the heated hydrocarbon analyzer, sampling line and filter to ±10° F in the temperature range of 300 to 390°F.

(2) Zero the hydrocarbon analyzer with zero-grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with zero-grade air or zero-grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, 400 p.p.m. (0.04 mole percent) carbon dioxide, and 0.1 p.p.m. nitric oxide.

(3) Set the CO and CO_2 analyzer gains to give the desired ranges. Select the desired attenuation scale of the HC analyzer, set the sample capillary flow rate by adjusting the back pressure regulator, and adjust the electronic gain control, if provided, to give the desired range. Select the desired scale of the NOx analyzer and adjust the phototube high voltage supply or amplifier gain to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases and the CO_2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to within ±2 percent of the true values.

(5) Compare values obtained on the CO and CO_2 analyzers with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgement in selecting curves for data reduction.

(6) NO_x converter efficiency determination: The apparatus described and illustrated in Figure B77–10 or Figure B77–11 is to be used to determine the conversion efficiency of devices that convert NO_x to NO. The following procedure is to be used for determining the values to be used in Equation (A).

(i) Attach the NO/N_2 supply (150–250 ppm) at C2, the O_2 supply at C1 and the analyzer inlet connection to the efficiency detector at C3. If lower concentrations of NO are used, air may be used in place of O_2 to facilitate better control of the NO_2 generated during step (iv).

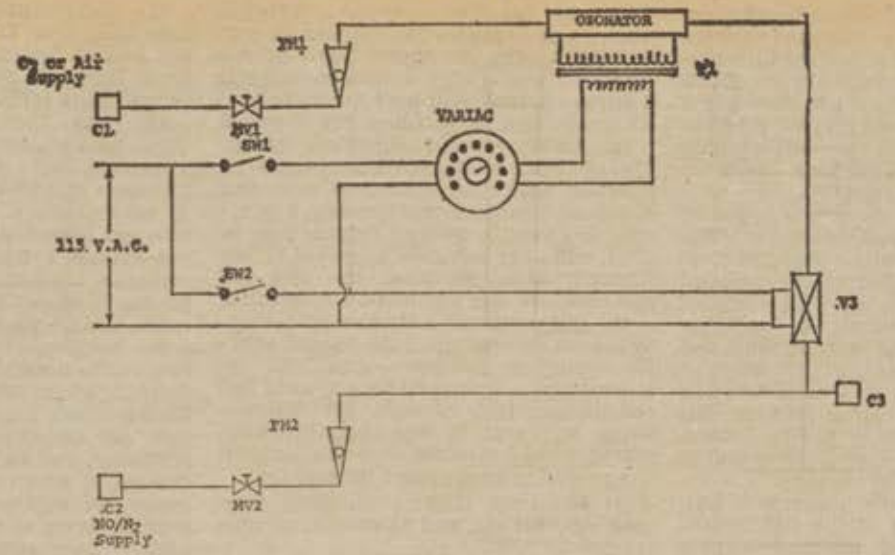


Figure 3 27-16 - NOx Converter Efficiency Detector

(ii) With the efficiency detector variac off, place the NO_x converter in bypass mode and close valve V3. Open valve MV2 until sufficient flow and stable readings are obtained at the analyzer. Zero and span the analyzer output to indicate the value of the NO concentration being used. Record this concentration.

(iii) Open valve V3 (on/off flow control solenoid valve for O_2 and adjust valve MV1 (O_2 supply metering valve) to blend enough O_2 to lower the NO concentration (ii) about 10 percent. Record this concentration.

(iv) Turn on the ozonator and increase its supply voltage until the NO concentration of (iii) is reduced to about 20 percent of (ii). NO_2 is now being formed from the NO +03 reaction. There must always be at least 10 percent unreacted NO at this point. Record this concentration.

(v) When a stable reading has been obtained from (iv), place the NO_x converter in the convert mode. The analyzer will now indicate the total NO_x concentration. Record this concentration.

(vi) Turn off the ozonator and allow the analyzer reading to stabilize. The mixture NO + O_2 is still passing through the converter. This reading is the total NO_x contration of the dilute NO span gas used at step (iii). Record this concentration.

(vii) Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2. Calculate the efficiency of the NO_x converter by substituting the concentrations obtained during the test into Equation (A).

Percent Eff. = (v)-(iv)/(vi)-(iv) × 100 percent (A)

The efficiency of the converter should be greater than 90 percent. Adjustment of the converter temperature may be needed to maximize the efficiency. Efficiency checks should be made on each analyzer range using an NO span gas concentration appropriate to the instrument range. See alternate procedure in paragraph (a)(6)(viii).

(viii) Alternative to paragraph (a)(6)(vii): Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2.

Calculate the efficiency of the NO converter by substituting the concentrations obtained during the test into Equation (B).

Percent Eff. = 1 + (v-vi)/(iii-iv) × 100 percent (B)

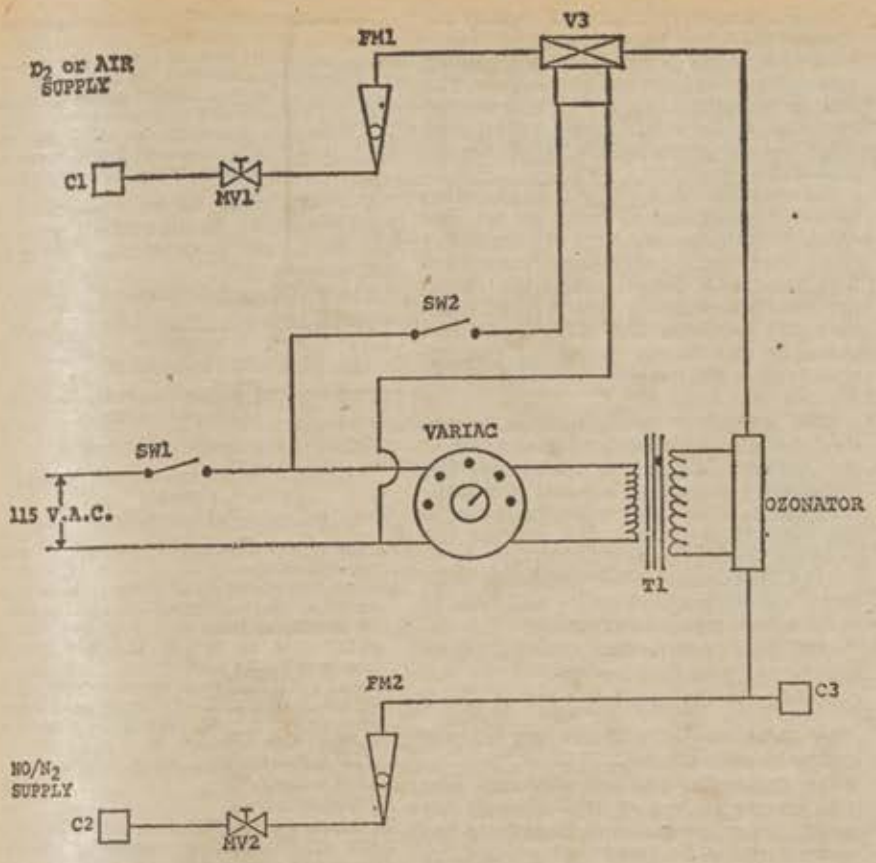


Figure B 77-11" – NOx Converter Efficiency Detector

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Although steps (ii) and (vii) are not used in the calculations, their values should be recorded to complete the data set for the test sequence. This procedure does not depend on the amount of NO_2 in the span gas nor the equivalence of flows in the bypass and converter modes; however, to be consistent with good operating practice, flows should be nominally the same, and the NO_2 concentration should be less than 5 percent of the NO_x span concentration. Efficiency checks should be made at a frequency (daily to weekly) consistent with good quality assurance provisions.

(7) Check the efficiency of the sample conditioning system, if used, by the following procedure:

(i) Zero and span the CO instrument on its most sensitive scale.

(ii) Recheck zero.

(iii) Bubble a mixture of 3 percent CO_2 in N2 through water at room temperature (68°–86° F), through the conditioning column into the CO instrument. If the response meets the criteria of § 86.-177-16(a)(3)(xi) or § 86.177-16(b)(3)(xi) as applicable, then the conditioning column is functioning acceptably. If the response is higher than the specified limit, a new conditioning column should be installed and the test repeated.

(iv) Sample conditioning systems should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

(b) HC, CO, CO_2 and NO_x measurements: (When testing Diesel vehicles allow the HC analyzer sample line and filter to heat to a set point ±10° F between 300 and 390° F.) Allow a minimum of 20 minutes warmup for the HC analyzer and 2 hours for the CO, CO_2, and NO_x analyzers. (Power is normally left on infrared and CL analyzers; but when not in use, the chopper motors of the infrared analyzers are turned off and the phototube high voltage supply of the CL analyzer is placed in the standby position.) The following sequence of operations should be performed in conjunction with each series of measurements:

(1) Zero the analyzers. Obtain a stable zero on each amplifier meter and recorder. Recheck after tests.

(2) Introduce span gases and set the CO and CO_2 analyzer gains, the HC analyzer sample capillary flow rate and the NO_x analyzer high voltage supply or amplifier gain to match the calibration curves. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equal to approximately 80 percent of full scale. If gain has shifted significantly on the CO or CO_2 analyzers, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart.

(3) Check zeros; repeat the procedure in paragraphs (b)(1) and (2) of this section if required.

(4) Check flow rates and pressures.

(5) For Diesel vehicles continuously record (and integrate electronically if desired) dilute hydrocarbon emission levels during test.

(6) Measure CO, CO_2, and NO_x concentrations of samples, also HC for gasoline-fueled vehicles. Care should be exercised to prevent moisture from condensing in the sample collection bag.

(7) Check zero and span points.

(c) For the purposes of this section, the term "zero-grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

§ 86.177–20 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with the engine turned off for a period of not less than 12 hours before the cold-start exhaust-emission test (gasoline-fueled vehicles shall be stored at an ambient temperature specified in § 86.177–8 and § 86.177–9). The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g. rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold-start drive of 7.5 miles and simulates a hot-start drive of 7.5 miles. The vehicle is allowed to stand on the dynamometer during the 10-minute time period between the cold- and hot-start tests. The cold start test is divided into two periods. The first period representing the cold-start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of driving schedule including engine shutdown. The hot-start test similarly consists of two periods. The first period, representing the hot-start "transient" phase, terminates at the same point in the driving schedule as the first phase of the cold-start test. The second period of the hot-start test, "stabilized" phase, is assumed to be identical to the second period of the cold-start test. Therefore, the hot-start test terminates after the first period (505 seconds) is run. During the tests the ambient temperature shall be between 68° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Open the vehicle engine compartment cover and start the cooling fan.

(3) With the sample solenoid valves in the "dump" position connect evacuated sample collection bags to the two

dilute exhaust sample connectors and to the two dilution air sample line connectors.

(4) Start the positive displacement pump (if not already on), the sample pumps, heated hydrocarbon analysis recorder (Diesel only), and the temperature recorder. (The heat exchanger of the constant volume sampler, the Diesel hydrocarbon analyzer continuous sample line, and filter (if applicable) should be preheated to their respective operating temperatures before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 10 c.f.h.) and set the revolution counters to zero. Also set Diesel hydrocarbon integrator counters to zero, if applicable.

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flow into the "transient" exhaust sample bag and the "transient" dilution air sample bag, (turn on the Diesel hydrocarbon analyzer system integrator and mark the recorder chart, if applicable), and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule (§ 86.177–10).

(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the sample flows from the "transient" bags to the "stabilized" bags, switch off revolution counter No. 1 (and the Diesel hydrocarbon integrator No. 1, mark the Diesel hydrocarbon recorder chart), and start counter No. 2 (and the Diesel hydrocarbon integrator No. 2). As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 86.177–19.

(12) Turn the engine off 2 seconds after the end of the last deceleration (at 1,369 seconds).

(13) Five seconds after the engine stops running, simultaneously turn off revolution counter No. 2 (and the Diesel hydrocarbon integrator No. 2, mark the hydrocarbon recorder chart, if applicable) and position the sample solenoid valves to the "dump" position. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "stabilized" exhaust and dilution air sample bags, transfer them to the analytical system, and process the samples according to § 86.177–19.

(14) Immediately after the end of the sample period turn off the cooling fan and close the engine compartment cover.

(15) Turn off the positive displacement pump or disconnect the exhaust tube from the tailpipe(s) of the vehicle.

(16) Repeat the steps in paragraphs (b)(2) through (10) of this section for the hot start test except only one evacuated sample bag is required for sampling exhaust gas and one for dilution air. The step in paragraph (b)(7) of this section shall begin between 9 and 11 minutes after the end of the sample period for the cold-start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off the No. 1 revolution counter (and Diesel hydrocarbon integrator No. 1, mark the Diesel hydrocarbon recorder chart, if applicable) and position the sample solenoid valve to the "dump" position. (Engine shutdown is not part of the hot-start test sample period.)

(18) As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the hot-start "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 86.177–19.

(19) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.

(20) The positive displacement pump may be turned off, if desired.

§ 86.177–21 Chart reading.

(a) *Gasoline-fueled light-duty vehicles and light-duty trucks.*

(1) Determine the HC, CO, CO_2 and NO_x concentration of the dilution air and dilute exhaust sample bags from the instrument deflections or recordings making use of appropriate calibration charts.

(2) Determine the average dilute exhaust mixture temperatures from the temperature recorder trace if the recorder is used.

(b) *Diesel light-duty vehicles and light-duty trucks.*

(1) Determine the HC, CO, CO_2 and NO_x concentrations of the dilution air and the CO, CO_2 and NO_x concentration of the dilute exhaust sample bags from the instrument deflections, computer printout, or recordings making use of appropriate calibration charts.

(2) Record integrated HC results, or manually integrate continuous chart. This chart provides a permanent record and can be graphically integrated if verification of the results of electronic integration is required.

(3) Determine the average dilute exhaust mixture temperatures from the temperature recorder trace if a recorder is used.

§ 86.177–22 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formula:

(a) *For light-duty vehicles and light-duty trucks:*

$$Ywm=(0.43\ Yct+0.57\ Yht+Ys)/7.5$$

Where:

Ywm=Weighted mass emissions of each pollutant, i.e., HC, CO, or NO_x, in grams per vehicle mile.

YCT=Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Yht=Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Ys=Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

(b) The mass of each pollutant for each phase of both the cold-start test and hot-start test is determined from the following:

(1) Hydrocarbon Mass:

$$HCmass=Vmix\times DensityHC\times HCconc/1{,}000{,}000$$

(2) Oxides of nitrogen Mass:

$$NO_x mass=Vmix\times Density NO_2\times (NO_x conc/1{,}000{,}000)\times KH$$

(3) Carbon monoxide Mass:

$$COmass=Vmix\times DensityCO\times COconc/1{,}000{,}000$$

(c) Meaning of symbols:

HCmass=Hydrocarbon emissions, in grams per test phase.

DensityHC=Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg. pressure (16.33 g/cu. ft.).

HCconc=Hydrocarbon concentration of the dilute exhaust sample corrected for background, in p.p.m. carbon equivalent, i.e. equivalent propane x 3.

$$HCconc=HCe-HCd\ (1-1/DF)$$

Where:

HCe=Average hydrocarbon concentrations of the dilute exhaust sample as measured from the sample bag or as calculated from the integrated HC traces, in p.p.m. carbon equivalent.

HCd=Hydrocarbon concentration of the dilution air as measured in p.p.m. carbon equivalent.

NO_xmass=Oxides of nitrogen emissions, in grams per test phase.

Density NO_2=Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 760 mm. Hg. pressure (54.16 g/cu. ft.).

NO_xconc=Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in p.p.m.

$$NO_x conc=NO_x e-NO_x d\ (1-1/DF)$$

Where:

NO_xe=Oxides of nitrogen concentration of the dilute exhaust sample as measured, in p.p.m.

NO_xd=Oxides of nitrogen concentration of the dilution air as measured, in p.p.m.

COmass=Carbon monoxide emissions, in grams per test phase.

DensityCO=Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 g/cu. ft.).

COconc=Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor and CO_2 extraction, in p.p.m.

$$COconc=COe-COd\ (1-1/DF)$$

Where:

COe=Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$$COe=(1-0.01925\ CO2e-0.000323R)\ COem$$

Where:

COem=Carbon monoxide concentration of the dilute exhaust sample as measured in p.p.m.

CO_2e=Carbon dioxide concentration of the dilute exhaust sample, in mole percent.

R=Relative humidity of the dilution air, in percent. (see § 86.177-18(n).)

COd=Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in p.p.m.

$$COd=(1-0.000323R)\ COdm$$

Where:

COdm=Carbon monoxide concentration of the dilution air sample as measured, in p.p.m.

NOTE: If a CO instrument which meets the criteria specified in § 86.177-16(a)(3)(xi) or § 86.177-16(b)(3)(xi) is used and the conditioning column has been deleted, COem can be substituted directly for COe and COdm can be substituted directly for COd.

$$DF=\frac{13.4}{CO_M+(HC_e+CO_e)\times 10^{-4}}$$

Vmix=Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528°R and 760 mm. Hg).

$$Vmix=Vo\times N\ (P_B-P_4)\ (528°R)\ /\ (760\ mm.\ Hg)\ (Tp)$$

Where:

Vo=Volume of gas pumped by the positive displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump. (See calibration techniques in Appendix III).

N=Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

PB=Barometric pressure in mm. Hg.

P4=Pressure depression below atmospheric measured at the inlet to the positive displacement pump.

Tp=Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

KH=Humidity correction factor.

$$KH=1/1-0.0047\ (H-75)$$

NOTE: The constant 0.0047 will be updated to reflect any data which becomes available on light-duty Diesel engine tests.

Where:

H=Absolute humidity in grains of water per pound of dry air.

$$H=((43.478)\ Ra\ X\ Pd)/(PB-(Pd\ X\ Ra/100))$$

Ra=Relative humidity of the ambient air, in percent.

Pd=Saturated vapor pressure, in mm. Hg at the ambient dry bulb temperature.

(d) Example calculation of mass emissions values:

(1) For the "transient" phase of the cold-start test assume Vo=0.29344 cu. ft. per revolution; N=10,485; R=48.0 percent; Ra=48.2 percent; PB=762 mm. Hg; Pd=22.225 mm. Hg; P4=70 mm. Hg; Tp=570° R; HCe=105.8 p.p.m. carbon equivalent: NO_xe=11.2 p.p.m.; COem =306.6 p.p.m.; CO_2e=1.43 percent; HCd=12.1 p.p.m.; NO_xd=0.8 p.p.m.; COdm=15.3 p.p.m. Then:

Vmix=(0.29344) (10,485) (762-70) (528)/(760) (570)=2595.0 cu. ft. per test phase.

H=(43.478) (48.2) (22.225)/762-(22.225X48.2/100)

Kh=1/1-0.0047(62-75)=.9424.

COe=(1-0.01925(1.43)-0.000323(48)) 306.0=293.4 p.p.m.

COd=(1-0.000323(48))15.3=15.1 p.p.m.

DF=13.4/1.43+(105.8+293.4)X10-4=9.116.

HCconc=105.8-12.1(1-1/9.116)=95.03.

HCmass=(2595) (16.33) (95.03/1,000,000)=4.027 grams per test phase.

NO_xconc=11.2-0.8(1-1/9.116)=10.49

NO_xconc=(2595) (54.16) (10.49/1,000,000) (0.9424)=1.389 grams per test phase.

COconc=293.4-15.1(11/9.116)=280.

COmass=(2595) (32.97) (280.1,000,000)=23.96 grams per test phase.

(2) For the "stabilized" portion of the cold-start test assume that similar calculations resulted in HCmass=0.62 grams per test phase; NO_xmass=1.27 grams per test phase; and COmass=5.98 grams per test phase.

(3) For the "transient" portion of the hot-start test assume that similar calculations resulted in HCmass=0.51 grams per test phase; NO_xmass=1.38 grams per test phase; and COmass=5.01 grams per test phase.

(4) Results:

HCwm=((0.43) (4.027)+(0.57) (0.51)+0.62)/7.5=0.352 grams per vehicle mile.

NO_xwm=((0.43) (1.389)+(0.57) (1.38)+1.27)/7.5=0.354 grams per vehicle mile.

COwm=((0.43) (23.96)+(0.57) (5.01)+5.98)/7.5=2.55 grams per vehicle mile.

§ 86.177-23 Calculations (fuel evaporative emissions, gasoline-fueled vehicles).

The net weights of the individual collection traps employed in § 86.177-9 shall be added together to determine compliance with the fuel evaporative emission standard.

APPENDIX I—URBAN DYNAMOMETER DRIVING SCHEDULES

(a) EPA Urban Dynamometer Driving Schedule for Light-Duty Vehicles and Light-Duty Trucks.

APPENDIX I

EPA URBAN DYNAMOMETER DRIVING SCHEDULE

(Speed versus Time Sequence)

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
0	0.0	22	5.9	44	17.1
1	0.0	23	8.6	45	19.1
2	0.0	24	11.5	46	21.1
3	0.0	25	14.3	47	22.7
4	0.0	26	16.9	48	22.9
5	0.0	27	17.3	49	22.7
6	0.0	28	18.1	50	22.6
7	0.0	29	20.7	51	21.8
8	0.0	30	21.7	52	19.0
9	0.0	31	22.4	53	17.1
10	0.0	32	22.5	54	15.8
11	0.0	33	22.1	55	15.8
12	0.0	34	21.5	56	17.7
13	0.0	35	20.9	57	19.8
14	0.0	36	20.4	58	21.8
15	0.0	37	19.8	59	23.2
16	0.0	38	17.0	60	24.2
17	0.0	39	14.9	61	24.6
18	0.0	40	14.9	62	24.9
19	0.0	41	15.2	63	25.0
20	0.0	42	15.8	64	24.6
21	2.0	43	16.0	65	24.8

APPENDIX I—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
66	24.7	147	0.0	228	54.9
67	24.8	148	0.0	229	55.0
68	24.7	149	0.0	230	54.9
69	24.6	150	0.0	231	54.6
70	24.6	151	0.0	232	54.6
71	25.1	152	0.0	233	54.8
72	25.6	153	0.0	234	55.1
73	25.7	154	0.0	235	55.5
74	25.4	155	0.0	236	55.7
75	24.9	156	0.0	237	56.1
76	25.0	157	0.0	238	56.3
77	25.4	158	0.0	239	56.6
78	26.0	159	0.0	240	56.7
79	26.0	160	0.0	241	56.7
80	25.7	161	0.0	242	56.5
81	26.1	162	0.0	243	56.5
82	26.7	163	0.0	244	56.5
83	27.5	164	3.3	245	56.5
84	28.6	165	6.6	246	56.5
85	29.3	163	9.9	247	56.5
86	29.8	165	13.2	248	56.4
87	30.1	168	16.5	249	56.1
88	30.4	169	19.8	250	55.8
89	30.7	170	22.2	251	55.1
90	30.7	171	24.3	252	54.6
91	30.5	172	25.8	253	54.2
92	30.4	173	26.4	254	54.0
93	30.3	174	25.7	255	53.7
94	30.4	175	25.1	256	53.6
95	30.8	176	24.7	257	53.9
96	30.4	177	25.0	258	54.0
97	29.9	178	25.2	259	54.1
98	29.5	179	25.4	260	54.1
99	29.8	180	25.8	261	53.8
100	30.3	181	27.2	262	53.4
101	30.7	182	26.5	263	55.0
102	30.9	183	24.0	264	52.6
103	31.0	184	22.7	265	52.1
104	30.9	185	19.4	266	52.4
105	30.4	186	17.7	267	52.0
106	29.8	187	17.2	268	51.0
107	29.9	188	18.1	269	51.7
108	30.2	189	18.6	270	51.9
109	30.7	190	20.0	271	51.6
110	31.2	191	22.2	272	51.5
111	31.8	192	24.5	273	52.8
112	32.2	193	27.3	274	52.1
113	32.4	194	30.5	275	53.5
114	32.2	195	33.5	276	53.5
115	31.7	196	36.2	277	54.0
116	28.6	197	37.3	278	54.9
117	25.3	198	39.3	279	55.4
118	22.0	199	40.5	280	55.6
119	18.7	200	42.1	281	56.0
120	15.4	201	43.5	282	56.0
121	12.1	202	45.1	283	55.8
122	8.8	203	46.0	284	55.2
123	5.5	204	46.8	285	54.5
124	2.2	205	47.5	286	53.6
125	0.0	206	47.5	287	52.5
126	0.0	207	47.3	288	51.5
127	0.0	208	47.2	289	51.5
128	0.0	209	47.0	290	51.5
129	0.0	210	47.0	291	51.1
130	0.0	211	47.0	292	50.1
131	0.0	212	47.0	293	50.0
132	0.0	213	47.0	294	50.1
133	0.0	214	47.2	295	50.0
134	0.0	215	47.4	296	49.6
135	0.0	216	47.9	297	49.5
136	0.0	217	48.5	298	49.5
137	0.0	218	49.1	299	49.5
138	0.0	219	49.5	300	49.1
139	0.0	220	50.0	301	48.6
140	0.0	221	50.6	302	48.1
141	0.0	222	51.0	303	47.2
142	0.0	223	51.5	304	46.1
143	0.0	224	52.2	305	45.0
144	0.0	225	53.2	306	43.8
145	0.0	226	54.1	307	42.6
146	0.0	227	54.6	308	41.5

APPENDIX I—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
309	40.3	390	20.3	471	36.0
310	38.5	391	17.5	472	35.6
311	37.0	392	14.5	473	35.5
312	35.2	393	12.0	474	35.4
313	33.8	394	8.7	475	35.2
314	32.5	395	5.4	476	35.2
315	31.5	396	2.1	477	35.2
316	30.6	397	0.0	478	35.2
317	30.5	398	0.0	479	35.2
318	30.0	399	0.0	480	35.2
319	29.0	400	0.0	481	35.0
320	27.5	401	0.0	482	35.1
321	24.8	402	0.0	483	35.2
322	21.5	403	2.6	484	35.5
323	20.1	404	5.9	485	35.2
324	19.1	405	9.2	486	35.0
325	18.5	406	12.5	487	35.0
326	17.0	407	15.8	488	35.0
327	15.5	408	19.1	489	34.8
328	12.5	409	22.4	490	34.6
329	10.8	410	25.0	491	34.5
330	8.0	411	25.6	492	33.5
331	4.7	412	27.5	493	32.0
332	1.4	413	29.0	494	30.1
333	0.0	414	30.0	495	28.0
334	0.0	415	30.1	496	25.5
335	0.0	416	30.0	497	22.5
336	0.0	417	29.7	498	19.8
337	0.0	418	29.3	499	16.5
338	0.0	419	28.8	500	13.2
339	0.0	420	28.0	501	10.3
340	0.0	421	25.0	502	7.2
341	0.0	422	21.7	503	4.0
342	0.0	423	18.4	504	1.0
343	0.0	424	15.1	505	0.0
344	0.0	425	11.8	506	0.0
345	0.0	426	8.5	507	0.0
346	0.0	427	5.2	508	0.0
347	1.0	428	1.9	509	0.0
348	4.3	429	0.0	510	0.0
349	7.6	430	0.0	511	1.2
350	10.9	431	0.0	512	3.5
351	14.2	432	0.0	513	5.5
352	17.3	433	0.0	514	6.5
353	20.0	434	0.0	515	8.5
354	22.5	435	0.0	516	9.6
355	23.7	436	0.0	517	10.5
356	25.2	437	0.0	518	11.9
357	26.6	438	0.0	519	14.0
358	28.1	439	0.0	520	16.0
359	30.0	440	0.0	521	17.7
360	30.8	441	0.0	522	19.0
361	31.6	442	0.0	523	20.1
362	32.1	443	0.0	524	21.0
363	32.8	444	0.0	525	22.0
364	33.6	445	0.0	526	23.0
365	34.5	446	0.0	527	23.8
366	34.6	447	0.0	528	24.5
367	34.9	448	3.3	529	24.9
368	34.8	449	6.6	530	25.0
369	34.5	450	9.9	531	25.0
370	34.7	451	13.2	532	25.0
371	35.5	452	16.5	533	25.0
372	36.0	453	19.8	534	25.0
373	36.0	454	23.1	535	25.0
374	36.0	455	26.4	536	25.6
375	36.0	456	27.8	537	25.8
376	36.0	457	29.1	538	26.0
377	36.0	458	31.5	539	25.0
378	36.1	459	33.0	540	25.2
379	36.4	460	33.6	541	25.0
380	36.5	461	34.8	542	25.0
381	36.4	462	35.1	543	25.0
382	36.0	463	35.6	544	24.4
383	35.1	464	36.1	545	23.1
384	34.1	465	36.0	546	19.8
385	33.5	466	36.1	547	16.5
386	31.4	467	36.2	548	13.2
387	29.0	468	36.0	549	9.9
388	25.7	469	35.7	550	6.6
389	23.0	470	36.0	551	3.3

APPENDIX I—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
552	0.0	629	0.0	706	18.2
553	0.0	630	0.0	707	19.2
554	0.0	631	0.0	708	20.1
555	0.0	632	0.0	709	21.5
556	0.0	633	0.0	710	22.5
557	0.0	634	0.0	711	22.5
558	0.0	635	0.0	712	22.1
559	0.0	636	0.0	713	22.7
560	0.0	637	0.0	714	23.3
561	0.0	638	0.0	715	23.5
562	0.0	639	0.0	716	22.5
563	0.0	640	0.0	717	21.6
564	0.0	641	0.0	718	20.5
565	0.0	642	0.0	719	18.0
566	0.0	643	0.0	720	15.0
567	0.0	644	0.0	721	12.0
568	0.0	645	0.0	722	9.0
569	3.3	646	2.0	723	6.2
570	6.6	647	4.5	724	4.5
571	9.9	648	7.8	725	3.0
572	13.0	649	10.2	726	2.1
573	14.6	650	12.5	727	0.5
574	16.0	651	14.0	728	0.5
575	17.0	652	15.3	729	3.2
576	17.0	653	17.5	730	6.5
577	17.0	654	19.6	731	9.6
578	17.5	655	21.0	732	12.5
579	17.7	656	22.2	733	14.0
580	17.7	657	23.3	734	16.0
581	17.5	658	24.5	735	18.0
582	17.0	659	25.3	736	19.6
583	16.9	660	25.6	737	21.5
584	16.6	661	26.0	738	23.1
585	17.0	662	26.1	739	24.5
586	17.1	663	26.2	740	25.5
587	17.0	664	26.2	741	26.5
588	16.6	665	26.4	742	27.1
589	16.5	666	26.5	743	27.6
590	16.5	667	26.5	744	27.9
591	16.6	668	26.0	745	28.3
592	17.0	669	25.5	746	28.6
593	17.6	670	23.6	747	28.6
594	18.5	671	21.4	748	28.3
595	19.2	672	18.5	749	28.2
596	20.2	673	16.4	750	28.0
597	21.0	674	14.5	751	27.5
598	21.1	675	11.6	752	26.8
599	21.2	676	8.7	753	25.5
600	21.6	677	5.8	754	23.5
601	22.0	678	3.5	755	21.5
602	22.4	679	2.0	756	19.0
603	22.5	680	0.0	757	16.5
604	22.5	681	0.0	758	14.0
605	22.5	682	0.0	759	12.5
606	22.7	683	0.0	760	9.4
607	23.7	684	0.0	761	6.2
608	25.1	685	0.0	762	3.0
609	26.0	686	0.0	763	1.5
610	26.5	687	0.0	764	1.5
611	27.0	688	0.0	765	0.5
612	26.1	689	0.0	766	3.0
613	22.8	690	0.0	767	0.0
614	19.5	691	0.0	768	0.3
615	16.2	692	0.0	769	0.6
616	12.9	693	0.0	770	12.9
617	9.6	694	1.4	771	15.5
618	6.3	695	3.3	772	17.5
619	3.0	696	4.4	773	18.4
620	0.0	697	6.5	774	19.5
621	0.0	698	9.2	775	20.7
622	0.0	699	11.3	776	22.0
623	0.0	700	12.5	777	23.2
624	0.0	701	14.6	778	25.0
625	0.0	702	16.4	779	26.5
626	0.0	703	16.7	780	27.5
627	0.0	704	16.5	781	28.0
628	0.0	705	16.5	782	28.3

APPENDIX I—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
783	28.9	860	29.0	937	24.3
784	28.9	861	29.1	938	24.5
785	28.9	862	29.0	939	25.0
786	28.8	863	25.1	940	25.0
787	28.5	864	27.5	941	24.6
788	28.3	865	27.0	942	24.6
789	28.3	866	25.8	943	24.1
790	28.3	867	25.0	944	24.5
791	28.2	868	24.5	945	25.1
792	27.6	869	24.8	946	25.6
793	27.5	870	25.1	947	25.1
794	27.5	871	25.5	948	24.0
795	27.5	872	25.7	949	22.0
796	27.5	873	26.2	950	20.1
797	27.5	874	26.9	951	16.9
798	27.5	875	27.5	952	13.8
799	27.6	876	27.8	953	10.3
800	28.0	877	28.4	954	7.0
801	28.5	878	29.0	955	3.7
802	30.0	879	29.2	956	0.4
803	31.0	880	29.1	957	0.0
804	32.0	881	29.0	958	0.0
805	33.0	882	28.9	959	0.0
806	33.0	883	28.5	960	2.0
807	33.6	884	28.1	961	5.0
808	34.0	885	28.0	962	8.6
809	34.3	886	28.0	963	11.9
810	34.2	887	27.6	964	15.2
811	34.0	888	27.2	965	17.5
812	34.0	889	26.6	966	18.6
813	33.9	890	27.0	967	20.0
814	33.6	891	27.5	968	21.1
815	33.1	892	27.9	969	22.0
816	33.0	893	28.0	970	23.0
817	32.5	894	27.6	971	24.5
818	32.0	895	28.0	972	26.3
819	31.9	896	28.0	973	27.5
820	31.6	897	28.0	974	28.1
821	31.5	898	27.7	975	28.4
822	30.6	899	27.4	976	28.5
823	30.0	900	26.9	977	28.5
824	29.9	901	26.6	978	28.5
825	29.9	902	26.5	979	27.7
826	29.9	903	26.5	980	27.5
827	29.9	904	26.5	981	27.2
828	29.6	905	26.3	982	26.8
829	29.5	906	26.2	983	26.5
830	29.5	907	26.2	984	26.0
831	29.3	908	25.9	985	25.7
832	28.9	909	25.6	986	25.2
833	28.2	910	25.6	987	24.6
834	27.7	911	25.9	988	22.8
835	27.0	912	25.6	989	21.5
836	25.5	913	25.5	990	21.5
837	23.7	914	24.6	991	21.8
838	22.0	915	23.5	992	22.5
839	20.5	916	22.2	993	23.0
840	19.2	917	21.6	994	22.9
841	19.2	918	21.6	995	22.8
842	20.1	919	21.7	996	23.0
843	20.9	920	22.6	997	22.7
844	21.4	921	23.4	998	22.7
845	22.0	922	24.0	999	22.7
846	22.6	923	24.2	1,000	23.6
847	23.2	924	24.4	1,001	24.0
848	24.0	925	24.9	1,002	24.6
849	25.0	926	25.1	1,003	24.5
850	26.0	927	25.2	1,004	25.1
851	26.6	928	25.3	1,005	25.5
852	26.6	929	25.5	1,006	25.6
853	26.8	930	25.2	1,007	25.8
854	27.0	931	25.0	1,008	25.9
855	27.2	932	25.0	1,009	24.1
856	27.8	933	25.0	1,010	23.7
857	28.1	934	24.7	1,011	23.3
858	28.8	935	24.5	1,012	22.9
859	28.9	936	24.3	1,013	22.8

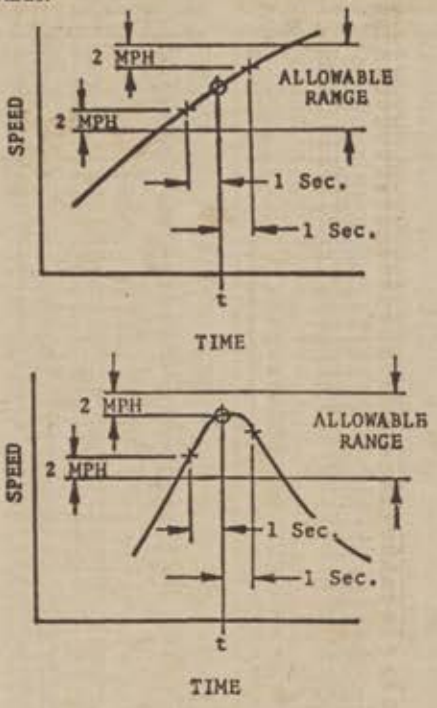
APPENDIX I—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
1,014	22.0	1,091	9.0	1,168	0.0
1,015	21.6	1,092	8.7	1,169	2.1
1,016	20.5	1,093	8.6	1,170	5.4
1,017	17.5	1,094	8.0	1,171	8.7
1,018	14.2	1,095	7.0	1,172	12.0
1,019	10.9	1,096	5.0	1,173	15.3
1,020	7.6	1,097	4.2	1,174	18.6
1,021	4.3	1,098	2.6	1,175	21.1
1,022	1.0	1,099	1.6	1,176	23.0
1,023	0.0	1,100	0.0	1,177	23.5
1,024	0.0	1,101	0.1	1,178	23.0
1,025	0.0	1,102	0.6	1,179	22.5
1,026	0.0	1,103	1.6	1,180	20.0
1,027	0.0	1,104	3.6	1,181	16.7
1,028	0.0	1,105	6.9	1,182	13.4
1,029	0.0	1,106	10.0	1,183	10.1
1,030	0.0	1,107	12.8	1,184	6.8
1,031	0.0	1,108	14.0	1,185	3.5
1,032	0.0	1,109	14.5	1,186	0.2
1,033	0.0	1,110	16.0	1,187	0.0
1,034	0.0	1,111	18.1	1,188	0.0
1,035	0.0	1,112	20.0	1,189	0.0
1,036	0.0	1,113	21.0	1,190	0.0
1,037	0.0	1,114	21.2	1,191	0.0
1,038	0.0	1,115	21.3	1,192	0.0
1,039	0.0	1,116	21.4	1,193	0.0
1,040	0.0	1,117	21.7	1,194	0.0
1,041	0.0	1,118	22.5	1,195	0.0
1,042	0.0	1,119	23.0	1,196	0.0
1,043	0.0	1,120	23.8	1,197	0.2
1,044	0.0	1,121	24.5	1,198	1.5
1,045	0.0	1,122	25.0	1,199	3.5
1,046	0.0	1,123	24.9	1,200	6.5
1,047	0.0	1,124	24.8	1,201	9.8
1,048	0.0	1,125	25.0	1,202	12.0
1,049	0.0	1,126	25.4	1,203	12.9
1,050	0.0	1,127	25.8	1,204	13.0
1,051	0.0	1,128	26.0	1,205	12.6
1,052	0.0	1,129	26.4	1,206	12.8
1,053	1.2	1,130	26.6	1,207	13.1
1,054	4.0	1,131	26.9	1,208	13.1
1,055	7.3	1,132	27.0	1,209	14.0
1,056	10.6	1,133	27.0	1,210	15.5
1,057	13.9	1,134	27.0	1,211	17.0
1,058	17.0	1,135	26.9	1,212	18.6
1,059	18.5	1,136	26.8	1,213	19.7
1,060	20.0	1,137	26.8	1,214	21.0
1,061	21.8	1,138	26.5	1,215	21.5
1,062	23.0	1,139	26.4	1,216	21.8
1,063	24.0	1,140	26.0	1,217	21.8
1,064	24.8	1,141	25.5	1,218	21.5
1,065	25.6	1,142	24.6	1,219	21.2
1,066	26.8	1,143	23.5	1,220	21.5
1,067	26.5	1,144	21.5	1,221	21.8
1,068	27.4	1,145	20.0	1,222	22.0
1,069	27.9	1,146	17.5	1,223	21.9
1,070	28.3	1,147	16.0	1,224	21.7
1,071	28.0	1,148	14.0	1,225	21.5
1,072	27.5	1,149	10.7	1,226	21.5
1,073	27.0	1,150	7.4	1,227	21.4
1,074	27.0	1,151	4.1	1,228	20.1
1,075	26.2	1,152	0.8	1,229	19.5
1,076	24.5	1,153	0.0	1,230	19.2
1,077	22.5	1,154	0.0	1,231	19.6
1,078	21.5	1,155	0.0	1,232	19.8
1,079	20.6	1,156	0.0	1,233	20.0
1,080	18.0	1,157	0.0	1,234	19.5
1,081	15.0	1,158	0.0	1,235	17.5
1,082	12.2	1,159	0.0	1,236	15.5
1,083	11.1	1,160	0.0	1,237	13.0
1,084	10.6	1,161	0.0	1,238	10.0
1,085	10.0	1,162	0.0	1,239	8.0
1,086	9.5	1,163	0.0	1,240	6.6
1,087	9.1	1,164	0.0	1,241	4.0
1,088	8.7	1,165	0.0	1,242	2.5
1,089	8.6	1,166	0.0	1,243	0.7
1,090	8.8	1,167	0.0	1,244	0.0

APPENDIX I—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
1,245	0.0	1,288	24.0	1,330	0.0
1,246	0.0	1,289	24.1	1,331	0.0
1,247	0.0	1,290	24.5	1,332	0.0
1,248	0.0	1,291	24.7	1,333	0.0
1,249	0.0	1,292	25.0	1,334	0.0
1,250	0.0	1,293	25.4	1,335	0.0
1,251	0.0	1,294	25.6	1,336	0.0
1,252	1.0	1,295	25.7	1,337	0.0
1,253	1.0	1,296	26.0	1,338	1.5
1,254	1.0	1,297	26.2	1,339	4.8
1,255	1.0	1,298	27.0	1,340	8.1
1,256	1.0	1,299	28.8	1,341	11.1
1,257	1.6	1,300	27.3	1,342	13.4
1,258	3.0	1,301	29.0	1,343	15.2
1,259	4.0	1,302	29.1	1,344	16.1
1,260	5.0	1,303	29.0	1,345	18.8
1,261	6.3	1,304	28.0	1,346	19.3
1,262	8.0	1,305	24.7	1,347	20.5
1,263	10.0	1,306	21.4	1,348	21.3
1,264	10.5	1,307	18.1	1,349	21.3
1,265	9.5	1,308	14.8	1,350	22.9
1,266	8.5	1,309	11.5	1,351	22.4
1,267	7.6	1,310	8.2	1,352	22.0
1,268	8.8	1,311	4.9	1,353	21.6
1,269	11.0	1,312	1.6	1,354	21.1
1,270	14.0	1,313	0.0	1,355	20.5
1,271	17.0	1,314	0.0	1,356	20.0
1,272	19.5	1,315	0.0	1,357	19.6
1,273	21.0	1,316	0.0	1,358	18.5
1,274	21.8	1,317	0.0	1,359	17.5
1,275	22.2	1,318	0.0	1,360	16.5
1,276	23.0	1,319	0.0	1,361	15.5
1,277	23.6	1,320	0.0	1,362	14.0
1,278	24.1	1,321	0.0	1,363	11.0
1,279	24.5	1,322	0.0	1,364	8.0
1,280	24.5	1,323	0.0	1,365	5.2
1,281	24.0	1,324	0.0	1,366	2.5
1,282	23.5	1,325	0.0	1,367	0.0
1,283	23.5	1,326	0.0	1,368	0.0
1,284	23.5	1,327	0.0	1,369	0.0
1,285	23.5	1,328	0.0	1,370	0.0
1,286	23.5	1,329	0.0	1,371	0.0
1,287	23.5				

The diagrams below show the range of acceptable speed tolerances for typical points. The curve on the left is typical of portions of the speed curve which are increasing or decreasing throughout the 2 second time interval. The curve on the right is typical of portions of the speed curve which include a maximum or minimum value.



(b) EPA Urban Dynamometer Driving Schedule for Light-Duty Vehicles, Light-Duty Trucks, and Motorcycles with engine displacements equal to or greater than 170 cc (10.4 cu. in.).

Speed Versus Time Sequence

Time (seconds):	Speed (kilometres per hour)	Time (seconds):	Speed (kilometres per hour)	Time (seconds):	Speed (kilometres per hour)	Time (seconds):	Speed (kilometres per hour)
0	0	37	31.9	74	40.9	111	51.2
1	0	38	27.4	75	40.1	112	51.8
2	0	39	24.0	76	40.2	113	52.1
3	0	40	24.0	77	40.9	114	51.8
4	0	41	24.5	78	41.8	115	51.0
5	0	42	24.9	79	41.8	116	46.0
6	0	43	25.7	80	41.4	117	40.7
7	0	44	27.5	81	42.0	118	35.4
8	0	45	30.7	82	43.0	119	30.1
9	0	46	34.0	83	44.3	120	24.8
10	0	47	36.5	84	46.0	121	19.5
11	0	48	36.9	85	47.2	122	14.2
12	0	49	36.5	86	48.0	123	8.9
13	0	50	36.4	87	48.4	124	3.5
14	0	51	34.3	88	48.9	125	0
15	0	52	30.6	89	49.4	126	0
16	0	53	27.5	90	49.4	127	0
17	0	54	25.4	91	49.1	128	0
18	0	55	25.4	92	48.9	129	0
19	0	56	28.5	93	48.8	130	0
20	0	57	31.9	94	48.9	131	0
21	4.8	58	34.8	95	49.6	132	0
22	9.5	59	37.3	96	48.9	133	0
23	13.8	60	38.9	97	48.1	134	0
24	18.5	61	39.6	98	47.5	135	0
25	23.0	62	40.1	99	48.0	136	0
26	27.2	63	40.2	100	48.8	137	0
27	27.8	64	39.6	101	49.4	138	0
28	29.1	65	39.4	102	49.7	139	0
29	33.3	66	39.8	103	49.9	140	0
30	34.9	67	39.9	104	49.7	141	0
31	36.0	68	39.8	105	48.9	142	0
32	36.2	69	39.6	106	48.0	143	0
33	35.6	70	39.6	107	48.1	144	0
34	34.6	71	40.4	108	48.6	145	0
35	33.6	72	41.2	109	49.4	146	0
36	32.8	73	41.4	110	50.2	147	0

Time (seconds):	Speed (kilometres per hour)
148	0
149	0
150	0
151	0
152	0
153	0
154	0
155	0
156	0
157	0
158	0
159	0
160	0
161	0
162	0
163	0
164	5.3
165	10.6
166	15.9
167	21.2
168	26.6
169	31.9
170	35.7
171	39.1
172	41.5
173	42.5
174	41.4
175	40.4
176	39.8
177	40.2
178	40.6
179	40.9
180	41.5
181	42.8
182	42.6
183	38.6
184	36.5
185	31.2
186	28.5
187	27.7
188	29.1
189	29.9
190	32.2
191	35.7
192	39.4
193	43.9
194	49.1
195	53.0
196	58.3
197	60.0
198	63.2
199	65.2
200	67.8
201	70.0
202	72.6
203	74.0
204	75.3
205	76.4
206	76.4
207	76.1
208	76.0
209	75.8
210	75.6
211	75.6
212	75.6
213	75.6
214	76.0
215	76.3
216	77.1
217	78.1
218	79.0
219	79.7
220	80.5
221	81.4
222	82.1
223	82.9
224	84.0
225	85.6
226	87.1
227	87.9
228	88.4
229	88.5
230	88.4
231	87.9
232	87.9
233	88.2
234	88.7
235	89.3
236	89.6
237	90.3
238	90.6
239	91.1
240	91.3
241	91.2
242	90.9
243	90.5
244	90.9
245	90.9
246	90.9
247	90.9
248	90.8
249	90.3
250	89.8
251	88.7
252	87.9
253	87.2
254	86.9
255	86.4
256	86.3
257	86.7
258	86.9
259	87.1
260	87.1
261	86.6
262	85.9
263	85.3
264	84.7
265	83.8
266	84.3
267	83.7
268	83.5
269	83.2
270	82.9
271	83.0
272	83.4
273	83.8
274	84.5
275	85.2
276	86.1
277	86.9
278	88.4
279	89.2
280	89.5
281	90.1
282	90.1
283	89.8
284	88.8
285	87.7
286	86.3
287	84.5
288	82.9
289	82.9
290	82.9
291	82.2
292	80.6
293	80.5
294	80.6
295	80.5
296	79.8
297	79.7
298	79.7
299	79.7
300	79.0
301	78.2
302	77.4
303	76.0
304	74.2
305	72.4
306	70.5
307	68.6
308	66.8
309	64.9
310	62.0
311	59.5
312	56.8
313	54.4
314	52.3
315	50.7
316	49.2
317	49.1
318	48.3
319	46.7
320	44.3
321	39.9
322	34.6
323	32.3
324	30.7
325	29.8
326	27.4
327	24.9
328	20.1
329	17.4
330	12.9
331	7.6
332	2.3
333	0
334	0
335	0
336	0
337	0
338	0
339	0
340	0
341	0
342	0
343	0
344	0
345	0
346	0
347	1.6
348	6.9
349	12.2
350	17.5
351	22.9
352	27.8
353	33.2
354	36.2
355	38.1
356	40.6
357	42.8
358	45.2
359	48.3
360	49.6
361	50.9
362	51.7
363	52.8
364	54.1
365	55.5
366	55.7
367	56.2
368	56.0
369	55.5
370	55.5
371	57.1
372	57.9
373	57.9
374	57.9
375	57.9
377	57.9
376	57.9
378	58.1
379	58.0
380	58.7
381	58.6
382	57.9
383	56.5
384	54.9
385	53.9
386	50.5
387	46.7
388	41.4
389	37.0
390	32.7
391	28.2
392	23.3
393	19.3
394	14.0
395	9.7
396	3.4
397	0
398	0
399	0
400	0
401	0
402	0
403	4.3
404	9.5
405	14.8
406	20.1
407	25.4
408	30.7
409	36.0
410	40.2
411	41.3
412	44.3
413	46.7
414	48.3
415	48.4
416	48.3
417	47.8
418	47.2
419	46.3
420	45.1
421	40.2
422	34.9
423	29.6
424	24.3
425	19.0
426	13.7
427	8.4
428	3.1
429	0
430	0
431	0
432	0
433	0
434	0
435	0
436	0
437	0
438	0
439	0
440	0
441	0
442	0
443	0
444	0
445	0
446	0
447	0
448	5.3
449	10.6
450	15.9
451	21.2
452	26.5
453	31.9
454	37.2
455	42.5
456	44.7
457	46.8
458	50.7
459	53.1
460	54.1
461	56.0
462	56.5
463	57.3
464	58.1
465	57.9
466	58.1
467	58.3
468	57.9
469	57.5
470	57.9
471	57.9
472	57.3
473	57.1
474	57.0
475	56.6
476	56.6
477	56.6
478	56.6
479	56.6
480	56.6
481	56.3
482	56.5
483	56.6
484	57.1
485	56.6
486	56.3
487	56.3
488	56.3
489	56.6
490	55.7

Time (seconds)	Speed (kilometres per hour)
481	58.5
482	53.0
483	51.8
484	48.4
485	45.1
486	41.9
487	38.2
488	31.9
489	26.6
490	21.2
491	16.0
492	11.6
493	6.4
494	1.0
495	0
496	0
497	0
498	0
499	0
500	0
501	1.0
502	5.0
503	8.9
504	10.5
505	13.7
506	15.4
507	16.9
508	19.2
509	22.5
510	25.7
511	26.5
512	30.6
513	32.3
514	33.8
515	35.4
516	37.0
517	38.3
518	39.4
519	40.1
520	40.2
521	40.2
522	40.2
523	40.2
524	40.2
525	40.2
526	41.2
527	41.5
528	41.8
529	41.2
530	40.6
531	40.2
532	40.2
533	40.2
534	40.2
535	40.2
536	41.2
537	41.5
538	41.8
539	41.2
540	40.6
541	40.2
542	40.2
543	40.2
544	39.3
545	27.2
546	31.9
547	26.6
548	21.2
549	15.9
550	10.6
551	5.3
552	0
553	0
554	0
555	0
556	0
557	0
558	0
559	0
560	0
561	0
562	0
563	0
564	0
565	0
566	0
567	0
568	0
569	5.3
570	10.6
571	15.9
572	20.9
573	23.6
574	25.7
575	27.4
576	27.4

Time (seconds)	Speed (kilometres per hour)
577	27.4
578	28.2
579	28.5
580	28.5
581	28.2
582	27.4
583	27.2
584	28.7
585	27.4
586	27.5
587	27.4
588	26.7
589	26.6
590	26.5
591	26.7
592	27.4
593	28.3
594	29.8
595	30.9
596	32.5
597	33.8
598	34.0
599	34.1
600	34.8
601	35.4
602	36.0
603	36.2
604	36.2
605	36.2
606	35.5
607	38.1
608	40.4
609	41.8
610	42.6
611	43.5
612	42.0
613	36.7
614	31.4
615	26.1
616	20.8
617	15.4
618	10.1
619	4.8
620	0
621	0
622	0
623	0
624	0
625	0
626	0
627	0
628	0
629	0
630	0
631	0
632	0
633	0
634	0
635	0
636	0
637	0
638	0
639	0
640	0
641	0
642	0
643	0
644	0
645	0
646	3.2
647	7.9
648	12.6
649	16.4
650	20.1
651	22.5
652	24.8
653	28.2
654	31.6
655	33.8
656	35.7
657	37.6
658	39.4
659	40.7
660	41.2
661	41.8
662	42.4

Time (seconds)	Speed (kilometres per hour)
663	42.3
664	42.3
665	42.5
666	42.6
667	42.6
668	41.8
669	41.0
670	38.0
671	36.4
672	29.8
673	26.4
674	23.2
675	18.7
676	14.0
677	9.3
678	5.6
679	3.2
680	0
681	0
682	0
683	0
684	0
685	0
686	0
687	0
688	0
689	0
690	0
691	0
692	0
693	0
694	2.3
695	5.3
696	7.1
697	10.5
698	14.8
699	18.2
700	21.7
701	23.8
702	26.4
703	26.9
704	26.6
705	26.6
706	29.3
707	30.9
708	32.3
709	34.6
710	36.2
711	36.2
712	35.5
713	36.5
714	37.5
715	37.8
716	36.2
717	34.8
718	33.0
719	29.0
720	24.1
721	19.3
722	14.5
723	10.0
724	7.2
725	4.8
726	3.4
727	0.8
728	0.8
729	5.1
730	10.5
731	15.4
732	20.1
733	22.5
734	25.7
735	29.0
736	31.5
737	34.6
738	37.2
739	39.4
740	41.0
741	42.5
742	43.9
743	44.4
744	44.9
745	45.5
746	46.0

Time (seconds)	Speed (kilometres per hour)
747	46.0
748	45.5
749	45.4
750	45.1
751	44.3
752	43.1
753	41.0
754	37.8
755	34.6
756	30.6
757	26.6
758	24.0
759	20.1
760	15.1
761	10.0
762	4.8
763	2.4
764	2.4
765	0.8
766	0
767	4.8
768	10.1
769	15.4
770	20.8
771	25.4
772	28.2
773	29.6
774	31.4
775	33.3
776	35.4
777	37.3
778	40.2
779	42.6
780	44.3
781	45.1
782	45.5
783	46.5
784	46.5
785	46.5
786	46.3
787	45.9
788	45.5
789	45.5
790	45.5
791	45.4
792	44.4
793	44.3
794	44.3
795	44.3
796	44.3
797	44.3
798	44.3
799	44.4
800	45.1
801	45.9
802	48.3
803	49.9
804	51.5
805	53.1
806	53.1
807	54.1
808	54.7
809	55.2
810	55.0
811	54.7
812	54.7
813	54.0
814	54.1
815	53.3
816	53.1
817	52.3
818	51.5
819	51.3
820	50.9
821	50.7
822	49.3
823	48.3
824	48.1
825	48.1
826	48.1
827	48.1
828	47.9
829	47.5
830	47.9
831	47.9

Time (seconds)	Speed (kilometres per hour)
832	46.5
833	45.4
834	44.6
835	43.5
836	41.9
837	36.1
838	35.4
839	33.6
840	30.9
841	30.9
842	32.3
843	33.6
844	34.4
845	35.4
846	36.4
847	37.3
848	38.6
849	40.2
850	41.8
851	42.8
852	42.8
853	43.1
854	43.5
855	43.8
856	44.7
857	45.2
858	46.3
859	46.5
860	46.7
861	46.8
862	46.7
863	45.2
864	44.3
865	43.5
866	41.5
867	40.2
868	39.4
869	39.9
870	40.4
871	41.0
872	41.4
873	42.2
874	43.3
875	44.3
876	44.7
877	46.7
878	46.7
879	47.0
880	46.8
881	46.7
882	46.5
883	45.9
884	45.2
885	45.1
886	45.1
887	44.4
888	43.8
889	42.8
890	43.5
891	44.3
892	44.7
893	45.1
894	44.7
895	45.1
896	45.1
897	45.1
898	44.6
899	44.1
900	43.3
901	42.8
902	42.6
903	42.0
904	42.0
905	42.3
906	42.3
907	42.2
908	41.7
909	41.2
910	41.2
911	41.7
912	41.6
913	41.0
914	39.6
915	37.8
916	35.7
917	34.8
918	34.8
919	34.9
920	36.4
921	37.7
922	38.6
923	38.9
924	39.3
925	40.1
926	40.4
927	40.6
928	40.7
929	41.0
930	40.6
931	40.2
932	40.2
933	40.2
934	39.8
935	39.4
936	39.1
937	39.1
938	39.4
939	40.2
940	40.2
941	39.6
942	39.6
943	38.8
944	39.4
945	40.4
946	41.2
947	40.4
948	38.6
949	35.4
950	32.3
951	27.2
952	21.9
953	16.6
954	11.3
955	6.0
956	0.6
957	0
958	0
959	0
960	3.2
961	8.5
962	13.8
963	19.2
964	24.5
965	28.2
966	29.9
967	32.2
968	34.0
969	35.4
970	37.0
971	39.4
972	42.3
973	44.3
974	45.2
975	45.7
976	45.9
977	45.9
978	45.0
979	44.6
980	44.3
981	43.8
982	43.1
983	42.6
984	41.8
985	41.4
986	40.6
987	38.6
988	35.4
989	34.6
990	34.6
991	35.1
992	36.2
993	37.0
994	36.7
995	36.7
996	37.0
997	36.8
998	36.5
999	36.5
1,000	37.8
1,001	38.6
1,002	39.6
1,003	39.9
1,004	40.4
1,005	41.0
1,006	41.2
1,007	41.0
1,008	40.2
1,009	31.8
1,010	38.1
1,011	37.3
1,012	39.9
1,013	39.2
1,014	35.4
1,015	34.8
1,016	33.0
1,017	28.2
1,018	22.9
1,019	17.5
1,020	12.2
1,021	6.9
1,022	1.6
1,023	0
1,024	0
1,025	0
1,026	0
1,027	0
1,028	0
1,029	0
1,030	0
1,031	0
1,032	0
1,033	0
1,034	0
1,035	0
1,036	0
1,037	0
1,038	0
1,039	0
1,040	0
1,041	0
1,042	0
1,043	0
1,044	0
1,045	0
1,046	0
1,047	0
1,048	0
1,049	0
1,050	0
1,051	0
1,052	0
1,053	1.9
1,054	6.4
1,055	11.7
1,056	17.1
1,057	22.4
1,058	27.4
1,059	29.8
1,060	32.2
1,061	35.1
1,062	37.0
1,063	38.6
1,064	39.0
1,065	41.2
1,066	42.6
1,067	43.1
1,068	44.1
1,069	44.9
1,070	45.5
1,071	45.1
1,072	44.3
1,073	43.5
1,074	43.5
1,075	42.3
1,076	39.4
1,077	36.2
1,078	34.6
1,079	33.2
1,080	29.0
1,081	24.1
1,082	19.3
1,083	17.9
1,084	17.1
1,085	16.1
1,086	15.3
1,087	14.5
1,088	14.0
1,089	13.8
1,090	14.2
1,091	14.5
1,092	14.0
1,093	13.6
1,094	12.9
1,095	11.8
1,096	8.6
1,097	6.8
1,098	4.2
1,099	1.6
1,100	0
1,101	0.2
1,102	1.0
1,103	2.6
1,104	5.8
1,105	11.1
1,106	16.1
1,107	20.6
1,108	22.5
1,109	23.3
1,110	25.7
1,111	29.1
1,112	32.2
1,113	33.8
1,114	34.1
1,115	34.3
1,116	34.4
1,117	34.9
1,118	36.2
1,119	37.0
1,120	38.3
1,121	39.4
1,122	40.2
1,123	40.1
1,124	39.9
1,125	40.2
1,126	40.9
1,127	41.5
1,128	41.8
1,129	42.5
1,130	42.8
1,131	43.3
1,132	43.5
1,133	43.5
1,134	43.5
1,135	43.3
1,136	43.1
1,137	43.1
1,138	42.6
1,139	42.5
1,140	41.8
1,141	41.0
1,142	39.6
1,143	37.8
1,144	34.6
1,145	32.3
1,146	28.2
1,147	25.7
1,148	22.5
1,149	17.2
1,150	11.9
1,151	6.6
1,152	1.3
1,153	0
1,154	0
1,155	0
1,156	0
1,157	0
1,158	0
1,159	0
1,160	0
1,161	0
1,162	0
1,163	0
1,164	0
1,165	0
1,166	0
1,167	0
1,168	0
1,169	3.4
1,170	8.7
1,171	14.0
1,172	19.3
1,173	24.6
1,174	29.9
1,175	34.0
1,176	37.0
1,177	37.8
1,178	37.0
1,179	36.2
1,180	32.2
1,181	26.9
1,182	21.6

Time (seconds):	Speed (kilometres per hour)
1,183	16.3
1,184	10.9
1,185	5.6
1,186	0.2
1,187	0
1,188	0
1,189	0
1,190	0
1,191	0
1,192	0
1,193	0
1,194	0
1,195	0
1,196	0
1,197	0.3
1,198	2.4
1,199	5.6
1,200	10.5
1,201	15.8
1,202	19.3
1,203	20.8
1,204	20.9
1,205	20.3
1,206	20.6
1,207	21.1
1,208	21.1
1,209	22.5
1,210	24.9
1,211	27.4
1,212	29.9
1,213	31.7
1,214	33.8
1,215	34.6
1,216	35.1
1,217	35.1
1,218	34.6
1,219	34.1
1,220	34.6
1,221	35.1
1,222	35.4
1,223	35.2
1,224	34.9
1,225	34.6
1,226	34.6
1,227	34.1
1,228	32.3
1,229	31.4
1,230	30.9

Time (seconds):	Speed (kilometres per hour)
1,231	31.5
1,232	31.9
1,233	32.2
1,234	31.4
1,235	28.2
1,236	24.9
1237	20.6
1238	16.1
1239	12.9
1240	9.7
1241	6.4
1242	4.0
1243	1.1
1244	0
1245	0
1246	0
1247	0
1248	0
1249	0
1250	0
1251	0
1252	1.6
1253	1.6
1254	1.6
1255	1.6
1256	1.6
1257	2.6
1258	4.8
1259	6.4
1260	8.0
1261	10.1
1262	12.9
1263	16.1
1264	18.9
1265	15.3
1266	13.7
1267	12.2
1268	14.2
1269	17.7
1270	22.5
1271	27.4
1272	31.4
1273	33.8
1274	35.1
1275	35.7
1276	37.0
1277	38.0
1278	38.8

Time (seconds):	Speed (kilometres per hour)
1279	39.4
1280	39.4
1281	38.6
1282	37.8
1283	37.8
1284	37.8
1285	37.8
1286	37.8
1287	37.8
1288	38.6
1289	38.8
1290	39.4
1291	39.8
1292	40.2
1293	40.9
1294	41.2
1295	41.4
1296	41.8
1297	42.2
1298	43.5
1299	44.7
1300	45.5
1301	46.7
1302	46.8
1303	46.7
1304	45.1
1305	39.8
1306	34.4
1307	29.1
1308	23.8
1309	18.5
1310	13.2
1311	7.9
1312	2.6
1313	0
1314	0
1315	0
1316	0
1317	0
1318	0
1319	0
1320	0
1321	0
1322	0
1323	0
1324	0
1325	0
1326	0

Time (seconds):	Speed (kilometres per hour)
1327	0
1328	0
1329	0
1330	0
1331	0
1332	0
1333	0
1334	0
1335	0
1336	0
1337	0
1338	2.4
1339	7.7
1340	13.0
1341	16.3
1342	21.2
1343	24.3
1344	27.0
1345	29.5
1346	31.4
1347	32.7
1348	34.3
1349	35.2
1350	35.6
1351	36.0
1352	35.4
1353	34.8
1354	34.0
1355	33.0
1356	32.2
1357	31.5
1358	29.8
1359	28.2
1360	26.6
1361	24.9
1362	22.5
1363	17.7
1364	12.9
1365	8.4
1366	4.0
1367	0
1368	0
1369	0
1370	0
1371	0

(c) EPA Urban Dynamometer Driving Schedule for motorcycles with engine displacements less than 170 cc (10.4 cu. in.).

Speed Versus Time Sequence

Time (seconds):	Speed (kilometres per hour)
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0

Time (seconds):	Speed (kilometres per hour)
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	4.8
22	9.6
23	13.8
24	18.5
25	23.0
26	27.2

Time (seconds):	Speed (kilometres per hour)
27	27.8
28	29.1
29	33.3
30	34.9
31	36.0
32	36.2
33	35.6
34	34.6
35	33.6
36	33.8
37	31.9
38	27.4
39	24.0

Time (seconds):	Speed (kilometres per hour)
40	24.0
41	24.5
42	24.9
43	25.7
44	27.5
45	30.7
46	34.0
47	36.5
48	36.9
49	36.5
50	36.4
51	34.3
52	30.6

Time (seconds):	Speed (kilometres per hour)
53	37.5
54	35.4
55	35.4
56	28.5
57	31.9
58	34.8
59	37.3
60	36.9
61	39.6
62	40.1
63	40.3
64	39.6
65	39.4
66	39.8
67	39.9
68	39.8
69	39.6
70	39.6
71	40.4
72	41.2
73	41.4
74	40.9
75	40.1
76	40.2
77	40.9
78	41.8
79	41.6
80	41.4
81	43.0
82	43.0
83	44.3
84	46.0
85	47.2
86	48.0
87	48.4
88	48.9
89	49.4
90	49.4
91	49.1
92	48.9
93	48.8
94	48.9
95	49.0
96	48.9
97	48.1
98	47.5
99	48.0
100	48.8
101	49.4
102	49.7
103	49.9
104	49.7
105	48.8
106	48.0
107	48.1
108	48.6
109	49.4
110	50.2
111	51.2
112	51.8
113	52.1
114	51.8
115	51.0
116	46.0
117	40.7
118	35.4
119	30.1
120	24.8
121	19.5
122	14.2
123	8.9
124	3.5
125	0
126	0
127	0
128	0
129	0
130	0
131	0
132	0
133	0
134	0
135	0
136	0

Time (seconds):	Speed (kilometres per hour)
137	0
138	0
139	0
140	0
141	0
142	0
143	0
144	0
145	0
146	0
147	0
148	0
149	0
150	0
151	0
152	0
153	0
154	0
155	0
156	0
157	0
158	0
159	0
160	0
161	0
162	0
163	0
164	3.4
165	6.8
166	10.3
167	13.7
168	17.1
169	20.5
170	23.0
171	25.2
172	26.7
173	27.4
174	26.6
175	26.0
176	25.6
177	25.9
178	26.1
179	26.3
180	26.7
181	28.3
182	27.5
183	24.9
184	23.5
185	20.1
186	18.3
187	17.8
188	18.6
189	19.3
190	20.7
191	23.0
192	25.4
193	28.3
194	31.6
195	34.7
196	37.8
197	38.6
198	40.7
199	42.0
200	43.6
201	45.1
202	46.7
203	47.7
204	48.5
205	49.2
206	49.2
207	49.0
208	48.9
209	48.7
210	48.7
211	48.7
212	48.7
213	48.7
214	48.9
215	49.1
216	49.6
217	50.2
218	50.9
219	51.5
220	51.8

Time (seconds):	Speed (kilometres per hour)
221	52.4
222	52.8
223	53.4
224	54.1
225	55.1
226	56.0
227	56.6
228	56.9
229	57.0
230	56.9
231	56.6
232	56.6
233	56.8
234	57.1
235	57.5
236	57.7
237	58.1
238	58.3
239	58.6
240	58.7
241	58.7
242	58.5
243	58.5
244	58.5
245	58.5
246	58.5
247	58.5
248	58.4
249	58.1
250	57.8
251	57.1
252	56.6
253	56.2
254	55.9
255	55.6
256	55.5
257	55.8
258	55.9
259	56.0
260	56.0
261	55.7
262	55.3
263	54.9
264	54.5
265	54.0
266	54.3
267	53.9
268	53.8
269	53.6
270	53.4
271	53.5
272	53.7
273	54.0
274	54.4
275	54.9
276	55.4
277	55.9
278	56.9
279	57.4
280	57.6
281	58.0
282	58.0
283	57.8
284	57.2
285	56.5
286	55.5
287	54.4
288	53.4
289	53.4
290	53.4
291	52.9
292	51.9
293	51.8
294	51.9
295	51.8
296	51.4
297	51.3
298	51.2
299	51.3
300	50.9
301	50.3
302	49.8
303	48.9
304	47.8

Time (seconds):	Speed (kilometres per hour)
305	46.6
306	45.4
307	44.1
308	43.0
309	41.8
310	39.9
311	38.3
312	36.5
313	35.0
314	33.7
315	32.6
316	31.7
317	31.6
318	31.1
319	30.0
320	28.5
321	25.7
322	22.3
323	20.8
324	19.8
325	19.2
326	17.6
327	16.1
328	12.9
329	11.2
330	8.3
331	4.9
332	1.5
333	0
334	0
335	0
336	0
337	0
338	0
339	0
340	0
341	0
342	0
343	0
344	0
345	0
346	0
347	1.6
348	6.0
349	12.2
350	17.5
351	22.9
352	27.8
353	32.2
354	36.2
355	38.1
356	40.6
357	42.8
358	45.2
359	46.3
360	49.6
361	50.9
362	51.7
363	52.8
364	54.1
365	55.5
366	55.7
367	56.2
368	56.0
369	55.5
370	55.8
371	57.1
372	57.9
373	57.9
374	57.9
375	57.9
376	57.9
377	57.9
378	58.1
379	58.6
380	58.7
381	58.6
382	57.9
383	56.5
384	54.9
385	53.9
386	50.5
387	46.7
388	41.4

Time (seconds):	Speed (kilometres per hour)
389	37.0
390	32.7
391	28.2
392	23.3
393	19.3
394	14.0
395	8.7
396	3.4
397	0
398	0
399	0
400	0
401	0
402	0
403	4.2
404	9.5
405	14.8
406	20.1
407	25.4
408	30.7
409	36.0
410	40.2
411	41.2
412	44.3
413	46.7
414	48.3
415	48.4
416	48.3
417	47.8
418	47.2
419	46.3
420	45.1
421	40.2
422	34.9
423	29.6
424	24.3
425	19.0
426	13.7
427	8.4
428	3.1
429	0
430	0
431	0
432	0
433	0
434	0
435	0
436	0
437	0
438	0
439	0
440	0
441	0
442	0
443	0
444	0
445	0
446	0
447	0
448	5.8
449	10.6
450	15.9
451	21.2
452	26.6
453	31.9
454	37.2
455	42.5
456	44.7
457	46.8
458	50.7
459	53.1
460	54.1
461	56.0
462	56.5
463	57.3
464	58.1
465	57.9
466	58.1
467	58.3
468	57.9
469	57.5
470	57.9
471	57.9
472	57.3

Time (seconds):	Speed (kilometres per hour)
473	57.1
474	57.0
475	56.6
476	56.6
477	56.6
478	56.6
479	56.6
480	56.6
481	56.3
482	56.5
483	56.6
484	57.1
485	56.6
486	56.3
487	56.3
488	56.3
489	56.0
490	55.7
491	55.5
492	53.9
493	51.5
494	48.4
495	45.1
496	41.0
497	36.2
498	31.9
499	26.6
500	21.2
501	16.6
502	11.6
503	6.4
504	1.6
505	0
506	0
507	0
508	0
509	0
510	0
511	1.9
512	5.6
513	8.9
514	10.5
515	13.7
516	15.4
517	16.9
518	19.2
519	22.5
520	25.7
521	28.5
522	30.5
523	32.3
524	33.8
525	35.4
526	37.0
527	38.3
528	39.4
529	40.1
530	40.2
531	40.2
532	40.2
533	40.2
534	40.2
535	40.2
536	41.2
537	41.5
538	41.8
539	41.2
540	40.6
541	40.2
542	40.2
543	40.2
544	39.3
545	37.2
546	31.9
547	26.6
548	21.2
549	15.9
550	10.6
551	5.3
552	0
553	0
554	0
555	0
556	0

Time (seconds):	Speed (kilometres per hour)
557	0
558	0
559	0
560	0
561	0
562	0
563	0
564	0
565	0
566	0
567	0
568	0
569	5.3
570	10.6
571	15.9
572	20.9
573	23.5
574	25.7
575	27.4
576	27.4
577	27.4
578	28.2
579	28.5
580	28.5
581	28.2
582	27.4
583	27.2
584	26.7
585	27.4
586	27.5
587	27.4
588	26.7
589	26.6
590	26.6
591	26.7
592	27.4
593	28.3
594	29.8
595	30.9
596	32.5
597	33.8
598	34.0
599	34.1
600	34.8
601	35.4
602	36.0
603	36.2
604	36.2
605	36.2
606	36.5
607	38.1
608	40.4
609	41.8
610	42.6
611	43.5
612	42.0
613	38.7
614	31.4
615	26.1
616	20.8
617	15.4
618	10.1
619	4.8
620	0
621	0
622	0
623	0
624	0
625	0
626	0
627	0
628	0
629	0
630	0
631	0
632	0
633	0
634	0
635	0
636	0
637	0
638	0
639	0
640	0

Time (seconds):	Speed (kilometres per hour)
641	0
642	0
643	0
644	0
645	0
646	3.2
647	7.2
648	12.6
649	16.4
650	20.1
651	22.5
652	24.6
653	28.2
654	31.5
655	33.8
656	35.7
657	37.5
658	39.4
659	40.7
660	41.2
661	41.8
662	42.0
663	42.2
664	42.2
665	42.5
666	42.6
667	42.6
668	41.8
669	41.0
670	38.0
671	34.4
672	29.8
673	26.4
674	23.3
675	18.7
676	14.0
677	9.3
678	5.6
679	3.2
680	0
681	0
682	0
683	0
684	0
685	0
686	0
687	0
688	0
689	0
690	0
691	0
692	0
693	0
694	2.3
695	5.3
696	7.1
697	10.5
698	14.8
699	18.2
700	21.7
701	23.6
702	26.4
703	26.9
704	26.6
705	26.6
706	29.3
707	30.9
708	32.3
709	34.6
710	35.2
711	36.2
712	35.6
713	36.5
714	37.5
715	37.8
716	36.2
717	34.6
718	33.0
719	29.0
720	24.1
721	19.3
722	14.5
723	10.0
724	7.2

Time (seconds)	Speed (kilometres per hour)
725	4.8
726	3.6
727	0.8
728	0.8
729	5.1
730	10.5
731	15.4
732	20.1
733	22.5
734	25.7
735	29.0
736	31.5
737	34.6
738	37.2
739	39.4
740	41.0
741	42.6
742	43.6
743	44.4
744	44.9
745	45.5
746	46.0
747	46.0
748	45.5
749	45.4
750	45.1
751	44.3
752	43.1
753	41.0
754	37.8
755	34.6
756	30.6
757	26.6
758	24.0
759	20.1
760	15.1
761	10.0
762	4.8
763	2.4
764	2.4
765	0.8
766	0
767	4.8
768	10.1
769	15.4
770	20.8
771	25.4
772	28.2
773	29.6
774	31.4
775	33.3
776	35.4
777	37.3
778	40.2
779	42.6
780	44.3
781	45.1
782	45.5
783	46.5
784	46.5
785	46.5
786	46.3
787	45.9
788	45.5
789	45.5
790	45.5
791	45.4
792	44.4
793	44.3
794	44.3
795	44.3
796	44.3
797	44.3
798	44.3
799	44.4
800	45.1
801	45.9
802	48.3
803	49.9
804	51.5
805	53.1
806	53.1
807	54.1
808	54.7
809	55.2
810	56.0
811	54.7
812	54.7
813	54.6
814	54.1
815	53.3
816	53.1
817	52.3
818	51.5
819	51.3
820	50.9
821	50.7
822	49.2
823	48.3
824	48.1
825	48.1
826	48.1
827	48.1
828	47.6
829	47.5
830	47.5
831	47.2
832	46.5
833	45.4
834	44.6
835	43.5
836	41.0
837	38.1
838	35.4
839	33.0
840	30.9
841	30.9
842	32.3
843	33.6
844	34.4
845	35.4
846	36.4
847	37.3
848	38.6
849	40.2
850	41.8
851	42.8
852	42.6
853	43.1
854	43.5
855	43.8
856	44.7
857	45.2
858	46.3
859	46.5
860	46.7
861	46.8
862	46.7
863	45.2
864	44.3
865	43.5
866	41.5
867	40.2
868	39.4
869	39.9
870	40.4
871	41.0
872	41.4
873	42.2
874	43.3
875	44.3
876	44.7
877	45.7
878	46.7
879	47.0
880	46.8
881	46.7
882	46.5
883	45.9
884	45.2
885	45.1
886	45.1
887	44.4
888	43.8
889	42.8
890	43.5
891	44.9
892	44.7
893	45.1
894	44.7
895	45.1
896	45.1
897	45.1
898	44.6
899	44.1
900	43.3
901	42.8
902	42.6
903	42.6
904	42.6
905	43.3
906	42.2
907	42.2
908	41.7
909	41.2
910	41.2
911	41.7
912	41.5
913	41.0
914	39.6
915	37.8
916	35.7
917	34.8
918	34.8
919	34.9
920	36.4
921	37.7
922	38.6
923	38.9
924	39.3
925	40.1
926	40.4
927	40.6
928	40.7
929	41.0
930	40.6
931	40.2
933	40.2
933	40.2
934	39.8
935	39.4
936	39.1
937	39.1
938	39.4
939	40.2
940	40.2
941	39.6
942	39.6
943	38.8
944	39.4
945	40.4
946	41.2
947	40.4
948	38.6
949	35.4
950	32.3
951	27.2
952	21.9
953	16.6
954	11.3
955	6.0
956	0.8
957	0
958	0
959	0
960	3.2
961	8.5
962	13.8
963	19.2
964	24.5
965	28.3
966	29.9
967	32.2
968	34.0
969	35.4
970	37.0
971	39.4
972	42.2
973	44.3
974	45.2
975	45.7
976	45.9
977	45.9
978	45.9
979	44.6
980	44.3
981	43.8
982	43.1
983	42.6
984	41.8
985	41.4
986	40.6
987	38.6
988	35.4
989	34.6
990	34.6
991	35.1
992	36.2
993	37.0
994	36.7
995	36.7
996	37.0
997	36.5
998	36.5
999	36.5
1,000	37.8
1,001	38.6
1,002	39.6
1,003	39.9
1,004	40.4
1,005	41.0
1,006	41.2
1,007	41.0
1,008	40.2
1,009	38.8
1,010	38.1
1,011	37.3
1,012	36.9
1,013	36.2
1,014	35.4
1,015	34.8
1,016	33.0
1,017	28.2
1,018	22.9
1,019	17.5
1,020	12.2
1,021	6.9
1,022	1.6
1,023	0
1,024	0
1,025	0
1,026	0
1,027	0
1,028	0
1,029	0
1,030	0
1,031	0
1,032	0
1,033	0
1,034	0
1,035	0
1,036	0
1,037	0
1,038	0
1,039	0
1,040	0
1,041	0
1,042	0
1,043	0
1,044	0
1,045	0
1,046	0
1,047	0
1,048	0
1,049	0
1,050	0
1,051	0
1,052	0
1,053	1.9
1,054	6.4
1,055	11.7
1,056	17.1
1,057	22.4
1,058	27.4

Time (seconds):	Speed (kilometre per hour)
1,059	29.8
1,060	32.2
1,061	35.1
1,062	37.0
1,063	38.6
1,064	39.9
1,065	41.3
1,066	42.6
1,067	43.1
1,068	44.1
1,069	44.9
1,070	45.5
1,071	45.1
1,072	44.3
1,073	43.5
1,074	43.5
1,075	42.3
1,076	39.4
1,077	36.2
1,078	34.6
1,079	33.2
1,080	29.0
1,081	24.1
1,082	19.8
1,083	17.9
1,084	17.1
1,085	16.1
1,086	15.3
1,087	14.6
1,088	14.0
1,089	13.8
1,090	14.2
1,091	14.5
1,092	14.0
1,093	13.8
1,094	12.9
1,095	11.3
1,096	8.0
1,097	6.6
1,098	4.2
1,099	1.6
1,100	0.9
1,101	0.3
1,102	1.0
1,103	2.6
1,104	5.8
1,105	11.1
1,106	16.1
1,107	20.6
1,108	22.5
1,109	23.3
1,110	25.7
1,111	29.1
1,112	32.2
1,113	33.6
1,114	34.1
1,115	34.3
1,116	34.4
1,117	34.9
1,118	36.2
1,119	37.0
1,120	38.3
1,121	39.4
1,122	40.2
1,123	40.1
1,124	39.9
1,125	40.2
1,126	40.9
1,127	41.5
1,128	41.8
1,129	42.5
1,130	42.8
1,131	43.3
1,132	43.5
1,133	43.5
1,134	43.5
1,135	43.3
1,136	43.1
1,137	43.1
1,138	43.6
1,139	43.5
1,140	41.8
1,141	41.0
1,142	39.6
1,143	37.8
1,144	34.6
1,145	32.2
1,146	28.2
1,147	25.7
1,148	22.5
1,149	17.2
1,150	11.9
1,151	6.6
1,152	1.3
1,153	0
1,154	0
1,155	0
1,156	0
1,157	0
1,158	0
1,159	0
1,160	0
1,161	0
1,162	0
1,163	0
1,164	0
1,165	0
1,166	0
1,167	0
1,168	0
1,169	3.4
1,170	8.7
1,171	14.0
1,172	19.3
1,173	24.6
1,174	29.9
1,175	34.0
1,176	37.0
1,177	37.8
1,178	37.0
1,179	36.2
1,180	33.2
1,181	26.9
1,182	21.6
1,183	16.3
1,184	10.9
1,185	5.6
1,186	0.3
1,187	0
1,188	0
1,189	0
1,190	0
1,911	0
1,192	0
1,193	0.0
1,194	0.0
1,195	0.0
1,196	0.0
1,197	0.3
1,198	2.4
1,199	5.6
1,200	10.5
1,201	15.8
1,202	19.3
1,203	20.8
1,204	20.9
1,205	20.3
1,206	20.6
1,207	21.1
1,208	21.1
1,209	22.5
1,210	24.9
1,211	27.4
1,212	29.9
1,213	31.7
1,214	33.8
1,215	34.6
1,216	35.1
1,217	35.1
1,218	34.6
1,219	34.1
1,220	34.6
1,221	35.1
1,222	35.4
1,223	35.2
1,224	34.9
1,225	34.6
1,226	34.6
1,227	34.4
1,228	33.3
1,229	31.4
1,230	30.9
1,231	31.5
1,232	31.9
1,233	32.2
1,234	31.4
1,235	28.3
1,236	24.9
1,237	20.9
1,238	16.1
1,239	12.9
1,240	9.7
1,241	6.4
1,242	4.0
1,243	1.1
1,244	0
1,245	0
1,246	0
1,247	0
1,248	0
1,249	0
1,250	0
1,251	0
1,252	1.6
1,253	1.6
1,254	1.6
1,255	1.6
1,256	1.6
1,257	2.5
1,258	4.8
1,259	6.4
1,260	8.0
1,261	10.1
1,262	12.9
1,263	16.1
1,264	16.9
1,265	15.3
1,266	13.7
1,267	13.2
1,268	14.2
1,269	17.7
1,270	22.5
1,271	27.4
1,272	31.4
1,273	33.8
1,274	35.1
1,275	35.7
1,276	37.0
1,277	38.0
1,278	38.8
1,279	39.4
1,280	39.4
1,281	38.6
1,282	37.8
1,283	37.8
1,284	37.8
1,285	37.8
1,286	37.8
1,287	37.8
1,288	38.6
1,289	38.8
1,290	39.4
1,291	39.8
1,292	40.2
1,293	40.9
1,294	41.2
1,295	41.4
1,296	41.8
1,297	42.2
1,298	43.5
1,299	44.7
1,300	45.5
1,301	46.7
1,302	46.8
1,303	45.7
1,304	45.1
1,305	39.8
1,306	34.4
1,307	29.1
1,308	23.8
1,309	18.5
1,310	13.2
1,311	7.9
1,312	2.6
1,313	0
1,314	0
1,315	0
1,316	0
1,317	0
1,318	0
1,319	0
1,320	0
1,321	0
1,323	0
1,323	0
1,324	0
1,325	0
1,326	0
1,327	0
1,328	0
1,329	0
1,330	0
1,331	0
1,332	0
1,330	0
1,334	0
1,335	0
1,336	0
1,337	0
1,338	2.4
1,339	7.7
1,340	13.0
1,341	18.3
1,342	21.2
1,343	24.5
1,344	27.0
1,345	29.8
1,346	31.4
1,347	32.7
1,348	34.3
1,349	35.2
1,350	35.6
1,351	36.0
1,352	35.4
1,353	34.8
1,354	34.0
1,355	33.0
1,356	32.2
1,357	31.5
1,358	29.8
1,359	28.2
1,360	26.6
1,361	24.9
1,362	22.5
1,363	17.7
1,364	12.9
1,365	8.4
1,366	4.0
1,367	0
1,368	0
1,369	0
1,370	0
1,371	0

APPENDIX II—PROCEDURE FOR DYNAMOMETER ROAD HORSEPOWER CALIBRATION

This appendix describes the method for determining the road horsepower absorbed by a chassis dynamometer. The measured absorbed road horsepower includes the dynamometer friction as well as the power absorbed by the power absorption unit. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll(s) is allowed to coast down. The kinetic energy of the system is dissipated by the dynamometer friction and absorption unit. This method neglects the variations in roll bearing friction due to the drive axle weight of the vehicle. The difference in coast down time of the free (rear) roll relative to the drive (front) roll may be neglected in the case of dynamometers with paired rolls.

These procedures shall be followed:

1. Devise a method to determine the speed of the drive roll if not already measured. A fifth wheel, revolution pickup or other suitable means may be used.

2. Place a vehicle on the dynamometer or devise another method of driving the dynamometer.

3. Engage inertia flywheel for the most common vehicle weight class for which the dynamometer is used.

4. Drive dynamometer up to 50 m.p.h.

5. Record indicated road horsepower.

6. Drive dynamometer up to 60 m.p.h.

7. Disengage the device used to drive the dynamometer.

8. Record the time for the dynamometer drive roll to coast down from 55 m.p.h. to 45 m.p.h.

9. Adjust the power absorption unit to a different level.

10. Repeat steps 4 to 9 above sufficient times to cover the range of road horsepower used.

11. Calculate absorbed road horsepower from:

$HP_d = (1/2)\,(W_i/32.2)\quad (V_1^2 - V_2^2)/(550t)$

$HP_a = 0.06073\,(W_i/t)$

Where:

W_i = Equivalent inertia in lb.

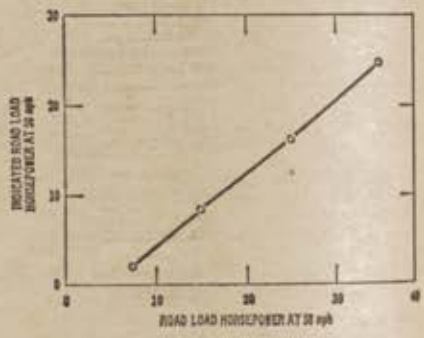
V_1 = Initial velocity in ft./sec. (55 m.p.h. = 80.67ft./sec.).

V_2 = Final velocity in ft./sec. (45 m.p.h. = 66 ft./sec.).

t = Elapsed time for rolls to coast from 55 m.p.h. to 45 m.p.h.

12. Plot indicated road load horsepower at 50 m.p.h. versus road load horsepower at 50 m.p.h.

13. The road load horsepower reported in § 86.177–11 is obtained by entering the plot at the indicated road load horsepower determined in § 86.177–(e)(1).



EXAMPLE: Dynamometer calibration curve (Ser. No. CH-216-9) 9-24-69

14. Once the road load horsepower at 50 m.p.h. is known for a vehicle, it may be tested on other dynamometers using a similar calibration.

APPENDIX III—CONSTANT VOLUME SAMPLER FLOW CALIBRATION

The following calibration procedure outlines the equipment, the test setup configuration, and the various parameters which must be measured to establish the flow rate of the constant volume sampler pump. All the parameters related to the pump are simultaneously measured with the parameters related to a flowmeter which is connected in series with the pump. The calculated flow rate (ft^3/rev @ pump inlet absolute pressure and temperature) can then be plotted versus a correlation function which is the value of a specific combination of pump parameters. The linear equation which relates the pump flow and the correlation function is then determined. In the event that a CVS has a multiple speed drive, a calibration for each range should be performed.

This calibration procedure is based on the measurement of the absolute values of the pump and flowmeter parameters that relate the flow rate at each point. Three conditions must be maintained to assure the accuracy and integrity of the calibration curve. First, the pump pressures should be measured at

taps on the pump rather than at the external piping on the pump inlet and outlet. Pressure taps that are mounted at the top and bottom center of the pump drive headplate are exposed to the actual pump cavity pressures, and therefore reflect the absolute pressure differentials. Secondly, temperature stability must be maintained during the calibration. The laminar flowmeter is sensitive to inlet temperature oscillations which cause the data points to be scattered. Gradual changes (± 2°F) in temperature are acceptable as long as they occur over a period of several minutes. Finally, all connections between the flowmeter and the CVS pump must be absolutely void of any leakage.

During a CVS emissions test the measurement of these same pump parameters enables the user to calculate the flow rate from the calibration equation.

After the calibration curve has been obtained, a verification test of the entire system can be performed by injecting a known mass of gas into the system and comparing the mass indicated by the system to the true mass injected. An indicated error does not necessarily mean that the calibration is wrong, since other factors can influence the accuracy of the system.

Equipment:

The following list of equipment will be needed to perform this calibration procedure. Figure 1 illustrates a typical equipment arrangement used for calibration. All of the equipment involved should conform to the range and accuracy as specified in Figure 1.

Equipment List:

1. LFE—Laminar Flowmeter
2. Micromanometer
3. Thermometer
4. Timer
5. U-Tube Manometers
6. Temperature Indicator with type J Thermocouples
7. A variable flow restrictor with appropriate piping to connect the CVS pump and LFE.

After the system has been connected as shown in Figure 1, set the variable restrictor in the wide open position and run the CVS pump for twenty minutes. Record the calibration data.

CALIBRATION DATA MEASUREMENTS

Parameter	Symbol	Units	Tolerance
Barometric pressure (corrected)	P_B	"Hg	±.01 "Hg.
Ambient temperature	T_A	°F	±.5° F.
Air Temperature into LFE	ETI	°F	±.1° F.
Pressure depression upstream of LFE	EPI	"H20	±.1"H20.
Pressure drop across the LFE matrix	EDP	"H20	±.005"H20.
Air temperature at CVS pump inlet	PTI	°F	±.5° F.
Pressure depression at CVS pump inlet	PPI	"Fluid	±.05"Fluid.
Specific gravity of manometer fluid	Sp. Gr.		
Pressure head at CVS pump outlet	PPO	"Fluid	±.05"Fluid.
Air temperature at CVS pump outlet (optional)	PTO	°F	±.5° F.
Pump revolutions during test period	N	Revs	None.
Elapsed time for test period	t	Seconds	±.05 Seconds.

Note.—The fluid level in the manometer tube should stabilize before the reading is made and the elapsed time for revolution counting should be greater than 120 seconds.

Reset the restrictor valve to a more restricted condition in an increment of pump inlet depression (aout 4" H_2O) that will yield a minimum of six data points for the total calibration.

Allow the system to stabilize for 3 minutes and repeat the data acquisition.

Data Analysis:

The data recorded during the calibration are to be used in the following calculations.

1. The air flow rate at each test point is calculated in standard cubic feet per minute (Q_S) from the flowmeter data using the manufacturer's prescribed method.

2. The air flow rate is then converted to pump flow, Vo, in cubic feet per revolution at absolute pump inlet temperature and pressure.

$$V_o = \frac{Q_S}{n} \times \frac{T_P}{530} \times \frac{29.92}{P_P}$$

Where:

Q_S = Meter air flow rate in standard cubic feet per minute (flowmeter standard conditions are 70°F, 29.92 "Hg).

n = Pump speed in revolutions per minute.

P_P = Absolute pump inlet pressure, in ("Hg).

$P_P = P_B - PPI$ (SP.GR./13.57), $T_P = PTI + 460$.

3. The correlation function at each test point is then calculated from the calibration data, as follows:

$$X_o = \frac{1}{n}\sqrt{\frac{\Delta P_P}{P_e}}$$

ΔP_P = The pressure differential from pump inlet to pump outlet in ("Hg).

$$\Delta P_P = P_e - P_P$$

P_e = Absolute pump outlet pressure, in ("Hg).

$$P_e = P_B + PPO \text{ (Sp. Gr./13.57)}$$

See § 86.177-22 for other definitions.

4. A linear least squares fit is performed to generate the calibration equations which have the forms

$$V_o = D_o - M(X_o)$$
$$n = A - B(\Delta P_P)$$

Do, M, A, and B are the slope-intercept constants describing the lines.

A CVS system that has multiple speeds should be calibrated on each speed used. The calibration curves generated for the ranges will be approximately parallel and the intercept values, D_o, will increase as the pump flow range decreases.

If the calibration has been performed carefully, the calculated V_o values from the equation will be within ±.50% of the measured value of V_o. Values of M will vary from one pump to another, but values of D_o for pumps of the same make, model, and range should agree within ±3 percent of each other. Particulate influx from use will cause the pump slip to decrease as reflected by lower values for M. Calibrations should be performed at 0, 50, 100, 200, 400, etc. hours of pump operation to assure the stability of the pump slip rate. Analysis of mass injection data will also reflect pump slip stability.

CVS System Verification:

The following technique can be used to verify that the CVS and analytical instruments can accurately measure a mass of gas that has been injected into the system.

1. Obtain a small cylinder that has been charged with pure propane or carbon monoxide gas (caution—carbon monoxide is poisonous!). Critical flow orifice devices can also be used for constant flow metering.

2. Determine a reference cylinder weight to the nearest 0.01 gram.

3. Operate the CVS in the normal manner and release a quantity of pure propane or carbon monoxide into the system during the sampling period.

4. The calculations of § 86.177-22 are performed in a normal way except, in the case of propane, the density of propane (17.30 grams/cu./ft./carbon atom) is used in place of the density of exhaust hydrocarbons. In the case of carbon monoxide, the density of 32.97 grams/cu. ft. is used.

5. The gravimetric mass is subtracted from the CVS measured mass and then divided by the gravimetric mass to determine the percent accuracy of the system.

6. The cause for any discrepancy greater than±2 percent should be found and corrected.

The following list of parametric errors may assist the operator in locating the cause of large errors.

Positive Error (Indication is higher than true value):

1. Calculated V_o is greater than actual V_o.

a. Original calibration in error.

2. Pump inlet temperature recorder is reading low. A 6° F. discrepancy will give a 1 percent error.

3. Pump inlet pressure indicator is reading high. A 3.5 in. H_2O high reading will give 1 percent error.

4. Background concentration reading is too low. Check analyzer zero. Check leakage at floor inlet.

5. Analyzer is reading high. Chock span.

6. Barometer reading is in error (too high). Barometric pressure reading should be gravity and temperature corrected.

7. Revolution counter is reading high (Check pump speed and counters.)

8. Mixture is stratified causing the sample to be higher than the average concentration in the mixture.

Negative Error (Indication is lower than true value):

1. Calculated V_o is less than actual V_o.

a. Original calibration in error.

b. Pump clearances decreased due to influx of some surface adherent material. Recalibration may be needed.

2. Pump inlet temperature recorder is reading high.

3. Pump inlet pressure indicator is reading low.

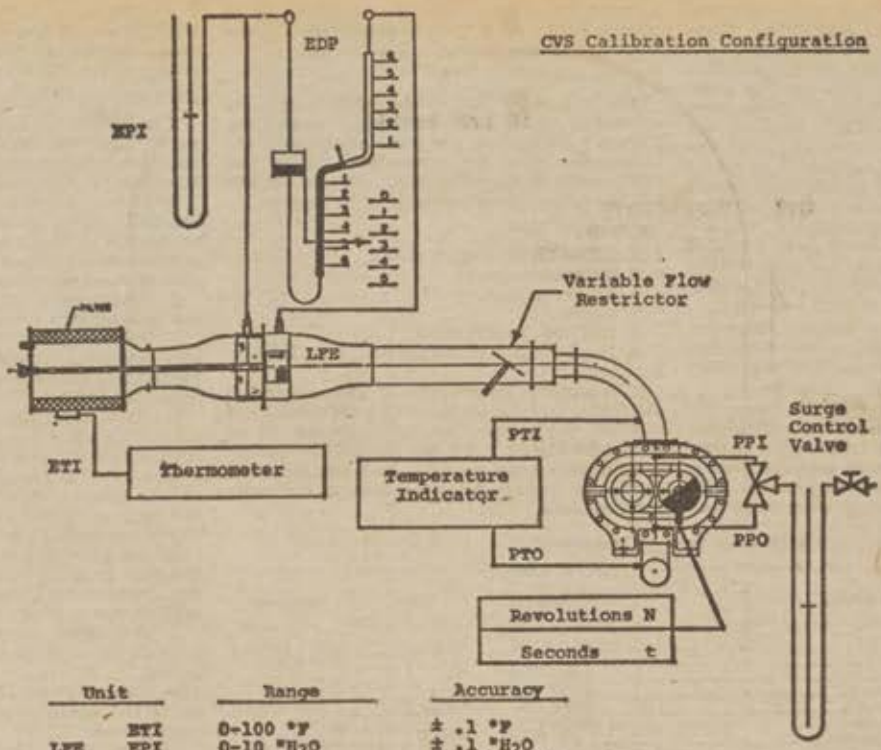
4. Background concentration reading is too high.

5. Analyzer is reading low.

6. Barometer reading is in error (too low).

7. Revolution counter is reading low.

8. There is a leak into the sampling system. Pressure check the lines and fittings on the intake side of sample transfer pumps on both the CVS and analyzer console.



Unit		Range	Accuracy
LFE	ETI	0-100 °F	± .1 °F
	EPI	0-10 "H_2O	± .1 "H_2O
	EDP	0-10 "H_2O	± .005 "H_2O
Pump	PTI	0-250 °F	± .5 °F
	PPI	0-36 "Fluid	± .05 "Fluid
	PPO	0-36 "Fluid	± .05 "Fluid
	PTO	0-250 °F	± .5 °F
	N	0-100,000	± 0
	t	0-10,000 secs.	± .05 secs.

Note: Fluid used in 36 inch manometer should extend range to at least 0-60 "H_2O. Separate manometers for PPI and PPO may be used during calibration.

Figure I—CVS Calibration Configuration

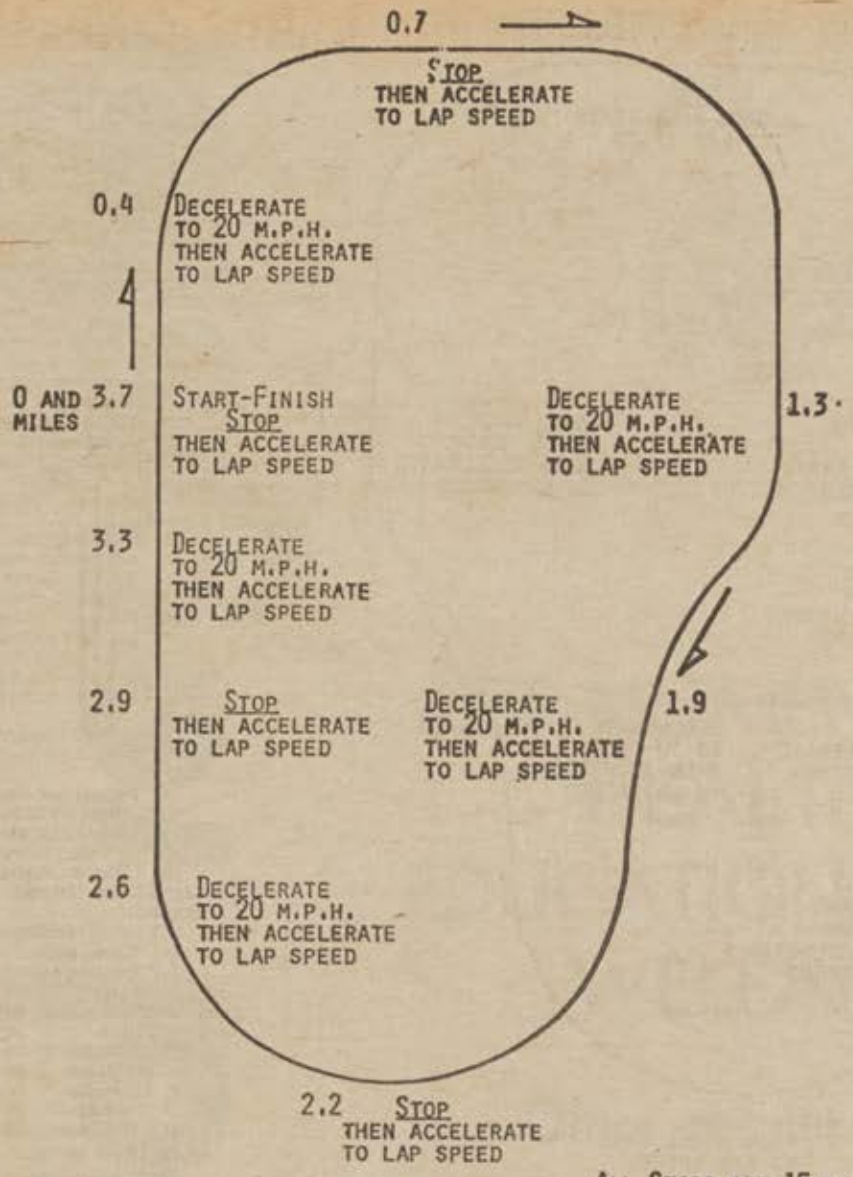
APPENDIX IV—DURABILITY DRIVING SCHEDULES

(a) Durability Driving Schedule for Light-Duty Vehicles and Light-Duty Trucks.

The schedule consists basically of 11 laps of a 3.7 mile course. The basic vehicle speed for each lap is listed below:

Lap:	*Speed miles per hour*
1	40
2	30
3	40
4	40
5	35
6	30
7	35
8	45
9	35
10	55
11	70

During each of the first nine laps there are 4 stops with 15 second idle. Normal accelerations and decelerations are used. In addition, there are 5 light decelerations each lap from the base speed to 20 m.p.h. followed by light accelerations to the base speed.



ALL STOPS ARE 15 SECONDS

The 10th lap is run at a constant speed of 55 m.p.h.

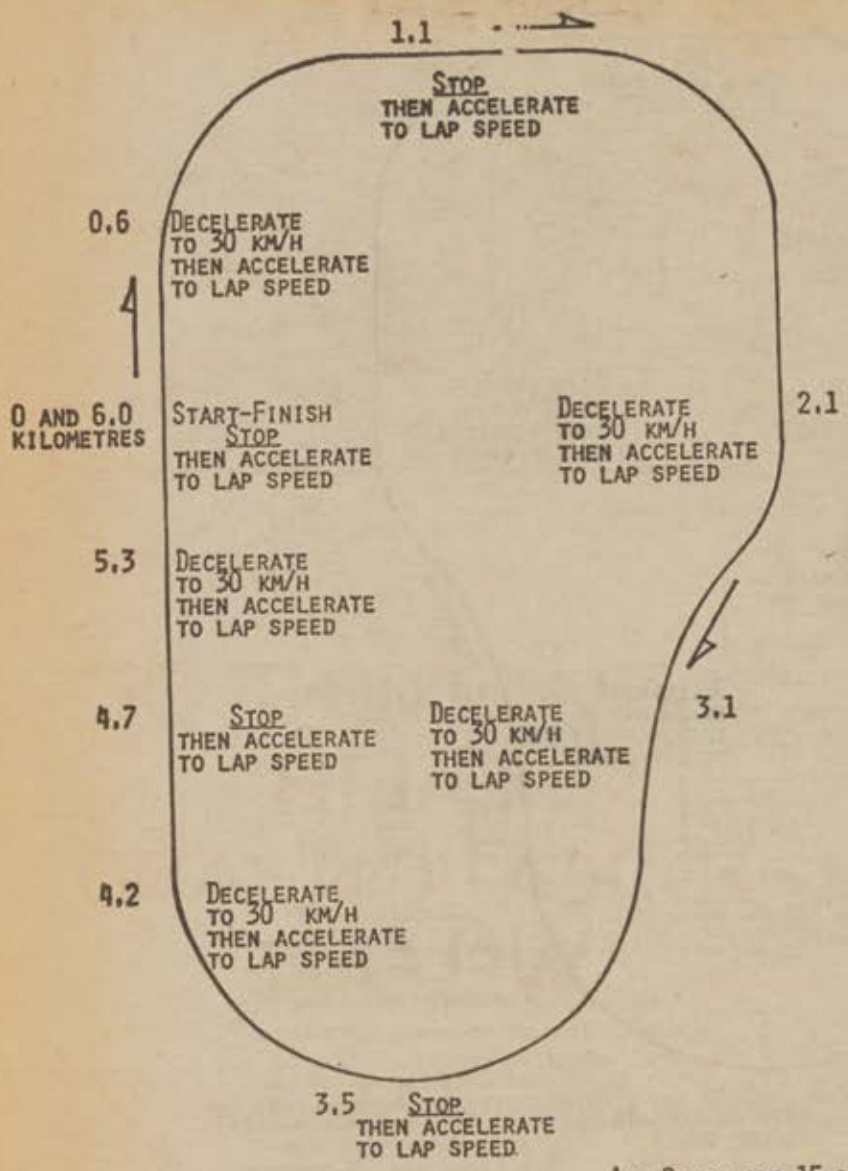
The 11th lap is begun with a wide open throttle acceleration from stop to 70 m.p.h. A normal deceleration to idle followed by a second wide open throttle acceleration occurs at the midpoint of the lap.

(b) Durability Driving Schedule for Motorcycles. The Durability Driving Schedule for Class III Motorcycles may be used for Light-Duty Vehicles and Light-Duty Trucks.

The schedule consists basically of 11 laps of a 6.0 km (3.7 mi) course. The basic vehicle speed for each lap is listed below:

Speed (kilometers per hour)

Lap	Class I	Class II	Class III
1	65	65	65
2	45	45	45
3	65	65	65
4	65	65	65
5	55	55	55
6	45	45	45
7	55	55	55
8	70	70	70
9	55	55	55
10	70	90	90
11	70	90	110



ALL STOPS ARE 15 SECONDS

During each of the first nine laps there are 4 stops with 15 second idle. Normal accelerations and decelerations are used. In addition, there are 5 light decelerations each lap from the base speed to 30 km/h followed by light accelerations to the base speed.

The 10th lap is run at a constant speed.

The 11th lap is begun with a wide open throttle acceleration from stop. A normal deceleration to idle followed by a second wide open throttle acceleration occurs at the midpoint of the lap.

This schedule may be modified with the advance approval of the Administrator if it results in unsafe operation of the vehicle.

APPENDIX V—[RESERVED]

APPENDIX VI—VEHICLE AND ENGINE COMPONENTS

(a) Light-Duty Vehicles, Light-Duty Trucks, Motorcycles, and Gasoline-Fueled Heavy-Duty Engines.

I. Basic Mechanical Components–Engine.
(1) Intake and exhaust valves.
(2) Drive belts.
(3) Manifold and cylinder head bolts.
(4) Engine oil and filter.
(5) Engine coolant.
(6) Cooling system hoses and connections.
(7) Vacuum fittings, hoses, and connections.
(8) Oil injection metering system.

II. Fuel System.
(1) Fuel specification-octane rating, lead content.
(2) Carburetor-idle RPM, mixture ratio.
(3) Choke mechanism.
(4) Fuel system filter and fuel system lines and connections.
(5) Choke plate and linkage.

III. Ignition Components.
(1) Ignition timing and advance systems.
(2) Distributor breaker points and condenser.
(3) Spark plugs.
(4) Ignition wiring.
(5) Operating parts of distributor.

IV. Crankcase Ventilation System.
(1) PCV valve.
(2) Ventilation hoses.
(3) Oil filler breather cap.
(4) Manifold inlet (carburetor spacer, etc.).

V. External Exhaust Emission Control System.
(1) Secondary air injection system hoses.
(2) Air system manifolds
(3) Control valves and air pump.
(4) Manifold reactors.
(5) Catalytic converters.
(6) Exhaust recirculation.
(7) Water injection.

VI. Evaporative Emission Control System.
(1) Engine compartment hose connections.
(2) Carbon storage media.
(3) Fuel tank pressure-relief valve operation.
(4) Fuel vapor control valves.

VII. Air Inlet Components.
(1) Carburetor air cleaner filter.
(2) Hot air control valve.

(b) Diesel Light-Duty Vehicles, Diesel Light-Duty Trucks, and Diesel Heavy-Duty Engines.

I. Engine Mechanical Components.
(1) Valve train.
(2) Cooling system.
a. Coolant.
b. Thermostat.
c. Filter.
(3) Lubrication.
a. Oil filter.
b. Lubricant.

II. Fuel System.
(1) Fuel type.
(2) Fuel pump.
(3) Fuel filters.
(4) Injectors.
(5) Governor.

III. Air Inlet Components.
(1) Air cleaner.
(2) Inlet ducting.

IV. External Exhaust Emission Control System.
(1) Rack limiting devices (aneroid, throttle delay, etc.).
(2) Manifold reactors.
(3) Catalytic converters.
(4) Exhaust recirculation.
(5) Water injection.

[FR Doc.77-17673 Filed 6-27-77;8:45 am]

federal register

TUESDAY, JUNE 28, 1977

PART IV



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

WOMEN'S EDUCATIONAL EQUITY ACT PROGRAM

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 160f—WOMEN'S EDUCATIONAL EQUITY ACT PROGRAM

AGENCY: Office of Education (OE), HEW.

ACTION: Final regulations.

SUMMARY: This document amends the regulations as required by the Education Amendments of 1974 to simplify the language, simplify the preapplication process, eliminate priority areas for general grants and adjust evaluation criteria and the basis for award decisions.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions thereof concerning congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Dr. Mary Jane Smalley, U.S. Office of Education, Room 2145, 400 Maryland Avenue SW., Washington, D.C. 20202 (202-245-2181).

SUPPLEMENTARY INFORMATION:

BACKGROUND.

The Women's Educational Equity Act Program is a discretionary program in the Office of Education authorized by the Education Amendments of 1974, Pub. L. 93-380, with a stated purpose to provide educational equity for women. This is defined in the regulation as including both the elimination of inequity which prevents full and fair participation by women in educational programs and in American society generally and the achievement of responsiveness by educational leaders and other personnel to the special educational needs, interests, and concerns of women arising from inequitable education policies and practices.

The Act authorizes activities at all levels of education: Preschool, elementary and secondary education, higher education, and adult education. The Act provides likewise for an extremely broad range of program activities: The development, evaluation, and dissemination of curricula, textbooks, and other educational materials; training for educational personnel; research and development; guidance and counseling activities; educational activities for adult women; educational programs for women in vocational education; career education, physical education, and educational administration.

Both grants and contracts may be awarded in the areas listed above. In addition to general grants in these areas, the statute authorizes a program of small grants, not to exceed $15,000, in order to support innovative approaches to the achievement of educational equity for women. In the first year of program operation, contracts were awarded for two major national activities: technical assistance in the implementation of Title IX of Pub. L. 92-318 and a communications network to provide a wide range of information services to individuals and institutions.

The law specifies that public agencies, private non-profit organizations, and individuals are eligible for awards under the program.

PUBLIC RESPONSE TO THE NOTICE OF PROPOSED RULEMAKING

In contrast to the large numbers of comments received on the Advance Notice of Proposed Rulemaking published on October 21, 1976 (41 FR 46576-78), only eight written comments were received on the Notice of Proposed Rulemaking. Hearings were conducted in ten locations across the country. They were generally well attended (a total of 350 persons) and provided an opportunity for extensive dialogue between the Office of Education and participants. Two issues were raised quite frequently: (1) The unrealism of the deadlines for preapplications and applications, and (2) the disastrous effect of making grant awards as late as September or October to projects which work in or with educational systems. Neither can be remedied in the regulation. The Office of Education plans to address them in administering the program. Some formal comments on the regulations were made at the meetings and are considered with the written comments in this preamble. The National Advisory Council on Women's Educational Programs reviewed the proposed rule and provided its comments in writing to the Commissioner.

The overall reaction to the regulation was that it was a substantial improvement over the regulation used in the first year of the program. Commenters praised the increased flexibility, the elimination of priorities, reduction of jargon, addition of definitions, and simplification of the preapplication process.

The following specific comments were made either in writing or at the hearings. After the summary of each comment, a response follows stating changes which have been made in the regulation, or the reasons why no change is deemed appropriate. The comments appear in the order of the sections of the final regulation. There are no significant differences from the Notice of Proposed Rulemaking which was published in the FEDERAL REGISTER on April 1, 1977 (42 FR 17700-11).

GENERAL

Comment. Concern was expressed about the difficulty in coping with Government regulations and forms for persons and organizations which have had no previous experience. Although the WEEA regulation was commended for its improvement over the previous regulation in this regard, some commenters indicated that the problem still exists. One commenter asked that the regulation be simplified into one page. Another commentor recommended various outreach efforts to reduce fear of the application process and commended the regional hearing in which the comment was made for helping to do just that. One commenter differed in attitude to the regulation and the criteria and described herself as a "satisfied customer," though by no means a professional grantsperson.

Response. Several steps have already been taken to respond to these concerns. First, the revision of last year's regulation was deemed imperative, though it meant a late announcement of the competition, minimum time before application deadlines, and no awards possible before September—all serious issues. Secondly, hearings were conducted at ten locations throughout the country and were judged helpful in providing technical assistance. In addition, other efforts to deal more specifically with the problem are currently being planned to enable persons to work with regulations with greater ease. At the hearings, persons working for educational equity for women repeatedly made requests for assistance to gain expertise in both project and application development.

SECTION 160f.1(e) TEXTBOOKS AND CURRICULAR MATERIALS

Comment. One commenter noted that this paragraph had been altered slightly in punctuation and wording. Although advised by legal counsel that the revision did not change the substance, the commenter requested confirmation in the preamble that the change was technical only, was not meant to be substantive, and should not be interpreted as signifying a dilution of the provision's original intent.

Response. The commenter is absolutely correct. The change was solely editorial and has no impact on the intent or meaning of the statement.

SECTION 160f.2 DEFINITIONS

Comment. One commenter asked for clarification between "target population" and "population groups."

Response. A definition of "target population" was included in § 160f.2 of the regulation. Population groups are defined in § 160f.3(d) where the regulation states that a project may focus on the approach to educational equity for women relating to one or more population groups based on race, ethnic origin, age, socioeconomic status, or residence (e.g., rural, urban, Southwestern, Appalachian). "Target population" appears in §§ 160f.7(c)(2)(ii)(B), 160f.8(c)(2)(iii) and (3)(ii); "Population group(s)" appears in §§ 160f.3(d), 160f.8(c)(2)(iii) and (3)(iii), and 160f.10(a)(2)(i)(B) and (ii).

Comment. One comment indicated that the use of "validation procedures" in the regulation is difficult for persons not familiar with such terminology.

Response. A definition of validation as it is used in the WEEA Program has been added. It includes both a general and a more technical description.

SECTION 160f.3 NATURE OF PROJECTS

Comment. Several commenters welcomed the use of a synonym for "capacity building." With two exceptions, the continuation of the concept was endorsed by all who commented. One commenter questioned whether any model can be replicated and whether anyone will ever use anyone else's materials. One comment raised the issue of continued advisability of emphasizing "products" with a potential "future impact" instead of supporting projects likely to have a broad immediate impact, regional or nationwide.

Response. Projects likely to have a broad immediate impact, regional or nationwide, would appear to meet the requirements for the "development of model programs and products." In view of the scope of the Act, the extent of the need, and the limited funds available, the Office of Education is not prepared to change this policy in order to provide assistance funds for the benefit of individuals and local groups. No change has been made in the regulation.

Comment. A number of commenters addressed the issue of dissemination. They cited the priority it must be given in this program if national needs in the area of educational equity for women are to be met and if the purpose of the program requirement for the development of model programs and products which can be used in other places is to be fulfilled.

One commenter requested the addition and clarification of information on the role and responsibilities of the grantee and of the Office of Education regarding dissemination.

Response. The importance of dissemination is well understood. A contract to manage the dissemination of programs and products developed under WEEA has been issued. A reference to it appears in § 160f.14(b)(3). References to "applicants and others" have been deleted in §§ 160f.8(c)(3)(v) and 160f.10(a)(2)(iii)(B).

SECTION 160f.5 DURATION OF PROJECTS

Comment. A few commenters asked why all the grants were not multi-year awards. Two reasons for the comment were given: the need to provide greater opportunities for new people to start new things as well as the fact that projects concerned with the deeply embedded beliefs and practices related to sex bias require time to develop and test.

Response. The policy decision that a substantial proportion of the awards would be for single-year projects was made to ensure that new funds would be available in subsequent years to start new projects. The encouragement of one-year projects also reflects recognition by the Office of Education that many individuals and organizations had already been doing excellent work in educational equity for women and WEEA funds for one year might complete these efforts and make their results available as quickly as possible. The demand for quick, demonstrable results comes from people throughout the country as well as from the Congress, the Department, and other officials in the Executive Branch.

SECTION 160f.7 PREAPPLICATIONS

Comment. Many commenters endorsed the three-page preapplication and simplified information required. One comment questioned the validity of using the preapplication process unless all applicants are required to use it as a condition for submitting an application. Several commenters expressed negative views on the preapplication, its usefulness to applicants, and its costs to the Government.

Response. The policy of the Department of Health, Education, and Welfare presently does not allow the Office of Education to reject or prejudice an application if it is submitted on time for a published closing date for applications solely because the applicant did not previously submit a preapplication. Nor does the Department of HEW permit the rejection or prejudice of an application if the preapplication was considered to lack potential to compete successfully with other applicants. Within these constraints, the Women's Program Staff responsible for this program found last year that most applicants did use the preapplication process and did follow the advice about whether or not to submit a full application. Some applicants who did not submit preapplications and some who were not encouraged to submit an application did submit applications, and some of both types were funded. The Commissioner believes that the purposes of the preapplication process, so heavily endorsed by the public in the comments received last fall on the Advance Notice of Proposed Rulemaking, can still be achieved within the present constraints.

All previous commenters have viewed the preapplication process as a method to save resources for applicants as well as for the Government. The Commissioner will consider the new comments in decisions for future years about using the preapplication. No change has been made in the regulation. It does not require preapplications, but only describes the conditions which apply in any fiscal year if the Commissioner exercises the option to include use of the preapplication in the competitive process.

On the basis of this year's experience, the final regulation provides that the program narrative of a preapplication may not exceed five pages.

SECTIONS 160f.7(d) AND 10 EVALUATION CRITERIA)

Comment. In general, most commenters expressed the view that the evaluation criteria were clear and would reasonably measure factors important to the success of projects in this program.

Several commenters, however, believed that too many points were assigned to the previous experience in educational equity for women either of the applicant or of the proposed director and staff. One comment noted that this practice would defeat the purpose of the Act "because not that many people or institutions can have experience at this time." Other commenters expressed the view that the emphasis on previous experience, in addition to the quantity of one-year-only projects, made it impossible for new people with new ideas to compete successfully. One commenter said that the weight given to applicant qualifications placed school districts at a competitive disadvantage and denied them the opportunity for staff development. One commenter stated that the points awarded for applicant qualifications were particularly out of balance to the minimal weight given to evaluation, a very important element in the success of the project and of the national program.

Other commenters took the opposite view: that people and organizations which have been working for a number of years in this field would be more efficient and therefore more productive and should be rewarded for previous efforts by this program.

Response. The number of points awarded for previous experience in educational equity for women of the applicant and of the proposed director and staff is consistent with the program's major goal of developing and disseminating model programs and programs which are tested for effectiveness. Logically, the program must seek the most competent and committed applicants and personnel to undertake such tasks.

The weight given to these factors is also consistent with the advice which has been received in the Office of Education since the early formulation of the WEEA Program emphases. Individuals and organizations have repeatedly recommended that previous efforts in educational equity for women be considered.

Applicants and personnel who are inexperienced in this area are not excluded from competition. Applications may obtain high scores, despite weaknesses in experience, if the application is strong in the many other factors which are considered in the evaluation criteria.

Comment. One comment identified an area of concern regarding the evaluation of applicant qualifications by reviewers. The commenter recommended that every effort be made to eliminate stereotypes of professional fields or disciplines, stating: "Some professional fields which have historically been composed mostly of women have had to battle such subtle and unrecognized forms of discrimination associated with stereotyping. We are not asking that special consideration be given any field. We encourage special efforts to see that stereotypes do not get in the way of accurate interpretation of information in proposals."

Response. The point is well taken. In the future, the instructions to reviewers will include a reminder to them to be alert to possibilities of such stereotyping and to honor fully the diversity of approaches to educational equity for women which is recognized by the program regulation.

Every effort is made to obtain knowledgeable reviewers who are sensitive to aspects of discrimination and stereotyping in this field. Under the Office of Edu-

cation's procedures for the review of grant applications, reviewers must score applications in accordance with priorities and critera, explanations and instructions, and solely on the content in the application. Further, the reviewers are to score solely on the basis of their best judgment and to the degree to which the application meets the criteria.

No changes have been made in the regulation on the number of points awarded for applicant qualifications.

Comment. Two respondents objected to the proposed criterion for review of applications in § 160f.10(a)(vi). The criterion concerns the applicant's commitment to the project, through in kind or direct financial contributions or through procedures to use all or parts of the program or products developed under the grant in the continuing activities of the applicant. The respondents argued that (1) the level of cost sharing is not relevant to an applicant's qualifications; (2) the criterion sought to do indirectly what the Government could not do directly; i.e., influence indirect cost rates; and (3) cost competition is inconsistent with the purpose of grants because it gives an unfair advantage to wealthier institutions.

Response. The sole purpose of the subject criterion is to permit consideration of an applicant's commitment to the project. OE has found this to be an important ingredient in predicting a project's success. Moreover, cost sharing is not the only measure of the applicant's commitment to the project. An applicant which proposed no financial contribution to the project could still earn the maximum number of points assigned to this criterion by demonstrating procedures to use all or parts of the program or products developed under the grant in the continuing activities of the applicant.

Further, funds available for the program are severely limited. Under these circumstances it is entirely appropriate in weighing equally meritorious applications to consider and give some weight to the Department's share of the costs and therefore the number of projects that can be funded. If a wider variety of projects can be supported, the Federal assistance has potential for a greater impact in carrying out the program's purposes.

In order to make it clear that the ability to cost share is not one of the applicant's "qualifications," the subject criterion has been deleted from § 160f.10(a)(1) Applicant Qualifications and inserted in § 160f.10(a)(2) Need and Impact. Also, the objection to language designed to influence indirect cost rates is well taken. No such intent is expressed in the final rule.

Comment. Several comments addressed the issue of geographical distribution of awards in § 160f.10(a)(4): Were there State allocations? Why did so many awards go to the South and West last year? Will funds be available on a regional basis as last year or is it going to where the best request comes from?

Response. There are no State or regional allocations. The law requires "appropriate" geographical distribution, but not any specific distribution according to population. The "South" and the "West" did not receive a disproportionate number of grants last year.

The provision in the regulation states that up to 20 points may be awarded in order to have an appropriate geographical distribution of project awards. If an application receives a low score, however, the addition of 20 points based on geography would not bring it into the competitive range. No change has been made in the regulation.

SEC. 160f.12 GENERAL GRANTS

Many commenters endorsed the elimination of priority areas. One commenter, however, did not understand how the program could have changed its plans after publishing the Advance Notice of Proposed Rulemaking last October which identified the preschool level and rural and minority populations as proposed priorities. One comment expressed understanding of the rationale for not identifying rural populations as a program priority but expressed concern that in all areas of program decisions, particularly dissemination, attention should be given to the special problems of rural areas. The commenter also noted that the HEW regional offices are all in urban areas and do not always communicate adequately with their rural constituents.

One commenter asked if all projects had to focus on poor, rural, or minority women, an impression the person has received from the description of projects in last year's annual report.

Several commenters expressed concern that with no priorities, the program gives no credence to the fact that educational equity for women impacts on different women in different ways. A comment recommended that the program set priorities on the needs of some women.

One comment repeated its recommendation submitted last December in response to the Advance Notice of Proposed Rulemaking which strongly endorsed the identification of priorities for WEEA and recommended sports, textbooks, dissemination, incentives for change, and minority and rural populations.

One commenter recommended that priority be given to women over 40, post high school graduates, and average women. Other commenters recommended that the program should provide funds to help women in need instead of giving grants to higher education. A comment recommended that the grant program be reduced and that more contracts should be awarded for specific projects which the Government identified as most necessary.

Response. Although support for the elimination of priorities this year was substantial, an absence of unanimity regarding the establishment of priorities in this program continues. No change has been made in this final regulation to impose priorities for fiscal year 1977. The kinds of applications received this year will be analyzed carefully by the Office of Education and by the National Advisory Council on Women's Educational Programs. As a result of this analysis, a decision will be made regarding this issue for fiscal year 1978. The final regulation provides for the possible publication of priorities in an Appendix on the basis of annual decisions.

Although applications addressing special population groups based on race, ethnic origin, age, socioeconomic status, or residence do not receive additional points, there is a specific provision in § 160f.3(d) for applicants to develop projects which focus on one or more of these groups. The program has not set priorities on the needs of different girls and women. The degree of need and potential impact of projects are elements in the evaluation criteria for all applications, and in this way the factor of relative needs among groups may be considered.

The Advance Notice of Proposed Rulemaking invited public comments before a rule was formally proposed. The Office of Education did not go forward with its proposal for three new priorities on the basis of those public comments. An analysis of the comments and the rationale for the decisions ultimately made were described in some detail in the preamble to the Notice of Proposed Rulemaking. The change was surprising to some, like the commenter who did not understand how the three proposed new priorities could disappear. If the process of public discussion of issues before a rule is proposed is honored, however, the results must not be predetermined.

Some of the recommendations for a priority to provide funds to address the most urgent needs of women would not meet the program requirement for the development of model programs and products. The amount of funds available to the WEEA Program precludes the provision of direct services and benefits to individuals and groups throughout the country who need help. Further, this program provides educational equity for women and cannot address all the needs which women have related to health, legal rights, credit, transportation, child care. It cannot support projects to provide equity in areas outside education where inequities exist.

The Office of Education will continue to identify areas which are not being covered in the grant program, or which cannot be covered there, and will issue contracts.

No change has been made in the regulation regarding general grants.

SECTION 160f.13 SMALL GRANTS

Comment. Several comments were made on the small grant program. With one exception, they continue to be positive. A comment recommended that the small grant program continue the requirement that projects develop model programs or products and not be designed primarily to provide direct services or benefits to individuals or groups. Commenters asked whether small grant applications are subject to the application requirements for general grants and whether the dissemination contract will serve small grants also.

A commenter did question the validity of small grants, since they seemed to differ from general grants only in the amount of money. An alternative suggested was the support of WEEA coordinators in the Regional Offices of Education or in the State departments of education. The commenter recommended a study in the cost efficiency of small grants compared to general grants.

Response. Small grants must meet the same application requirements and are reviewed by the same evaluation criteria as general grants. Appropriate consideration to the scope and amount of the proposed award ($15,000 or under) is made. References to this factor appear in §§ 160f.8(d) and 160f.10(c). The contract for dissemination covers small grants.

The Office of Education is following the progress of small grants, which are specifically mandated in the authorizing legislation. To date, the indicators are promising. Most commenters have praised small grants and recommended that their number be increased. WEEA Program funds could not be used to pay salaries of Federal employees working in Regional Offices of Education. Because of the three year authorization of the Women's Educational Equity Act and its designation as a demonstration program, the support of positions in all State Departments of Education would not be appropriate.

No change has been made in the regulation.

SECTION 160f.15 ALLOWABLE COSTS

Comment. Two comments objected to the inclusion of specific provisions regarding allowable costs in proposed § 160f.15. The comments expressed the view that some of the provisions merely restated in different words general OMB, Department, and Office of Education cost policies, while others were at variance with the general policies. The comments recommended that the final regulation merely cross-reference the general cost principles.

One comment suggested that a ceiling of 20% be placed upon indirect costs so that a greater proportion of funds could be used for product development and dissemination. Another asked that a summary of provisions on indirect costs be included.

Response. No change has been made in the regulation. The regulation already does cross-reference general cost policies of the Office of Education (which reflect the OMB and Department policies) in § 160f.15(a). However, a limited number of specific provisions on costs are set forth in § 160f.15(a) for the purpose of providing additional guidance to applicants. Many applicants under this program, including individual persons and informal nonprofit groups, are inexperienced in Federal grant matters. The subject provisions relate to specific cost items on which there are recurring questions and serve to give extra guidance to these persons and groups. With respect to the items concerning depreciation and use allowances and memberships, subscriptions, and professional activities, § 160f.15(a) requires specific approval for inclusion of these items. (The general cost principles do not require specific approval.) Specific approval is required because of the very limited funds available for the program. The Commissioner deems it important to maintain some control over the extent of these costs in specific projects. Absent the requirement for prior approval, it is possible that substantial funds would go for these activities which would not directly further the purposes of the program. As a result, the potential program impact would be diluted.

With respect to the issue of limiting indirect costs, uniform rates for these costs are established in negotiations by Department representatives with award recipients. Individual programs are not free to establish by regulation separate limits on these costs. Indirect costs are summarized in the appendices to the OE General Provisions regulation (Subchapter A of this chapter, 45 CFR Parts 100, 100a, 100b) and in supplementary materials issued by the Department. Applicants interested in obtaining these materials may write to the Women's Program Staff at the address given above.

In addition to the changes noted above, a number of typographical and editorial changes have been made.

(Section 408 of the Education Amendments of 1974 (Pub. L. 93-380), as amended by section 501(a)(8) of the Education Amendments of 1976 (Pub. L. 94-482).)

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

(Catalog of Federal Domestic Assistance No. 13.565, Women's Educational Equity Act Program.)

Dated: June 3, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: June 21, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Sec.

160f.1 Scope and Purpose.
160f.2 Definitions.
160f.3 Nature of projects to provide educational equity for women.
160f.4 Types of projects.
160f.5 Duration of projects.
160f.6 Eligible applicants.
160f.7 Preapplications.
160f.8 Application, proposal, and project requirements.
160f.9 Award decisions.
160f.10 General evaluation criteria.
160f.11 [Reserved]
160f.12 General grant awards.
160f.13 Small grant awards.
160f.14 Contract activities.
160f.15 Allowable costs.

AUTHORITY: Sec. 408, Pub. L. 93-380 (20 U.S.C. 1866)

§ 160f.1 Scope and purpose.

(a) *Scope.* The regulations in this part govern projects awarded with funds appropriated under the Women's Educational Equity Act of 1974, section 408 of Pub. L. 93-380, or with funds made available for expenditure under the Women's Educational Equity Act pursuant to the Special Projects Act, as enacted by section 402 of Pub. L. 93-380.

(20 U.S.C. 1866 and 1861.)

(b) *Purpose.* The purpose of the program carried out under this part is to provide, through grants and contracts, educational equity for women in the United States.

(20 U.S.C. 1866 (c) and (f).)

(c) *Other pertinent regulations.* (1) *Grant awards.* Grant awards under this part, including awards to individuals, are subject to applicable provisions contained in subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters, 45 CFR Parts 100, 100a et seq.).

(2) *Contract awards.* Contract awards under this part, including awards to individuals, are subject to applicable provisions contained in 41 CFR Chapters 1 and 3.

(20 U.S.C. 1866.)

(d) *Participation by men; nondiscrimination.* (1) Award recipients may not discriminate on the basis of sex in employment or in the admission of participants to training, validation, or other activities funded under this part.

(2) The selection of persons to participate in training, validation, and other activities funded under this part must be based upon criteria which measure the extent to which the persons:

(i) Will benefit from the activities; and

(ii) Can contribute to the project's purposes.

(20 U.S.C. 1866.)

(e) *Textbooks and curricular materials.* Nothing in this part shall be interpreted as requiring, prohibiting, or abridging the use of particular textbooks or curricular materials.

(20 U.S.C. 1866(d)(1)(A); 20 U.S.C. 1232a.)

§ 160f.2 Definitions.

As used on this part: (a) "Act" means the Women's Educational Equity Act of 1974, section 408 of Pub. L. 93-380.

(20 U.S.C. 1866.)

(b) "Capacity building" or "development of model programs and products" means that projects develop model programs and products to be used by organizations, agencies, and individuals other than the award recipient and thereby have a substantial national impact in furthering the purpose of providing educational equity for women.

(1) The primary goal of projects is not provision of services or benefits to particular organizations, agencies, or individuals, although these services or benefits may occur as an indirect effect.

(2) The use of the word "national" with the development of model programs and products (or capacity building) does not mean that all school systems, or

all adult women, or all institutions of higher education in the Nation must be able to use the programs or products developed. Section 160f.3(d) explicitly authorizes projects which focus on one or more diverse population groups. "National" is used primarily to make a distinction from purely local projects. Examples of target populations for projects which would contribute to national capacity are: administrators of urban school systems, employers and counselors who work with adults entering the job market in rural areas, directors of women's centers, teachers at the elementary level, rural educators in the Southeast, State directors of vocational education, and curriculum specialists for bilingual projects in the Southwest.

(3) While a number of education programs use the term "capacity building" to refer to the use of Federal funds as seed money to build the capacity of a recipient institution to change or reform itself and thereby respond to national priorities, those kinds of programs are often characterized by limitation to only one or two types of applicants, for example, only local educational agencies or institutions of higher education, or by limitation to one level of education, such as postsecondary education. On the other hand, the Women's Educational Equity Act (WEEA) Program authorizes activities at all levels of education and permits all public agencies, nonprofit organizations, and individuals to compete for funds. Further, there are few models presently available to the thousands of institutions and agencies which are undertaking certain changes either because of the effect of Title IX or because of other factors, such as the desire of certain institutions to meet the needs of new kinds of students. The WEEA program, therefore, is building capacity at the national level to respond to needs throughout the country. The program emphasizes those aspects of program operations which can produce evidence of effectiveness so that the results can be disseminated for use in many institutions and agencies.

(4) Examples and an indication of whether they meet the program requirement may be useful. An application from a school system for the purpose of training its own administrators, teachers, and counselors to be aware of and to change differential treatment of students on the basis of sex would not meet the requirement for capacity building or development of model programs and products. An application to develop and test a program for training administrators, teachers, and counselors to be aware of and to change differential treatment of students on the basis of sex with plans for field testing in school systems and a plan for dissemination through school associations is an example of capacity building. The objective of the first is the training of several hundred administrators, teachers, and counselors to benefit a specific school system. The objective of the second is to develop and test a model program so that it can be made available to others who need it. In the school systems where it is tested, the administrators, teachers, and counselors who participate in the validation would receive benefits as an indirect effect.

(5) A second example would be an application to establish a Women's Center to provide and coordinate activities affecting educational equity for women and to develop a more extensive program to meet the needs of adult students at a particular institution. Such an application does not meet the requirement for capacity building, since it is designed to serve a particular institution. Applications addressing aspects of the operations of women's centers which are being researched, developed, or analyzed for the use of many similar centers could meet the requirements of capacity building. One may use the test of how the need is expressed to determine whether the program's requirement would be met. For example, in the first, the institution needs a better women's center. The project would meet the institution's and its individual client's needs. In the second, there is a need to learn what structure, activities, or personnel in women's centers are most productive and cost-effective. The project meets the need to solve a problem affecting many institutions. Again, side benefits may occur within a project for the individuals involved.

(6) A third example is an application to provide funds for the special costs of an existing program to train and place 12 unemployed adult women. The measure of effectiveness would be the completed training and successful placement of the 12 persons. This would not be an effort to develop national capacity building.

(7) Scholarships and fellowships to serve the needs of an individual would not qualify, nor would the construction of facilities for athletics, for example, be permissible.

(20 U.S.C. 1866 (b), (d), and (e).)

(c) "Council" means the National Advisory Council on Women's Educational Programs established pursuant to subsection (f) of the Act.

(20 U.S.C. 1866 (c) and (f).)

(d) "Educational equity for women" means:

(1) The elimination of discrimination on the basis of sex and of those elements of sex role stereotyping and sex role socialization in educational institutions, programs, and curricula which prevent full and fair participation by women in educational programs and in American society generally; and

(2) The achievement of responsiveness of educational institutions, programs, curricula, policy makers, administrators, instructors, counselors, and other personnel to the special educational needs, interests, and concerns of women arising from inequitable educational policies and practices.

(3) Educational equity for women involves the elimination of stereotyping by sex, so that both men and women can choose freely among and benefit from opportunities in educational institutions and programs with limitations determined only by each individual's interests, aptitudes, and abilities. Educational equity for women does not imply the development of new stereotypes for men and women.

(e) "Elementary school" means a day or residential school which provides elementary education, as determined under State law, and "Elementary school level" means the educational level at which elementary education is provided, as determined under State law.

(f) "Local educational agency" or "LEA" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(g) "Man" or "men" may include, as appropriate, boys.

(h) "Nonprofit," as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earning of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(i) "Public agency" means a legally constituted organization of government under public administrative control and direction, including Indian tribes which exercise municipal functions, but does not include agencies of the United States.

(j) "Secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12, and "Secondary school level" means the educational level (not beyond grade 12) at which secondary education is provided as determined under State law.

(k) "Sex role socialization" refers to the differential processes and experiences used to prepare males and females for the roles that society defines as being appropriate for their sex.

(l) "Sex role stereotypes" involve assumptions that females or males, because they share a common gender, also share common abilities, interests, values, and/or roles.

(m) "Socialization" is the process by which children and adults are prepared to occupy various roles. It is achieved through the provision and accumulation of life experiences that transmit knowledge, attitudes, and skills to perform functions necessary for these roles. Socialization for young children is often deliberate and readily observable as children are being prepared to carry out a complex collection of economic, social, physical, political, and psychological

roles as adults. Much of adult socialization is subtle and unnoticed because it consists of continued reinforcement for already learned roles. In situations where the learning of new roles or skills is necessary, adult socialization may become extremely focused and explicit.

(n) "State educational agency" or "SEA" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(o) "Target population" means the persons for whose needs the project is designed, with whom the project is validated (tested) and among whom are found the future users of the model program or product.

(1) The target population may include both intermediate and ultimate beneficiaries or solely ultimate beneficiaries.

(2) For example, in a project designed to develop a retraining program for high school counselors in techniques and procedures for providing sex fair counseling for use by counselors across the country, the target population is high school counselors, the intermediate beneficiaries. The ultimate beneficiaries are high school students across the country. In the same type project designed for use by high school counselors of native American youth, the intermediate target population is still high school counselors but the ultimate target population is native American high school youth.

(3) Another example would be a program designed for adult women who desire to reenter the labor force or continue their education. The target population is adult women. Adult women are the population upon which the program is validated, and they are the ultimate beneficiaries. There may be no intermediate beneficiaries. If the project were designed for employers and counselors of adult women, the employers and counselors would be the intermediate beneficiaries and the adult women the ultimate beneficiaries.

(p) (see page 6a)

(q) "Woman" or "women" may include, as appropriate, girls.

(20 U.S.C. 1866.)

(p) "Validation" means testing or trying out materials and programs with persons similar to the users for whom they are designed. It is a process that takes place while a program or product is being developed. It has two purposes: to identify problems which should be corrected in subsequent versions and to assess effectiveness. The terms field-testing or pilot-testing are also sometimes used.

(1) Since the WEEA Program is supporting projects that are developing model programs and products to be widely used by others with similar needs, populations, level of education, and the like, the question to be answered by validation is: "How sure (certain) are we that programs and products are truly doing what we said they would do (validity) and that they do what we say they do consistently (reliability)?"

(2) This is not easy to answer, and validation is a strenuous, exacting procedure or set of procedures planned from the inception of the project and involving such things as sample populations, pre-post tests, statistical analysis, control groups.

(3) The results of sound validation usually indicate under what circumstances and with whom the programs or products can be used and with what degree of certainty and consistency the same original results will be obtained.

§ 160f.3 Nature of projects to provide educational equity for women.

(a) *General.* (1) Educational equity for women, as used in this part, means:

(i) The elimination of discrimination on the basis of sex and of those elements of sex role stereotyping and sex role socialization in educational institutions, programs, and curricula which prevent full and fair participation by women in educational programs and in American society generally; and

(ii) The achievement of responsiveness of educational institutions, programs, curricula, policy makers, administrators, instructors, counselors, and other personnel to the special educational needs, interests, and concerns of women arising from inequitable educational policies and practices.

(2) Educational equity for women, as used in this part, involves the elimination of stereotyping by sex, so that both men and women can choose freely among and benefit from opportunities in educational institutions and programs with limitations determined only by each individual's interests, aptitudes, and abilities. Educational equity for women does not imply the development of new stereotypes for men and women.

(b) *Capacity building: development of model programs and products.* (1) (i) Projects supported under this part must contribute to capacity building in the area of educational equity for women, as defined in § 160f.2.

(ii) The primary goal of projects is not provision of services or benefits to particular organizations, agencies, or individuals, although these services or benefits may occur as an indirect effect.

(2) Projects supported under this part may not develop products which are so expensive to use or adopt that extensive dissemination will be inhibited.

(20 U.S.C. 1866 (b), (d), and (e).)

(c) *Approaches to educational equity for women.* Each project funded under this part must be designed to develop model programs, materials, or other products in order to promote educational equity for women in one or more of the following ways:

(1) *Focus on systemic change.* The elimination of those elements of sex role stereotyping and sex role socialization in educational institutions and agencies which separately and together limit over time the aspirations, experiences, and options of women and men for full participation in American society;

(2) *Focus on institutional change.* Assistance in the process of eliminating discriminatory policies and practices in educational agencies, organizations, and programs which may be contrary to Federal statutes, executive orders, or regulations; or

(3) *Focus on supplementary activities for individuals.* The provision of special educational activities and support services designed to overcome limitations on the opportunities of women resulting from past or continuing discrimination, sex role stereotyping, or sex role socialization.

(20 U.S.C. 1866; Committee on Education and Labor, Hearing on H.R. 208, July 25, 1973, pp. 4–6; S. Rept. No. 763, 93rd Cong. 2d Sess. 78–79 (1974))

(d) *Diverse approaches to educational equity for women among various population groups.* (1) In recognition of the diverse approaches to the provision of educational equity for women among different groups, projects funded under this part may focus on approaches to educational equity for women relating to one or more population groups based on race, ethnic origin, age, socioeconomic status, or residence (e.g., rural, urban, Southwestern, Appalachian).

(2) If the proposed project does focus on an approach relating to one or more population group(s) above, the project application must:

(i) Identify the population group(s);

(ii) Show understanding and awareness of the goals, values, and priorities of the population group(s); and

(iii) Explain the applicability or limitations of the use of the programs or products with other population groups. The relevance of the project's materials, strategy, and goals to the cultural and other values of the population group(s) must be clearly demonstrated. Extensive research or data is not required in the project application.

(3) Projects under this paragraph are subject to the nondiscrimination provisions of § 160f.1(d).

(20 U.S.C. 1866.)

§ 160f.4 Types of projects.

(a) The Act authorizes the Commissioner to award grants and contracts for activities at all levels of education designed to carry out the purpose of providing educational equity for women, including the following activities related to educational equity:

(1) The development, evaluatioñ, and disseminatoin of currcula, textbooks, and other educational materials;

(2) Preservice and inservice training for educational personnel, including guidance and counseling personnel;

(3) Research, development, and other educational activities;

(4) Guidance and counseling activities, including the development of tests which are nondiscriminatory on the basis of sex;

(5) Educational activities to increase opportunities for adult women, including continuing educational activities for

underemployed and unemployed women; and

(6) The expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration.

(20 U.S.C. 1866(d)(1).)

(b) In implementing the activities authorized by the Act and described in paragraph (a) of this section, the Commissioner will:

(1) Make awards for general grants, as described in § 160f.12.

(20 U.S.C. 1866(d).)

(2) Make small grants, not to exceed $15,000 each, to support innovative approaches to the provision of educational equity for women, as described in § 160f.13; and

(20 U.S.C. 1866(e).)

(3) Solicit proposals for and make awards of procurement contracts in the program areas described in § 160f.14.

(20 U.S.C. 1866(d).)

§ 160f.5 Duration of projects.

(a) While grant applications may be filed proposing multi-year projects, it is expected that a substantial proportion of projects funded by the Commissioner in any fiscal year will have a project duration of only one year.

(b) Applications proposing multi-year projects must be accompanied by an explanation of the need for multi-year support, an overview of the objectives and activities proposed, and budget estimates to attain these objectives in any proposed subsequent year.

(c) If the application demonstrates to the Commissioner's satisfaction that multi-year support is needed to carry out the proposed project, the Commissioner may, in the initial notification of grant award for the project, indicate an intention to assist the project on an appropriate multi-year basis through continuation grants.

(d) Continuation awards may be made to projects described in paragraph (c) of this section, subject to the availability of funds and to the following provisions:

(1) Continuation applications will not be competitive with applications for new grant awards, but will be competitive with other applications for continuation awards;

(2) The program narrative of a continuation application must contain a detailed plan of operation (consistent with the general scope of work approved at the time of the original grant award), a management plan, and a detailed budget for the following fiscal year. Any changes in staff members, or their duties, in the validation procedures, the evaluation design, or approaches to dissemination must be explained. Requests for modifications in project objectives or the final results, programs, or products must be justified and the basis explained in detail; and

(3) Applications for continuation awards will be reviewed to determine:

(i) If the grantee has complied with the grant terms and conditions, the Act, and any applicable regulation;

(ii) The project's effectiveness to date, or the constructive changes proposed as a result of the ongoing evaluation;

(iii) The extent to which the project is meeting applicable priorities; and

(iv) The extent to which continuation of Federal assistance to the project is in the best interests of educational equity for women.

(20 U.S.C. 1221e-3(a)(1), 1866)

§ 160f.6 Eligible applicants.

The Commissioner may make grants to, or enter into contracts with, public agencies, private nonprofit organizations, or individuals to carry out projects under this part.

(20 U.S.C. 1866(d)(1) and (e))

§ 160f.7 Preapplications.

(a) *General.* (1) The Commissioner may invite prospective applicants for grants under this part in any given fiscal year to submit preapplications in accordance with § 100a.41 of this chapter by publishing a closing date for preapplications in the FEDERAL REGISTER. Either general or small grants, or both, may be included.

(2) (i) The preapplication process is used to avoid the investment of substantial time and effort by applicants in the preparation of applications for projects which might not be responsive to program policy and criteria and therefore have little chance of being funded. This process permits a preliminary review of shortened, simplified preapplications, with advice to applicants as to whether proposed projects are likely to have a chance for funding.

(ii) The preapplication process also may conserve limited resources of the Government by reducing the staff time and consultant funds required to process and review a large number of full applications. When the preapplication process is used, the Government can forecast the approximate number of applications which will be submitted and plan accordingly.

(3) When preapplications are invited, applicants are encouraged to use the process. Preapplications will be reviewed and those identified as having potential to compete will be invited to submit full applications. Applicants that are not invited may also submit full applications at their option. Also, any applicant may submit a full application by the published closing date for full applications without having previously submitted a preapplication. No application would be treated preferentially, and all would be reviewed against the published evaluation criteria.

(b) *State review of local educational agency (LEA) preapplications.* (1) A copy of a preapplication from a local educational agency must be submitted to the State educational agency of the State in which the local educational agency is located, concurrently with the submission of the preapplication to the Commissioner, to provide the State educational agency an opportunity to review and comment on that preapplication. A copy of the transmittal letter to the State agency must be attached to the preapplication.

(2) The Commissioner may establish a cut-off date for submission of comments by State educational agencies on a local educational agency's preapplication. If the Commissioner establishes a cut-off date for submission of comments, failure by a State educational agency to submit comments to the Commissioner within the period specified by the Commissioner for a preapplication shall be deemed a waiver of the State educational agency's opportunity to comment on that preapplication.

(c) *Preapplication requirements.* (1) Prepplications under this part must include a program narrative statement as required by the preapplication forms provided for in § 100a.41 of this chapter. The narrative statement may not exceed three (3) to five (5) pages of readable size print plus attached short and relevant vitae. Lengthy appendices and exhibits will not be reviewed by the Commissioner.

(2) The preapplication must include the following information in the program narrative to permit its review according to the evaluation criteria in paragraph (d). If applicants omit some of the required information, the preapplications will be reviewed and points will be deducted where appropriate. The program narrative of a preapplication must:

(i) *Applicant qualifications.* (A) Include either names and duties of projected staff members or brief job descriptions and required qualifications for the director and other key personnel, as well as methods to be used in recruitment and hiring. Vitae may be attached to the program narrative; and

(B) Include a statement of applicant qualifications in the substantive area of the proposed project and its experience in and commitment to the area of women's educational equity;

(ii) *Need and impact.* (A) Provide a brief description of the project and its approach, the needs addressed, and specific results, programs, or products to be developed by the proposed project;

(B) Indicate the target population which will utilize the results of the project and the possible means for encouraging their use; and

(C) State briefly how the proposed project will contribute to the national capacity to respond to needs in educational equity for women through the development of model programs and/or products which are designed and tested to be disseminated nationwide;

(iii) *Plan.* (A) State the specific objectives of the proposed projects;

(B) Provide a brief statement on how the project will be managed; and

(C) If the applicant proposes a project with a duration in excess of one year, include in the program narrative

an explanation of the need for multi-year support, and budget forms must be completed for the first budget period of one year and for the balance of the proposed project.

(3) In the program narrative, applicants may explain any large items which have an impact on the total budget figure.

(d) *Preapplication evaluation criteria.* Preapplications for grants which meet the requirements in paragraph (c)(1) of this section will be evaluated on the basis of the following criteria and weighted according to the indicated points (maximum of 100 points):

(1) *Applicant qualifications.* (i) The extent to which the education and experience of the proposed project director and staff, or, where staff are not named, the job descriptions and required qualifications as well as methods for recruitment and hiring, are related to the programmatic focus of the proposed project (10 points);

(ii) The extent to which the information about the proposed project director and staff evidence knowledge and experience in the area of women's educational equity (10 points);

(iii) The extent to which the applicant has demonstrated experience in the programmatic focus of the proposed project (10 points); and

(iv) The extent to which the applicant has demonstrated experience in and commitment to women's educational equity as evidence in the preapplication (10 points);

(2) *Need and impact.* (i) The degree to which the project addresses a critical need in the area of educational equity for women (10 points);

(ii) The degree to which the project describes a promising approach to provide educational equity for women (10 points);

(iii) The potential quality of the results, programs, or products to be developed and the viability of the method for use by others (10 points); and

(iv) The degree to which the proposed project will contribute to the national capacity to respond to the needs in the area of women's educational equity through the development of model programs or products (10 points);

(3) *Plan of operation.* (i) The extent to which proposed project objectives are clearly stated and capable of being attained and evaluated (5 points); and

(ii) The extent to which the preapplicant's statement on project management indicates potential for quality control (5 points);

(4) *Budget.* The reasonableness of the proposed total budget figure in relation to the accomplishment of the objectives and the relative importance of the needs addressed (10 points).

(20 U.S.C. 1221e-3(a)(1), 1232c(b)(3), 1866 (d)(2) and (e).)

§ 160f.8 Application, proposal, and project requirements.

(a) *Introduction.* A grant or a contract under this part will be awarded only upon a grant application (in accordance with § 100a.40 of this chapter) or a contract proposal submitted to the Commissioner.

(b) *General.* (1) Unsolicited applications or proposals will not be accepted under this part. Grant applications will be accepted for review only if they are filed in response to a notice of closing date published in the FEDERAL REGISTER in accordance with 45 CFR 100a.15 concerning application submissions to the Commissioner.

(2) Lengthy appendices or exhibits attached to applications or proposals will not be reviewed.

(c) *Application requirements.* The requirements set forth in this paragraph cover the information needed by the Commissioner to evaluate an application in accordance with the criteria in § 160f.10. The requirements correspond to the evaluation criteria, and applicants are encouraged, in preparing their applications, to follow this order to facilitate review of the application. An application for a grant under this part must:

(1) *Nature and purpose.* Provide information sufficient to satisfy the Commissioner that the proposed project holds promise of making a substantial contribution toward attaining educational equity for women and will comply with the provisions of § 160f.3;

(2) *Applicant qualifications.* Contain sufficient information about the applicant to enable the Commissioner to determine both its qualifications for receiving an award and its commitment to the provision of educational equity for women, including information about:

(i) The applicant's staffing pattern and experience in the area of educational equity for women, as well as in the programmatic focus of the proposed project;

(ii) The proposed project director and staff, including their education, training, awards, publications, and experience in the areas of educational equity for women and in the programmatic focus of the proposed project, and existing or planned commitments to other projects;

(iii) The extent to which the staff will be representative of the target population and, where applicable, the special population group(s);

(iv) Job descriptions and required qualifications as well as methods of recruitment and hiring, where staff members are not yet named;

(v) Commitment through in kind or direct financial contributions or procedures to use results of projects in ongoing activities of the applicant; and

(vi) Available facilities and other resources for the project;

(3) *Need and impact.* (i) Identify the need to be addressed by the proposed project and supply relevant documentation of the need;

(ii) Specify the nature of the program, product, or final results of the proposed project and the specific target population, as defined in § 160f.2.

(iii) Specify the population group(s), if any, to which the project is related (as described in § 160f.3(d)), demonstrate understanding of the goals, values, and priorities of the group(s), and explain the applicability or limitations on the use of the project's results with other population group(s);

(iv) Document how the project will contribute to the development of model programs and products (capacity building) in the area of educational equity for women, including a description of likely users of the results, programs, and products of the projects, and rough projections of the cost to others of implementing or using the products; and

(v) Describe the procedures and plans for validation by the applicant and possible approaches and strategies for dissemination and utilization of the programs or products developed by the project. The description of validation procedures must set forth criteria consistent with § 160f.1(d) for the selection of participants in validation under the project, the types and numbers of persons expected to be involved, the location(s), time schedules, and specific expectations for the various activities in the validation procedures;

(4) *Plan of operation.* (i) State project objectives with specific outcomes for the project;

(ii) Provide a project evaluation design to measure the extent to which the objectives are accomplished by the project and which indicates the approach, the status of planning, methodology, extent of experience in the development and use of such designs and need for procuring outside expertise;

(iii) Provide a statement on management which describes the project's decision-making process and its rationale and include a management plan, which references objectives, operational activities, schedules, resources, products, and evaluation;

(iv) Describe a plan for cooperative development of the project with representative groups in the field of the project and in educational equity for women, such as practitioners (both at the policy and implementation levels), theoreticians, potential participants in the validation, and the community; and

(v) Include a detailed budget.

(5) *Relationship to other activities.* Reference is made in § 160f.3(d) to the diverse approaches to the achievement of women's educational equity among various racial, ethnic, socioeconomic, age, and residence groups. If the applicant is carrying out other activites concerned with issues of discrimination, counseling, stereotyping, socialization, or the cultural values and heritage of social, ethnic, regional, or socioeconomic groups, the application must explain the specific relationship of the proposed project to these other activities.

(20 U.S.C. 1866(d)(2).)

(d) *Small grants.* Applications for small grants under § 160f.13 are subject to the applicable requirements in this section, with appropriate consideration to the scope and amount of the proposed award.

(e) *State review of local educational agency (LEA) aplications.* (1) The Commissioner will not approve an application submitted by a local educational agency for a grant under this part unless the

State educational agency of the State in which that local educational agency is located has been given an opportunity to review and comment on the application.

(2) A local educational agency must provide a copy of its application to the appropriate State educational agency concurrently with its submission to the Commissioner of the application, which must contain a copy of the transmittal letter to the State agency.

(3) The Commissioner may establish a cut-off date for submission of comments by State educational agencies on local educational agency applications. If the Commissioner establishes a cut-off date for submission of comments, failure by a State educational agency to submit comments to the Commissioner within the period specified by the Commissioner for an application shall be deemed a waiver of the State educational agency's opportunity to comment on that application.

(20 U.S.C. 1866(e).)

(f) *Dissemination of effective materials and programs.* Project awards under this part will be subject to the condition that materials and programs developed and validated under the project shall not be disseminated without review for effectiveness by the Commissioner. Therefore, each application for an award under this part must contain provisions for review of materials and programs, prior to dissemination in accordance with the requirement of this paragraph.

(g) *Evaluation.* Project awards under this part will be subject to the condition that the award recipient collect and make available information required by the Commissioner or by the Council, in accordance with the time constraints the Commissioner or Council may designate for purposes of carrying out program evaluation, including that provided for under subsection (f) of the Act.

(h) *Nondiscrimination.* Project awards under this part will be subject to the condition that the grantee or contractor reflect the nondiscrimination provisions set forth in subparagraphs (1) and (2) of § 160f.1(d) in any public announcements about the project relating to employment and participation by persons in the project activities.

(20 U.S.C. 1866.)

§ 160f.9 Award decisions.

Decisions on whether or not to make awards under this part will be made by the Commissioner based upon:

(a) With respect to contracts;

(1) The specific evaluation criteria included in each Request for Proposal (RFP) solicitation; and

(2) The procedures for selection required by the regulations for Procurement Contracts, 41 CFR Chapters 1 and 3 and by Departmental or agency policy.

(b) With respect to grants:

(1) Applicable criteria set forth in § 160f.10;

(2) The need to support projects which collectively address all levels of education; and

(3) The need to support:

(i) A variety of projects which collectively represent to the extent possible the diversity of needs and concerns in educational equity for women;

(ii) A variety of strategies for addressing needs;

(iii) A variety of delivery systems, such as community organizations, public agencies, and private nonprofit organizations, as well as traditional educational institutions; and

(iv) Demographic diversity.

(20 U.S.C. 1866 (b), (d), (e), (f) (3).)

§ 160f.10 General evaluation criteria for grants.

(a) *General criteria.* Applications for grants which meet the requirements in § 160f.8 will be evaluated on the basis of the following criteria, weighted according to the indicated points (maximum of 220 points):

(1) *Applicant qualifications.* (65 points)

(i) The extent and quality of the applicant's relevant experience in the area of educational equity for women as evidenced in the application (10 points);

(ii) The extent and quality of the applicant's relevant experience in the programmatic focus of the project (10 points);

(iii) The extent to which the staffing pattern of the project and of the applicant agency or organization as summarized in the application reflects evidence of commitment to equity for women, including women from minority groups (15 points);

(iv) The extent to which the qualifications of the project director and staff include demonstrated relevant experience of high quality in the area of educational equity for women (10 points);

(v) The extent to which the qualifications of the project director and staff include demonstrated relevant experience of high quality in the programmatic focus of the project as evidenced in the application (10 points); and

(vi) The extent to which the applicant has the capability to conduct the proposed project, including necessary facilities and resources as evidenced in the application (10 points);

(2) *Need and impact.* (65 points)

(i) The degree to which the proposed project is likely to make a substantial qualitative contribution toward attaining the provision of educational equity for women, and to this end:

(A) Clearly identifies a critical need to be addressed (10 points); and

(B) Specifies the substantive nature of the program, product, or final results which have potential for use as a model throughout the Nation or throughout population groups based on race, ethnic origin, age, socioeconomic status, or residence (10 points);

(ii) The degree to which the applicant, where applicable, shows understanding of the goals, values, and priorities of special population group(s), as described in § 160f.3(d), *and* the degree to which the application demonstrates an appropriate understanding of the applicability or limitations of the use of the results or products of the project with other populations (15 points);

(iii) The extent to which the intended results of the proposed project can be used by others and thus the extent to which the application specifies:

(A) Well-designed validation procedures (10 points); and

(B) Approaches for dissemination and utilization of the intended results (10 points); and

(iv) The extent to which the applicant demonstrates commitment through in kind or direct financial contributions or through procedures to use all or parts of the program or products developed under the grant in the continuing activities of the applicant (10 points);

(3) *Plan of operation* (70 points). (i) The extent to which the application sharply defines and clearly states objectives for the proposed project which are capable of being achieved by the proposed procedures and capable of being assessed upon attainment (15 points);

(ii) The extent to which the application ensures adequate evaluation of the activities through the description of a project evaluation design which would measure the extent to which the objectives have been accomplished by the project and would describe an eventual evaluation report containing sufficient data, information, and direction to permit and encourage replication (15 points);

(iii) The quality of the statement on management that describes the project's decision-making process and its rationale and the quality of the management plan which references objectives, operational activities, schedules (including the amount of time to be spent on the project by the proposed staff members), resources, products, and the project evaluation design (15 points);

(iv) The extent to which the program to be developed under the project will be developed in cooperation with representative groups in the field of the project and of educational equity for women, such as practitioners (both at the policy and implementation levels), theoreticians, potential participants in the validation, and the community (15 points); and

(v) The extent to which the application presents a budget that is reasonable in relation to anticipated results and reflects the management design (10 points).

(4) *Geographical distribution of awards.* (20 points) The extent to which approval of an application will contribute to an appropriate geographical distribution of project awards throughout the Nation. The Commissioner will apply this criterion to individual applications after taking into account relevant recommendations of the Council.

(b) *General provisions criteria.* Evaluation criteria set forth in § 100a.26(b) of this chapter will not apply to applications or proposals submitted under this part.

(c) *Small grants.* Applications for small grants will be evaluated in accord-

ance with the criteria specified in paragraph (a) of this section with appropriate consideration given to the scope and amount of the proposed award.

(20 U.S.C. 1866 (d) and (e).)

§ 160f.11 [Reserved]

§ 160f.12 General grant awards.

(a) *General.* In awarding new grants under this part (except with respect to small grants described in § 160f.13), the Commissioner may establish priorities by publishing them in an Appendix to this regulation. Whether or not there are priorities, applicants may propose projects in any area authorized by the Act. Applicants may find guidance by examining the six activities which are listed in the Act and quoted in § 160f.4(a).

(b) *Number and size of general grant awards.* (1) Contingent upon the availability of funds, it is expected that 30 to 50 new general grants will be awarded per fiscal year.

(2) It is anticipated that the size of general grant awards will range from about $35,000 to $175,000, depending on the scope of the proposed project. Nothing in this paragraph shall be construed as a limitation on the amount of funds which may be available to a particular grantee.

(20 U.S.C. 1866(d).)

§ 160f.13 Small grant awards.

(a) Grants under this section will support the development and implementation of innovative approaches to the attainment of equity in education for women. The innovative approaches need not be original but may include practices that:

(1) Are similar to present practices but are not widely known or used;

(2) Expand on present practices; or

(3) Are new to a specific target population.

(b) Applications for grants under this section may focus on any of the six programmatic areas outlined in § 160f.4(a) or other areas of need in the provision of educational equity for women.

(c) Projects supported under this section must be designed to contribute to the development of model programs and products (capacity building) in the area of educational equity for women as provided in § 160f.3(b), with appropriate consideration to the scope and amount of the grant award. The Commissioner may also use the small grant program for further testing of programs and products developed and validated by previous projects supported under this part when they become available.

(d) Contingent upon the availability of funds, it is expected that 20 to 30 grants will be made under this section per fiscal year for amounts not to exceed $15,000.

(20 U.S.C. 1866(e).)

§ 160f.14 Contract activities.

(a) *General.* Contingent upon the availability of funds, contracts will be awarded on the basis of separate solicitations setting forth appropriate specifications in the areas described in paragraph (b) of this section.

(b) *Funding areas.* It is expected that contracts will be awarded in the following areas:

(1) Technical assistance for Title IX of the Education Amendments of 1972 (Pub. L. 92-318);

(2) Operation of a communications network in the field of educational equity for women;

(3) Dissemination of tested programs and products developed under the Act to organizations and agencies which wish to use or adapt them; and

(4) Those other areas of women's educational equity where the Commissioner determines that specific procurements would further the purpose of the Act.

(20 U.S.C. 1866(d)(1).)

§ 160f.15 Allowable costs.

(a) *General.* (1) Allowable costs under projects to which funds are awarded pursuant to this part shall be determined in accordance with cost principles set forth in:

(i) Appendix B of subchapter A of this chapter with respect to grants to public agencies;

(ii) Appendix C of subchapter A of this chapter with respect to grants to nonprofit educational institutions;

(iii) Appendix D of subchapter A of this chapter with respect to grants to other nonprofit institutions and individuals; and

(iv) 41 CFR Part 1-15 with respect to contracts.

(2) The costs of nonexpendable personal property with an acquisition cost of $1,000 or more per unit, depreciation or use allowances, automatic data processing, memberships, subscriptions, and professional activities will be allowable if they have been specifically authorized by the Commissioner in the notification of grant award.

(3) Facilities, capital assets, and repairs which materially increase the value or useful life of capital assets generally shall be unallowable under this part, and will be allowed only where specially justified by the applicant and specifically authorized by the Commissioner.

(4) Funds supplied under grants awarded under this paragraph usually will not be available to pay the general costs of overall education, training, or career employment preparation programs. Rather, funds will be available for payment of the incremental costs such as the costs necessary for effective planning, development, evaluation, testing, validation, and in some cases, dissemination, directly related to educational equity for women.

(b) *Long-term training projects.* (1) Grants for training projects designed to provide individual participants with full-time post-baccalaureate training with a duration of at least one academic year may include provision for the payment to:

(i) Grantees of tuition and fees; and

(ii) Participants of stipends, dependency allowances, and other costs, including child care, as the Commissioner may determine to be consistent with prevailing practices under comparable Federal programs.

(2) Provision for payments described in subparagraph (1) of this paragraph will be included in grant award documents at the discretion of the Commissioner, and only when the applicant requests these payments and provides sufficient information and justification in the application to satisfy the Commissioner that the payments would contribute substantially to the realization of the project objective to develop, test, and prepare for dissemination a successful model training program.

(3) If provisions for the payment of tuition and fees are included in a grant pursuant to this paragraph, the grantee may not charge participants in the training program for tuition and fees.

(c) *Payments for participation in validation of materials and programs.* (1) Projects may include in the grant or contract a provision for payments to non-educational participants (including parents, students, and others) and to educational personnel participants (including administrators, counselors, teachers, and others), whose participation is necessary for the validation of the programs or products developed by the project and who are not otherwise compensated for their time while participating.

(2) (i) Payments to non-educational participants may be made at rates not lower than the current Federal minimum wage rate nor higher than the rate set forth for educational personnel in subdivision (ii) of this subparagraph.

(ii) Except as provided under subdivision (iii) of this subparagraph, payments to educational personnel under this paragraph would be at the rate of $30 for each full day of participation up to $150 a week. For partial days involving less than 5 hours of attendance, the payments for this attendance would be at the rate of $6 per hour, subject to the weekly limit of $150.

(iii) Where participating educational personnel are ordinarily paid for their work at a salary scale determined by a collective bargaining agreement in which the minimum hourly rate for any individual is more than $6 per hour, the individual would be compensated at the minimum hourly rate provided for under the collective bargaining agreement.

(3) Where a local educational agency or other educational agency or institution compensates teachers or other educational personnel whom it employs for their time in receiving training or participating in other activities under this paragraph and must also hire a substitute for the participant during the time of that participation, reimbursement may be made under the grant or contract which includes the component to the local educational agency or other educational agency or institution for the costs of hiring the substitute.

(4) No travel or dependency allowances will be paid for participation in any component under this paragraph.

(5) Participants in any short-term training may receive payments at the same rates as set forth in subparagraph (2) of this paragraph.

(6) Provision for payments described in this paragraph will be included in grant award documents or contracts at the discretion of the Commissioner, and only when the applicant requests these payments and justifies that the payments to the specific classes or groups of recipients to participate in the validation or training are necessary to carry out the program objective.

(d) *Indirect costs.* (1) Except as provided in subparagraphs (2) and (3) of this paragraph, indirect costs will be allowed under projects funded under this part in accordance with the applicable indirect cost rate allowances set out in Appendices B through D of subchapter A of this chapter.

(2) Indirect costs for training grants will be allowed at the lesser of:

(i) The level of indirect costs determined under subparagraph (1) of this paragraph; or

(ii) In grants where the Commissioner approves payments for stipends and dependency allowances under paragraph (b) (1) (ii) of this section, eight percent of the total direct costs, including stipends and dependency allowances.

(3) Indirect costs shall not be allowed under grants to individuals under this part.

(20 U.S.C. 1231c(b), 1232c(b)(2).)

[FR Doc.77-18449 Filed 6-27-77;8:45 am]

federal register

TUESDAY, JUNE 28, 1977

PART V



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

■

COMMUNITY DEVELOPMENT BLOCK GRANTS

Grant Administration, and Other Program Requirements

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-292]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Grant Administration, and Other Program Requirements

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This final rule amends Department regulations to add new material regarding the closeout of discretionary grants and the Lead-Based Paint Poisoning Prevention Act, delete material specifically designed for Fiscal Year 1975, correct certain technical errors, and provide greater detail and clarity in accordance with our experience with the program.

EFFECTIVE DATE: June 28, 1977.

FOR FURTHER INFORMATION CONTACT:

David J. Pollack, Financial Analyst, Office of Community Development Programs, HUD/Community Planning and Development, Room 7178, 451 7th Street, SW., Washington, D.C. 20410. 202-755-6330.

SUPPLEMENTARY INFORMATION: On November 30, 1976, the Department of Housing and Urban Development published a proposed rule (41 FR 52626) to amend Subparts F and G of 24 CFR Part 570. Interested persons were given until December 30, 1976, to submit written comments. All comments with respect to the proposed rulemaking were given due consideration. As a result of the comments received, the following changes were made:

1. In response to several comments, the language in § 570.503(b) has been revised to make it more precise and to indicate that to the maximum extent practicable program income shall be disbursed for approved community development activities prior to making additional draws from the letter of credit.

2. Included in the proposed rulemaking was § 570.503(c) concerning the timing and amount of cash disbursements for rehabilitation loan and grant activities. Because additional time is needed to evaluate all of the factors involved, a final rule on this subject is not being adopted at this time.

3. The language of § 570.506(c) has been modified to indicate that receipts derived from the operation of a public work or facility constructed with block grant funds do not constitute program income, regardless of the use to which such receipts will be put. This section has been further modified to provide that proceeds received from special assessments levied to recover the cost of constructing a public work or facility, do constitute program income to the extent such cost was initially paid with block grant funds. Additionally, the reference to the provisions of §§ 570.305 and 570.402(f) has been deleted as unnecessary.

4. A new paragraph (j) has been added to § 570.512 to cover the situation in which both the recipient and HUD agree to terminate all or part of a discretionary grant because continuation of the program is unfeasible or would not produce beneficial results.

5. Several comments requested a clarification of whether § 570.606, regarding compliance with design standards for making buildings accessible and usable for the physically handicapped, applies to private buildings and facilities as well as public buildings and facilities. Accordingly, § 570.606 has been modified to indicate that the design standards apply to every building and facility (other than privately owned residential structures) designed, constructed, or altered with funds made available under this part, subject to the exceptions contained in 41 CFR Subpart 101-19.604.

The Secretary has determined that good cause exists for making this rule effective on June 28, 1977, since the new material contained in the rule regarding discretionary grant closeouts is urgently needed in order to close out projects in which all activities have been completed.

In connection with the environmental review of these amendments to the regulations, a Finding of Inapplicability has been made under HUD Handbook 1390.1, 38 FR 19182. A copy of the Finding is available for inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

NOTE.—It is hereby certified that the economic and inflationary impacts of these amendments have been carefully evaluated in accordance with OMB Circular A-107, Executive Order 11821.

Accordingly, 24 CFR Part 570 is amended as follows:

1. Section 570.503 is revised to read as follows:

§ 570.503 Cash withdrawals.

(a) The timing and amount of cash withdrawals from the U.S. Treasury by the recipient for activities which are free from all conditions specified pursuant to §§ 570.306(e) or 570.402(d)(5)(iii) shall be in accordance with U.S. Department of the Treasury regulations on withdrawal of cash from the Treasury for advances under Federal programs (31 CFR Part 205), as incorporated in HUD Handbook 1900.23 REV, Letter of Credit Procedures-Treasury Regional Disbursing Office System.

(b) To the maximum extent practicable, program income shall be disbursed prior to making additional draws from the letter of credit to finance approved community development activities (including local option activities) as follows:

(1) Program income in the form of repayments to a revolving fund, established to carry out an approved activity, shall be substantially disbursed from such fund before additional draws are made from the letter of credit for the same activity.

(2) All other program income shall be substantially disbursed for any approved activity before additional draws are made from the letter of credit.

2. Section 570.504 is revised to read as follows:

§ 570.504 Restrictions on Fund Commitment and Expenditure.

When the letter of credit method of payment is used, a recipient's letter of credit will normally be issued (or amended if previously issued) in the full amount of all grant funds approved in the grant agreement, except for amounts deducted pursuant to § 570.802, amounts reserved and withheld pursuant to § 570.702, and amounts voluntarily budgeted by the recipient for repayment of urban renewal loans. However, the obligation or utilization of funds shall be subject to any restriction imposed as a result of conditional approvals pursuant to § 570.306(e) for entitlement grants or § 570.402(d)(5)(iii) for discretionary grants.

3. Section 570.506 is amended by revising paragraph (c) and by adding a new paragraph (e) as follows:

§ 570.506 Program income.

* * * * *

(c) All other program income earned during any period under which the recipient is assisted under this Part shall be retained by the recipient and used, in accordance with the provisions for cash withdrawals under § 570.503(b), for activities with respect to which the unconditional obligation and utilization of funds made available under this Part have been approved. Included in the category of other program income are proceeds from the disposition of real property, payments of principal and interest on rehabilitation loans, interest earned on revolving funds, and proceeds from special assessments levied to recover the cost of constructing a public work or facility to the extent such cost was initially paid with funds provided under this part. Receipts derived from the operation of a public work or facility, the construction of which was assisted under this part (e.g., admission fees paid by persons using recreational facilities constructed with grant funds; service fees paid by households using a water facility constructed with grant funds), do not constitute program income.

* * * * *

(e) The disposition of program income received subsequent to the closeout of a grant shall be governed by the provisions of § 570.512(c).

4. Section 570.509 is amended by revising paragraph (b) to read as follows:

§ 570.509 Audit.

* * * * *

(b) The recipient financial management systems shall provide for audits to be made by the recipient or at his direc-

tion, in accordance with audit guidelines prescribed by HUD. The recipient will schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years. In accordance with § 570.512(g), HUD may determine that a final audit of the recipient's discretionary grant program is not required. Audit reports shall be used in conjunction with the performance review procedures of § 570.909. Payment for the audit may be made from community development block grant funds but the responsibility for such payment rests with the recipient.

5. Section 570.510 is amended by adding a new paragraph (d) as follows:

§ 570.510 Retention of records.

* * * * *

(d) Records pertaining to each real property acquisition shall be retained for three years after settlement of the acquisition, or until disposition of the applicable relocation records in accordance with paragraph (c) of this section, whichever is later.

6. Section 570.512 is revised to read as follows:

§ 570.512 Discretionary grant closeouts.

(a) *Applicability.* The policies and procedures contained herein apply to the closeout of discretionary grants made pursuant to Subpart E of this part, including general purpose funds for metropolitan and nonmetropolitan areas, urgent needs funds and Secretary's discretionary funds.

(b) *Initiation of closeout.* HUD will advise the recipient to initiate closeout procedures when HUD determines, in consultation with the recipient, that there are no impediments to closeout and that the following criteria have been met or will be shortly:

(1) All costs to be paid with discretionary grant funds have been incurred, with the exception of (i) closeout costs such as payment for the final audit; and (ii) any unsettled third-party claims against the recipient. Costs are incurred when goods and services are received and contract work is performed. With respect to activities (such as rehabilitation of privately owned properties) which are carried out by means of revolving loan accounts, loan guarantee accounts, or similar mechanisms, costs shall be considered as incurred at the time funds for such activities are drawn from the recipient's letter of credit and initially used for the purposes described in the approved Community Development Program.

(2) With the exception of new communities and innovative project grants, the recipient has submitted a grantee performance report. If a performance report was previously submitted with a subsequent discretionary grant application, as required by § 570.400(h), it shall be updated and resubmitted upon completion of the activities carried out with the discretionary grant.

(3) Other responsibilities of the recipient under the grant agreement, applicable law and regulations appear to have been carried out satisfactorily, or there is no further Federal interest in keeping the grant agreement open for the purpose of securing performance, such as a good faith effort by the recipient to achieve its housing assistance plan goals for the grant period. A final review of the recipient's compliance with the grant agreement, applicable law and regulations will be made during the final audit or HUD review in lieu of final audit pursuant to § 570.512(g).

(c) *Program income.* Subject to the requirements of paragraphs (d) and (e) of this section, program income received subsequent to grant closeout may be treated by the recipient as miscellaneous revenue, the use of which is not governed by the provisions of this part: *Provided,* The recipient has no other discretionary or entitlement grant program under this part which is active at the time the first grant is closed out. If the recipient has another such grant program, the program income received subsequent to the discretionary grant closeout shall be treated as program income of the active grant program.

(d) *Disposition of tangible personal property.* The recipient shall account for any tangible personal property acquired with grant funds in accordance with Attachment N of Federal Management Circular 74-7, "Property Management Standards."

(e) *Disposition of real property.* Proceeds derived after the discretionary grant closeout from the disposition of real property acquired with grant funds shall be subject to the program income requirements of paragraph (c) of this section: *Provided,* That where such income may be treated as miscellaneous revenue pursuant to paragraph (c), it shall be used by the recipient for community development activities eligible under § 570.200 to further the general purposes and objectives of the Act. The use of income subject to this proviso is not governed by any other requirements of this Part.

(f) *Status of housing assistance plan after closeout.* After closeout of a discretionary grant requiring a housing assistance plan, the housing assistance plan will remain in effect until one of the following occurs:

(1) The recipient submits, and HUD approves, a revised housing assistance plan.

(2) Another unit of general local government with overlapping jurisdiction over the same territory (e.g., an urban county, a county discretionary applicant, or any other such applicant) submits, and HUD approves, a housing assistance plan covering the territory of the original housing assistance plan.

(3) Three years elapse since the date of approval of the current housing assistance plan.

(g) *Audit.* Upon notification from HUD to initiate closeout procedures, the recipient shall arrange for a final audit to be made of its grant accounts and records in accordance with HUD Handbook IG 6505.2, "Audit Guide and Standards for Community Development Block Grant Recipients," § 570.509, and any other audit requirements of HUD hereafter in effect. HUD may determine that, due to the nature of the recipient's program or the relatively small amount of funds which have not been audited, a final audit is not required. In such instances, HUD will notify the recipient that HUD will perform necessary reviews of documentation and activities to determine that claimed costs are valid program expenses and that the recipient has met its other responsibilities under the grant agreement.

(h) *Certificate of completion and final cost.* Upon resolution of any findings of the final audit, or if the final audit is waived, after HUD has performed the review of documentation described in paragraph (g) of this section, the recipient shall prepare a certificate of completion and final cost, in a form prescribed by HUD, and submit it to the appropriate HUD Office.

(i) *Refund of excess grant funds.* Recipient shall refund to HUD any cash advanced in excess of the final grant amount, as shown on the certificate of completion approved by HUD.

(j) *Termination of grant for mutual convenience.* Grant assistance provided under this part may be cancelled, in whole or in part, by HUD or the recipient, prior to the completion of the approved community development program, when both parties agree that the continuation of the program is unfeasible or would not produce beneficial results commensurate with the further expenditure of funds. HUD shall determine whether an environmental review of the cancellation is required, and if such review is required, shall perform it pursuant to HUD Handbook 1390.1 and/or specific guidelines issued by the Secretary. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. HUD shall allow full credit to the recipient for the noncancelable obligations properly incurred by the recipient in carrying out the program prior to termination. The closeout policies and procedures contained in this section shall apply in all such cases except where the total grant is cancelled in its entirety, in which event only the provisions of § 570.512 (h) and (i) shall apply.

§ 570.602 [Amended]

7. Section 570.602 is amended by revising paragraph (d) to read as follows:

* * * * *

(d) The recipient may provide relocation payments and assistance in connection with displacement resulting from activities assisted under this Part which are not subject to § 570.602(a). The recipient may also provide relocation payments and assistance at levels above those established under the Uniform Act in connection with any displacement

resulting from activities assisted under this part. Unless such payments and assistance are made pursuant to State or local law, the recipient shall adopt a written policy available to the public setting forth the relocation payments and assistance it elects to provide and providing for equal payments and assistance within each class of displaced persons.

8. Section 570.606 is revised to read as follows:

§ 570.606 Architectural Barriers Act of 1968.

Every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds made available under this part, shall comply with the requirements of the "American Standard Specifications for Making Buidlings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1—R 1971, subject to the exceptions contained in 41 CFR Subpart 101-19.604, issued pursuant to the Architectural Barriers Act of 1968, 42 U.S.C. 4151.

9. Section 570.607 is revised to read as follows:

§ 570.607 Activities for which other Federal funds must be sought.

A recipient may use community development funds for the provision of public services as described in § 570.200(a)(8) for activities (other than those previously approved under the model cities program and described in § 570.200(b)); or for flood or drainage facilities as described in § 570.200(a)(2): *Provided*, That:

(a) An application or written inquiry has been made to the Federal agency or agencies, if any, which conduct a program or programs most likely to meet the needs for which community development funds are being considered, or of the State or local agency or agencies, if any, which customarily receive funds from such programs and administer them within the recipient's jurisdiction.

(b) One of the following responses has been received: (1) A written statement of rejection from such Federal, State or local agency, if any; (2) a written statement that funds cannot be made available for at least 90 days after the request; or (3) no written response from the Federal, State or local agency, if any, within a 45-day period from the date of application or inquiry which states that funds can be made available within 90 days from the date of the response.

(c) The recipient has notified HUD of the results of the application or inquiry and has received authorization from HUD to incur costs for such activities.

10. Section 570.610 is amended as follows:

§ 570.610 Clean Air Act and Federal Water Pollution Control Act.

The recipient must comply with the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), and the regulations thereunder (40 CFR Part 15 and 40 CFR Part 61).

11. Section 570.611 is added to read as follows:

§ 570.611 Lead-Based Paint Poisoning Prevention Act.

The recipient must comply with the Department's Lead-Based Paint Regulations (24 CFR Part 35) issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831 et seq.) requiring prohibition of the use of lead-based paint, whenever assistance under this Part is used directly or indirectly by the recipient for construction, rehabilitation, or modernization of residential structures; elimination of immediate lead-based paint hazards in residential structures assisted under this part; and notification of the hazards of lead-based paint poisoning to purchasers and tenants of residential structures constructed prior to 1950 and assisted under this part.

(Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535 (d).)

Issued at Washington, D.C., June 20, 1977.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc.77-18526 Filed 6-27-77;8:45 am]